

COMMUNITY PRECLEARANCE: ADVOCACY TOOLS FOR IN-PERSON VOTING

INTRODUCTION

The freedom to vote depends on meaningful voter access. For many voters, that means casting their ballot in-person at a polling location on Election Day or during early voting. Voters should be able to vote in-person at a time and location that is convenient and accessible for everyone in a community, and in-person voting access should be equitably distributed across our communities. Voters in the community should have a voice in shaping decisions about polling locations and access. Unfortunately, for many voters across the country—and particularly for historically disenfranchised communities—access to in-person voting is uneven, inconsistent, and inequitable.

Inequitable access to the polls is particularly acute today. State and local governments, now free from some of the Voting Rights Act (VRA) of 1965's original provisions, have reduced the number of locations to vote in-person on Election Day and during early voting. In Louisiana, for example, parish governments closed a total of 126 polling places between 2012 and 2018. In Mississippi, county governments closed a total of 96 polling places between 2012 and 2018. And in Alabama, county governments closed a total of 72 polling places during the same time period.

These problems should be seen in the context of the Supreme Court's 2013 decision in *Shelby County v. Holder*, which gutted the provision of the VRA that prevented states and localities with a history of discrimination from enforcing new voting laws until they were precleared by the DOJ or a court to ensure they would not harm minority voters. Unfortunately, many Southern localities have taken full advantage of this sudden absence of federal oversight to impose hard-to-spot practices that create barriers for voters of color in every election.

The removal of a polling place in a neighborhood can cause longer wait times and voter confusion when voters show up to the wrong polling place. Likewise, a lack of access to early voting reduces the opportunity for marginalized communities—which tend to use early voting at higher rates—to vote. In the Deep South in particular, most states do not provide universal vote by mail, so the majority of voters must vote in-person to exercise their right to vote.

Before the *Shelby County* decision, the VRA authorized the federal government to prevent these discriminatory practices through a process called “preclearance.” In jurisdictions subject to preclearance, the federal government would provide oversight

to every change in voting policy and watch out for potentially discriminatory adverse effects. Although federal preclearance has been largely eliminated, community organizers are in the position to gather their own information to identify and document discriminatory patterns and practices to enforce the remaining provisions of the Voting Rights Act.

While we wait for Congress to restore the Voting Rights Act, it is up to organizers to engage in their own “community preclearance”: to fill the gap by spotting and responding to issues that prevent voters of color from accessing the ballot box.

The following advocacy tools aim to help local organizers spot issues for in-person voting, and to demand their local government provide better in-person voting options for voters in their counties.

ADVOCACY TOOLS

Issue Monitoring

Community preclearance starts with identifying barriers to voting at the local level. Advocates can monitor for voting barriers both before an election, during early voting, and on Election Day.

1. Identifying Decisionmakers and Timelines:

An advocate should understand who is in charge of making decisions about polling place locations when determining advocacy strategies. In most states, these decisions are made at the county level. State law can help you determine who the decisionmakers are, but advocates can also seek guidance from their local election officials for this information. Advocates should know who establishes polling places and understand their local government’s plan for in-person voting for the upcoming election. Considerations include:

- Will there be any changes to the current list of polling places for the upcoming election?
- When will polling place changes be made?
- Will there be an opportunity for public input before the changes are made?
- What preparations are being made for in-person voting?

2. Educating Communities on Poll Site Changes:

When early voting sites and Election Day poll sites are reduced, moved, or added, it is critical to educate voters about these adjustments to avoid confusion. Consider working with election officials and community groups to build a robust public education campaign with the most accurate and up-to-date information about voting hours and locations. Through outreach via traditional and social media, direct mailings, flyering, door knocking, community group

announcements, and targeted word-of-mouth efforts, you can help reduce voter confusion and propel participation on voting days at available sites.

3. Monitoring Problems at Polling Places

During most elections, voting rights advocacy groups affiliated with the national nonpartisan Election Protection network monitor for issues at polling places. You can reference the below poll site checklist for examples of the issues nonpartisan poll site monitors look out for on early voting and election days. With these questions in mind, you can be a conscious observer at poll sites in your community and call in any issues to the Election Protection hotline at 866-OUR-VOTE. Advocates should take photos to document any issues they see at the polling place. Data collected through the hotline and by trained volunteer poll monitors helps propel advocacy for poll site improvements at the local, state, and national level.

- Were there long lines?
- Was every voting machine functioning properly?
- Were there any problems with the pollbooks? Did voters complain about their names not appearing on the voter rolls or any other inaccuracies?
- Did the polling place offer provisional ballots?
- About how long are voters waiting in line?
- Did the polling place fail to open on time or close early?
- Did the polling place change without adequate notice?
- Were there issues with signage?
- Were there parking issues?
- Was the polling place entrance inaccessible for people with disabilities or limited mobility?
- Was the polling place understaffed?
- Was there law enforcement activity in/around the polling place?
- Did you spot any improper electioneering or partisan activities?
- Was there third-party intimidation around the polling place?
- Did poll workers or other election officials behave improperly?
- How many car-accessible parking spaces does the polling place have?
- How many van-accessible parking spaces does the polling place have?

Administrative Advocacy

An advocate can take several steps to securing better polling place locations for their community:

1. **Assess community needs & polling place values:**

When addressing polling place issues – especially potential site changes or additions – it is important to assess the local communities' values and needs before advocating for changes. For example, a largely pedestrian community may value the familiarity of a polling place more than finding a new site with a larger parking lot. Community members know their neighbourhoods best and are invaluable resources for identifying new or additional sites that may best suit the needs of voters. Whether engaging in-person or online, consider asking community members about the issues they have faced at their early voting or Election Day poll sites, inquire if there are alternative sites that are familiar and accessible to the community, and identify the features that matter most to local voters.

2. **Propose Election Day polling places to your local government:**

- a. ***At the right time:*** While many states' laws provide deadlines for establishing polling places, other states do not. If an advocate's state does not provide a deadline, advocates should consider advocating for a polling place in enough time to notify eligible voters of the change.
- b. ***To the right people:*** The process for adding polling locations is typically straightforward, and usually only requires the approval of the County's governing body (e.g., County Commission, County Board) or County election official. In some states, however, advocates need to seek approval from state officials, such as the state legislature or Secretary of State. Advocates should become familiar with who makes these decisions in their states.
- c. ***At the right location:*** Specifically, look for public buildings which are located within a reasonable walking or driving distance of the neighborhood at issue. Advocates should check if their state has other requirements for a polling place. For example, some states forbid polling places in certain locations, such as correctional facilities or property owned by a political candidate. Additionally, all polling places should be accessible for people with disabilities.

3. **Request that your local government provide notice of any changes as soon as possible:**

- a. ***Ask early:*** Reach out to local officials to see when they plan to meet about polling place locations for the upcoming elections.
- b. ***Demand accountability:*** Ask your County government to commit to establishing a polling place within a reasonable time to provide notice to voters. Even where local officials have no deadline set by state law to

establish polling places, they can give themselves a deadline.

4. Develop a record:

When advocating for additional or improved voting sites in your community, advocates can use a variety of narrative and data-based messages to persuade election officials to make necessary changes. Consider the following components when developing your advocacy:


- a. **Narratives:** Start by gathering stories that paint a picture of the hurdles that voters face at current voting sites. If voters must drive long distances or wait in multi-hour lines to vote because of the limited early voting options, there is a solvable problem that election officials must act to fix. If polling places have limited accessible parking and voters with walkers are forced to walk long distances to reach the poll site, that emphasizes the need for Election Day site improvements and accessibility enforcement. The most compelling advocacy starts with a story.
- b. **Visuals:** When possible, supplement your narratives and data with visuals. Collect pictures of long lines or poll site issues from community members or gather press clippings or videos (and remember to credit your sources). You can also use maps that demonstrate the distance between communities and polling places and the varying impact on demographic groups.
- c. **Numbers:** How many voters rely on early voting in your community? Has this number increased in recent years? How long were the lines – in units of distance or time? When coupled with narrative and visual appeals, numbers help support your call to action for poll site improvements. In most states, the Secretary of State posts turnout numbers and statistics online, which can serve as a starting point in addition to media research and collaboration with advocacy groups.

5. Outreach to election officials:

Direct outreach to election officials is necessary to obtaining a responsive outcome. An advocate might also need to draft a public records request if a local government resists providing information about in-person voting changes. Likewise, advocates may need to appeal directly to a decision-making body to express concern about in-person voting challenges and demand a public response. Outlines of sample public records requests and advocacy letters may be found in the Appendix.

In general, when drafting an outreach letter to an elected official, advocates should be direct. Any advocacy letter should state the problem and make a specific request. Additionally, advocates should provide a deadline by which to respond. Other details an advocate may want to incorporate include:

- Explanation about why the current site is not equitable or accessible for



the community

- Suggestions for alternative sites and explanations about why the alternative sites are preferable
- Maps for a visual representation of the alternative sites.
- Stories from voters about the impact of the particular challenge.

After you have gathered narratives, visuals, and numbers, advocates can present their case for polling place improvements to election officials in direct meetings, or via letters, public testimony, or opinion editorials in your local paper. Be creative and collaborative in your outreach and know you can connect with CLC or other civil and voting rights groups in your community to support your advocacy work.

ABOUT THE CAMPAIGN LEGAL CENTER

At Campaign Legal Center (CLC), we are advancing democracy through law, fighting for every American's right to participate in the democratic process. CLC uses tactics such as litigation, policy advocacy, communications and partnerships to win victories that result in a more transparent, accountable and inclusive democracy. Our long-term goal is a government responsive to the people.

APPENDIX

Below is a sample records request and a sample community letter. Though modelled after specific states, these samples can be adapted to an advocate's needs and relevant laws:

1. Sample Public Records Request

Dear [Custodian of Records]:

Under the [relevant open records law, e.g., Alabama Open Records Law, § 36-12-40 et seq.], I am requesting an opportunity to inspect or obtain copies of public records relating to the [governing body, e.g. County Commission's] plans to establish or change election precincts for the upcoming election. Specifically, I am requesting the following records:

- List of polling locations open in the County during the [year] election on [date(s) of election].
- Any map and/or shapefiles showing the current geographical boundaries of the County with designation of precincts and a word description of the precinct geographical boundaries.

The law requires that you respond to this request within [applicable requirement under public records law, e.g. "between one and 14 days, depending upon your department's established policy"]. If access to the records I am requesting will take longer than that time period, please contact me with information about when I might expect copies or the ability to inspect the requested records.

If you deny any or all of this request, please cite each specific exemption you feel justifies the refusal to release the information and notify me of the appeal procedures available to me under the law.

Thank you for considering my request.

Sincerely,

[name]


2. Sample Letter

Dear [relevant authority, e.g., Commissioner]:

We write to you to request an additional voting location in [County]. We urge you to create an additional polling place in voting district [number].

Access to in-person voting is especially important for voters of color in [state or locality]. [If applicable in your state: "Because most voters cannot absentee vote, almost all voters in the state vote in-person."] This additional location will decrease the wait times for voters on Election Day, making it easier for voters to cast their ballots.

[If applicable: "Although there is no requirement for the [Commission] to change their



polling places before a certain deadline before the election, OR identify relevant deadline for polling place changes,] we further urge that you consider this request as soon as possible. Voters should have ample time before Election Day to receive notice and learn where their new polling place will be.

Thank you for considering our request.

Sincerely,

[name]