



**Committee on House Administration - Subcommittee on Elections
Voting Rights and Election Administration in America
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**Voting Rights and Access to the Vote for People with Disabilities
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Chairperson Fudge and Ranking Member Davis, thank you for the opportunity to testify today regarding the current state of voting rights and access to the vote for people with disabilities.

National Disability Rights Network and the Protection & Advocacy Systems

The National Disability Rights Network (NDRN) is the non-profit membership organization for the federally mandated Protection and Advocacy (P&A) and Client Assistance Program (CAP) systems for individuals with disabilities. The P&As and CAPs were established by the United States Congress to protect the rights of people with disabilities and their families through legal support, advocacy, referral, and education. P&As and CAPs are in all 50 states, the District of Columbia, Puerto Rico, and the US territories (American Samoa, Guam, Northern Mariana Islands, and the US Virgin Islands), and there is a P&A and CAP affiliated with the American Indian Consortium which includes the Hopi, Navajo, and San Juan Southern Paiute Nations in the Four Corners region of the Southwest. Collectively, the P&A and CAP Network is the largest provider of legally based advocacy services to people with disabilities in the United States. Through the Protection and Advocacy for Voter Access (PAVA) program, created by the Help America Vote Act (HAVA), the P&As have a federal mandate to “ensure the full participation in the electoral process for individuals with disabilities, including registering to vote, casting a vote and accessing polling places”¹ and are the leading experts on access to the vote for people with disabilities in the United States.

I am the Voting Rights Specialist for NDRN, where I am responsible for coordinating voting rights initiatives in every state, the District of Columbia, Puerto Rico, and other territories, as well as providing training and technical assistance to NDRN’s nationwide network regarding voting rights and access for voters with disabilities under HAVA. I also work in coalition with the civil rights community in Washington, DC to ensure strong federal policy regarding voting rights and election administration.

¹ <https://www.congress.gov/107/plaws/publ252/PLAW-107publ252.pdf>

Voters with Disabilities

The United States Census Bureau has reported up to 56.7 million people with disabilities live in the community, totaling approximately 19 percent of the non-institutionalized US population². The Centers for Disease Control and Prevention and Pew Research Center believe that number is closer to 25 percent, or one in four Americans.³⁴ Further, the School of Management and Labor Relations at Rutgers University projected that there were 35.4 million people with disabilities eligible to vote in the United States, one-sixth of the total American electorate, during the 2016 Election.⁵

The disability community is diverse. People who identify as LGBTIQ+ are more likely to have a disability.⁶ A quarter or more of American Indians/Alaska Natives and Black adults have a disability.⁷ People with disabilities are disproportionately low-income, and are unemployed, underemployed, or not participating in the workforce at a rate of approximately three-fourths of the entire disability community.⁸

Additionally, people with disabilities are politically active. Pew reported that people with disabilities pay more attention to presidential elections and that election results matter more to people with disabilities when compared to people without disabilities.⁹ Despite the size, diversity, and political commitment of the disability community, America's electoral system remains largely inaccessible and has a long history of excluding people with disabilities.

Polling Place Accessibility

The United States Government Accountability Office (GAO) has studied polling place accessibility for almost 20 years. During an initial 2000 survey, the GAO found that only 16 percent of the polling places surveyed had an accessible path of travel, defined as from parking to the voting station.¹⁰ This percentage increased to 27 percent in 2008¹¹ and to 40 percent in 2016¹². 40 percent, being the all-time high, means that less than half of America's polling places were architecturally accessible during the 2016 election. Yet as polling places slowly become more accessible, the actual voting stations within them are becoming less accessible. In 2008, 46 percent of voting booths were inaccessible.¹³ In 2016, inaccessible voting stations jumped to 65 percent.¹⁴ Overall, voting booths were less likely to be set up to ensure voter privacy, set up for wheelchair access, have headphones readily apparent for audio balloting, or even be turned on for voters to use.¹⁵ In 2016, GAO combined architectural access data with voting station data to find that only 17 percent of America's polling places could be considered fully

²<https://www2.census.gov/library/publications/2012/demo/p70-131.pdf>

³<https://www.cdc.gov/media/releases/2018/p0816-disability.html>

⁴<https://www.pewresearch.org/fact-tank/2016/09/22/a-political-profile-of-disabled-americans/>

⁵https://smlr.rutgers.edu/sites/default/files/documents/faculty_staff_docs/Kruse%20and%20Schur_Disability%20electorate%20projections%202016_9-8-16.pdf

⁶<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3490559/>

⁷<https://www.cdc.gov/ncbddd/disabilityandhealth/materials/infographic-disabilities-ethnicity-race.html>

⁸<https://disabilitycompendium.org/annualreport>

⁹<https://www.pewresearch.org/fact-tank/2016/09/22/a-political-profile-of-disabled-americans/>

¹⁰<https://www.gao.gov/new.items/d02107.pdf>

¹¹<https://www.gao.gov/assets/300/296294.pdf>

¹²<https://www.gao.gov/assets/690/687556.pdf>

¹³<https://www.gao.gov/assets/300/296294.pdf>

¹⁴<https://www.gao.gov/assets/690/687556.pdf>

¹⁵<https://www.gao.gov/assets/690/687556.pdf>

accessible for voters with disabilities.¹⁶ America’s polling places are woefully, inexcusably, unjustly out of compliance with the Americans with Disabilities Act (ADA).

Polling Places Closures

Over the course of the last several election cycles, mass polling places closures have significantly impacted access for voters with disabilities. *In Democracy Diverted: Polling Place Closures and the Right to Vote*, the Leadership Conference on Civil and Human Rights found that thirteen states closed an overwhelming 1,688 polling sites in just six years.¹⁷ The Leadership Conference also addressed an alarming trend occurring across the US - falsely blaming polling place closures on the ADA. Jurisdictions with mass poll closures in Mississippi, Georgia, and Louisiana offered “lack of ADA compliance” as a pretext for polling place closures, despite their admitted lack of understanding of the ADA’s provisions, failure to provide ADA surveys of the polling places in question, and grossly inflated cost estimates for bringing polling places into compliance with the ADA.¹⁸ Disability rights advocates and the Department of Justice (DOJ) do not advocate for the closure of inaccessible polling places, and this measure should always be used as a last resort. Rather, the DOJ has actively promoted, even in jurisdictions with which they have settled lawsuits for failure to comply with the ADA at polling locations, temporary same-day modifications, curbside voting as a stop-gap measure, and other low-cost best practices to ensure accessibility at polling places.¹⁹

In a forthcoming report, NDRN examines the issue of polling place closures, ADA compliance, and DOJ enforcement of the ADA in more depth. Our report finds that voting jurisdictions that settled with the DOJ in the last several years as a result of inaccessible polling places were overwhelming not closing their polling locations. Rather, they were working collaboratively with DOJ to find innovative solutions, including same-day modifications and developing low-cost solutions for permanently modifying inaccessible locations. Alternatively, jurisdictions that closed or attempted to close a significant percentage of their polling places citing the ADA typically were not under a settlement agreement or investigation by the DOJ and could not provide ADA accessibility surveys or any coordination with the state’s P&A or other disability advocacy organizations to resolve access barriers. The ADA, and DOJ’s enforcement of the ADA, are undeniably being used as a smokescreen for voter suppression.

Impact of Voter Identification (ID) Laws

According to the National Conference of State Legislatures, 35 states currently require individuals to show some form of ID at their polling places.²⁰ The Brennan Center for Justice indicates that over 22 states in 2017 saw the introduction of at least 39 pieces of legislation to impose voter ID requirements or impose even stricter requirements over existing ones.²¹ Yet, the University of Wisconsin – Madison found that 6 percent of registrants that did not vote in 2016 were blocked by the lack of correct ID.²² An additional 11.2 percent of eligible registrants were deterred from voting because of confusion surrounding the voter ID law.²³ Strict voter ID requirements create new hurdles to voter participation with the added effect of confusion as a deterrent to voters.

¹⁶<https://www.gao.gov/assets/690/687556.pdf>

¹⁷<http://civilrightsdocs.info/pdf/reports/Democracy-Diverted.pdf>

¹⁸<http://civilrightsdocs.info/pdf/reports/Democracy-Diverted.pdf>

¹⁹https://www.ada.gov/chicago_boe_sa.html

²⁰<http://www.ncsl.org/research/elections-and-campaigns/voter-id.aspx>

²¹<https://www.brennancenter.org/our-work/research-reports/voting-laws-roundup-2019>

²²<https://elections.countyofdane.com/documents/pdf/VoterId/UW-Voter-ID-Study-Supporting-Info.pdf>

²³<https://elections.countyofdane.com/documents/pdf/VoterId/UW-Voter-ID-Study-Supporting-Info.pdf>

Rutgers has calculated that 7.5 percent of people with disabilities do not have a state-issued photo ID, compared to 4.8 percent of people without disabilities.²⁴ The difference is statistically significant. This disparity also extends to older adults – potential voters typically over-represented among people with disabilities. A report by the US Senate Special Committee on Aging and US Senate Committee on Rules and Administration asserts that older Americans are a sizable voting bloc - 30 percent of the voters in 2016 were 50-64 years old, 15 percent 65 and over.²⁵ Yet, 11 percent of adults (over 21 million citizens) do not have a valid, government-issued photo ID and nearly one in five Americans over 65 (approximately 8 million people) lacked a current, government-issued photo ID.²⁶

The Brennan Center for Justice also found that 10 million voters (who are otherwise eligible) live over 10 miles from the closest office that can issue an ID that qualifies for voting purposes and is open more than two days per week.²⁷ While this would present a burden for any voter, people with disabilities and older adults are less likely to drive or have accessible public transportation options. The argument that people with disabilities who are disenfranchised by voter ID laws can simply obtain an ID has clearly not panned out in reality.

Voter Participation of People with Disabilities

Barriers to the vote for people with disabilities, such as polling place closures and voter ID laws, have real consequences in terms of voter participation. Despite the size of the disability community in the US and their demonstrated investment in elections, people with disabilities continue to turnout to vote at a lower rate than their non-disabled peers. In 2018, Rutgers University reported the difference in turnout between people with and without disabilities was 4.7 percent.²⁸ Rutgers found that voter turnout of people with disabilities lagged behind the non-disabled population with a difference of 6 percent in 2016²⁹ and 5.7 percent in 2012.³⁰ Although the extent of the gap in voter turnout has fluctuated over time, there is consistent suppressed turnout for voters with disabilities across the country. Similarly, there is no doubt that access to the vote and the ability to protect it through legislation promotes voter participation among people with disabilities. Rutgers reports that immediately preceding the passage of the Help America Vote Act, the gap in voter participation between those with and without disabilities was closer to 20 percent.³¹ The data shows a clear, statistically significant narrowing of the voter participation gap since HAVA's passage made voting drastically more accessible for voters with disabilities.

Role of Congress and the Federal Government

As we move ahead, as a nation, in protecting the right to vote for all Americans - Congress must first and foremost, pass the Voting Rights Advancement Act. The ability of DOJ to detect election practices that

²⁴<https://smlr.rutgers.edu/sites/default/files/images/Disability%20and%20voting%20survey%20report%20for%202012%20elections.pdf>

²⁵<https://www.aging.senate.gov/imo/media/doc/Voting%20Rights%20Report.pdf>

²⁶<https://www.aging.senate.gov/imo/media/doc/Voting%20Rights%20Report.pdf>

²⁷<https://www.brennancenter.org/our-work/research-reports/challenge-obtaining-voter-identification>

²⁸<https://smlr.rutgers.edu/sites/default/files/2018disabilityturnout.pdf>

²⁹https://smlr.rutgers.edu/sites/default/files/documents/PressReleases/kruise_and_schur_-_2016_disability_turnout.pdf

³⁰<https://smlr.rutgers.edu/sites/default/files/images/Disability%20and%20voting%20survey%20report%20for%202012%20elections.pdf>

³¹<https://smlr.rutgers.edu/sites/default/files/documents/PRQ%20disability%20and%20voter%20turnout%20article%20by%20Schur%20et%20al..pdf>

suppress voter turnout in jurisdictions with known discriminatory practices has been the first line of defense against voter suppression for over 50 years. For decades DOJ successfully prevented the enactment of laws with discriminatory intent and impact, and prevented the maze of state-based litigation that today promotes fear and confusion among elections administrators and the voters themselves. Arguably, a fully restored Voting Rights Act would prevent the restrictive voter ID laws and questionable polling places closures that threaten access to the vote heading into the 2020 presidential election. American voters deserve a fully functioning Voting Rights Act.

I would be remiss if I did not use this opportunity to also stress that Congressional funding is sorely needed to protect the rights of voters with disabilities. The United States government has an obligation to ensure that states, territories, and local jurisdictions can continually acquire, maintain, and improve polling locations and equipment. The territorial government and P&A of the Northern Mariana Islands, as well as the Native American Disability Law Center (P&A), must also begin to receive HAVA funding to ensure access to the vote for Pacific Islanders and Native Americans with disabilities. Extending funding to the only two P&As excluded from PAVA is a simple, no cost legislative fix.

Finally, Congress and the DOJ must continue to stay vigilant and ensure US elections are being administered fairly and accurately. Ensuring access to voters with disabilities is essentially a patchwork of varied federal laws that protect the rights of people with disabilities, including the ADA, HAVA, the Voting Accessibility for the Elderly and Handicapped Act, the National Voter Registration Act, and the Voting Rights Act. Each of these laws must be enforced to their full capacity in order to ensure that America's polling places and electoral systems, as a whole, are accessible to all eligible voters. America's democracy is only as strong as its ability to hear the voices of all Americans.