

Vote.

It's your right.



Bazon Center
for Mental Health
Law

Autistic Self-
Advocacy
Network

National
Disability
Rights Network

Schulte Roth
& Zabel LLP

Akin Gump
Strauss
Hauer & Feld LLP

A Know-Your-Rights Guide
for Voters with Mental Disabilities
and Advocates
Plain Language Version

20
20

© Copyright 2020 Washington D.C. Judge David L. Bazelon Center for Mental Health Law, Autistic Self-Advocacy Network, National Disability Rights Network, Schulte, Roth & Zabel LLP, and Akin Gump Strauss Hauer & Feld LLP. Reproduction is permitted for non-commercial educational and advocacy purposes only, provided that attribution is included as follows:

Bazelon Center for Mental Health Law, Autistic Self-Advocacy Network, National Disability Rights Network, Schulte, Roth & Zabel LLP, and Akin Gump Strauss Hauer & Feld LLP, **VOTE. It's Your Right: A Know-Your-Rights Guide for Voters with Mental Disabilities and Advocates**; Washington DC and New York, NY 2020.

The guide was written by Autistic Self-Advocacy Network Legal Director & Director of Public Policy Samantha Crane and Policy Analyst Kelly Israel; Bazelon Center Director of Policy and Legal Advocacy Jennifer Mathis and Senior Staff Attorney Lewis Bossing; National Disability Rights Network Disability Advocacy Specialist for Voting Rights Michelle Bishop; and attorneys from the law firm Schulte, Roth & Zabel LLP, including Craig Stein, Joseph Suh, Boris Ziser, Alexander J. Buonocore, Atul Joshi, Sean D. Locklear, Richard Mertl, S. Beverly Prewitt, Wayne Teigman, Jacob B. Wentworth, and Ashley S. Whang, with assistance from Daniel L. Greenberg and Joseph Soileau; and Akin Gump Strauss Hauer & Feld LLP, including Mark MacDougall, J. Porter Wiseman, and John White.

The guide is available for download via www.bazelon.org/issues/voting. Print copies are available from the Bazelon Center; inquiries to pubs@bazelon.org or (202) 467-5730.

Table of Contents

Introduction	3
Key Points.....	5
Which Federal Laws Protect Your Voting Rights?	6
Voter Competence Requirements and How to Challenge Them	13
Your Voting Rights	18
Advocating to Change the Voter Competence Standard in Your State.....	19
Voter ID Laws.....	20
Getting Help with Voting	23
Resources.....	26
Glossary	28
Providing Help to Voters with Disabilities: What You Should Know	31

Introduction

Voting is one of our most important rights. Voting is how people decide who they want our leaders to be, and what they want the government to do. By voting on the people who will represent them in the government, and on the laws we must follow, people choose what they want government to do. Especially this year, when so many people are voting by mail for the first time, making sure that every vote counts is very important.

Voting is just as important for people with disabilities as it is for everyone else. If people with disabilities can't vote, laws might be made about us, without us.

However, many people with disabilities have trouble voting. This can happen because:

- ☒ Some people think that people with disabilities don't understand their voting choices even when they do.

*The ability to understand and make your own choices, including when voting, is usually called "**competency**" or "**mental capacity**."*

- ☒ Some states have competency laws that take away voting rights for whole groups of people with disabilities – for example, everyone who has a legal guardian (which has nothing to do with whether you know how to vote).
- ☒ Some states have voting laws and rules that can make it hard for people with disabilities to vote. For example, states may have laws

that say you have to show your ID before you can vote. Some people with disabilities might not have an ID.

- ☒ Some people need help with voting, but can't get that help.

This guide explains the voting rights of people with mental disabilities. It also talks about unfair laws or policies which might restrict your right to vote and explains what you can do about them. This guide, which you are reading now, is written for people with mental disabilities—such as intellectual, developmental, or psychiatric disabilities--and their families in language that's easy to understand. Another guide gives even more details for lawyers and advocates for specific laws that address voting problems for people with mental disabilities. You can find that guide online at www.bazelon.org/issues/voting.

People might also have trouble voting because of physical disabilities. For more information on physical barriers to voting, check out the U.S. Department of Justice's website on the Americans with Disabilities Act: [http://www.ada.gov/ada_voting/ada_voting ta.htm](http://www.ada.gov/ada_voting/ada_voting_ta.htm).

Key Points

- ☒ States don't have to have **"competency" laws for voting**, or laws that require the voter to *prove* they understand how to cast a vote and why they want to do it.
- ☒ States **can't bar whole groups people from voting just because they want to**. They are limited by the Constitution and other federal laws. For example, if a state tries to ban everyone under guardianship from voting, that is generally against the law.
- ☒ States **can't hold people with disabilities to a higher standard than everyone else**. They have to apply voting laws equally.
- ☒ In most states, **only a judge may decide that a specific person shouldn't be able to vote**.
- ☒ People with disabilities have the **right to get help with voting**. They have the right to decide who will help them vote. The only people who *can't* help you vote are your employer or representatives of your labor union.
- ☒ If you get help with voting, the person helping you has to **listen to you when you tell them who you want to vote for and which laws you want to vote for**. They cannot make another choice instead. They cannot tell you who to vote for or which laws to vote for.
- ☒ If you get help with voting, the person helping you must respect your **privacy**. That person can't peek to see who you are voting for unless you need their help to fill out a **ballot** or use the **voting machine**. They also can't tell other people who you voted for.

Which Nationwide Laws Protect Your Voting Rights?

The United States Constitution

The Constitution is a set of laws that says how the government is run. It is the highest law in the United States. That means that the people who work for the government have to follow the Constitution even when a state law says something different.

The Fourteenth Amendment

The Fourteenth Amendment is a part of the US Constitution. It protects your right to **equal protection** and **due process**.

- ☒ **Equal Protection:** the Fourteenth Amendment says “no state shall...deny to any person within its jurisdiction the equal protection of the laws.” This means that states can’t pass laws that discriminate against anyone for no good reason. This includes laws about voting.
- ☒ **Due Process:** the Fourteenth Amendment also says that states cannot take away important rights without “due process of law.” For very important rights like voting, this means two things:
 - First, when the government takes away a right, it has to tell you why it’s taking the right away. It has to give you a chance to defend your rights.
 - Second, the government can’t take these important rights away *at all* unless there is a very important reason. It also has to show that it isn’t taking away any rights that it doesn’t have to. That means the government’s action has to be “**narrowly tailored**” to reach its important goal.

The Americans with Disabilities Act, or ADA

The Americans with Disabilities Act says that state and local governments can't discriminate against people with disabilities in the "services, programs, or activities" they run. That includes state and local elections.

The U.S. Department of Justice helps decide what counts as discrimination under the ADA. It has said that the ADA applies to "all aspects of voting."¹ That means that state and local governments can't:

- ☒ Discriminate against people with disabilities when they decide who can vote
- ☒ Make a person with a disability *do more before they can vote* than a person without a disability

The ADA also requires the government to make changes ("reasonable modifications") to their usual way of doing things if those changes allow the person with disability to vote. For example, people with disabilities may be allowed to bring a helper with them into the voting booth even if that is not normally allowed. Or a state hospital might have to change the way it does things if the people living at the hospital want to vote.

¹ U.S. Dep't of Justice, Civil Rights Division, Disability Rights Section, *The Americans with Disabilities Act and Other Federal Laws Protecting the Rights of Voters with Disabilities* (Sept. 2014), at 1, https://www.ada.gov/ada_voting/ada_voting_ta.pdf.

For example:

- ☒ A state hospital that doesn't normally let people leave the hospital grounds might have to help the people living there to get to a polling place.
- ☒ Or the state hospital might have to help the people who want to vote get and send in something called an **absentee ballot**, which lets someone vote without going to the polling place.

State and local government workers also generally can't stop people with disabilities from voting for discriminatory reasons. For example, the director of a state hospital can't tell residents that they can't register to vote just because he or she thinks that people with mental disabilities shouldn't vote. Staff at group homes, homeless shelters, or nursing homes also can't discriminate by keeping people with disabilities from voting.

Section 504 of the Rehabilitation Act

Section 504 of the Rehabilitation Act says that if a program gets money from the **federal** government, it also can't discriminate against people with disabilities. Your rights under the Rehabilitation Act are basically the same as your rights under the ADA. What's different is which laws cover which places. A program or service that gets money from the federal government is covered by the Rehabilitation Act. State programs and many privately

run programs are covered by the ADA. Some programs are covered by both. Here are some examples of programs that are covered by the Rehabilitation Act and can't discriminate against people with disabilities:

- ☒ Most state and local agencies that run elections and enforce election laws,
- ☒ Government-funded programs or services for people with disabilities, like vocational rehabilitation programs or college disability services offices, and
- ☒ Doctors and service providers that serve people on Medicare or Medicaid.

The Help America Vote Act, or HAVA

The Help America Vote Act says that all **polling places** must be accessible to voters with disabilities.

HAVA also says that you have a right to vote using a “provisional ballot” if your ability to vote is questioned. A **provisional ballot** lets you say who you want to vote for, just like a regular ballot. The provisional ballot is put aside until the election workers figure out if your vote should count. If you can vote, then the ballot will be counted the same as a regular ballot.

HAVA also says that voting systems have to be “accessible for individuals with disabilities.” They have to give people with disabilities “the same opportunity for access and participation” as other voters. HAVA therefore applies to people with mental disabilities who might not be able to vote without help.

People with disabilities also have the same rights to “privacy and independence” as everyone else. For instance, HAVA ensures that you can’t be forced to accept help with voting that you don’t want.

The Voting Rights Act, or VRA

The Voting Rights Act says that states can’t apply different standards to different people when deciding who is and isn’t allowed to vote. This means that states can’t make people with disabilities live up to higher standards for voting than people without disabilities.

Under VRA, the States also **can’t make you pass a test in order to vote.** For example, it can’t make you prove that you can read well. States and local governments used to use these sorts of tests to discriminate based on people’s race. States would make the tests very hard but would not make most white people take the tests, only black people or others who were not white. But these tests can also discriminate based on disability.

The VRA also says **you can pick someone to help you vote if you need help voting.** You can pick almost anyone you want, but the person you

pick can't be your employer or a representative of your worker's union. This is to stop employers and unions from forcing people to vote in a certain way.

The National Voter Registration Act, or NVRA

The National Voter Registration Act, or NVRA, also known as the **"Motor Voter" law**, sets standards for how people can register to vote. Registering to vote is how people get on the list of people who are allowed to vote on election day.

The NVRA says that you can register to vote when you apply for a driver's license or when you go to a government office for public support or disability benefits. These offices include offices that run food stamp programs (SNAP or WIC), Temporary Assistance for Needy Families (TANF), Medicaid, or Vocational Rehabilitation. If you get in-home disability services from your state Medicaid program, your services provider can help you register to vote at home.

On the other hand, the NVRA allows states to remove voters from voter registration due to "mental incapacity." A person can be removed for "mental capacity" if they can't understand what it means to vote. But the states *still* need to obey all the parts of the Constitution, the ADA, the HAVA, and the VRA.

The NVRA also says that any voting standards that the State creates have to be applied *equally to all voters*. Both the VRA and the NVRA bar states from using voting standards that treat individuals with mental disabilities differently from other voters.

Voter Competence Requirements and How to Challenge Them

Despite all of the laws protecting people's right to vote, a lot of people with disabilities still lose their right to vote because of discriminatory voter competence laws—laws which require them to prove they understand what it means to vote and how to vote.

This section explains the ways people have lost their right to vote due to these unjust laws and practices and what voters can do to keep their right to vote.

Voter Competence Requirements Can Stop People with Disabilities from Voting

1. State Voting Laws

Different states have different laws about who is and isn't allowed to vote. But some of these state laws may go against the Constitution, the ADA, or other laws. In these states people might be able to vote even if the state's law says they can't.

States that take away voting rights of people who have a guardian

Some states have laws that say that people under guardianship can't vote. These laws probably violate the ADA. A court finding that someone needs a guardian usually has nothing to do with whether they understand elections and voting.

States that take away voting rights of people if a judge says the person can't understand voting

Many states have laws that say that a judge can take away someone's right to vote. But the judge has to specifically say that a person can't understand how to vote. It isn't enough for the judge just to say that a person has a disability or that the person can't make other kinds of decisions.

Other State Laws

- ☒ A few states have laws that say you can't vote if you're "non compos mentis." This is an old term for "mentally incompetent" that can mean different things in each state. States that have this law probably won't use it because it is too vague.
- ☒ Some states have laws that use insulting language to say who can't vote. For example, they may say you can't vote if you're "an idiot," "of unsound mind," or you're "insane." Back when these laws were written, those words were used for people with intellectual disabilities or mental illness. The laws don't explain what kinds of intellectual disabilities or mental illnesses would stop someone from voting. Because they're not well explained, states don't often use these laws to take away people's right to vote.
- ☒ Ten states—Colorado, Idaho, Illinois, Indiana, Kansas, Michigan, New Hampshire, North Carolina, Pennsylvania and Vermont—have no disability-related restrictions on the right to vote.

- ☒ To find out about the law in your state, go to <http://www.bazelon.org/portals/0/voting/voting%20rights%20guide%202016.pdf>.

2. *Election Officials*

Sometimes, the people who run elections have not let people with mental disabilities vote—even though there is no law stopping them from voting. Some have refused to let people living in institutions register to vote. Some have refused to let people in institutions get **absentee ballots**. Absentee ballots let people vote even if they can't get to the polling place to vote on Election Day.

Sometimes election officials have made people pass special tests to vote. People with disabilities have to pass the tests, but people without disabilities don't. This is against the law. For example:

- ☒ In New Jersey, people in a psychiatric hospital tried to vote. The people running the election did not want to count those votes. They said that the people living in the hospital had to prove they knew how to vote. The New Jersey Supreme Court said this violated people's voting rights.²

² This case is called *In the Matter of Absentee Ballots Cast by Five Residents of Trenton Psychiatric Hospital*, 750 A.2d 790 (N.J. Super. App. Div. 2000).

3. *Poll Workers*

Sometimes poll workers also tell people with disabilities that they can't vote. Poll workers are the people who work at voting places on Election Day. Poll workers may not know that this is against the law.

4. *Service Providers*

Some people who provide housing or other services for people with disabilities have kept people with disabilities from voting. These might include people who work at nursing homes, group homes, or institutions. They might think that their clients should not be allowed to vote.

This is illegal. But they might do this anyway because they don't know it's illegal. Service providers may have a lot of control over their clients' lives. Because of this, their clients might not know they have rights or might not be able to stand up for their rights.

☒ In 2008, many nursing homes in Philadelphia were stopping some of their residents from voting. The staff thought that these residents didn't understand how to vote. They made people fill out forms. The forms asked lots of questions about the voting process. Some of the questions were so hard that most people without disabilities would not have known the answer.³

³ The researchers who noticed this wrote an article about it. The article is called Jason H. T. Karlawish et al., *Identifying the Barriers and Challenges to Voting by Residents in Nursing Homes and Assisted Living Settings*, *J. Aging & Soc. Pol'y*, vol. 20 issue 1, at 65, 72 (2008).

- ☒ In 2004, a nursing home in Ohio didn't let a resident vote. The resident had a disability that made it hard to sign his name. He signed his voter registration form with an "X" instead of his name. The nursing home said he could only vote if he signed his name.
- ☒ In Virginia, a group of voters sent letters to almost 2000 nursing homes. The letters said that voter registration groups might come to the nursing homes. They warned that the groups might try to help residents register to vote, and that some of those residents shouldn't be allowed to vote. As a result some nursing homes blocked the residents from voting.

Your Voting Rights

If people try to take away your right to vote because of a disability, you can fight back if you **know your rights**:

- ☒ **Only a court and a judge can decide that you don't understand how to vote.** *A social worker, election official, or service provider CANNOT decide you can't vote. Anyone who tries to stop you from voting without an order from a judge is doing something illegal.*
- ☒ If a poll worker tells you that you can't vote, **you can ask for and file a *provisional ballot*.** A provisional ballot says who you want to vote for. After you file your provisional ballot, the people running the election will decide whether your vote should count. If they decide that you should have been allowed to vote, the provisional ballot will count the same as a regular ballot.
- ☒ **Don't give up.** If someone denies you your right to register to vote or your right to vote, you have the right to be heard in court about it. Try to find a lawyer or someone else who can help make your voice heard, or talk to your state Election Board. If you don't know where to find a lawyer or can't afford one, get in touch with your state's Protection and Advocacy organization. You can find your Protection and Advocacy organization at www.ndm.org.

Advocating to Change the Voter Competence Standard in Your State

Some states still have laws about voting that are unfair to people with disabilities. For example, some states don't let anyone with a court-appointed guardian vote. Here are some ways you can change the unfair laws around voter competence in your state:

- ☒ **Tell people about the existence of unfair laws and practices that restrict your right to vote.** One of the biggest problems with many of these laws is that no one has changed them in a long time. Sometimes, most lawyers and judges don't even realize they exist. That's why there are terms like "idiot" still on the books! Even when they are aware of these laws, many people assume that people with mental disabilities can't vote, don't need to be able to vote, or wouldn't know how to vote. Tell your legislators, judges, and attorneys about these unfair laws. You can also point out that these kinds of laws aren't allowed under the ADA, the Voting Rights Act, and the Rehabilitation Act.

- ☒ **Advocate for voting rules that are fair to everyone.** There's no real need for voter competence laws. Some states don't have them. But in the states that do have these laws, they should be applied to everyone, not just people with disabilities. The

standard should be whether the person is able to show that they want to cast a vote.

Voter ID Laws

Some states have laws that say that if you want to vote, you have to show some kind of proof that you are who you say you are (like a passport or a driver's license). These laws can make it harder for people with disabilities to vote, as well as for people of color and people who are poor or homeless. People might have trouble:

- ☒ Physically getting to the place where they need to go in order to get the ID card
- ☒ Filling out the forms and other paperwork they have to fill out to get the ID card
- ☒ Getting access to the documents (such as birth certificates) and other information they need to fill out the paperwork for the ID card, if they don't already know where it is. This is especially a problem for people with disabilities who have been homeless or had to move many times
- ☒ Understanding how to get an ID card
- ☒ Paying for the ID card

Some people with disabilities don't drive. This means that they don't have a driver's license that they can use as their ID card.

Voter ID Laws as of September 2018

- ☒ In 34 states, you need to show a ID card or driver's license if you want to vote.⁴ The ID card has to have a photograph of you and has to be from the government, not a work or school ID.
- ☒ In 24 of these states, you can still vote without an ID card if you can give a sworn statement (called an "affidavit") saying you are who you say you are, or if you can otherwise prove who you are.⁵
- ☒ In 10 states, voters without a photo ID can only use a provisional ballot and must take additional steps after Election Day to vote, or their vote won't be counted.⁶ This includes people who have a good reason that they can't get an ID.
- ☒ Two states (Indiana and Tennessee) require ID cards but provide exceptions to homeless or very poor people.
- ☒ South Carolina provides an exception if you can show that something prevented you from getting an ID card. In some cases,

⁴ These states are Alabama, Florida, Georgia, Hawaii, Idaho, Indiana, Kansas, Louisiana, Michigan, Mississippi, North Dakota, Rhode Island, South Dakota, Tennessee, Virginia, Texas and Wisconsin.

⁵ Alabama, Florida, Hawaii, Idaho, Louisiana, Michigan, Rhode Island, and South Dakota.

⁶ Georgia, Indiana, Kansas, Mississippi, North Dakota, Tennessee, Virginia, Texas, and Wisconsin.

you might be able to show that a disability prevented you from getting an ID card.

All of these rules complicate voting in ways that make it harder for someone with a disability to vote.

The Good News: You Can Challenge Voter ID Laws

Some state voter ID laws have been struck down by courts, like in Arkansas, North Carolina, Texas, and Pennsylvania. People in other states may also be able to get rid of or change these laws by going to court. To challenge a voter ID law, it helps to:

- ☒ Find a lawyer, who can help you make your case
- ☒ Prove that:
 - the law makes it very hard for you to vote,
 - the law is against your state's constitution, or
 - the law discriminates against people with disabilities and violates the ADA.

Getting Help with Voting

If you need help voting because of a disability, you have the right to get help from almost any person you choose.⁷ **You can choose:**

- a family member
- a friend
- a supporter
- a poll worker
- almost anyone else you can think of!

The two kinds of people who *can't* help you vote are:

- Your boss or someone working for your boss
- If you belong to a labor union, an officer or agent of that labor union

Anyone helping you vote:

- Must** respect your choices, including who or what you want to vote for.
- Can't** assume they know who or what you want to vote for. If you haven't told the person helping you how you want to vote, they can't cast a ballot for you.

⁷ 42 U.S.C. § 1973aa-6.

Some rights you have when someone is helping you vote:

- ☒ **The helper must respect your privacy at all times.** This means that they should ask if you want them to check the ballot for any mistakes after it's been filled out, and check for any choices the voter didn't see. They should not look at your ballot if you don't want them to.

Example: A voter has a hard time reading the ballot. They can:

- ☒ Ask for a voting machine that reads aloud the choices on the ballot. Many polling places have these kinds of voting machines for Blind voters.

*Poll workers cannot tell you that these machines are **only** for Blind voters. If this kind of machine would help you vote privately and without extra help, you have the right to ask for it!*

- ☒ Ask a helper to read aloud all the names on the ballot. Then the helper can look away while the voter picks the person they want to vote for.
- ☒ If the voter also has a hard time marking the ballot by themselves, they can tell the helper which person they want to vote for. The helper helps mark the ballot, according to the voter's instructions.

It is the *voter's* decision which kind of help they get to vote!

- ☒ **Election officials must help you vote if you ask for their help.** They also have to ensure that you can use all of their voting booths, ballots or other voting forms, voting machines, and any other voting equipment. They must be willing to make changes if you can't use the voting equipment.

- ☒ **Service providers and election officials must make reasonable changes to their policies in order to help you vote.** These can include helping people to register, helping people get to the polling place, or letting people apply for and complete an absentee ballot if they can't get to the polling place.

- ☒ The NVRA, or "Motor Voter" law, says that **all disability service agencies are voter registration agencies.** Disability service agencies must give you voter registration forms if you ask for them. They must help you fill them out. They also have to send the form to the appropriate agency for processing.

Resources

Protection and Advocacy Agencies

You can learn more about voting laws and practices in your state by contacting the protection and advocacy agency for people with disabilities. Contact information for these agencies can be found at <http://www.ndrn.org>.

The American Civil Liberties Union (ACLU)

The local branch of the American Civil Liberties Union may also be able to provide information and assistance. Contact information for local ACLU branches can be found at <http://www.aclu.org/affiliates/index.html>.

State Services Offices

The disability services offices and other services offices in your state are required to help you register to vote. These offices include:

- Disability services offices
- Vocational Rehabilitation offices
- Medicaid offices
- Offices to apply for financial assistance or food stamps
- Departments of Motor Vehicles

A list of disability services offices in your state is available at http://www.napas.org/aboutus/PA_CAP.htm.

Additional Resources:

- ☒ The National Disability Rights Network, <http://www.ndrn.org>,
- ☒ The Bazelon Center for Mental Health Law, <http://www.bazelon.org>,
- ☒ The Advancement Project, <http://www.advancementproject.org>,
- ☒ The Autistic Self Advocacy Network, <http://www.autisticadvocacy.org>,
- ☒ The League of Women Voters, <http://www.lwv.org>, and
- ☒ The Secretary of State's office and local election board in your area.

More information is available in a longer version of this guide (<http://www.bazelon.org/wp-content/uploads/2020/10/Bazelon-2020-Voter-Guide-Full.pdf>) designed for advocates and lawyers. That version includes links to charts with the laws of each state about voting standards, absentee ballots, and voter challenges.

Glossary

Ballot: The form you use to pick which person you want to vote for. A ballot can be a paper form. It can also be a form you fill out on a special computer called a **voting machine**.

- **Absentee ballot:** A kind of ballot that you can use to vote without going to the polling place. Absentee ballots let people vote even if they can't get to the polling place to vote on Election Day.
- **Provisional ballot:** A special kind of ballot that lets you say who you want to vote for, just like a regular ballot. The provisional ballot is put aside until the election workers figure out if your vote should count. If you can vote, then the ballot will be counted the same as a regular ballot.

Competency: The ability to understand and make your own choices, including when voting.

Due Process: The right to keep your rights unless the government has a good reason to take them away. This can mean that the government has to tell you that it wants to take the right away and give you a chance to defend your rights. For important rights like voting, it also means that the

government has to show that it has to take away the right in order to reach an important goal.

Equal Protection: the right to be treated the same as other people under the law.

Federal: Nation-wide. The **federal government** governs the whole United States, unlike **state governments** and **local governments** that just govern a particular state, county, town, or city. **Federal laws** are laws that apply to the whole United States, unlike **state or local laws**.

Mental Capacity: The ability to understand and make your own choices, including when voting.

Narrowly Tailored: a law that is made so that it doesn't take away any rights that it doesn't have to in order to reach an important goal.

Polling place: somewhere you go in order to cast your ballot and vote in an election.

Voting machine: A special computer that people can use to vote. They are sometimes available at **polling places**.

People with Mental Disabilities Have the Right to Vote

Most people want to vote, including voters with mental disabilities. If you are a voter with a mental disability, you should know your rights. Knowing your rights will help make sure you can vote. Take this piece of paper with you when you go to vote so you will know what your rights are. You can also show this to others if you run into any problems. This paper tells lawyers and poll workers where to find the laws that protect your right to vote!

You do have the right to vote!

- ❑ If you are a person with a mental disability and understand what it means to vote, federal law protects your right to vote.
 - ⊙⊙The laws that protect that right: The Constitution and the Americans with Disabilities Act, 42 U.S.C. § 12132; *Doe v. Rowe*, 156 F.Supp.2d 35 (D. Me. 2001).

You have the right to get help from a person you choose.

- ❑ If you can't read or need help voting because of your disability, you can have someone help you vote.
- ❑ You can bring a friend, family member or someone else you trust to help you.
- ❑ You can ask the poll worker to help you if you didn't bring anyone with you.
 - ⊙⊙The law that gives you that right: The Voting Rights Act, 42 U.S.C. §§1973aa-6; The Americans with Disabilities Act, 42 U.S.C. § 12132

If you have a problem, you can get help by calling 1-866-OUR-VOTE

- ❑ Lawyers are available to give voters with disabilities and other voters advice and help with voting problems, so call 1-866-OUR-VOTE (1-866- 687-8683).

The law says everyone gets to cast a ballot, so don't leave without voting!

- ❑ Even if someone says you cannot vote, the law says the poll worker must allow you to vote a special ballot called a Provisional Ballot.
- ❑ Later, an election worker will decide whether you are allowed to vote in the election. If you are, your vote will be counted.
 - ⊙⊙The law that gives you that right: The Help America Vote Act, 42 U.S.C. § 15482

For more information about the rights of voters with disabilities visit www.ndrn.org.

Providing Help to Voters with Disabilities: What You Should Know

Voting is a fundamental right!

Voters with disabilities have the right to assistance in voting.

Voters with mental or physical disabilities are entitled to receive any assistance they need to cast their ballots.

Who may assist a voter?

Federal law gives voters with disabilities the right to decide whether to get help in casting a ballot and who will provide it.

- ❑ Voters can choose a poll worker, friend, family member, caregiver, assisted living provider, facility staff person or almost anyone else.
- ❑ The only people who may not assist a voter are the voter's employer or an agent of that employer, or a union officer or agent of the voter's union.

What can helpers do to help a person vote?

- ❑ First, an assistance provider—helper—should ask the voter what choice he or she wants to make. The helper must never make assumptions about how a person wants to vote!
- ❑ The helper must respect the voter's privacy at all times during voting.
- ❑ The helper should understand the instructions on how to cast a ballot and be prepared to explain them to the voter, and/or demonstrate the voting process.
- ❑ The helper should be prepared to read or explain all ballot choices or questions in a language the voter understands.
- ❑ The helper may mark a ballot for a voter with a disability only if the voter has directed him or her to do so.
- ❑ After the ballot has been completed, the helper should make sure that it accurately reflects the voter's choices. The helper should offer to correct any mistakes and to check the ballot for any election contests or questions that may have been missed.

What actions would not be appropriate in helping?

- ✗ Making decisions for the voter—for example, marking or changing a ballot to reflect a choice other than a choice expressed by the voter.
- ✗ Communicating with the voter in a way that makes the voter feel forced to make certain choices.
- ✗ Pressuring the voter to vote for a particular candidate or in a certain way.
- ✗ Withholding information or giving false information to a voter.
- ✗ Pressuring the voter to cast a vote on every measure or candidate. Everyone has the right to choose whether or not to vote on each [contest](#).
- ✗ Revealing to others how the voter voted. Respect the voter's right to privacy!

What can you do if you have problems?

Call Election Protection at 1-866-OUR-VOTE (1-866-687-8683).

