

Accessible Democracy: Reducing Voting Obstacles for People with Disabilities

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ABSTRACT

Citizens with disabilities are less likely to vote than their non-disabled peers, and are more likely to experience difficulties when they do vote. This article reviews the evidence on voter turnout and voting difficulties among people with disabilities, finding that nearly one-third of voters with disabilities who voted in a polling place in 2012 experienced difficulties in doing so. We summarize best practices for removing voting obstacles, including measures to increase polling place accessibility, train election officials in disability issues, educate people with disabilities about the voting process, and increase the availability of no-excuse mail ballots. Given the size and expected growth of the disability population, such measures are needed to make the voting process more fully accessible and ensure that all American citizens can exercise the right to vote.

INTRODUCTION

THERE ARE AT LEAST 35 MILLION voting-age people with disabilities in the United States, representing one out of seven potential voters, and the number is likely to grow with the aging of the population.¹ People with disabilities have lower

voter turnout than those without disabilities, as found by twelve surveys over the 1992–2004 elections,² and more recent Census Bureau data showing disability turnout gaps of 7.2% in 2008, 3.1% in 2010, and 5.7% in 2012.³ The 1992–2004 studies do not provide a clear basis for analyzing the trend in the disability gap due to the differing samples and

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¹Based on data in Andrew Houtenville and Tony Ruiz, 2013 ANNUAL DISABILITY STATISTICS COMPENDIUM, available at <<http://disabilitycompendium.org/compendium-statistics/population-and-prevalence>>. A larger estimate of 49 million people with disabilities age 21 or older is based on a more expansive disability definition in Matthew W. Brault, *Americans with Disabilities 2010*, CURRENT POPULATION REPORTS, P70–131 (2012), available at <<http://www.census.gov/prod/2012pubs/p70-131.pdf>>. Based on current disability rates and population projections by age, the number of people with disabilities age 20 or older will increase to 62 million in 2050, representing

19% or close to one out of five potential voters (from calculations provided by Andrew Houtenville, University of New Hampshire).

²Summarized in Lisa Schur and Meera Adya, *Sidelined or Mainstreamed? Political Participation and Attitudes of People with Disabilities in the United States*, 93(3) SOCIAL SCIENCE QUARTERLY 811–839 (2013).

³Lisa Schur, Meera Adya, and Douglas Kruse, *Disability, Voter Turnout, and Voting Difficulties in the 2012 Elections*, report to Research Alliance for Accessible Voting and U.S. Election Assistance Commission, Rutgers University, June 2013, at <<http://smlr.rutgers.edu/research-centers/disability-and-voter-turnout>>. Additional analysis of the 2008 and 2010 data is available in Thad E. Hall and R. Michael Alvarez, *Defining the Barriers to Political Participation for Individuals with Disabilities*, Information Technology and Innovation Foundation Accessible Voting Technology Initiative Working Paper Series (2012).

definitions of disability. The 2008–2012 Census Bureau data provide a consistent series that appear to indicate a lessening gap, but this is due to the disproportionate decrease in turnout in 2010 and 2012 among young people in general, who are less likely to have disabilities. When demographic characteristics are held constant, the adjusted disability gap is close to 12 points in each year. These results imply that there would be 3.0 million more voters with disabilities if they voted at the same rate as otherwise-similar people without disabilities.⁴

A breakdown by type of disability shows that the turnout gap in 2012 was largest for people with cognitive impairments (–17.7 percentage points) and those with difficulty dressing or bathing (–15.8 points) or going outside alone (–15.2 points). The gap was smaller but still statistically significant for people with mobility impairments (–6.2 points) and visual impairments (–5.2 points), but was close to zero for those with hearing impairments (+0.7 points). This last finding probably indicates that people with hearing impairments face few if any obstacles in accessing polling places, reading ballots, and operating voting machines.

EVIDENCE ON VOTING ACCESSIBILITY PROBLEMS

Why are citizens with disabilities less likely to vote than their non-disabled peers? Several factors contribute to the gap, including greater social isolation that reduces recruitment, lower levels of education and income, and lower feelings of political efficacy.⁵ These factors do not, however, fully explain the disability gap in turnout.⁶ Voting among people with disabilities can also be discouraged by barriers getting to or using polling places, which make voting more time-consuming and difficult, and may also decrease feelings of efficacy by sending the message that people with disabilities are not expected to participate in the political sphere.⁷ There is evidence that living in an area with streets in poor condition is linked to substantially lower voter turnout among people with mobility limitations, and that difficulty finding and getting to the polling place lowers voter turnout among people in general.⁸ These results are likely to apply to other obstacles in gaining access to polling places.

Despite laws such as the Help America Vote Act of 2002 (HAVA) which requires polling places to be accessible,⁹ the U.S. Government Accountability Office (GAO) found that only 27% of polling places

⁴While increased turnout among people with disabilities would make elections more representative, this would not appear to change the partisan landscape: people with disabilities are no different overall from people without disabilities in their identification with the Republican or Democratic parties, and they have a similar average score on a liberal to conservative scale as other Americans. Schur and Adya, *op. cit.*

⁵For research on the importance of these factors for political participation in general, see Sidney Verba, Kay Schlozman, and Henry Brady, *VOICE AND EQUALITY: CIVIC VOLUNTARISM IN AMERICAN LIFE* (1995); Steven Rosenstone and John Hansen, *MOBILIZATION, PARTICIPATION AND DEMOCRACY IN AMERICA* (1993); and M. Margaret Conway, *POLITICAL PARTICIPATION IN THE UNITED STATES* (2000). For application to voting among people with disabilities see Todd Shields, Kay Schriener, Ken Schriener, and Lisa Ochs, *Disenfranchised: People with Disabilities in American Electoral Politics*, in *EXPANDING THE SCOPE OF SOCIAL SCIENCE RESEARCH ON DISABILITY* 177–203 (B. Altman and S. Barnartt, eds., 2000); Lisa Schur, *Contending with the 'Double Handicap': Political Activism among Women with Disabilities*, 25 *WOMEN AND POLITICS* 31 (2003); Lisa Schur, Todd Shields, Douglas Kruse, and Kay Schriener, *Enabling Democracy: Disability and Voter Turnout*, 55 *POLITICAL RESEARCH QUARTERLY* 167 (2002); and Lisa Schur, Todd Shields, and Kay Schriener, *Generational Cohorts, Group Membership, and Political Participation by People with Disabilities*, 58 *POLITICAL RESEARCH QUARTERLY* 487 (2005).

⁶See Shields, Schriener, Schriener, and Ochs, *op. cit.*; Schur, *op. cit.*; Schur, Shields, Kruse, and Schriener, *op. cit.*; and Schur, Shields, and Schriener, *op. cit.*

⁷Anne Schneider and Helen Ingram, *Social Construction of Target Populations: Implications for Politics and Policy*, 87 *AMERICAN POLITICAL SCIENCE REVIEW* 334 (1993).

⁸Philippa Clarke, Jennifer Ailshire, Els Nieuwenhuijsen, Marijke de Kleijn–de Vrankrijker, *Participation among Adults with Disability: The Role of the Urban Environment*, 72 *SOCIAL SCIENCE & MEDICINE* 1674 (2011); Henry E. Brady and John E. McNulty, *Turning Out to Vote: The Costs of Finding and Getting to the Polling Place*, 105 *AMERICAN POLITICAL SCIENCE REVIEW* 115 (2011).

⁹Disability rights advocates have criticized the Help America Vote Act (HAVA) for not being strong enough to fully protect the voting rights of people with disabilities. See Christina J. Weis, *Why the Help America Vote Act Fails to Help Disabled Americans Vote*, 8 *LEGISLATION & PUBLIC POLICY* 421, 447–55 (2005). The U.S. Government Accountability Office (GAO) found that limited oversight of HAVA requirements as of 2009 left gaps in ensuring voting accessibility for people with disabilities. Barbara Bovbjerg, *Voters with Disabilities: Challenges to Voting Accessibility*, U.S. GAO, Statement before the National Council on Disability, April 23, 2013, available at <<http://www.ncd.gov/events/OtherEvents/04232013/>>. Earlier laws relevant to voting accessibility include the Voting Rights Act of 1965, the Voting Accessibility for the Elderly and Handicapped Act of 1984, and the Americans with Disabilities Act of 1990. For fuller discussion see Andrew Ward, Paul M.A. Baker, and Nathan W. Moon, *Ensuring the Enfranchisement of People with Disabilities*, 20.2 *JOURNAL OF DISABILITY POLICY STUDIES* 79–92 (2009).

ACCESSIBLE DEMOCRACY

TABLE 1. POLLING PLACE DIFFICULTIES REPORTED BY VOTERS IN THE 2012 ELECTIONS

	Disability	No disability
1. Finding or getting to polling place	6%	2%
2. Getting inside polling place (e.g., steps)	4%	0%
3. Waiting in line	8%	4%
4. Reading or seeing ballot	12%	1%
5. Understanding how to vote or use voting eqt.	10%	1%
6. Communicating with election officials	2%	1%
7. Writing on the ballot	5%	0%
8. Operating the voting machine	1%	1%
9. Other type of difficulty	4%	1%
Any of above	30%	8%

in 2008 had no potential impediments to access by people with disabilities, a modest improvement from 16% in 2000.¹⁰ A 2012 U.S. District Court ruling identified a number of voting barriers and ordered New York’s Board of Elections to improve accessibility.¹¹

T1 ▶

A national survey following the 2012 elections found that almost one-third (30%) of voters with disabilities reported difficulty in voting at a polling place in 2012, compared to 8% of voters without disabilities.¹² As shown in Table 1, the most common problems were reading or seeing the ballot, understanding how to vote or use the voting equipment, waiting in line, and finding or getting to the polling place. Difficulty in reading or seeing the ballot was, not surprisingly, most common among people with visual or cognitive impairments. Problems of polling place access, reading the ballot, and understanding the voting process were also cited by focus group participants with disabilities in Los Angeles in 2010.¹³

Asked about the overall ease or difficulty of voting at a polling place in 2012, about three-fourths of voters with disabilities (76.0%) said it was very easy to vote, which was lower than for voters without disabilities (86.4%). Among voters with disabilities, 5.8% said it was somewhat or very difficult to vote compared to 1.7% of voters without disabilities.¹⁴ While the 5.8% and 1.7% figures may seem small, given the size of the populations these represent about 1.5 million people with disabilities and 1.5 million people without disabilities, or 3 million people total.

Citizens with disabilities may especially benefit from more flexible opportunities to vote, including before Election Day or by mail. Among voters in

2012, those with disabilities were more likely to vote by mail—28% did so compared to 17% of voters without disabilities—but they were not more likely to vote early at a polling place or election office.¹⁵ While all states have some provisions for voting by mail, twenty require an excuse for a mail ballot.¹⁶ These requirements appear to affect turnout: people with disabilities in 2010 were

¹⁰GAO, op. cit., at 12. States have shown a willingness to act, albeit inconsistently, with a focus on physical impediments: 43 states had passed measures requiring accessibility standards as of 2008, up from 23 in 2000. U.S. GOV’T ACCOUNTABILITY OFFICE, GAO-09-941, VOTERS WITH DISABILITIES: ADDITIONAL MONITORING OF POLLING PLACES COULD FURTHER IMPROVE ACCESSIBILITY 24 (2009), available at <http://www.gao.gov/assets/300/296294.pdf>.

¹¹The ruling described problems such as steep wheelchair ramps, accessible entrances that were locked, automatic door openers that did not work, physical obstructions to voting equipment, and voting booths too close to the wall for people in wheelchairs to use. *United Spinal Association v. Board of Elections in City of New York*, 882 F.Supp.2d 615, 2012 WL 3222663 (S.D.N.Y. 2012).

¹²Reported in Schur, Adya, and Kruse, op. cit. The nationally representative survey was funded by the Election Assistance Commission through the Research Alliance for Accessible Voting. People with disabilities were oversampled—representing 2,000 of the 3,022 respondents—in order to gain a solid understanding of their experiences and make comparisons by major type of disability. Among people who did not vote at a polling place in 2012, those who had done so in the past 10 years reported very similar experiences as those who voted in a polling place in 2012, while among those who had not voted in a polling place in the past 10 years, 40% of people with disabilities said they would expect to encounter difficulties if they tried to vote at a polling place, compared to 1% of people without disabilities. The numbers for this latter group may be biased upward because of “justification bias”—people may be citing these problems as a justification for their failure to vote. Nonetheless these provide a picture of what types of real or imagined problems may discourage people from going to vote at a polling place.

¹³Hall and Alvarez, op. cit., at 49.

¹⁴*Id.* at 7.

¹⁵Schur, Adya, and Kruse, op. cit., at 4.

¹⁶In six of these states, voters with disabilities can receive permanent absentee status. Among the other states, twenty allow a mail ballot without an excuse but the request has to be renewed each election (although two of these states allow permanent absentee status for people with disabilities), seven states and the District of Columbia have a permanent no-excuse mail ballot available, and three states have mail-only voting. There are 33 states plus the District of Columbia that allow early voting. Only 15 states do not have early voting and require an excuse for mail ballots. National Conference of State Legislatures, *Absentee and Early Voting*, NCSL.ORG, <http://www.ncsl.org/legislatures-elections/elections/absentee-and-early-voting.aspx>, accessed January 7, 2015.

TABLE 2. PREFERRED METHOD OF VOTING IN NEXT ELECTION: RESPONSES TO QUESTION “IF YOU WANTED TO VOTE IN THE NEXT ELECTION, HOW WOULD YOU PREFER TO CAST YOUR VOTE?”

	Disability	No disability
In person in polling place	58%	68%
By mail	25%	14%
On the Internet	10%	16%
By telephone	5%	2%
Don't know	2%	1%

especially likely to vote in states that did not require an excuse for a mail ballot, as were registered voters both with and without disabilities in 2008 and 2010.¹⁷

People with disabilities can also experience difficulties voting by mail. Just as may happen in polling places, those with visual or cognitive impairments may find it hard to see or follow complicated written instructions on standard mail ballots, and those with limited fine motor skills may have difficulty recording their vote.¹⁸ Some people with disabilities who want to vote may have to rely on family members or caregivers who can make informal “gate-keeping” decisions to provide or withhold assistance, or can apply pressure to vote for particular candidates. In the 2012 post-election survey, close to one-tenth of people with disabilities who voted by mail reported having difficulties in doing so, saying they needed assistance in filling out or sending the ballot.¹⁹

While voting by mail is a good option for some voters with disabilities, majorities of people both with and without disabilities express a preference for voting in person in a polling place, as shown in Table 2.²⁰

T2 ▶

POTENTIAL SOLUTIONS

Some measures to increase voter turnout among people with disabilities lie outside the election system, such as policies to increase employment, accessible transportation, and educational opportunities. Fully eliminating the turnout gap will depend on progress in these and other aspects of increasing economic and social inclusion.²¹ Potential solutions within the election system, however, can have a direct impact on turnout for people with disabilities. Many approaches have been tried to

deal with the varying problems faced by people with different types of disabilities. Based on available research, here are the five best practices for increasing voting opportunities for people with disabilities.

1. Increased accessibility of polling places and voting equipment

A number of states have worked to monitor and increase the physical accessibility of polling places. This includes a wide range of efforts to eliminate different types of obstacles, including the removal of barriers to getting inside a polling place for people with mobility impairments, and making ballots easier to read and understand for people with visual and cognitive impairments.²² Rhode Island was the

¹⁷Lisa Schur and Douglas Kruse, *Disability and Election Policies and Practices*, in THE MEASURE OF AMERICAN ELECTIONS 8–24 (Barry C. Burden and Charles Stewart eds., 2014). Similar findings are reported in Hall and Alvarez, op. cit. The effect of no-excuse and all-vote-by-mail systems is further indicated by the result that non-voters in these systems were less likely to report illness or disability as a reason for not voting in 2008 and 2010.

¹⁸Daniel P. Tokaji and Ruth Colker, *Absentee Voting by People with Disabilities: Promoting Access and Integrity*, 38 McGEORGE L. REV. 1015, 1036 (2007).

¹⁹Schur, Adya, and Kruse, op. cit., at 8.

²⁰Table 2 also shows that people with disabilities were relatively more likely to say they would prefer voting by mail or by telephone, and less likely to prefer voting on the Internet. This latter result probably reflects the substantially lower rates of computer use and Internet access among people with disabilities and suggests that Internet voting would not help to close the disability turnout gap. More than half (54%) of households headed by someone with a disability in 2010 had no Internet access from home, compared with 25% of households headed by someone without a disability (U.S. Department of Commerce, *Exploring the Digital Nation: Computer and Internet Use at Home*, 2011:16, available at <http://www.ntia.doc.gov/files/ntia/publications/exploring_the_digital_nation_computer_and_internet_use_at_home_11092011.pdf>).

²¹See Lisa Schur, Douglas Kruse, and Peter Blanck, *PEOPLE WITH DISABILITIES: SIDELINED OR MAINSTREAMED?* (Cambridge University Press, 2013) regarding the political effects of economic and social inclusion of people with disabilities. Voter turnout is similar between employed people with and without disabilities, indicating that employment appears to especially increase voter turnout among people with disabilities through increased economic resources and exposure to recruitment networks.

²²For additional discussion of accessible voting systems see *The Machinery of Democracy: Voting System Security, Accessibility, Usability, and Cost*, Voting Technology Assessment Project, Brennan Center for Justice, New York University School of Law (2006).

first to ensure that all polling places are physically accessible, and Maryland, Georgia, and Missouri were early leaders in encouraging accessible voting machines in each polling place.²³ Examples of other efforts include establishing requirements for ramps and entrances (California²⁴) and developing an online system for accessibility audits of polling places (Wisconsin²⁵). Direct involvement of the disability community helps ensure the effective design, choice, and implementation of accessible technologies and practices. For example, in Alexandria, Virginia people with disabilities performed usability tests on voting technology when jurisdictions decided to purchase new equipment, and in Ohio disability organizations helped assess the location of new polling places.²⁶

2. Mobile voting

Mobile voting can reach voters who find it hard to get to or access conventional polling places. It consists of bringing ballots or other voting equipment to convenient locations, such as long-term care facilities and shopping centers located on accessible bus routes. This has been found to work well in long-term care facilities, helping to reduce concerns about voter fraud and enhancing residents' dignity and rights.²⁷ During the 2008 general election, Vermont developed a mobile-polling pilot pro-

gram, which was reported to be well received and highly successful.²⁸

3. Training for election officials and poll workers

States have increasingly focused on developing and expanding training for poll workers and election officials, often in partnership with disability service and advocacy organizations. Efforts include videos on accessibility and poll worker assistance for voters with disabilities (e.g., Oregon, North Carolina, Minnesota and Rhode Island²⁹), conferences on polling place accessibility (e.g., Connecticut and Louisiana), and training for county election clerks and state election officials (e.g., Ohio, Hawaii, Alaska, Indiana, Louisiana, California, Alabama, New Mexico, and the Virgin Islands³⁰). In Missouri a training program on disability issues found the best results occurred when a variety of interactive training methods were used, and poll workers were given checklists and visual aids to carry out Election Day procedures.³¹

4. Outreach and education for people with disabilities

Difficulty in understanding how to vote can be addressed by education and outreach, and can be

²³Rhode Island was the first to ensure that all polling places are physically accessible, and Maryland, Georgia, and Missouri were early leaders in encouraging accessible voting machines for each polling place (prior to the HAVA requirement). Hollister Bundy, *Election Reform, Polling Place Accessibility, and the Voting Rights of the Disabled*, 2 ELECTION LAW JOURNAL 217, 239 (2003), available at <http://www.dawninfo.org/advocacy/issues/voting/Polling_Access.pdf>.

²⁴GAO, op. cit. at 24.

²⁵Kevin J. Kennedy, Wisconsin Government Accountability Board, *Re-booting Accessibility Compliance*, presented at 2012 Professional Practices Program, Election Center 28th Annual National Conference, Boston, MA, available at <<http://www.electioncenter.org/publications/2012%20PPP/Wisconsin%20State%20Re-Booting%20Accessibility%20Compliance.pdf>>. Other examples include awarding grants to county partnerships to buy accessible voting booths and special features that make voting more accessible (Arizona), increased monitoring of polling place accessibility (Virginia, Kansas, Michigan), and the purchase and maintenance of accessible voting software and updated voting materials (Maine, Puerto Rico, Ohio). See Sharon Lewis, U.S. Department of Health and Human Services, *HAVA Disability Programs: Success and Challenges*, presented

at National Council on Disability forum, April 23, 2013, available at <<http://www.ncd.gov/events/OtherEvents/04232013/>>.

²⁶As stated in the report, "Election officials noted that partnering with the disability community from the outset, and not as an afterthought, worked best." U.S. Election Assistance Commission, ELECTION MANAGEMENT GUIDELINES CHAPTER 19: ACCESSIBILITY 189 (2010), available at <<http://www.eac.gov/assets/1/Documents/EMG%20chapt%2019%20august%2026%202010.pdf>>.

²⁷Jason Karlawish, Charlie Sabatino, Deborah Markowitz, Jonathan Rubright, Ellen Klem, and Robert F. Boruch, "Bringing the Vote to Residents of Long-Term Care Facilities: A Study of the Benefits and Challenges of Mobile Polling," 10 ELECTION LAW JOURNAL 5-14 (2011).

²⁸U.S. Election Assistance Commission, op. cit., at 192.

²⁹*Id.* at 188; Lewis, op. cit., at 3-4.

³⁰Lewis, op. cit., at 3-4, 8, 9-10; Jacqueline Rothschild, OHIO ADA INITIATIVE, 2009 Professional Practices Program, Election Center 25th Annual National Conference, San Diego, CA, available at <<http://www.electioncenter.org/publications/2009%20Papers/Ohio-%20ADA%20Initiative.pdf>>.

³¹Paraquod and Research Alliance for Accessible Voting, op. cit., at 2-3.

especially valuable for those with cognitive impairments.³² Examples include posting audio files with the full text of ballots and instructions on how to mark the ballot (Idaho³³), booklets and videos on accessible voting features (Hawaii, North Dakota³⁴), outreach to assisted living facilities (Alaska³⁵), Voter Education Kits provided to individuals at conferences, provider locations, psychiatric hospitals, nursing homes, and senior centers (West Virginia³⁶), and radio and television public service announcements in conjunction with disability organizations (New York³⁷).

5. *Voting by mail*

Voting by mail is of most use to people with visual or mobility impairments who have difficulty getting to or navigating polling places, although it can also be valuable for people with cognitive impairments who may require extra time to read ballots and decide how to vote. Best practices in voting by mail are clearly the no-excuse and all-vote-by-mail systems. The traditional system requires citizens to provide an excuse for obtaining a mail ballot, and continuing stigma makes some people with disabilities reluctant to disclose a disability on a public form. Despite the advantages of mail-in ballots for many people with disabilities, it should be kept in mind that a majority of citizens with disabilities express a preference for voting in person in a polling place, as noted earlier.

CONCLUSION

Voting difficulties appear to contribute to the lower turnout of people with disabilities. Polling place accessibility has improved over the past two decades, due not only to federal, state, and local laws and programs, but also to changes in awareness and attitudes. Progress has been slow and uneven, however, as found by the GAO. Despite some progress, the 2012 post-election survey showed that almost one-third of voters with disabilities experienced some type of difficulty in voting. This article reviewed a variety of practices that offer promise for increasing the ability to vote. These practices may help not just people with disabilities but also other people from disadvantaged backgrounds, which should be explored in further research.

A growing number of people will experience the voting obstacles described in this article over the next several decades as the population ages and the number of people with disabilities increases. Reducing these barriers is important for ensuring that all American citizens can easily and effectively exercise their right to vote.

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³²A set of 178 demonstrations of accessible voting equipment by the Association of Assistive Technology Act Programs found that voters learned how to become independent in using the equipment in five minutes or less on average, and the general level of comfort with the technologies increased substantially, though there was substantial variation. Association of Assistive Technology Act Programs (ATAP) and Research Alliance for Accessible Voting, *Accessible Voting Systems: Can Demonstrations Improve Use?*, May 2013, report prepared for Research Alliance for Accessible Voting (<<http://www.accessiblevoting.org/>>). The technologies demonstrated included large visual display output, speech output and tactile keypad input, synchronized speech and visual display output, and switch input.

³³Lewis, *op. cit.*, at 3.

³⁴*Id.* at 3, 5, 8.

³⁵*Id.* at 8.

³⁶*Id.* at 10.

³⁷*Id.* at 10.