

# Reducing Obstacles to Voting for People with Disabilities

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The Presidential Commission on Election Administration's mission includes identifying best practices and making recommendations to promote voting accessibility and improve the experiences of voters with disabilities. This White Paper reviews the evidence on voter turnout and voting difficulties among people with disabilities, and identifies best practices for removing obstacles that can limit their ability to exercise the right to vote.<sup>1</sup> As will be seen, while progress has been made, significantly more needs to be done to make the election system fully accessible.

## Scope of the Problem

### *Voter turnout and registration*

There are at least 35 million voting-age people with disabilities in the United States, representing 1 out of 7 voting-age people, and the number is likely to grow with the aging of the population.<sup>2</sup> People with disabilities have lower voter turnout than people without disabilities. Twelve surveys over the 1992-2004 elections, using varying samples and definitions of disability, found that eligible citizens with disabilities were between 4 and 21 percentage points less likely to vote than were eligible citizens without disabilities.<sup>3</sup> Based on new disability measures starting in 2008, results from the Census Bureau's Voting and Registration Supplement show disability turnout gaps of 7.2% in 2008, 3.1% in 2010, and 5.7% in 2012.<sup>4</sup> The smaller gap

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<sup>1</sup> This paper has greatly benefited from a memo prepared by Ryan Harper, and valuable comments by Jim Dickson. The data on best practices will be supplemented before the final report as further information is gathered.

<sup>2</sup> Based on data in Andrew Houtenville and Tony Ruiz, 2012 ANNUAL DISABILITY STATISTICS COMPENDIUM, available at <http://disabilitycompendium.org/compendium-statistics/population-and-prevalance>. A larger estimate of 46 million people with disabilities age 21 or older is based on a more expansive disability definition in Matthew W. Brault, *Americans with Disabilities 2005*, Current Population Reports, P70-117, 2008, available at <http://www.census.gov/prod/2008pubs/p70-117.pdf>.

<sup>3</sup> Summarized in Lisa Schur & Meera Adya, *Sidelined or Mainstreamed? Political Participation and Attitudes of People with Disabilities in the United States*, SOCIAL SCIENCE QUARTERLY, published online July 18, 2012, doi: 10.1111/j.1540-6237.2012.00885, early version available at [http://www.eac.gov/assets/1/Documents/Lisa%20Schur,%20Political%20Participation%20and%20Attitudes\\_OCR.pdf](http://www.eac.gov/assets/1/Documents/Lisa%20Schur,%20Political%20Participation%20and%20Attitudes_OCR.pdf).

<sup>4</sup> Lisa 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>

in 2010 reflects especially low turnout in midterm elections by younger voters, who are generally less likely to have disabilities. When demographic characteristics (age, gender, race/ethnicity, and marital status) are held constant, the adjusted disability gap is close to 12 points in each year.

Broken down by major type of disability, the turnout was lower in 2012 among people with visual, mobility, and cognitive impairments, but people with hearing impairments were as likely as people without disabilities to vote. Turnout was also low among those who reported difficulty going outside alone, or difficulty with daily activities inside the home.<sup>5</sup>

The disability voting gap is due in part to lower voter registration, but is due more to a lower likelihood of voting if registered. In 2012, among people with disabilities, 69.2% reported being registered to vote, only 2.3 percentage points lower than the rate for people without disabilities. Among those who were registered, 82.1% voted, which was 5.4 points lower than the 87.5% of registered citizens without disabilities who voted.<sup>6</sup>

Given the number of people with disabilities in the United States, 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. While 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.<sup>7</sup>

### *Legal Framework*

A number of laws have sought to ensure that people with disabilities can exercise their right to vote on an equal basis with other citizens. These 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 (ADA) which requires that all public entities make reasonable modifications to rules, policies, or practices to ensure nondiscrimination in the programs, services, and activities of state and local governments. The National Voter Registration Act of 1993 intended to increase the voter registration of Americans with Disabilities by requiring agencies that primarily serve people with disabilities to offer their clients opportunity to register to vote, but this section of the law has rarely been enforced.

The most recent change came from the Help America Vote Act of 2002 (HAVA), which required states to make polling places accessible “in a manner that provides the same opportunity to people with disabilities for access and participation” as is provided to non-disabled voters.<sup>8</sup> This includes accessible parking and paths of travel. Each polling place is also required to have at least one direct recording electronic voting system for people with disabilities.<sup>9</sup> HAVA also

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<sup>5</sup> *Id.* at 22.

<sup>6</sup> *Id.*, at 26

<sup>7</sup> Schur & Adya, *op. cit.*, at 12

<sup>8</sup> Arlene Kanter & Rebecca Russo, *The Right of People with Disabilities to Exercise Their Right to Vote Under the Help America Vote Act*, 30 MENTAL & PHYSICAL DISABILITY L. REP. 852, 852 (2006).

<sup>9</sup> HAVA also requires equal access for people with disabilities to registration by mail and a computerized statewide database, eliminating the need to re-register when people move (or re-register as a person with a disability).To

requires election offices to create a committee with local disability leaders to evaluate and select equipment purchased with HAVA funding. HAVA does not, however, provide a private right of action for declaratory or injunctive relief, and disability rights advocates have criticized the law for not being strong enough to fully protect the voting rights of people with disabilities.<sup>10</sup> These critiques include that HAVA does not create a federal definition of disability, which leads to under-inclusive state protections.<sup>11</sup> The U.S. GAO found that limited oversight of HAVA requirements as of 2009 left gaps in ensuring voting accessibility for people with disabilities.<sup>12</sup> In response the Department of Justice reported that it had entered into settlements with two cities to resolve allegations of inaccessible polling places, and had expanded election day observations of polling places, but it is not clear whether the expanded observations included assessing privacy and independence in accessible voting systems.<sup>13</sup>

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.<sup>14</sup> The GAO found that 31 states reported that ensuring polling place accessibility was very or moderately challenging.<sup>15</sup>

### *Obstacles to voting*

Why are citizens with disabilities less likely to vote than their non-disabled peers? Several studies point to the role played by standard predictors of political participation, namely recruitment, resources, and psychological factors.<sup>16</sup> People with disabilities are more likely to be socially isolated which makes them less likely to be mobilized and asked to vote by friends, family members, co-workers, and political organizations. They also have lower levels of resources that are

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enforce HAVA, the State Attorney General can bring an action, and individuals can also file written complaints requiring administrative hearings.

<sup>10</sup> Christina J. Weis, *Why the Help America Vote Act Fails to Help Disabled Americans Vote*, 8 LEGIS. & PUB. POL'Y 421, 447-55 (2005).

<sup>11</sup> Jim Dickson, Vice President of the American Association of People with Disabilities, argued at the time that there were “fifty different standards defining access to voting systems and polling places . . . but the manufacturers of voting systems need one clear set of standards to design and build to.” *Id.* at 450.

<sup>12</sup> 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/>. *Id.* at 17.

<sup>14</sup> U.S. GOV'T ACCOUNTABILITY OFFICE, GAO-09-941, VOTERS WITH DISABILITIES: ADDITIONAL MONITORING OF POLLING PLACES COULD FURTHER IMPROVE ACCESSIBILITY, (2009), available at <http://www.gao.gov/assets/300/296294.pdf>, at 24.

<sup>15</sup> *Id.* at 28.

<sup>16</sup> For the overall framework and research on political participation in general, see Sidney Verba, Kay Schlozman, & Henry Brady, *VOICE AND EQUALITY: CIVIC VOLUNTARISM IN AMERICAN LIFE* (1995); Steven Rosenstone & 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, & Lisa Ochs, *Disenfranchised: People with disabilities in American electoral politics*, in *EXPANDING THE SCOPE OF SOCIAL SCIENCE RESEARCH ON DISABILITY* 177–203 (B. Altman & 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, & Kay Schriener, *Enabling democracy: Disability and voter turnout*, 55 *POLITICAL RESEARCH QUARTERLY*, 167 (2002); and Lisa Schur, Todd Shields, & Kay Schriener, *Generational cohorts, group membership, and political participation by people with disabilities*, 58 *POLITICAL RESEARCH QUARTERLY* 487 (2005).

linked to higher turnout, such as income and education, and they tend to have lower feelings of political efficacy.

These factors do not, however, fully explain the gap in turnout. Voting among people with disabilities can 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 fully welcome in the political sphere.<sup>17</sup>

Despite the existence of laws such as the ADA and HAVA, the U.S. GAO found that only 27% of polling places in 2008 had no potential impediments to access by people with disabilities, a modest improvement from 16% in 2000.<sup>18</sup> The majority of impediments occurred outside of or at the building entrance, such as lack of accessible parking spaces, steep ramps or curb cuts, unpaved surfaces in the path leading from the parking lot or route to the building entrance, and door thresholds exceeding 1/2 inch in height.<sup>19</sup> The GAO found that 46% of polling places had an accessible voting system that could pose a challenge to certain voters with disabilities.<sup>20</sup> While the proportion of polling places with 4 or more potential impediments dropped from 29% in 2000 to 16% in 2008, the percentage with 1-3 potential impediments stayed about the same.<sup>21</sup>

A nationally representative survey of 3,022 citizens following the 2012 elections provides the first in-depth look at voting experiences of people both with and without disabilities.<sup>22</sup> This survey 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. As shown in the breakdown below, 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.

	<u>Disability</u>	<u>No disability</u>
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%

<sup>17</sup> Anne Schneider & Helen Ingram, *Social Construction of Target Populations: Implications for Politics and Policy*, 87 AMERICAN POLITICAL SCIENCE REVIEW 334 (1993).

<sup>18</sup> GAO, op. cit., at 12.

<sup>19</sup> *Id.* at 15.

<sup>20</sup> *Id.* at 12.

<sup>21</sup> *Id.* at 18, 19.

<sup>22</sup> Reported in Schur, Adya, & Kruse, op. cit. The 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.

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.<sup>23</sup> 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, which is enough to swing an election if these people decide not to vote. There is evidence that difficulty in finding and getting to the polling place lowers voter turnout, and this is likely to apply to other polling place difficulties.<sup>24</sup>

A positive finding is that people with disabilities were just as likely as those without disabilities to say they were treated respectfully by election officials, and to report that election officials were very helpful if they needed any type of assistance. Among voters with disabilities in 2012, 7% reported using extra features or devices to enable voting, most commonly large displays or magnifiers but also lowered machines, seating, and accessible voting machines.<sup>25</sup>

People who did not vote at a polling place in 2012—either because they voted by mail or did not vote—were asked when they last voted in a polling place. Those who had done so in the past 10 years reported very similar experiences as those who voted in a polling place in 2012. People who had not voted in a polling place in the past 10 years were asked a hypothetical question in order to measure their expectations. Among this group 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.<sup>26</sup>

Other recent studies have also identified voting problems faced by people with disabilities. A survey of 1200 voters with disabilities in Missouri and Tennessee in May 2011 to April 2012 found that the major problems for voters with disabilities were inaccessible polling places, lack of knowledge among poll workers about disability or accommodations, and discomfort among poll workers in helping people use accessible voting equipment.<sup>27</sup> A 2012 survey of 296 voters in South Carolina, of whom 53 had disabilities, found that respondents reported a variety of accessibility problems in parking, polling place entrances, voting areas, ballots, and the provision of assistance.<sup>28</sup>

The continuing polling place problems were recognized in a 2012 U.S. District Court ruling that ordered New York's Board of Elections to improve accessibility. The ruling described

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<sup>23</sup> *Id.* at 7.

<sup>24</sup> Henry E. Brady & John E. McNulty, *Turning out to vote: The costs of finding and getting to the polling place*, 105 AMERICAN POLITICAL SCIENCE REVIEW 115 (2011).

<sup>25</sup> Schur, Adya, & Kruse, *op. cit.* at 9.

<sup>26</sup> *Id.* at 7. The numbers for this 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.

<sup>27</sup> Paraquad and Research Alliance for Accessible Voting, “RAAV Poll Worker Training Project,” May 2013, report prepared for Research Alliance for Accessible Voting (<http://www.accessiblevoting.org/>).

<sup>28</sup> Protection and Advocacy for People with Disabilities, *Polling Place Accessibility: Ensuring Access for Voters with Disabilities—Election Day Survey*, December 2012, at <http://pandasc.org/wp-content/uploads/2012/12/SURVEY-ACCESS-REPORT-2012.pdf>. There is also a forthcoming National Council on Disability report on voter experiences in the 2012 elections.

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.<sup>29</sup>

### *Voting early and by mail*

People with disabilities may especially benefit from more flexible opportunities to vote, including the chance to vote before election day at a more convenient time or location (e.g., when accessible transportation is more easily available) or to vote by mail, which may be of particular value for those with mobility impairments who have difficulty getting to a polling place. 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.<sup>30</sup>

While all states have some provisions for voting by mail, they differ on requirements for obtaining a mail ballot. Twenty-one states require an excuse for a mail ballot, twenty allow a mail ballot without an excuse but the request has to be renewed each election, seven states and the District of Columbia have a permanent no-excuse mail ballot available, and two states have mail-only voting.<sup>31</sup> These provisions appear to affect turnout: the requirement of an excuse correlates with lower turnout among eligible citizens with disabilities in 2010, and among registered voters both with and without disabilities in 2008 and 2010.<sup>32</sup> 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.

Voting by mail can, however, present obstacles to people with disabilities. For example, the prevalent model requires voters to take the first step, by initiating contact with election officials to request and return the ballot, which may be difficult for some people with disabilities.<sup>33</sup> People with visual or cognitive impairments may have trouble seeing or following complicated written instructions on standard mail ballots, and those with limited fine motor skills may find it hard to record their vote.<sup>34</sup> When the voting process is not fully accessible, people with disabilities who want to vote may have to rely on family members or caregivers who can make informal “gatekeeping” decisions to provide or withhold assistance, or can apply pressure to vote for particular candidates, which can discourage citizens with disabilities from voting.<sup>35</sup> In the 2012 post-election survey, close to one-tenth of people with disabilities who voted by mail

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<sup>29</sup> *United Spinal Association v. Board of Elections in City of New York*, F.Supp.2d-, 2012 WL 3222663 S.D.N.Y., 2012.

<sup>30</sup> Schur, Adya, & Kruse, op. cit., at 4.

<sup>31</sup> National Conference of State Legislatures, “Absentee and Early Voting,” at <http://www.ncsl.org/legislatures-elections/elections/absentee-and-early-voting.aspx>

<sup>32</sup> Lisa Schur & Douglas Kruse, *Disability and Election Policies and Practices*, in *The Measure of American Election 8-24* (Barry C. Burden & Charles Stewart eds., forthcoming 2013).

<sup>33</sup> Daniel P. Tokaji & Ruth Colker, *Absentee Voting by People with Disabilities: Promoting Access and Integrity*, 38 MCGEORGE L. REV. 1015, 1036 (2007).

<sup>34</sup> *Id.* at 1036.

<sup>35</sup> *Id.* at 1029.

reported having difficulties in doing so, and the need for assistance in filling out or sending the ballot.<sup>36</sup>

### *Preferences in voting methods*

While it may seem that voting by mail can reduce the need for polling place accessibility, majorities of people both with and without disabilities express a preference for voting in person in a polling place. All respondents in the 2012 survey—whether they voted or not in 2012—were asked “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%

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.<sup>37</sup>

## **POTENTIAL SOLUTIONS**

Some of the potential ways to increase voter turnout among people with disabilities lie outside the election system, such as policies to increase employment, accessible transportation, and educational opportunities.<sup>38</sup> A number of potential solutions within the election system, however, can have a direct impact on turnout of people with disabilities. Following is a review of examples and evidence on best practices.

### *Increased accessibility of polling places and voting equipment*

As noted above, common problems reported by voters with disabilities in 2012 include getting inside polling places and using the voting equipment. States have worked to monitor and increase the physical accessibility of polling places. Rhode Island was the first to ensure that all polling places are physically accessible, and Maryland, Georgia, and Missouri were early leaders

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<sup>36</sup> Schur, Adya, & Kruse, op. cit., at 8.

<sup>37</sup> 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](http://www.ntia.doc.gov/files/ntia/publications/exploring_the_digital_nation_computer_and_internet_use_at_home_11092011.pdf).

<sup>38</sup> See Lisa Schur, Douglas Kruse, & 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.

in encouraging accessible voting machines for each polling place (prior to the HAVA requirement).<sup>39</sup> California established requirements for ramps and entrances, and Indiana has required voting areas to have adequate maneuvering space.<sup>40</sup> More recently, Wisconsin developed an online system to be used in accessibility audits of polling places, and hired and trained employees to do the audits.<sup>41</sup> The system is being upgraded to automate the reporting of findings to local election officials, and to permit electronic submission of plans to remedy problems. Another example is Arizona's award of grants to county partnerships to buy accessible voting booths, clip on lights, ramps, door handle adapters, and other features to make voting accessible to citizens with disabilities.<sup>42</sup> Virginia had removed polling place barriers in 134 localities by the end of 2009 and had audited 700 polling places by that time, and Kansas amended its state law to enhance access to polling places and has maintained monitoring to ensure that the statutes is being implemented.<sup>43</sup> In Michigan experts on the Americans with Disabilities Act assisted local clerks in surveying the physical accessibility of polling places throughout the state.<sup>44</sup> Other efforts include the purchase, installation and maintenance of software for accessible voting machines in Maine and Puerto Rico, and the purchase of updated voting materials and accessibility resources in Ohio.<sup>45</sup> In Nevada a law was passed allowing the use of a rubber signature stamp for people with physical disabilities who are unable to write their names. Information was provided to consumers about how to obtain and use the stamp during the voting process.<sup>46</sup>

Direct involvement of the disability community helps ensure the effective design, choice, and implementation of technologies and practices.<sup>47</sup> In Alexandria, Virginia, people with disabilities helped perform usability tests on voting technology when jurisdictions decided to purchase new equipment.<sup>48</sup> Ohio's initiative to ensure polling place accessibility included the use of outside disability organizations to assist in assessing the location of polling places.

As noted, HAVA requires that all polling places have at least one accessible voting machine. In the 2010 election two-thirds (66%) of eligible citizens were in jurisdictions where

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<sup>39</sup> 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](http://www.dawninfo.org/advocacy/issues/voting/Polling_Access.pdf)

<sup>40</sup> GAO, op. cit. at 24.

<sup>41</sup> Kevin J. Kennedy, Wisconsin Government Accountability Board, *Re-booting Accessibility Compliance*, presented at 2012 Professional Practices Program, Election Center 28<sup>th</sup> Annual National Conference, Boston, MA, available at <http://www.electioncenter.org/publications/2012%20PPP/Wisconsin%20State%20Re-Booting%20Accessibility%20Compliance.pdf>.

<sup>42</sup> 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/>.

<sup>43</sup> *Id.* at 5, 9.

<sup>44</sup> *Id.* at 8.

<sup>45</sup> *Id.* at 2, 4, 5.

<sup>46</sup> Lewis, op. cit., 9.

<sup>47</sup> A list of disability organizations with local affiliates that can serve as partners in this process with election officials will be available on the Research Alliance for Accessible Voting website ([www.accessiblevoting.org](http://www.accessiblevoting.org)).

<sup>48</sup> As 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. Available at <http://www.eac.gov/assets/1/Documents/EMG%20chapt%2019%20august%2026%202010.pdf>.



election officials reported the availability of accessible devices.<sup>49</sup> The presence of such machines was not linked to significantly higher turnout among people with disabilities in 2008 and 2010, but this is not surprising given the small percentage of voters with disabilities who need these machines to vote. In addition, this result could reflect a lack of information on the availability of accessible voting machines.<sup>50</sup> While such machines have not had a significant impact on turnout so far, accessible voting technology is nonetheless essential for ensuring that all eligible citizens can vote easily and independently. A number of new voting technologies hold promise for increasing voting accessibility. As one example, researchers at Clemson University created an electronic voting system that allows people to vote by voice and/or touch with a user-friendly universal design to accommodate individuals regardless of their abilities.<sup>51</sup>

### *Mobile voting*

Difficulty getting to the polling place was another problem reported by people with disabilities in the 2012 post-election survey. 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 places where people with disabilities reside, such as long-term care facilities, or in setting up polling stations in convenient locations, such as shopping centers or malls located on accessible bus routes. An example is provided by Puerto Rico which equipped four mobile offices in 2003 to provide better voter registration and voting opportunities to people with disabilities who were unable to get to their polling places. During the 2008 general election, Vermont developed a mobile-polling pilot program, which was reported to be well received and highly successful.<sup>52</sup>

### *Training for election officials and poll workers*

Many accessibility problems can be addressed by better-informed election officials and poll workers. States have increasingly focused on developing and expanding training and education for poll workers, county clerks, election officials and other relevant stakeholders to promote access and participation of individuals with disabilities. This has often been done in partnership with disability service and advocacy organizations.

For example, Oregon, North Carolina, Minnesota and Rhode Island have produced videos on accessibility and poll worker assistance for voters with disabilities.<sup>53</sup> Connecticut and Louisiana have conducted conferences on polling place accessibility and the rights of people with disabilities, while Ohio, Hawaii, Alaska, Indiana, Louisiana, and the Virgin Islands have

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<sup>49</sup> Schur and Kruse, *op. cit.*, at 8-37.

<sup>50</sup> *Id.* at 8-21.

<sup>51</sup> Voters can choose to follow written or spoken instructions and they can record their votes either by touching a screen, a physical switch, or speaking into a microphone. The software runs from bootable DVDs, which limits exposure to security breaches and makes it easy to use both in polling places and in mobile voting since it is easy to transport the system to nursing homes or other facilities. A paper ballot can be printed out for voter verification. See *Researcher demonstrates accessible voting technology on Capitol Hill*, at <http://www.clemson.edu/media-relations/4953/researcher-demonstrates-accessible-voting-technology-on-capitol-hill/>

<sup>52</sup> U.S. Election Assistance Commission, *op. cit.*, at 192.

<sup>53</sup> *Id.* at 188; Lewis, *op. cit.*, at 3-4.

provided training for county election clerks and state election officials.<sup>54</sup> California has conducted training and developed uniform poll worker training standards.<sup>55</sup> Alabama has provided training on the primary concerns of potential voters with developmental disabilities, and New Mexico has provided training and accessible voting materials to tribal group officials and leaders throughout the state.<sup>56</sup>

A two-year project in Missouri to develop and evaluate poll worker training on disability issues found that using a variety of interactive training methods was more effective than simply relying on presentations and lectures, and poll workers found that checklists and visual aids were more helpful than memorization in carrying out election day procedures, especially regarding the use of accessible voting machines.<sup>57</sup>

### *Outreach and education for people with disabilities*

The 2012 survey shows that some voters with disabilities had difficulty understanding how to vote and use the voting equipment. Such problems can be addressed by education and outreach. A 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 5 minutes or less on average, and the general level of comfort with the technologies increased substantially, but there was substantial variation and a small number of voters never became independent.<sup>58</sup>

Examples of outreach and education include Idaho's posting of audio files on the [Idahovotes.gov](http://Idahovotes.gov) website with instructions on how to use the ballot marking device, along with the full text of ballot measures, propositions and amendments.<sup>59</sup> Hawaii has conducted informational outreach on the accessible features and use of the Direct Recording Electronic (DRE) voting system.<sup>60</sup> North Dakota created a Disabilities Education booklet and video.<sup>61</sup> South Dakota has conducted events to distribute HAVA information. Alaska has provided outreach to assisted living facilities where it offered voter registration assistance to residents and provided voters with information regarding their voting rights.<sup>62</sup> West Virginia provided Voter Education Kits to individuals at conferences, provider locations, psychiatric hospitals, nursing homes, and senior centers.<sup>63</sup> New York created a voting Public Service Announcement for the radio and television media markets in conjunction with the NYS Independent Living Council and Association.

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<sup>54</sup> Lewis, op. cit., at 3-4, 8; Jacqueline Rothschild, *Ohio ADA Initiative*, 2009 Professional Practices Program, Election Center 25<sup>th</sup> Annual National Conference, San Diego, CA, available at <http://www.electioncenter.org/publications/2009%20Papers/Ohio-%20ADA%20Initiative.pdf>.

<sup>55</sup> *Id.* at 3.

<sup>56</sup> *Id.* at 9-10.

<sup>57</sup> Paraquad and Research Alliance for Accessible Voting, op. cit., at 2-3.

<sup>58</sup> 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.

<sup>59</sup> Lewis, op. cit., at 3.

<sup>60</sup> *Id.* at 3.

<sup>61</sup> *Id.* at 5.

<sup>62</sup> *Id.* at 8.

<sup>63</sup> *Id.* at 10.

Mississippi initiated a four-month listening tour across the state in 2009 to hear from individuals with disabilities, their family members and services providers about voting needs and accessibility concerns.<sup>64</sup> The tour also provided a forum to educate individuals, families, community partners and other advocates about voting rights. Bexar County, Texas election officials have worked with a private company to provide American Sign Language videos for deaf voters at early voting sites, and additional one-on-one assistance to deaf voters through real-time webcams.<sup>65</sup> Thurston County, Washington used a wide variety of electronic, visual, and audio formats to reach citizens with different types of disabilities in an outreach campaign to reduce registration errors.<sup>66</sup> Many of the above projects were financed through HAVA funding that is no longer available.

### *Voting by Mail*

Best practices in voting by mail for people with disabilities 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 some people with disabilities are reluctant to disclose a disability on a public form. The three systems that do not require excuses—no excuse for one election, permanent no-excuse, and all-vote-by-mail—are linked to significantly higher voter turnout among people with disabilities in 2010, and to higher turnout among registered voters with and without disabilities in both 2008 and 2010.<sup>67</sup> Being required to disclose that one has a disability for a mail ballot appears to discourage turnout, presumably due to the stigma around disability that still exists for many people. For states that institute no-excuse systems, the effectiveness can be enhanced by outreach and education programs such as Jefferson County, CO, implemented for its permanent mail-in voter program.<sup>68</sup>

While greater ease of obtaining mail-in ballots helps reduce voting obstacles 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**

The lower voter turnout among people with disabilities appears to be caused in part by their greater likelihood of experiencing voting difficulties. There has clearly been progress in increasing polling place accessibility over the past decade since HAVA was passed. The 2012 post-election survey, however, shows that almost one-third of voters with disabilities experienced some type of difficulty in voting. A variety of best practices have been used by

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<sup>64</sup> *Id.* at 10.

<sup>65</sup> U.S. Election Assistance Commission, *op. cit.*, at 192.

<sup>66</sup> Kim Wyman, *Election Outreach and Accessibility: Thurston County, Washington*, 2012 Professional Practices Program, Election Center 25<sup>th</sup> Annual National Conference, San Diego, CA, available at <http://www.electioncenter.org/publications/2009%20Papers/Thurston%20Co.%20WA-%20Outreach%20&%20Accessibility.pdf>.

<sup>67</sup> Schur & Kruse, *op. cit.*

<sup>68</sup> Pam Anderson, *Permanent Mail-in Voter Education and Outreach Program: Jefferson County, Colorado*, 2008 Professional Practices Program, Election Center 24<sup>th</sup> Annual National Conference, Dallas, TX, available at <http://www.electioncenter.org/publications/2008%20Papers/Jefferson%20County.pdf>

policy-makers and election officials to deal with these problems. The one practice on which there is hard evidence is:

- No-excuse and permanent vote by mail systems, in which people can request a mail ballot without having to disclose that they have a disability, are linked to higher turnout of people with disabilities

For other best practices reviewed in this paper, there is less hard evidence on their effectiveness, although there are case studies suggesting positive outcomes and they appear to straightforwardly address many of the difficulties faced by voters with disabilities. The best practices include:

- Partnership with disability organizations and direct involvement of people with disabilities in all aspects of polling place accessibility, including the choice of new sites; the improvement of existing sites; the choice, design, purchase, and implementation of technologies and practices; and voter education and outreach
- Accessibility audits of polling places with standardized tools that permit rapid feedback to remedy problems
- Availability of funding to increase accessibility within polling places
- On-going assessment of accessible voting technologies
- Increased use of accessible mobile voting to reduce the difficulties of voters in getting to a polling place
- Interactive training for election officials and poll workers using a variety of methods to ensure they are aware of accessibility issues and know how to cope with problems that may arise as people with disabilities vote
- Provision of checklists and visual aids on election day to help poll workers set up and operate accessible voting technology
- Outreach and education for people with disabilities to ensure that they are familiar with the voting process and technologies

The voting obstacles described in this paper will affect a growing number of Americans over the next several decades as the population ages and the number of people with disabilities increases. Reducing the obstacles facing people with disabilities is important for ensuring that all American citizens can easily and effectively exercise their right to vote.