



## **Getting Out the Vote: Improving Access for Voters with Disabilities**

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During this mid-term election year, there are urgent issues at stake that directly affect the lives of people with disabilities. Budget battles at every level of government threaten Medicaid, SSDI, Medicare and other programs that are essential to their quality of life. Special education continues to face resource challenges. Yet there's ample evidence that voters with special needs continue to be disenfranchised by eligibility guidelines, voter registration practices and polling site problems.

The Presidential Commission on Election Administration established by Executive Order 13639 observed in its January 2014 report that about one in seven potential voters has a need for accessible voting. With the aging of baby boomers, this is an issue that “many, if not most, voters may experience at some point in their lives.”

Federal legislation protecting the voting rights of people with special needs has been in place for decades and includes:

- Voting Rights Act of 1965
- Rehabilitation Act of 1973
- Voting Accessibility for the Elderly and Handicapped Act of 1984
- Americans with Disabilities Act of 1990 (ADA)
- National Voter Registration Act of 1993
- Help America Vote Act of 2002 (HAVA)

Largely as a result of HAVA -enacted after voting irregularities called into question the 2000 presidential election -advances have been made concerning the physical accessibility of voter registration and polling sites and the inadequacy of assistive technology. In findings published October 24, 2013, the National Council on Disability (NCD) reports that during the 2012 elections, voters with special needs continued to face significant obstacles.

### **Remaining Challenges**

The NCD found that many state and local governments failed to comply with federal law through a combination of inadequate funding, planning and training. Architectural barriers persisted and even when they'd been removed, voting layouts often prevented voters from

casting their ballots privately. They also encountered broken voting machines and poll site personnel unable to demonstrate their use. Election workers were often unfamiliar with the legal rights of individuals with disabilities and, perhaps most shockingly, were “condescending or rude or... demonstrate (d) pejorative attitudes towards voters with disabilities....”

Despite great progress with regard to community participation by individuals with special needs, many state constitutions and election laws contain broad voting exclusions for persons with mental illness or cognitive disabilities. In many cases, these prohibitions bear no relation to an individual’s ability to understand the voting process.

Guardianships often pose additional restrictions. Unless families and special needs attorneys actively advocate for a ward’s continued right to vote, they may automatically be disenfranchised. I recall one plucky guardianship client who, when asked by the presiding judge how she’d determine which way to vote, reminded him “that’s a secret.” We successfully obtained a court order for limited guardianship for her that specifically retained her voting privileges.

### **Recommended Fixes**

In response to widespread voting problems, the Presidential Commission has recommended broad improvements to accommodations for people with disabilities. Calling their suggestions “common sense,” President Obama has urged their adoption at all levels of government.

The Commission proposes increased use of online voter registration and calls upon public assistance agencies—such as state disability offices—to facilitate registration by those they serve. They also suggest more options for early voting and other flexible voting opportunities, such as curbside voting, reassignment to accessible polling facilities, Super Precincts, less restrictive absentee voting, Internet voting, and mobile voting at specified facilities, such as nursing homes.

Citing an “impending crisis in voting technology,” the Commission points out that machines currently in use will soon be outdated and proposes that standards be established for installing improved systems.

The Commission notes that election workers should receive extensive training on how to serve voters with disabilities. Focus should be placed on the operation of assistive technology and on the legal rights of individuals with disabilities—especially their option to be assisted by someone of their choice.

The Commission further calls upon election authorities to establish local advisory groups in order to understand the needs of voters with disabilities. NCD goes further, urging that more individuals with special needs be recruited as election administrators and volunteers. NCD also recommends that the Department of Justice step up ADA enforcement efforts by pursuing complaints raised by voters with special needs.

Election officials should heed these findings. Voting is basic to our form of government, but too many of our citizens find it difficult to exercise that right.

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