

Understanding and Applying the Help American Vote Act (HAVA)

The Help America Vote Act (HAVA) was enacted in 2002 to give voters across the country basic rights and protections to cast a ballot and have their vote count. Prior to HAVA, most election matters were left up to the states and local authorities to regulate, except where elections were subject to the Voting Rights Act as a result of past discrimination. HAVA is very comprehensive, addressing many facets of election law. Some specifics that may help shape you and your sections efforts to protect the vote are listed below. To view a copy of the law, visit http://www.fec.gov/hava/law_ext.txt.

HAVA protects these basic rights for every voter:

- ▶ The right to verify (in a private and independent manner) their vote before their ballot is cast and counted.
- ▶ The opportunity (in a private and independent manner) to change the ballot or correct any error before the ballot is cast and counted, including the opportunity to correct the error by using a replacement ballot if the voter was otherwise unable to change the ballot or correct any error.
- ▶ If the voter accidentally selects more than one candidate for a single office:
 - ▶ The right to be notified by election officials that they have selected more than one candidate for a single office on the ballot;
 - ▶ The right to be notified by election officials, before the ballot is cast and counted, of the effect of casting multiple votes for the office; and
 - ▶ The right to have a chance to correct the ballot before the ballot is cast and counted.

To comply with HAVA, any state or jurisdiction that uses a paper ballot voting system, a punch card voting system, or a central count voting system, including mail-in absentee ballots and mail-in ballots, is required to:

- ▶ Establish a voter education program specific to that voting system that notifies each voter of the effect of casting multiple votes for an office.
- ▶ Provide the voter with instructions on how to correct the ballot before it is cast and counted, including instructions on how to correct errors through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error.

Ensuring Enfranchisement

Historically, the right to vote has not been applied equally across communities, counties, or states nationwide. Our nation's history is blemished by incidents of systematic voter disenfranchisement. As we engage in our efforts to protect the vote by safeguarding our communities against the practice of exclusion, please be aware of these specific rights provided for in HAVA, designed to help protect all-too-frequently disenfranchised communities.

Voters with Disabilities

- ▶ Under HAVA, every voting system must be accessible for individuals with disabilities, including, but not limited to, non-visual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters.
- ▶ According to HAVA, every polling place must use at least one direct recording electronic voting system or other voting system equipped for individuals with disabilities.

Language Minority Voters

Under HAVA, a voting system must provide alternative language accessibility as specified in the Voting Rights Act of 1965, which covers jurisdictions meeting certain criteria regarding non-English speaking voters. The Voting Rights Act states that:

- ▶ Whenever any state or political subdivision covered by the Voting Rights Act provides any registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots, it shall provide them in the language of the applicable minority group as well as in the English language.
- ▶ If the predominant language is historically unwritten, the State or political subdivision may instead furnish oral instructions, assistance, or other information relating to registration and voting. Contact your local board of elections to determine regulations associated with voter assistance.