



Preventing Problems at the Polls: Arizona

By Rebecca Buckwalter-Poza and Liz Kennedy October 25, 2016

A controversial secretary of state, new voting restrictions, and outdated election technology—along with cyber threats to its voter registration database—create cause for worry in Arizona come November. The state has also struggled with election administration issues: Earlier this year, the largest county in Arizona dramatically slashed the number of polling places, resulting in multihour waits and frustrated voters.³

At the same time, overall turnout in Arizona has dropped steadily. In 2004, 63.5 percent of eligible voters turned out, but that figure fell to 59.8 percent in 2008 and 56.6 percent in 2012.⁴ However, African American turnout has increased.⁵ In 2004, 50 percent of eligible African American voters turned out, but that number rose to 55.3 percent in 2008 and 59.8 percent in 2012.⁶ Latino turnout has been lower during the past two presidential elections than it was in 2004, when 46.7 percent of eligible Latino voters cast a ballot, although it may be trending upward again.⁷ In 2008, just 36.5 percent of eligible Latinos voted, but four years later, 40.2 percent of Latino voters in Arizona turned out to vote.⁸

Despite a near complete absence of any evidence of federal voter fraud,⁹ Arizona's legislators, like those in many other states, passed laws purportedly to prevent fraud that instead suppress voting. One such law bars Arizonans from taking other voters' early ballots to the polls for them, a practice that had greatly helped voters who were late in mailing their ballots but who had limited time or access to the polls.¹⁰ Other issues with early voting this year include a ballot misprint advising 2,500 Yavapai County voters that the deadline for returning their ballots would be November 18, 10 days after the presidential election.¹¹

As of 2010, Arizona disenfranchised inmates, parolees, probationers, and former felons convicted of two or more felonies, although voting rights can be restored by a judge or a pardon.¹²

The integrity of elections in the United States demands that every eligible American is able to cast a ballot and trust that it will be counted. Americans have the right to choose their representatives and take part in electoral decision-making. But across the country, thousands of voters have not had their voices heard—either because of targeted voter suppression laws or poor election administration decisions.¹ While the vast majority of Americans will vote without encountering difficulties, in recent election cycles, voters have faced preventable problems and unnecessary hurdles. Failures at the polls may deny individuals their right to participate in the democratic process.

This series of issue briefs assesses potential problems for voters in states that have experienced issues with election administration or recent changes to voting rules. Each brief analyzes steps to improve election performance and the voting experience. Ongoing lawsuits have led to significant changes in recent weeks, as federal judges have ruled that many provisions of new voting laws discriminate against voters of color and collectively burden voting rights for hundreds of thousands of Americans.² Understanding the potential burdens that voters may face is a first step toward ensuring that voting is free, fair, and accessible for all Americans.

A 2015 Center for American Progress report ranked Arizona 39th in the nation in “accessibility of the ballot.”¹³ The report faulted Arizona for several election administration issues, including failing to make preregistration available to 16- and 17-year-olds; a lack of portable registration; its voter ID requirement; the high rate of provisional ballots cast and rejected; and its participation in the Interstate Voter Registration Crosscheck Program,¹⁴ which can lead to voters mistakenly being purged.¹⁵

Past voting problems

On average, Arizona voters waited 23.7 minutes to vote in 2008 and just 10.8 minutes in 2012.¹⁶ However, the state has a poor record on voter purges. In 2013, the Legislature attempted but failed to pass legislation to purge voters from permanent early voters lists if they did not vote in both the primary and general elections in the same year.¹⁷ However, the state is one of 16 nationwide that uses the Department of Homeland Security’s immigration database—Systematic Alien Verification for Entitlements, or SAVE—to check voters’ citizenship.¹⁸ This process is most likely to yield false positives in the case of Latino and Asian voters—that is, to incorrectly identify citizens as noncitizens—because voters belonging to these groups share surnames more often than those belonging to other ethnic and racial groups.¹⁹

Problems in the 2016 primaries

Before the 2016 primaries, officials in Maricopa County cut polling sites by 85 percent as compared to the 2008 presidential election and 70 percent as compared to the 2012 primary election, leaving just one site per 21,000 voters.²⁰ County election officials even apologized later.²¹ Hundreds of voters in Maricopa county, which includes Phoenix, had to wait in line for up to five hours to cast a ballot.²² Predominantly Latino areas were disproportionately affected: In Phoenix—which is a majority-minority city and the largest metropolitan area in the state—there was only one polling site per 108,000 residents, whereas some predominantly non-Latino white communities had one polling site for as few as 8,500 residents.²³

As a result of a subsequent lawsuit,²⁴ Maricopa County had to develop a plan to ensure that wait times at polling places do not exceed 30 minutes.²⁵ As of October 20,²⁶ the county has committed to deploying “trouble shooters” on Election Day to observe poll workers, ensure that polling places have enough supplies, and verify that the equipment is functioning properly.²⁷ The new plan will be implemented in every primary and general election through 2020.²⁸

Some independent voters who changed their registration to vote in the closed Democratic primary were reportedly told that they were not registered in the first place, which blocked them from voting.²⁹ A poll worker testified that she was unable to give the correct ballots to 36 registered Democratic voters because of a computer glitch and found that 20 other voters' party affiliations were incorrect.³⁰ Thousands of voters had to cast provisional ballots as a result of errors in party registration data.³¹ In April 2016, the U.S. Department of Justice opened an investigation into the voting issues.³²

What to expect in 2016

Arizona Secretary of State Michele Reagan has created a high likelihood of confusion for both officials and voters by refusing to publish a new election procedures manual to address voter qualifications and provide guidance on polling place procedures.³³ The update is especially critical this year as Arizona's new law barring voters from delivering others' early ballots to the polls was implemented since the previous manual's publication.³⁴

Most Arizonans vote by early mail-in ballot.³⁵ Arizona's new limitation on the collection of mail-in ballots will disproportionately affect Latino voters.³⁶ However, a challenge to the law on these grounds failed after a federal district court judge denied a request to delay enforcement of the rule and the U.S. Court of Appeals for the 9th Circuit affirmed that decision.³⁷ Although the 9th Circuit agreed to review the rule again³⁸—it heard arguments on October 19³⁹—it has yet to issue a decision.⁴⁰

The district court also rejected a related request to require Arizona to count out-of-precinct ballots cast in the right polling stations.⁴¹ However, the state settled another part of the lawsuit concerning the availability and accessibility of polling sites, particularly for voters of color, after the state and counties increased the number of polling sites following the troubled March primary.⁴²

Use of provisional balloting

During the August primary, one voter, Nick Alati, reported spending half a day trying to vote before being allowed to cast a provisional ballot that was not counted.⁴³ Arizona has had some of the highest percentages of provisional ballots cast and rejected. In 2008, 6.54 percent of ballots were provisional,⁴⁴ and a staggering 29.3 percent were fully rejected—most often for being cast in the wrong precinct.⁴⁵ In 2012, 7.89 percent of ballots cast were provisional, and 18 percent of those ballots were rejected.⁴⁶

A 2014 Center for American Progress report found that in Arizona and 15 other states in 2012, counties with the most voters of color used the most provisional ballots.⁴⁷ Arizona State University's Cronkite News stated that voters "in precincts with higher percentages of minorities had a greater chance of casting provisional ballots."⁴⁸

Election technology

Arizona has permitted online registration since 2002, a measure that, in 2008, saved Maricopa County more than \$450,000.⁴⁹ For context, each paper registration cost Arizona approximately \$0.83, while online registrations cost just \$0.03 each.⁵⁰ In Arizona, the use of electronic poll books is authorized by state law: County election supervisors may decide to use them at their discretion.⁵¹

Arizona is one of 14 states that will be using voting machines that are more than 15 years old.⁵² Some of these machines may be past the point of repair. The head of elections in Pima County, Brad Nelson, replaced machines after they became “undependable” to maintain. He stated, “We had a system that was beginning to fail, but there were no parts to keep it running.”⁵³ In other areas, according to a former federal compliance officer for the Maricopa County Elections Department, officials “seem to be saying we’re just going to wait until another catastrophe and then maybe Congress will pay for it.”⁵⁴ The Brennan Center for Justice found that the five counties that purchased new machines had a higher average income than those that did not, another indication of how disadvantaged populations are the most likely to encounter barriers to the polls.⁵⁵

An attempt by Russian hackers to access Arizona’s voter registration system earlier this year exposed the necessity of continuing to invest in new technologies and keep systems up to date.⁵⁶ While officials do not believe the hackers were able to break into the voter database, efforts to do so are ongoing: Arizona reported 192,000 hacking attempts in September, 11,000 of which “posed a serious threat.”⁵⁷ Although this does not affect vote counts—and there is no indication that changes were made to the database—this is a clarion call for investing in updated infrastructure for elections so that systems are modern and secure.

Conclusion

While Arizona has increased the number of polling sites since the March primary, the new law that limits the collection and submission of mail-in ballots represents a substantial step backward. Secretary of State Reagan’s failure to issue an updated elections manual instructing elections officials on how to implement these new rules and handle problems at the polls also presents substantial obstacles for voters. The age of Arizona’s voting machines creates additional potential for mishaps and delays. Voting rights advocates should remain vigilant and be ready to call in problems at the polls to prevent a repeat of the primary’s delays.

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