

LEGAL RIGHTS OF PERSONS WITH DISABILITIES

ACCESS TO VOTING FOR PEOPLE WITH DISABILITIES



CALIFORNIA OFFICE OF THE ATTORNEY GENERAL

PUBLIC RIGHTS DIVISION

CIVIL RIGHTS ENFORCEMENT SECTION | *DISABILITY RIGHTS BUREAU*



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ACCESS TO VOTING FOR PEOPLE WITH DISABILITIES

This publication discusses access to polling places and the voting process under federal and state election laws. Additionally, this publication describes an individual's options when they have experienced discrimination because of their disability while registering to vote or voting.

This publication is provided for informational purposes only and is based on the law at the time of publication. Laws are subject to and regularly do change. The facts of each and every case may also result in differing applications of the law. Accordingly, the information in this publication must not be considered definitive, exhaustive, or legal advice for any purpose, and does not create an attorney-client relationship with the California Department of Justice. Individuals should also independently check for updates in the law that may be applicable in any given situation.

I. LAWS THAT PROTECT VOTERS WITH DISABILITIES

A. Federal Law

1. Americans with Disabilities Act

Under Title II of the Americans with Disabilities Act (ADA), public entities must ensure that people with disabilities have a full and equal opportunity to vote. ([The Americans with Disabilities Act and Other Federal Laws Protecting the Rights of Voters with Disabilities](#) (Feb. 2020) U.S. Dept. of Justice [as of Sept. 16, 2024]; see also 42 U.S.C. § 12132.) The ADA requires providing meaningful access to voters with disabilities in all aspects of voting, including voter registration, polling place site selection, and the casting of ballots. (*Ibid.*) This law protects the right to vote for people with disabilities by making sure that voting facilities have accessible voting systems, accessible parking, and accessible routes to the entrance. (*Ibid.*; [ADA Checklist for Polling Places](#) (Feb. 28, 2020) U.S. Dept. of Justice [as of Sept. 16, 2024]; Cal. Code Regs., tit. 24, § 11B-206.2.1.)

2. Voting Rights Act of 1965

The federal Voting Rights Act of 1965 (VRA) requires, among other things, that election officials allow voters who need assistance because they are blind or have another disability to receive assistance from a person of the voter's choice. (52 U.S.C. § 10508.) The VRA also prohibits election officials from denying people the right to vote because they cannot comply with any "test or device." (52 U.S.C. § 10501.) The VRA defines any "test or device" as "any requirement that a person as a prerequisite for voting or registration for voting (1) demonstrate the ability to read, write, understand, or interpret any matter, (2) demonstrate any educational achievement or [their] knowledge of any particular subject, (3) possess good moral character, or (4) prove [their] qualifications by the voucher of registered voters or members of any other class." (*Ibid.*)

3. Voting Accessibility for the Elderly and Handicapped Act of 1984

The Voting Accessibility for the Elderly and Handicapped Act of 1984 (VAEHA) was intended to improve access to registration facilities and polling places for voters with disabilities in federal elections. (52 U.S.C. § 20101.) The act requires state election officials to ensure that all polling places are accessible for people with disabilities or provide an alternative means for voting if an accessible place is unavailable. (52 U.S.C. § 20102.) State election officials must also provide accessible registration facilities and make registration and voting aids accessible for people with disabilities, such as by printing and displaying instructions in large type and providing information to people with hearing disabilities in an accessible manner. (See 52 U.S.C. §§ 20103, 20104.)

4. National Voter Registration Act of 1993

The National Voter Registration Act of 1993 (NVRA) was enacted to establish procedures that would increase the number of eligible citizens who register to vote in elections for federal office and to make it possible for states and local governments to provide more opportunities to enhance the participation of eligible voters. (52 U.S.C. § 20501.) The act provides for additional voter registration methods for certain states, including procedures for simultaneously registering to vote with an application for a motor vehicle driver's license, mail-in applications, and in-person registration at designated registration sites or at a federal, state, or nongovernmental office. (52 U.S.C. §§ 20503-20506.) For more information on the NVRA, see the [United States Department of Justice's \(USDOJ\) Questions and Answers](#).

5. Help America Vote Act of 2002

The Help America Vote Act of 2002 (HAVA) protects the right of people with disabilities to vote by making sure that polling places have accessible voting systems, including nonvisual accessibility for people who are blind or visually impaired, and that people with disabilities can vote in person at any polling place with the same privacy and independence as other voters. (See 52 U.S.C. § 21081; see also 52 U.S.C. §§ 20901-21145.) For more information on the HAVA, see the [California Secretary of State's website](#).

B. State Law

1. Government Code Section 11135

Government Code section 11135 (Section 11135) prohibits disability-based discrimination in programs and activities that are conducted, operated, or administered by the state or by any state agency, are funded directly by the state, or receive any financial assistance from the state. (Gov. Code, § 11135, subd. (a); Cal. Code Regs., tit. 2, § 14025.) A violation of the ADA is also a violation of Section 11135. (Gov. Code, § 11135, subd. (b).) Where State law provides stronger protections and prohibitions than federal law, the programs and activities subject to Section 11135 must follow those stronger requirements. (*Ibid.*)

2. California Voter's Choice Act

The California Voter's Choice Act added to and amended provisions of the Elections Code to provide greater flexibility and convenience for California voters. Participating counties may conduct any election as an "all-mailed ballot election" if certain requirements are met, including the provision that each vote center must have at least three voting machines that are accessible to voters with disabilities. (Elec. Code, § 4005, subd. (a)(2)(B).) The act further requires that vote centers comply with federal accessibility requirements and be equipped with voting units or systems that are accessible to voters with disabilities. (Elec. Code, § 4005, subd. (a)(4)(C)-(D).)

3. California Voter Bill of Rights

The California Voter Bill of Rights sets forth the rights available to the public when voting. (Elec. Code, § 2300.) Under its provisions, valid registered voters have a right to cast a ballot, or, if the voter's name is not listed on the voting rolls, a voter may cast a provisional ballot. (Elec. Code, § 2300, subds. (a)(1)(A), (a)(2).) The California Voter Bill of Rights also enables a voter to report any illegal or fraudulent activity to a local election official or to the Secretary of State's office. (Elec. Code, § 2300, subd. (a)(10).) Additional information on the rights available to voters under the California Voter Bill of Rights may be found on the [California Secretary of State's website](#).

II. RIGHTS OF VOTERS WITH DISABILITIES

A. Voter Registration

Federal law requires states to provide a reasonable number of accessible permanent registration facilities for federal elections unless the state provides a means to register by mail or at the residence of the voter. (52 U.S.C. § 20103.) They must also make instructions for registration for federal elections available in large type and conspicuously display them at each permanent registration facility and each polling place. (52 U.S.C. § 20104.) And they must make information available by telecommunication devices for the deaf. (*Ibid.*)

Federal law also requires states to designate as voter registration agencies all offices in the state that provide state-funded programs primarily engaged in providing services to persons with disabilities. (52 U.S.C. § 20506(a)(2)(B).) These offices or “voter registration agencies” must provide people with disabilities with mail voter registration application forms, assist them with completing their forms, and accept completed forms for transmittal to the state election official. (52 U.S.C. § 20506(a)(4)(A).) Further, if the designated voter registration agency provides services to a person with a disability at the person’s home, the agency must provide the services listed above in their home as well. (52 U.S.C. § 20506(a)(4)(B).)

The California Secretary of State maintains voting resources for voters with disabilities, including information on how to fill out a California voter registration card. Polling place accessibility guidelines and additional resources for voters with disabilities may be found at the [California Secretary of State's website](#).

Additionally, the USDOJ maintains voting resources for voters with disabilities. Polling place accessibility guidelines and additional resources for voters with disabilities may be found at the [USDOJ's website](#).

B. Accessible Polling Places and Technology

State and political subdivisions must ensure that registration and polling places for federal elections are accessible to persons with disabilities and elderly persons, or that alternative means for casting ballots are provided. (52 U.S.C. § 20102.) In California, the elections official must try to select accessible polling places that meet the guidelines set out by the Secretary of State. (Elec. Code, § 12280.) A voter with a disability may appear outside a polling place and vote regardless of whether the polling place is inaccessible. (Elec. Code, § 14282, subd. (d)(1).) California law requires the posting of signage indicating that the option for curbside voting is available for a voter with a disability, and the establishment of a method for a voter with a disability to contact a precinct board member in order to vote outside the polling place. (Elec. Code, § 14282, subd. (d)(3); [Voters with Disabilities](#) Cal. Sect. of State [as of Sept. 16, 2024].)

In California, the California Secretary of State “adopt[s] and publish[es] rules and regulations governing any voting technology and systems used by the state or any political subdivision that provide voters with disabilities the access required under the federal Help America Vote Act of 2002.” (Elec. Code, § 19242, subd. (a).) Further, “[a]t each polling place, at least one voting unit certified or conditionally approved by the Secretary of State shall provide voters with disabilities the access required under the federal Help America Vote Act of 2002.” (Elec. Code, § 19242, subd. (b).)

Federal law also provides for uniform and nondiscriminatory election technology and administration requirements. Each voting system used in an election for federal office must meet specified requirements to ensure accessibility for individuals with disabilities, “including nonvisual accessibility for people who are blind and visually impaired,” in a manner that provides the same opportunity for access and participation as for other voters. (52 U.S.C. § 21081(a)(3)(A).) The method of implementation, however, is left to the discretion of the state. (52 U.S.C. § 21085.) States can satisfy this accessibility requirement

“through the use of at least one direct recording electronic voting system or other voting system equipped for individuals with disabilities at each polling place.” (52 U.S.C. § 21081(a)(3)(B).)

C. Voting Assistance

If a voter is unable to mark a ballot, they must be permitted to vote with the assistance of not more than two persons, other than the voter’s employer, or an officer or agent of the union of which the voter is a member. (Elec. Code, § 14282, subd. (a).) No person assisting a voter shall divulge any information regarding the marking of the ballot. (Elec. Code, § 14282, subd. (c).)

Similarly, under federal law, any voter requiring assistance to vote because of blindness or disability may receive assistance from a person of the voter's choice, other than the voter's employer or an agent of the employer or an officer or agent of the voter's union. (52 U.S.C. § 10508.)

Further, Title II of the ADA prohibits discrimination against voters who require the assistance of a service animal when accessing the polls. (See 42 U.S.C. § 12132; 28 C.F.R. §§ 35.130, 35.136.) Voters with disabilities may be accompanied by their service animals in all areas of the polling place where the public is allowed to go even if the polling place has a “no pets” policy. (28 C.F.R. § 35.136(g); [The Americans with Disabilities Act and Other Federal Laws Protecting the Rights of Voters with Disabilities](#) (Apr. 18, 2024) U.S. Dept. of Justice [as of Sept. 16, 2024].)

D. Absentee and Vote by Mail Ballots

The chief election officer of each state must provide public notice of the availability of aids and assistance and the procedures for voting by absentee ballot. (52 U.S.C. § 20104(c).) Examples of registration and voting aids include: instructions, printed in large type, conspicuously displayed at registration and polling places; and information by telecommunications for persons who are deaf. (52 U.S.C. § 20104(a).)

Federal law provides that no notarization or medical certification is required of a voter with a disability with respect to an absentee ballot or an application for such a ballot, except to automatically receive an application or ballot on a continuing basis or to apply for an absentee ballot after the deadline has passed. (52 U.S.C. § 20104(b).)

California does not use the term “absentee,” but rather “vote by mail.” (Elec. Code, § 3000.5.) In California, every registered voter is automatically provided a vote by mail ballot. (Elec. Code, § 3000.5, subd. (a).) However, the provision of a vote by mail ballot “does not prevent a voter from voting in person at a polling place, vote center, or other authorized location.” (Elec. Code, § 3000.5, subd. (b).)

Voters may also choose to use a vote by mail ballot drop box, which is a secure receptacle established by a county or city and county elections official whereby a voted vote by mail ballot may be returned to the elections official. (Elec. Code, § 3025.) County election officials must ensure that drop box locations are accessible to voters with disabilities. (Cal. Code Regs., tit. 2, § 20134.) Further, drop boxes must be designed such that the hardware is operable without any tight grasping, pinching, or twisting of the wrist; requires no more than five pounds of pressure for the voter to operate; and are operable within reach-range of 15 to 48 inches from the finish floor or ground for a person utilizing a wheelchair. (Cal. Code Regs., tit. 2, § 20132, subds. (g)(1)-(g)(3).)

Additionally, any voter may vote using a certified Remote Accessible Vote by Mail (RAVBM) system, regardless of whether the voter is a voter with disabilities. (Elec. Code, § 3016.7.) A RAVBM system allows voters to receive a blank ballot electronically and to mark their selections using their own assistive technology independently and privately in their home. (See [Remote Accessible Vote-By-Mail \(RAVBM\)](#) Cal. Sect. of State [as of Sept. 16, 2024].) The RAVBM system must be accessible to voters with disabilities.

(Elec. Code, § 19283, subd. (b)(4).) Voters with disabilities can request a RAVBM system from their county elections office when they use the same day voter registration process. ([Remote Accessible Vote-by-Mail Frequently Asked Questions \(FAQs\)](#)) (Nov. 2023) Cal. Sect. of State [as of Sept. 16, 2024].)

III. COMPLAINTS

An individual who believes they have been discriminated against under the laws described in this publication may have options to file complaints with a government agency or in court. Please be aware that these complaints may have strict timeframes for filing and other requirements. It is best for an individual wishing to file a lawsuit to consult with a lawyer as soon as possible.

A. For Violations of Federal Law

The United States Attorney General or anyone who is personally aggrieved by noncompliance with federal law can bring a lawsuit for declaratory or injunctive relief in the appropriate federal district court, provided that (1) the aggrieved person notifies the chief election officer of the state of the noncompliance, and (2) a period of 45 days has elapsed since the date of that notification. (52 U.S.C. § 20105.) Additionally, if a person believes that they or someone else was discriminated against based on a disability while registering to vote or voting, they may file a complaint with the United States Department of Justice’s Civil Rights Division. Information on how to file a complaint under the ADA may be found at the [USDOJ's Civil Rights Division website](#).

B. For Violations of State Law

If an individual believes that they have experienced discrimination under California Government Code section 11135, they may file a complaint with the California Civil Rights Department (CRD). (Cal. Code Regs., tit. 2, § 14050.) CRD is authorized to receive and investigate individual complaints and enforce this law on behalf of individuals. (See Gov. Code, § 12930, subd. (f)(4).) Information about how to file a complaint can be found at the [CRD website](#). The individual may also file a private lawsuit. (Gov. Code, § 11139.)

If a person believes they have been denied any of the rights enumerated in the [Voter Bill of Rights](#), they may call the Secretary of State’s confidential toll-free voter hotline at 800-345-8683. There is also a teletypewriter/telecommunications device for the deaf hotline at 800-833-8683.

For questions or comments about this publication, please contact the California Department of Justice’s Disability Rights Bureau within the Civil Rights Enforcement Section at DisabilityRights@doj.ca.gov.

For individual complaints and inquiries, please contact the [California Civil Rights Department \(CRD\)](#), formerly known as the Department of Fair Employment and Housing. Please note that the California Department of Justice, unlike CRD, only pursues systemic violations by local governmental entities or companies directly impacting the general public or large groups of individuals. It does not handle individual complaints or inquiries. It also does not represent individuals, provide legal advice, or provide updates about its investigations and/or litigation, even to individuals who provided information about those matters. It also does not handle cases involving isolated violations of law, matters against state-level public entities, or out-of-state conduct.

To report a complaint to the California Department of Justice regarding systemic violations of law by local governmental entities or companies, please contact the Public Inquiry Unit (PIU). PIU staff may not

respond to every inquiry, cannot answer legal questions or give legal advice, and cannot act as a personal lawyer for individuals who report a complaint. Complaints may be referred to a more appropriate agency.

For more information about reporting a complaint against a business or company to PIU, visit the [Consumer Complaint webpage](#).

For more information about reporting a complaint against another entity to PIU, visit the [General Comment, Question or Complaint webpage](#).