

Voting Rights for Persons with Disabilities

All adult citizens with disabilities have a fundamental right to vote and cast a confidential ballot in their local polling place. The keys to equal voting rights for people with disabilities are accessible polling places and accessible voting machines that allow for a secret ballot.

Accessible polling places are free of physical obstructions such as steps or curbs in the parking lot, at the entrance, and in the voting area. Accessible voting machines provide access to people with a range of disabilities, both physical and sensory.

Congress addressed the unique barriers faced by persons with disabilities by passing two laws.

The Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. §1973ee) was passed in 1984 and provides that all polling places for federal elections must be accessible to persons with disabilities. State officials are required to either make inaccessible polling locations temporarily accessible, or to provide voters with disabilities with alternate accessible polling locations or other accommodations. State officials are also required to provide registration and voting aids in the form of instructions in large print, and to provide information through telecommunications devices for the deaf. State officials cannot require a voter to provide a medical certificate to vote unless required to do so to prove eligibility under state law. This law can be enforced by the U.S. Department of Justice or through private litigation.

The Help America Vote Act (HAVA) (42 U.S.C. §15301) was passed in 2002. It requires that states phase out voting systems that involve levers or punch-cards, both of which present accessibility problems for some people with disabilities. Voting systems purchased after January 1, 2007, must provide persons with disabilities with the same opportunity for access and participation as other voters, including privacy and independence. The law also provides federal funding for states to help meet its requirements.

Assistive Technology in the Voting Booth

Direct Recording Electronic (DRE) machines generally use a touch screen to allow voters to select candidates electronically, much like an ATM machine. Some machines also have a switch or rotary wheel that allows voters who cannot use a touch screen effectively, to move forward and backward through the ballot. Other system features may include a large resolution color screen with a viewable area of 117.5 square inches; an adjustable screen for voters of varying heights and physical abilities; an audio ballot capability to help voters with visual impairments, or who have difficulty reading, cast a secret ballot. The large candidate area accommodates large type fonts for easy-to-read ballots, and may be capable of recording write-in votes.

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Some voting machines offer a large, bright colored voting switch indicator. This switch indicator provides audio feedback to the voter through a set of headphones, confirming that the machine has correctly recorded the voter's selection. Additionally, some DRE machines can be equipped with other assistive devices to help people with disabilities use the machines more effectively.

Many persons who use assistive technology may choose to take that assistive technology into the voting booth. For example, someone who uses an augmentative communication device may want to use that device to communicate their voting preferences to a family member. Such individuals have the right to use their assistive technology devices in the voting booth in order to help them complete a ballot. However, keep in mind that election workers may not be familiar with the assistive technology you are using, and may ask you to explain what the device is, how it works, and how it assists you in the voting process.

For more information on both voting rights and AT devices and services, please contact NJP&A, New Jersey's protection and advocacy system for people with disabilities. NJP&A provides legal and non-legal advocacy services, technical assistance and training, information and referral, and outreach and education in support of the human, civil and legal rights of people with disabilities.

New Jersey Protection & Advocacy, Inc.

210 South Broad Street, Third Floor, Trenton, NJ 08608

For voice assistance and information, please call 1-800-922-7233. TTY users may dial (609) 633-7106, or use the NJ Relay, 711 to reach the 800# above. Visit us on the web at www.njpanda.org

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