

November 2009

ELDERLY VOTERS

Information on Promising Practices Could Strengthen the Integrity of the Voting Process in Long-term Care Facilities



GAO

Accountability * Integrity * Reliability



Highlights of [GAO-10-6](#), a report to congressional requesters

ELDERLY VOTERS

Information on Promising Practices Could Strengthen the Integrity of the Voting Process in Long-term Care Facilities

Why GAO Did This Study

Voting is fundamental to the U.S. democratic system and federal law provides broad protections for people with disabilities, including older voters. Many long-term care facility residents, who often have physical or cognitive impairments, vote by absentee or early ballot. Concerns have been raised about the extent to which states and localities are helping the increasing number of facility residents exercise their right to vote, especially those requiring voting assistance, who may be subject to undue influence or unauthorized completion of their ballot by facility staff or relatives. Given these concerns, GAO was asked to identify the actions taken to facilitate and protect voting for long-term care facility residents at (1) the state level and (2) the local level. To address these objectives, GAO interviewed federal officials, national organizations, and researchers; reviewed Election Assistance Commission (EAC) guidance on voting in long-term care facilities; surveyed state and local election officials; and visited seven localities in the weeks prior to the November 2008 federal election to observe the voting process in long-term care facilities.

What GAO Recommends

GAO recommends that the EAC collect and disseminate information on cost-effective promising practices for providing voting access while also ensuring voting integrity. EAC indicated agreement with our findings and recommendation. HHS and Justice did not provide formal comments.

[View GAO-10-6](#) or [key components](#).

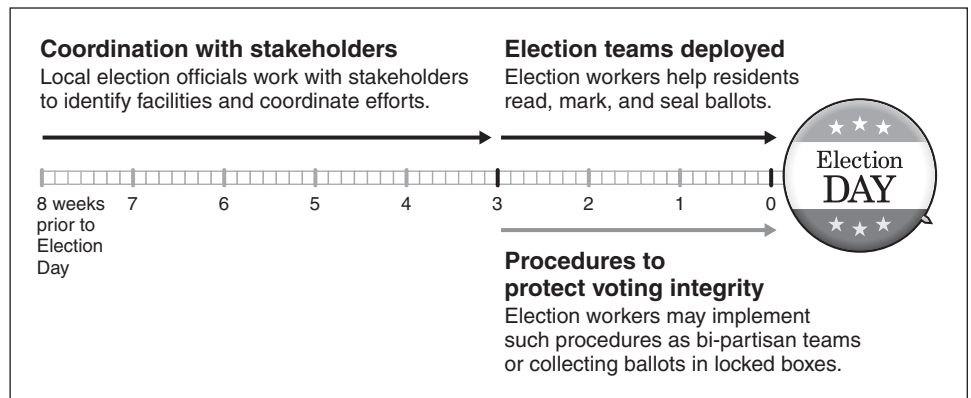
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What GAO Found

Most states have requirements or guidance to facilitate voting for long-term care facility residents, and some states also provide training and conduct oversight of localities' adherence to state requirements or guidance. States reported that they most commonly provided requirements or guidance for accommodations for absentee voting for residents of long-term care facilities, followed by accommodations for voter registration and voter identification procedures. Almost one-half of the states reported providing training to local election officials specifically on state requirements or guidance to facilitate voting for long-term care facility residents. Additionally, 17 states reported that they conducted one or more oversight activities to ensure that localities were adhering to state long-term care voting requirements or guidance. According to researchers, some of these state requirements or guidance for voting in long-term care facilities may help to protect against voter fraud and undue influence.

Localities also used a variety of actions to facilitate voting for long-term care facility residents, including some that may decrease the likelihood of fraud and undue influence. In our survey, 78 of the 92 localities reported taking actions to facilitate voting for long-term care facility residents. The most common actions included supporting facility staff in assisting residents with the absentee or early voting process, including providing staff with early and absentee voting information or guidance. Localities also reported providing services directly to residents. For example, close to one-half of localities we surveyed brought election officials to facilities to assist with the voting process. The seven localities we visited prior to the November 2008 federal election used a range of strategies to facilitate voting for long-term care facility residents, including coordination with facility staff and other stakeholders; the deployment of election teams to facilities; and implementation of procedures to protect and ensure voting integrity, such as requiring bipartisan voting assistance and signed affidavits to document voting assistance. Some local officials reported challenges to implementing these strategies, such as difficulty providing voting assistance to residents with cognitive impairments.

Strategies Used by Selected Localities to Facilitate Voting in Long-term Care Facilities



Source: GAO site visits.

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Abbreviations

ADA	The Americans with Disabilities Act of 1990
CMS	Centers for Medicare and Medicaid Services
EAC	U.S. Election Assistance Commission
EMG	Election Management Guidelines
HAVA	Help America Vote Act of 2002
HHS	Department of Health and Human Services
NASED	National Association of State Election Directors
NASS	National Association of Secretaries of State
OAA	The Older Americans Act of 1965
VAEHA	Voting Accessibility for the Elderly and Handicapped Act
VRA	The Voting Rights Act of 1965

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United States Government Accountability Office
Washington, DC 20548

November 30, 2009

Congressional Requesters

Voting is fundamental to the U.S. democratic system and, accordingly, federal law provides broad voting protections for people with disabilities, including older voters. However, questions have been raised about the extent to which states and local election jurisdictions are helping older voters and others residing in long-term care facilities exercise their right to vote.¹ In 2008, approximately 9 million Americans over 65 years old needed long-term care services.² Moreover, the number of adults aged 65 and over is expected to increase by more than 23 million between 2010 and 2025,³ and about 70 percent of adults over age 65 are projected to require long-term care services at some point during their lifetime due to chronic illness or disability, including memory loss or disorientation.⁴

As the proportion of older Americans in the country increases, the number of voters residing in long-term care facilities who may be unable to vote at polling places on Election Day due to their physical and mental condition could also increase. While the Help America Vote Act of 2002 (HAVA) requires each polling place to have at least one voting system for use in federal elections that is accessible for people with disabilities,⁵ other federal laws provide broader protections for people with disabilities that may apply to alternative voting methods, such as absentee ballots. Many long-term care facility residents cast absentee ballots and at least one

¹In this report, we define long-term care facilities as facilities that provide a residential setting and services to people with disabilities and the elderly, including nursing homes, assisted living facilities, and other state-defined long-term care facilities.

²U.S. Department of Health and Human Services, National Clearinghouse for Long-Term Care Information, *Understanding LTC*, http://www.longtermcare.gov/LTC/Main_Site/Understanding_Long_Term_Care/Basics/Basics.aspx (accessed Aug. 19, 2009).

³U.S. Census Bureau, *Population Division, Projections of the Population by Selected Age Groups and Sex for the United States: 2010 to 2050*, (Washington, D.C., 2008).

⁴U.S. Department of Health and Human Services, National Clearinghouse for Long-Term Care Information.

⁵Pub. L. No. 107-252 (2002).

study has recognized that absentee balloting can be vulnerable to fraud.⁶ Specifically, concerns have been raised that some residents may be subject to the undue influence of facility staff, family members, or others over residents' ballot selections, or the completion of their ballot by someone other than the resident. These concerns arise in large part due to the dependency of this population on others, such as relatives and long-term care facility staff, for assistance in completing ballots. Concerns of alleged voter fraud in long-term care facilities have sparked debate about the appropriate balance between access to voting and providing protections to ensure voting integrity to this population. As states and localities take action to enhance voting access for the increasing number of long-term care facility residents, the integrity of the voting process could be at risk if proper controls are not utilized.⁷ Given these concerns, you asked us to identify the actions taken to facilitate and protect voting for long-term care facility residents at (1) the state level and (2) the local level.

To answer both of these objectives, we conducted interviews with officials at the Department of Justice (Justice), the Department of Health and Human Services (HHS), and two national organizations that represent state election officials. We also reviewed relevant federal laws, regulations, guidance, and other documentation. We did not analyze state requirements or guidance, but instead relied on states' responses to our survey. In addition, we interviewed officials at the U.S. Election Assistance Commission (EAC) and reviewed the *EAC Quick Start Management Guide on Elderly and Disabled Voters in Long Term Care Facilities*. We also reviewed relevant literature and interviewed multidisciplinary researchers with expertise in issues of long-term care voting to identify practices that may facilitate voting in long-term care facilities while ensuring voting integrity. To gather information on state actions to facilitate and protect voting for long-term care facility residents, we administered a Web-based survey of election officials in all 50 states, the District of Columbia, the Commonwealth of Puerto Rico, and three territories between December 2008 and February 2009.⁸ We received a 100

⁶Fay, Jessica A., "Elderly Electors Go Postal: Ensuring Absentee Ballot Integrity for Older Voters", *The Elder Law Journal*, vol. 13, 453 (2005).

⁷The term "locality" refers to the local jurisdiction in charge of the administration of elections, which could be the county, township, or city.

⁸In this report, we refer to the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, and three U.S. territories, collectively, as states.

percent response rate. We did not verify survey responses or other information provided by state officials.

To gather information on local actions to facilitate and protect voting for long-term care facility residents, we conducted an e-mail survey of 104 local election jurisdictions between September 2008 and February 2009. We received an 88 percent response rate. The sample of election jurisdictions was selected as part of our related study examining polling place accessibility for voters with disabilities.⁹ The survey estimates calculated for this report did not have a low enough margin of error to allow us to generalize results to localities nationally. We did not verify survey responses or other information provided by local officials. In addition, to gather more detailed information on local actions to facilitate and protect voting, we conducted site visits to seven localities—Burlington, Vermont; Chicago, Illinois; the District of Columbia; Kitsap County, Washington; Multnomah County, Oregon; Shelburne, Vermont; and Washington County, Oregon—in the weeks prior to the November 2008 federal election. At each locality, we interviewed local election officials and visited one or two long-term care facilities. In total we visited 10 long-term care facilities and at each we interviewed facility staff and observed voting procedures. We selected localities generally well-regarded in their approach to facilitate voting for long-term care facility residents based on interviews with agency officials, representatives of professional organizations, and multidisciplinary researchers. We selected long-term care facilities to visit based on input from local election officials.

We conducted our work from April 2008 through November 2009, in accordance with all sections of GAO's Quality Assurance Framework that were relevant to our objectives. The framework requires that we plan and perform the engagement to obtain sufficient and appropriate evidence to meet our stated objectives and to discuss any limitations in our work. We believe that the information and data obtained, and the analysis conducted, provide a reasonable basis for any findings and conclusions.

⁹Our related study used a two-stage sampling method to create a nationally representative random selection of polling places in the contiguous United States, with the exception of Oregon. Alaska and Hawaii were excluded from the sample for cost and efficiency reasons and Oregon was excluded because voters exclusively use mail-in ballots. See GAO, *Voters with Disabilities: Additional Monitoring of Polling Places Could Further Improve Accessibility*, [GAO-09-941](#) (Washington, D.C.: Sept. 30, 2009) for a more detailed description of the sampling methodology.

See appendix I for more detailed information on our scope and methodology.

Background

Role of State and Federal Government

The administration of federal elections is a massive enterprise, conducted primarily at the state and local level, under applicable state and federal voting laws. Responsibility for holding elections and ensuring that each voter has the ability to fully participate in the electoral process—including registering to vote, accessing polling places or alternative voting methods, and casting a vote—primarily rests with state and local governments, with regulation and oversight from states and the federal government. Each state establishes the requirements for conducting local, state, and federal elections within the state. For example, states regulate such aspects of elections as ballot access, absentee voting requirements, the establishment of voting places, provision of Election Day workers, and the counting and certification of the votes. The states, in turn, have typically delegated responsibility for administering and funding state election systems to the more than 10,000 local election jurisdictions nationwide. Federal laws have been enacted to cover several aspects of the voting process, including some that are designed to help ensure voting accessibility for the elderly and people with disabilities. The relevant provisions of these federal laws are primarily related to the accessibility of polling places, prohibitions on discrimination, and the allowance of voting assistance from a person of the voter's choice. See appendix II for more detail on federal laws.

Multiple federal agencies are involved with issues related to state and local governments' administration of the election process for long-term care facilities residents, including enforcing election laws, conducting election research, and ensuring that residents' rights are protected. Justice's Civil Rights Division and its various sections enforce federal statutes prohibiting discrimination. Specifically, the Disability Rights Section protects the rights of persons with disabilities under the Americans with Disabilities Act of 1990 (ADA) and the Voting Section is responsible for enforcing certain federal statutes protecting voting rights, including certain protections of the voting rights of persons with disabilities, which may also include long-term care facility residents. In addition to Justice's role, HHS administers certain provisions of statutes related to disabilities and voting. HHS' Administration on Aging administers a long-term care

ombudsman program that assists with complaints and provides advocacy for long-term care residents, while the Administration on Developmental Disabilities administers a federal grant program that distributes HAVA funds to support state and local efforts to ensure that people with disabilities have access to the election process, including grants for making polling places accessible to individuals with disabilities and providing individuals with disabilities with information about the accessibility of polling places. Also, the HHS Centers for Medicare and Medicaid Services (CMS) sets requirements for states to conduct periodic studies on nursing homes that participate in Medicare, and then collects, analyzes, and reports on this data on nursing homes, such as complaints related to residents' choices and rights, which could include the right to vote.

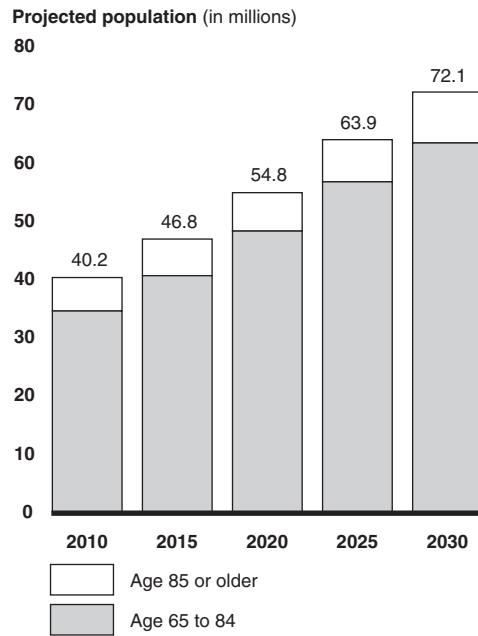
In addition, the EAC, which was established under HAVA, has wide-ranging duties to help improve state and local administration of federal elections. Among other things, the EAC is responsible for serving as a national clearinghouse of election-related information and a resource for information with respect to the administration of federal elections; making HAVA grants for research and development of new voting equipment and technologies, and the improvement of voting systems; and periodically conducting and making publicly available studies regarding methods of ensuring accessibility of voting, polling places, and voting equipment to all voters. In addition, EAC reported that of the payments it has provided to states, states have spent over \$800 million on voting systems that comply with HAVA's requirements for voting system standards. In 2008, the EAC published the *Election Management Guidelines* (EMG), which provides information on a wide range of election related topics intended to assist state and local election officials in effectively managing and administering elections, and a series of *Quick Start* guides, designed to highlight and summarize information contained in the chapters of the EMG.

Characteristics of Long-term Care Facility Residents

In 2007, there were almost 38 million individuals aged 65 or older and the majority had at least one chronic health condition. By 2030, those aged 65 and over are projected to grow to over 72 million individuals (see fig.1), and this group is projected to represent a quarter of the voting age population at that time. Older voters, who consistently vote in higher proportions than other voters, may face challenges exercising their right to vote because disability increases with age. Studies have shown, for example, that the risk of losing mobility doubles with every 10 years after reaching the age of 65. Moreover, it is estimated that 70 percent of people

over age 65 will require some long-term care services at some point in their lives, such as residing in a nursing home or assisted living facility.

Figure 1: Size of the Elderly Population Projected to Increase



Source: GAO analysis of U.S. Census data.

Long-term care facilities provide an array of health care services for individuals who may have difficulty caring for themselves because of a range of physical or mental impairments. The support long-term care facilities provide can range from independent living with little or no personal medical care to nursing homes with 24-hour a day skilled care. While the individuals residing in long-term care facilities are most often elderly, the resident population may also include younger individuals with a disabling chronic illness, severe injury, or disease. According to the most recent National Nursing Homes Survey, in 2004, approximately 88 percent of nearly 1.5 million nursing home residents were age 65 and older.¹⁰ Furthermore, nearly all of these older residents were dependent upon others for assistance with at least one activity of daily living, such as

¹⁰Jones, A.L.; Dwyer, L.L.; Bercovitz, A.R.; Strahan, G.W., The National Nursing Home Survey: 2004 Overview. National Center for Health Statistics. Vital Health Stat 13(167). 2009.

bathing or dressing. Long-term care facility residents may face challenges not only with physical impairments, but also with cognitive impairments. According to CMS, in 2006, 69 percent of nursing home residents demonstrated some form of cognitive impairment, including various stages of dementia.¹¹ These physical and cognitive impairments can make long-term care facility residents dependent on others—family, friends, facility staff, or election workers—for assistance in exercising the right to vote.

The physical and cognitive impairments of long-term care facility residents directly affect the balance between voting participation and the integrity of the voting process. Specifically, the physical and cognitive impairments of many long-term care facility residents may make it more difficult for them to independently drive, walk, or use public transportation to get to their designated polling place. Once at the polling place, they may face challenges finding accessible parking, reaching the ballot area, and casting a ballot privately and independently.¹² Furthermore, they often may not have a valid driver's license or other form of government-issued photo identification that some states may require to vote. Consequently, the number of elderly people who exercise their right to vote through alternative voting methods,¹³ such as absentee, early, and Election Day mail-in ballots¹⁴ may grow as more elderly individuals reside in long-term care facilities. These residents may also have limited dexterity, impaired eyesight, or cognitive impairments, such as dementia, that can make them dependent on others to read or mark a ballot, regardless of where the ballot is cast. This makes them vulnerable to fraud and undue influence from relatives, long-term care facility staff, campaign workers, or candidate supporters, who sometimes provide assistance when casting their vote. Some long-term care facility staff may choose to screen residents to determine their ability to vote using a variety of methods that may include administering a formal cognitive screening test, asking

¹¹Centers for Medicare & Medicaid Services, Nursing Home Data Compendium, 2007.

¹²For information on the accessibility of polling places in the November 2008 federal election, see [GAO-09-941](#), which includes the summary of results from a national survey on polling place accessibility.

¹³We define “alternative” voting methods as any voting method other than traditional in-person voting on Election Day at a polling place.

¹⁴“Election Day mail-in ballots” refers to ballots used in Oregon and Washington. Localities in Oregon exclusively administer a vote-by-mail election process where all eligible voters are mailed a ballot prior to Election Day that must be returned by a specified time on Election Day. Localities in Washington administer a similar vote-by-mail election process.

election-related questions, or using prior assessments of the resident's general mental capacity. In addition, depending on state law, some residents with cognitive impairments may also face legal limitations to their right to vote due to court determinations of mental incompetence or appointment of a legal guardian.

Most States Have Requirements or Guidance to Facilitate Voting for Long-term Care Facility Residents

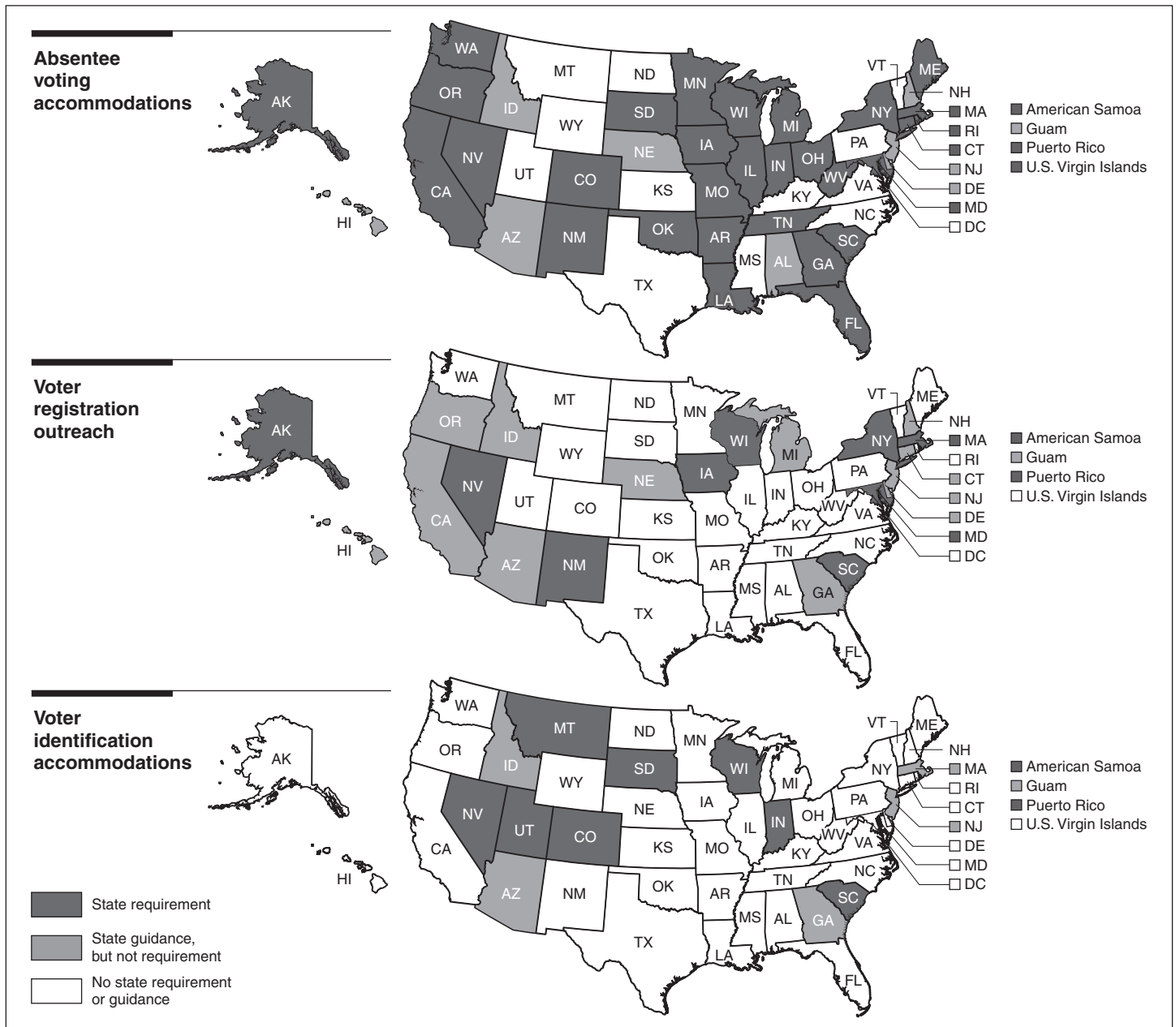
Most states have requirements or guidance to facilitate voting for long-term care facility residents.¹⁵ Almost half of the states reported providing training to local election officials specifically on state requirements or guidance to facilitate voting for long-term care facility residents. Additionally, some states conducted one or more oversight activities to ensure that localities were adhering to state requirements or guidance. Some state requirements or guidance for voting in long-term care facilities may help to protect against voter fraud and undue influence, according to researchers.

A Large Majority of States Reported Having Requirements or Guidance to Facilitate Voting for Long-term Care Facility Residents

According to our survey, 44 states reported having at least one requirement or guidance to facilitate voting for long-term care facility residents. The most commonly reported state requirements or guidance were to require or provide guidance to election officials to provide long-term care facility residents with accommodations to assist them in absentee voting processes, provide accommodations for voter registration, and provide special accommodations to assist elderly voters in meeting voter identification requirements (see fig. 2). Eleven states reported having requirements or guidance for all three of these activities. According to researchers, without state requirements or guidelines for voting in long-term care facilities, access to voting for residents is largely determined by the practices and attitudes of the long-term care facility staff, which they noted can vary.

¹⁵We did not analyze state requirements or guidance, but instead relied on states' responses to our survey.

Figure 2: Most Common State Requirements and Guidance for Voting in Long-term Care Facilities by State



Source: GAO survey of state election officials, The National Atlas of the United States ©.

Note: This figure does not reflect any local requirements or guidance for voting in long-term care facilities.

Accommodations for absentee voting for residents of long-term care facilities was the most commonly reported type of state requirements or guidance. Specifically, 42 states reported having a requirement or guidance for accommodations for absentee voting in long-term care facilities. Some of these states required election workers to deliver absentee ballots to long-term care facilities. For example, in Iowa, election officials reported that they provided guidance to long-term care facility staff on the process of soliciting absentee ballot requests from their residents and required bipartisan election teams to deliver absentee ballots to all long-term care facilities. Other states reported mandating that election officials conduct in-person absentee voting at long-term care facilities. According to state election officials, Illinois law requires that election workers conduct in-person absentee voting at long-term care facilities one to four days before Election Day. Some states reported requiring election workers to facilitate absentee voting at long-term care facilities if a minimum number of absentee ballots are requested or if the number of registered voters residing at a facility exceeds a state-set minimum.

Among the states, 24 reported having requirements or guidance to facilitate voter registration for long-term care facility residents. For example, state election officials in Maryland reported that each local election office is required to contact nursing homes and assisted living facilities to offer voter registration assistance and visit facilities with more than 50 residents to facilitate voter registration among facility residents. Election officials in the District of Columbia reported that they visit long-term care facilities several times—first for voter registration and then later for assistance with absentee ballots. Officials from two states said that some long-term care facility residents may benefit from providing accommodations or assistance in changing their voter registration from their previous address, which may be in another state, county, election jurisdiction, or precinct, to the address of the long-term care facility.

Also, 16 states reported requiring or allowing special accommodations to assist elderly voters in meeting voter identification requirements. According to some researchers and election officials we interviewed, long-term care facility residents may not have a valid driver's license or utility bill that can typically be used for identification. Some states accept alternative forms of identification from long-term care facility residents. For example, Massachusetts offers suggestions to municipalities and long-term care facility staff on the acceptable forms of identification—such as a letter from the facility staff stating the individual resides in their facility. In addition, Massachusetts election officials reported first-time voter identification requirements would not apply when they conduct in-person

voter registration drives at long-term care facilities. Similarly, one South Dakota election official reported that voter identification and affidavit requirements can be waived entirely for long-term care facility residents receiving in-person absentee voting assistance from an election official at the facility. Lastly, only Puerto Rico reported requiring cognitive screening to assess the ability of a person to vote prior to the casting of his or her ballot.¹⁶

About Half of All States Reported Training Local Officials, While Fewer Reported Conducting Oversight of Local Adherence to State Requirements or Guidance

While most states reported that they provide general training to local election officials on assisting voters with disabilities, about half of the states reported providing training to local election officials specifically on state requirements or guidance to facilitate voting for long-term care facility residents. For example, state election officials in Puerto Rico reported that they provided local election officials with general voting accessibility training to improve the interactions between the election officials and the voter, which included sensitivity training and simulations of potential scenarios. Furthermore, 23 states reported providing targeted training to local election officials specifically on state requirements or guidance for facilitating voting for long-term care facility residents. The training that states provided varied, but, in general, included assistance in adhering to state requirements or guidance on voter registration, absentee balloting requests, and assisted absentee voting procedures for long-term care facility residents. For example, in Vermont, state election officials provided training and distributed a handbook to local election officials on guidance for facilitating absentee voting in long-term care facilities, which included information on the role of election officials, public notification requirements, election supplies and forms, the set up of mobile polling stations, and the correct procedures for returning completed absentee ballots. In South Carolina, state officials, upon request, offered a one-on-one training to county election office staff on absentee voting procedures. Connecticut provided training to local election officials on voter registration and absentee ballot application procedures, as well as absentee voting procedures.

¹⁶Some researchers contend that requiring cognitive screening may increase the likelihood of fraud or undue influence if administered by long-term care facility staff; however, when screenings are administered by a bipartisan pair of local election officials they may decrease the risk of fraud or undue influence. Other researchers believe that requiring cognitive screening of long-term care facility residents, whether conducted by long-term care facility staff or election officials, should not be allowed because it may discriminate against and disenfranchise those residents.

Among the states, 17 conducted one or more oversight activities to ensure localities were adhering to state long-term care facility voting requirements or following state long-term care facility voting guidance. Of this group, 11 states reported conducting visits to local election jurisdictions or long-term care facilities to monitor local actions to meet state long-term care facility requirements. In Oregon, officials reported that they visited selected localities during an election cycle to observe their practices, suggest improvements, and share best practices. In addition, 8 states reported requiring or requesting localities to report on actions taken to address state requirements or guidance to facilitate voting for long-term care facility residents. For example, in Oklahoma, each county election board reported to the State Election Board after each election the number of voters who requested a ballot in nursing homes, the number of nursing homes visited, and the number of voters who voted in nursing homes. Then, the State Election Board aggregated the information at the state level and provided statistics to the state legislature, the EAC, and the public. In addition, county election boards in Oklahoma also reported to the State Election Board any problems they encountered and what actions they took to address them. The State Election Board may use this information to revise the procedures for absentee voting. Finally, 7 states, reported requiring county officials to report the number of long-term care facility residents who voted for tracking and planning purposes for future elections. See table 1 for a list of the training and oversight activities reported by each state.

Table 1: Reported State Training and Oversight of State Requirements or Guidance for Voting in Long-term Care Facilities

State	Oversight			
	Provide training to localities	Conduct visits to localities to monitor actions	Require or request localities report on actions taken	Track the number of voters in long-term care facilities
American Samoa	X	X	X	X
Arizona	X			
California		X		
Connecticut	X			
District of Columbia				X
Georgia		X		
Guam		X		X
Idaho	X			
Indiana	X	X		
Iowa	X			X

State	Provide training to localities	Oversight		
		Conduct visits to localities to monitor actions	Require or request localities report on actions taken	Track the number of voters in long-term care facilities
Michigan	X		X	
Minnesota	X			
Montana	X			
Nebraska	X			
New Hampshire	X	X		
New Mexico	X	X	X	
New York	X	X	X	X
Oklahoma	X		X	X
Oregon	X	X	X	
Puerto Rico	X	X	X	
Rhode Island			X	
South Carolina	X			
South Dakota	X			
Tennessee	X			
Virgin Islands	X			X
Washington	X	X		
West Virginia	X			
Wisconsin	X			

Source: GAO survey of state election officials.

Note: States not shown in table did not report providing training, requiring or requesting reporting, conducting visits to localities, or tracking voters in long-term care facilities.

Some State Requirements and Guidance May Help to Ensure Voting Integrity

Most states reported having requirements or guidance to provide absentee voting accommodations for long-term care facility residents, which according to researchers, may help local election officials protect voting integrity in long-term care settings. Because of the relatively high levels of cognitive impairments found in nursing home residents, this population requires assistance with the voting process. This assistance, however, can make the resident susceptible to fraud or undue influence. While the EAC has never completed a national study on the frequency and prevalence of voter fraud in long-term care facilities, there have been several high-profile cases and other anecdotal evidence suggesting this is an issue.¹⁷ Some

¹⁷Kohn, Nina A. "Preserving Voting Rights in Long-Term Care Institutions: Facilitating Resident Voting While Maintaining Election Integrity", *McGeorge Law Review*, vol. 38 (2007).

researchers believe that absentee voting, especially by long-term care facility residents who require assistance casting their absentee ballots, is susceptible to voter fraud and undue influence. Researchers also believe that establishing requirements or providing guidance that local election officials conduct absentee voting in long-term care facilities would help to standardize efforts across facilities and protect against voter fraud. For example, according to researchers, requiring local election officials to deliver absentee ballots in person to facilities or conduct on-site absentee balloting at facilities—which some states require or allow—can decrease the likelihood of fraud and inappropriate influence by eliminating the need for assistance from influential third parties, such as long-term care facility staff, relatives, or candidate supporters. Specifically, research suggests that requiring bipartisan local election teams to deliver, collect, and assist with absentee balloting lowers the risk that election officials from a single party could unduly influence voters.

In preparation for the November 2008 federal election, the EAC developed guidance—the *Quick Start Management Guide on Elderly and Disabled Voters in Long Term Care Facilities*—for state and local election officials on facilitating voting in long-term care facilities. In May 2008, the EAC convened a working group of academics, election officials, and other experts in the field, which we observed, to share information on facilitating voting for long-term care facility residents. The EAC developed the *Quick Start* guide based on the information discussed at the working group. The EAC then distributed 13,000 copies of its guidance, which focused on facilitating voting for elderly and disabled voters residing in long-term care facilities, to election officials nationally, issued a press release, and posted the guidance on its Web site. The guidance focused on the development of a plan for community outreach, coordination with long-term care facility staff, and implementation of voting assistance to long-term care facility residents; it did not address actions states or localities can take to ensure the integrity of the voting process. EAC officials told us they plan to convene a working group to develop a new chapter in the EMG on voting in long-term care facilities that would expand upon the information provided in the *Quick Start* guide. To date, the EAC has not collected information nationally nor conducted studies on state or local methods for identifying, deterring, and investigating fraud and undue influence in long-term care facilities; however, they told us that doing so would add value to long-term care voting nationally. According to the EAC, they have not conducted any studies because quantifying the level of voter fraud in long-term care facilities is difficult, as fraud often goes unreported and unprosecuted. However, EAC officials believe that state and local election officials could provide more education and

outreach on voting rights and voter fraud to long-term care facilities, including residents' friends and family, to help reduce the likelihood of voter fraud or undue influence. Moreover, the EAC, which has limited resources—a \$16.4 million budget and fewer than 50 staff members for fiscal year 2008—stated it has devoted much of its resources to updating the Voluntary Voting System Guidelines, instituting a voting system testing and certification program, and administering and auditing HAVA funds.

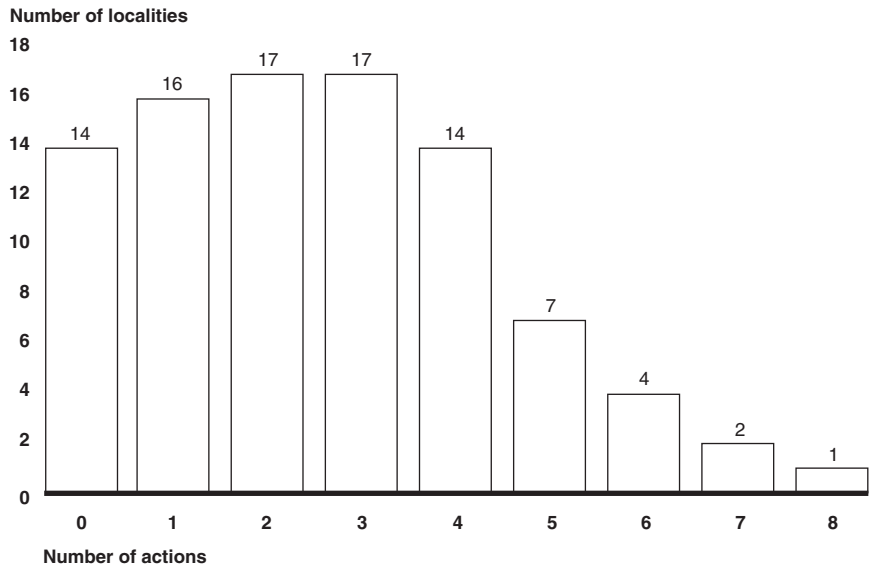
Localities Have Taken a Variety of Actions to Facilitate and Protect Voting for Long-term Care Facility Residents

Localities we surveyed have taken a variety of actions to facilitate voting access and protect voting integrity for long-term care facility residents. Specifically, they reported facilitating voting for long-term facility residents by supporting facility staff in assisting residents with the voting process and through direct voting services to facility residents, some of which may help to ensure voting integrity. Most commonly, localities we surveyed reported providing early or absentee voting information or guidance to long-term care facility staff. Similarly, the seven localities we visited employed a range of strategies to facilitate and protect the voting process. Moreover, each locality we visited used a somewhat different approach for applying these strategies and some reported challenges in doing so, such as providing assistance at a reasonable cost and assisting residents with cognitive disabilities.

Most Localities We Surveyed Reported Providing Long-term Care Facilities with Voting Guidance or Other Information and Other Voting Assistance, Some of Which May Help to Ensure Voting Integrity

Localities we surveyed reported taking a number of actions to facilitate the voting process in long-term care facilities. Specifically, 78 of the 92 localities responding to our survey reported taking at least one action to facilitate the voting process for long-term care facility residents. Of the responding localities, close to half (45 of 92) of responding localities reported taking three or more actions (see fig. 3).

Figure 3: Number of Localities Taking Actions to Facilitate Voting for Long-term Care Facility Residents



Source: GAO survey of local election officials.

Local officials facilitated voting for long-term facility residents through actions that supported facility staff in assisting residents with the voting process and through direct voting services to facility residents (see table 2). Specifically, when supporting facility staff with the voting process, localities we surveyed reported providing support to long-term care facility staff in assisting residents with the absentee or early voting process. Over two-thirds (65 of 92) of responding localities reported providing early and absentee voting information or guidance to long-term care facility staff. For example, in Lincoln County, Kentucky, local election officials reported that they provide information on absentee voting procedures to the long-term care facility staff, including instructions on collecting the names of residents interested in absentee voting and requesting absentee voting applications to be completed and mailed back to the local election office. Researchers suggest that providing guidance to long-term care facility staff can help to ensure that residents are receiving voting assistance that is free of fraud and undue influence. In addition, a slight majority of the localities we surveyed reported delivering absentee ballots to facilities, which may help ensure that residents receive their ballots and reduce the likelihood of fraud. However, one locality reported that election officials were unable to deliver ballots to facilities because state law requires that all absentee ballots be sent by mail. Finally, close to

one-third (29 of 92) of responding localities reported that they provide training to long-term care facility staff which, according to researchers, can help to ensure that facility staff are providing voting assistance that is less susceptible to fraud and undue influence.

Table 2: Selected Actions Taken Among 92 Localities to Facilitate Voting for Long-term Care Facility Residents

Selected actions	Number of localities
Supports to long-term care facility staff	
Provide early or absentee voting information or guidance to long-term care facilities	65
Deliver early or absentee ballots to long-term care facilities	48
Provide training to long-term care facility staff on absentee or early voting	29
Direct services to long-term care facility residents	
Bring election officials to long-term care facilities to conduct absentee or early voting	45
Designate long-term care facilities as Election Day polling places	28
Conduct voting equipment demonstrations for long-term care facilities	15
Bring accessible voting machines to long-term facilities for absentee or early voting	2
Provide transportation from long-term care facility to polling places on Election Day	1

Source: GAO survey of local election officials.

Note: The survey estimates were not precise enough to generalize results to localities nationally. In addition, we did not contact local election officials to verify survey responses or other information provided by officials.

Some localities we surveyed also reported providing voting services directly to long-term care facility residents. Specifically, close to half (45 of 92) of responding localities reported bringing election officials to long-term care facilities to provide voting assistance. For example, in Montgomery County, Maryland, local election officials reported that they sent trained, bipartisan teams of election workers to long-term care facilities to help residents complete their absentee ballots. As noted earlier, for state actions to facilitate voting, some researchers suggest that bringing trained election officials to long-term care facilities can decrease the likelihood that those providing the assistance to residents will unduly influence their votes and ensure that ballots are properly cast. In addition, close to one-third (29 of 92) of the localities we surveyed also reported designating long-term care facilities as Election Day polling places, which allows residents to vote in an official polling place without having to leave

their residence.¹⁸ However, local officials from one of these localities reported that they only designate a portion of the long-term care facilities in their election jurisdiction as polling places. Designating long-term care facilities as polling places may provide residents with increased opportunities to vote privately and independently, because HAVA requires each polling place for federal elections to have at least one voting system equipped for people with disabilities. While accessible voting systems provide opportunities for more private and independent voting, only two localities we surveyed—Miami-Dade County, Florida, and Travis County, Texas—reported bringing accessible voting systems to long-term care facilities for absentee or early voting. Furthermore, 15 localities we surveyed—including Miami-Dade County, Florida, and Travis County, Texas—reported providing long-term care facilities with demonstrations of voting systems equipped for people with disabilities, which could facilitate a greater use of these systems at Election Day polling places or for early or absentee voting at long-term care facilities by residents unfamiliar with electronic machinery. Finally, one locality we surveyed—Falmouth, Maine—reported providing long-term care facility residents with transportation to polling places on Election Day.

Localities We Visited Used a Range of Strategies to Facilitate and Protect Voting for Long-term Care Facility Residents and Faced Some Implementation Challenges

The seven localities we visited commonly implemented targeted efforts to facilitate voting for long-term care facility residents for the November 2008 federal election. However, the characteristics of each locality's effort varied in a number of ways, including the number of facilities receiving voting assistance, the reported cost, and the number of years the effort had been in practice (see table 3).

¹⁸We did not collect information from localities on whether long-term care facilities designated as polling places were open to all voters or exclusively to long-term care facility residents.

Table 3: Characteristics of the Long-term Care Voting Assistance Efforts for the November 2008 Federal Election in the Seven Localities We Visited

Characteristic	Locality						
	Kitsap County, Washington	Washington County, Oregon	Multnomah County, Oregon	Chicago, Illinois	Shelburne, Vermont	Burlington, Vermont	Washington, District of Columbia
Population	231,966	445,348	660,486	2,896,016	6,944	38,889	572,059
Number of facilities receiving assistance	18	30	14	92	4	2	18
Number of residents assisted	147	414	125	3,958	238	31	681
Reported total cost of assistance	\$2,561	\$10,480	\$2,935	\$105,988	\$2,000	\$600	n/a
Reported cost per resident assisted	\$17.42	\$25.31	\$23.48	\$26.78	\$8.40	\$19.35	n/a
Were HAVA funds used?	Yes	Yes	No	No	No	No	No
Number of years voting assistance provided	2	2	5	20+	1	1	1
Selected approaches	Publicly advertised voting assistance visits and allowed non-residents to vote during those visits	Allowed residents to sign ballots using fingerprint	Conducted several training sessions for election workers on how to help people with disabilities vote and how to use the accessible voting system	Deployed election teams to facilities to provide voting assistance a few days before Election Day	Collected evaluations from facility staff to inform future voting assistance efforts	Conducted voting assistance visits before the voter registration deadline, allowing new residents to register and vote	Used portable voting booths, which allowed some residents to vote privately and independently

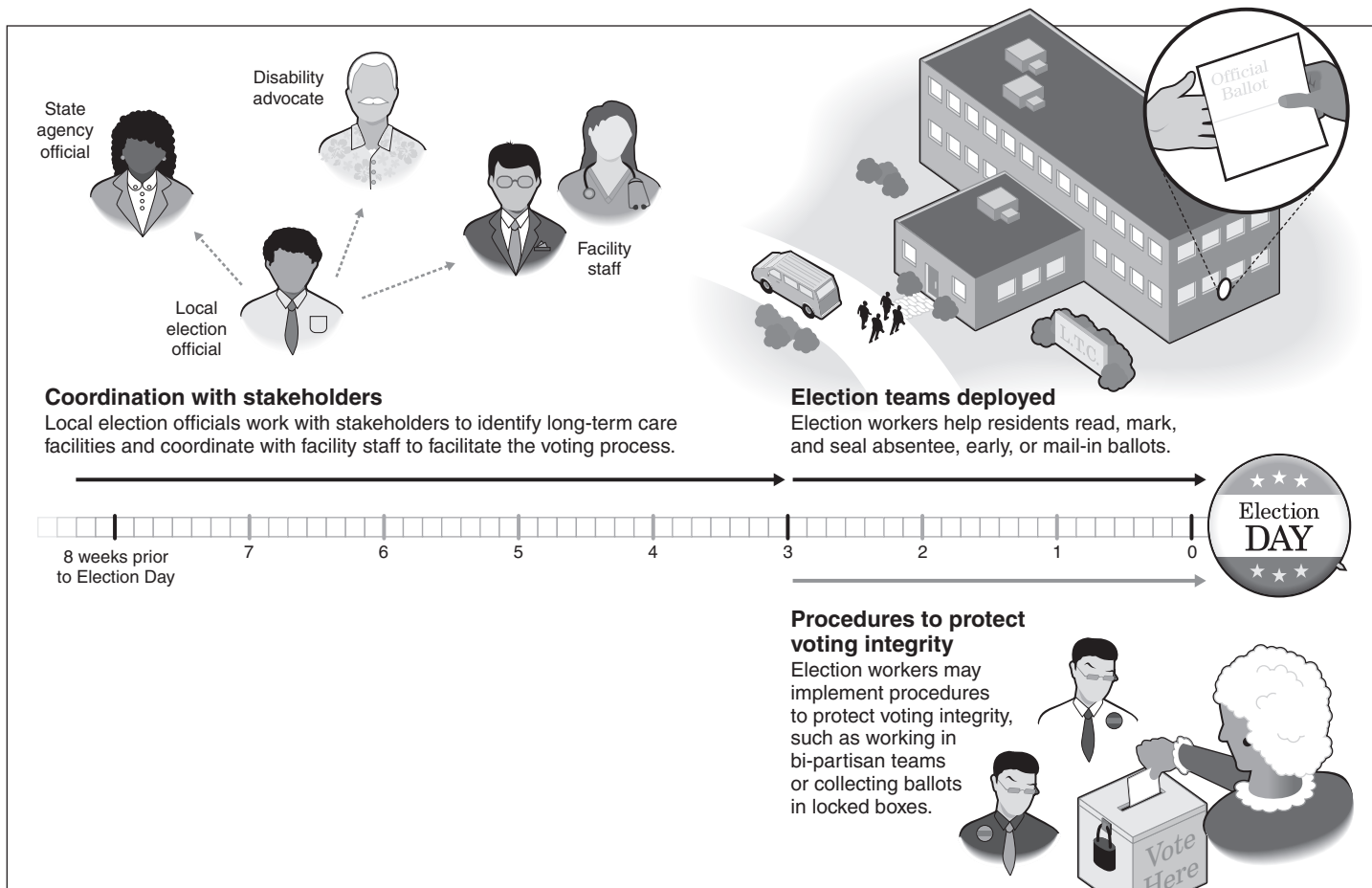
Source: GAO site visits.

Note: We calculated cost per resident assisted using information provided to us by local election officials. As mentioned previously, grant funds are available under HAVA to support state and local efforts to ensure that people with disabilities have access to the election process.

Localities we visited employed a range of strategies to facilitate and protect the voting process—from voter registration to casting ballots—for long-term care facility residents. Specifically, these strategies included coordination with stakeholders, such as long-term care facility staff and

others, deployment of election teams, and implementation of procedures to protect and ensure voting integrity. As figure 4 indicates, these strategies are generally used in conjunction with one another over a two-month period to facilitate the entire voting process—including casting a ballot—for long-term care facility residents before Election Day.

Figure 4: Strategies Used by Localities We Visited to Facilitate Absentee, Early, or Election Day Mail-in Voting for Long-term Care Facility Residents



Source: GAO site visits.

While all of the localities we visited employed all three of these strategies—coordination with stakeholders, deployment of election teams, and implementation of procedures to protect and ensure voting integrity—each employed a somewhat different mix of approaches to implement its overall strategy. (See table 4)

Table 4: Selected Approaches Taken Among the Seven Localities We Visited to Facilitate Voting for Long-term Care Facility Residents

Selected approach	Localities						
	Kitsap County, Washington	Washington County, Oregon	Multnomah County, Oregon	Chicago, Illinois	Shelburne, Vermont	Burlington, Vermont	Washington, District of Columbia
Coordination with long-term care facility staff and other stakeholders							
Coordinated with facility staff to schedule voting assistance	X	X	X	X	X	X	X
Consulted with disability advocacy groups and/or state agencies	X	X		X	X		X
Provided facilities with voter outreach and registration materials	X	X		X	X	X	X
Deployment of election teams to long-term care facilities							
Trained election workers or officials	X	X	X	X	X	X	X
Election workers assisted residents in reading, marking, and sealing ballots	X	X	X	X	X	X	X
Election workers provided bedside voter assistance to residents who were bedridden		X	X	X	X	X	X
Procedures to protect and ensure voting integrity							
Privacy screens for voting	X	X		X		X	X
Bipartisan assistance	X	X	X	X	X		
Ballot boxes to collect ballots	X	X			X	X	X
Affidavits documenting assistance		X		X			X
Accessible voting systems	X	X	X				

Source: GAO site visits.

Note: These approaches were observed during our site visits or reported by local election officials.

Coordination with Long-term Care Facility Staff and Other Stakeholders

Localities we visited coordinated with stakeholders relevant to the long-term care voting process in order to develop long-term care voting efforts. For example, in one locality—Kitsap County, Washington—local election officials coordinated with a disability advisory group, that included

representatives from disability advocacy organizations, to jointly identify long-term care facilities whose residents may have needed voting assistance. Kitsap County officials also consulted with the advisory group in the development of its long-term care facility voting effort, which recommended that local election workers bring accessible voting machines into facilities. In addition, four localities coordinated with state agencies to identify long-term care facilities to visit. For example, in advance of the November 2008 federal election, officials in the District of Columbia told us they coordinated with District of Columbia Department of Health to obtain a list of facilities and generated a list of registered voters at each facility from the District's voter registration database.

The localities we visited also reported coordinating with long-term care facility staff on pre-election voting activities, such as voter outreach and registration. Generally, these localities did not have election workers visit facilities to conduct voter outreach or voter registration activities, but instead relied on long-term care facility staff to facilitate the process. For example, election officials in Chicago, Illinois, told us that they delivered packets two months before Election Day to all of the long-term care facilities in the city, which included a letter explaining the city's Nursing Home Voting Program, a list of residents who were registered to vote, new voter registration forms, absentee voting applications, and postage paid return envelopes that facility staff could use to return completed applications. Chicago election officials relied on facility staff to identify interested residents, aid residents in completing the forms, and return the materials. Providing long-term care facility staff with this type of detailed information and guidance on facilitating the voting process may help to ensure that residents are properly registered and receive an absentee ballot. Furthermore, in one locality—Washington County, Oregon—officials told us that election teams visited long-term care facilities during the election registration period to conduct a two-hour voter education presentation on voting access for people with disabilities, including information on voting rights, accessible voting systems, and resources.

Election officials and long-term care facility staff in a few localities reported some challenges with coordination. For example, officials from two localities reported that maintaining program knowledge at the facility level from election to election can be difficult due to high turnover among long-term care facility staff. Election officials in Chicago addressed this potential challenge by assigning one election staff person as the central contact for all long-term care facility staff. Long-term care facility staff and election officials in two localities told us that coordinating the voter registration process with local election officials can also be difficult

Deployment of Election Teams to Long-term Care Facilities

because of the transitory nature of residents. Although many long-term care facility residents reside in facilities for extended periods of time, one long-term care facility staff member explained that some residents may be in the hospital during the voter registration process or may reside in the facility during the registration process, but move before Election Day.

Local election officials in the localities we visited deployed election teams before Election Day to provide individualized, in-person voting assistance to long-term care facility residents.¹⁹ To initiate the deployment of these teams, the localities we visited contacted long-term care facility staff well before Election Day to schedule a time to provide in-person voting assistance. For example, in Chicago, election officials told us that they contact facility staff about one month before the election to schedule a voting assistance visit during one of the four days prior to Election Day, as required by state law. In Multnomah County, Oregon, election officials told us they contacted facility staff to schedule a day to provide voting assistance once all mail-in ballots were mailed, which is 18 days before Election Day. To facilitate the voting process, all of the localities trained election workers or officials to provide voting assistance to people with disabilities and sent teams of election workers to selected long-term care facilities to assist individual residents in the reading, marking, and sealing of absentee, early, or other mail-in ballots. This assistance allowed residents to overcome visual, hearing, and dexterity impairments in casting their ballots. For example, in Burlington County, we observed election workers assisting a resident with hearing and dexterity impairments in completing a ballot by using a handheld white board to communicate. In general, these voting assistance activities took place in a common area in the facility, such as an activity room or library, which often provided limited privacy due to restricted space. In particular, residents often communicated ballot selections in loud voices to election workers, which may have compromised their voting privacy. In most of the localities, election teams also went to individual rooms to provide bedside voting assistance. For example, in Multnomah County, teams of election workers went to the rooms of bedridden residents to provide voting assistance. Similarly, election teams in Shelburne, Vermont, provided in-room assistance to residents living in the memory-loss unit to provide a more familiar and accommodating setting to facilitate the voting

¹⁹These activities are commonly referred to as “mobile voting.” Mobile voting is designed to facilitate voting for long-term care facility residents who may be unable to travel to a polling place. Mobile voting differs from Election Day polling place voting because they take place prior to Election Day and typically use absentee, early, or other mail-in ballots.

process. In some of the localities we visited, election workers providing bedside voting assistance were accompanied by facility staff to help meet resident needs during the voting process. Long-term care facility staff in some localities we visited noted that, without assistance from election teams, many of the residents in the facilities would have had to rely on facility staff, relatives, or volunteers to read, mark, and seal their ballots.

In some localities we visited, local election workers and facility staff faced challenges in providing voting assistance to residents with cognitive limitations. During our observations, none of the localities we visited conducted cognitive screenings—assessing a resident’s ability to vote prior to casting a ballot by asking election-related questions or based on an assessment of a resident’s general mental capacity. Generally, election workers gave any resident registered to vote the opportunity to cast a ballot if they showed willingness and the intent to vote. Despite this approach, in some cases, residents who were registered to vote may have been unable to do so, apparently due to cognitive impairments. For example, election workers in one locality attempted to provide voting assistance to a resident who was registered to vote, but after 20 minutes the resident was unable to articulate any ballot selections. Election workers observed that she was unable to vote, but encouraged her to vote in the next election. The fluidity of residents’ health may inhibit their ability to make a choice at a specific time. While we did not observe cognitive screenings being performed during our site visits, long-term care facility staff in some of the localities performed cognitive screenings of residents before asking them to register to vote or assisting them in applying for early or absentee ballots. For example, one long-term care facility staff member explained that she did not ask residents who she deemed were cognitively unable to vote if they were interested in registering to vote. In order to determine each resident’s cognition, she tested the residents’ ability to articulate their name and awareness of their surroundings. According to researchers, if long-term care facility staff are not trained to address some of the unique issues of voting by the elderly, such as determining cognitive ability to vote, they may inadvertently disenfranchise some residents who are actually able to vote.

Election officials in some localities told us that providing individual voting assistance to long-term care facility residents is resource intensive. Some local election officials told us that it was difficult to provide individualized

voting assistance at a reasonable cost.²⁰ For example, local election officials in one locality told us that their voting assistance funding and scope had been cut to reduce the locality's costs. As a result, the locality no longer conducts as much voter outreach to long-term care facilities as it used to. In two other localities, election officials supplemented the cost of providing long-term care voting assistance with HAVA funds.²¹ In addition to requiring significant monetary costs per individual served, election officials and long-term care facility staff from a few localities told us that providing individual voting assistance is a very time-consuming process. Most localities brought several election teams to each facility to provide voting assistance, which generally took most of the morning or afternoon. Part of the time commitment relates to election workers having to read each ballot aloud multiple times to residents who may have hearing and/or cognitive impairments. Moreover, this process is more resource intensive for localities that require bipartisan voting assistance. For example, in one locality two election officials spent an hour with one resident reading and marking a lengthy ballot with a number of ballot measures.

Implementation of Procedures to Protect and Ensure Voting Integrity

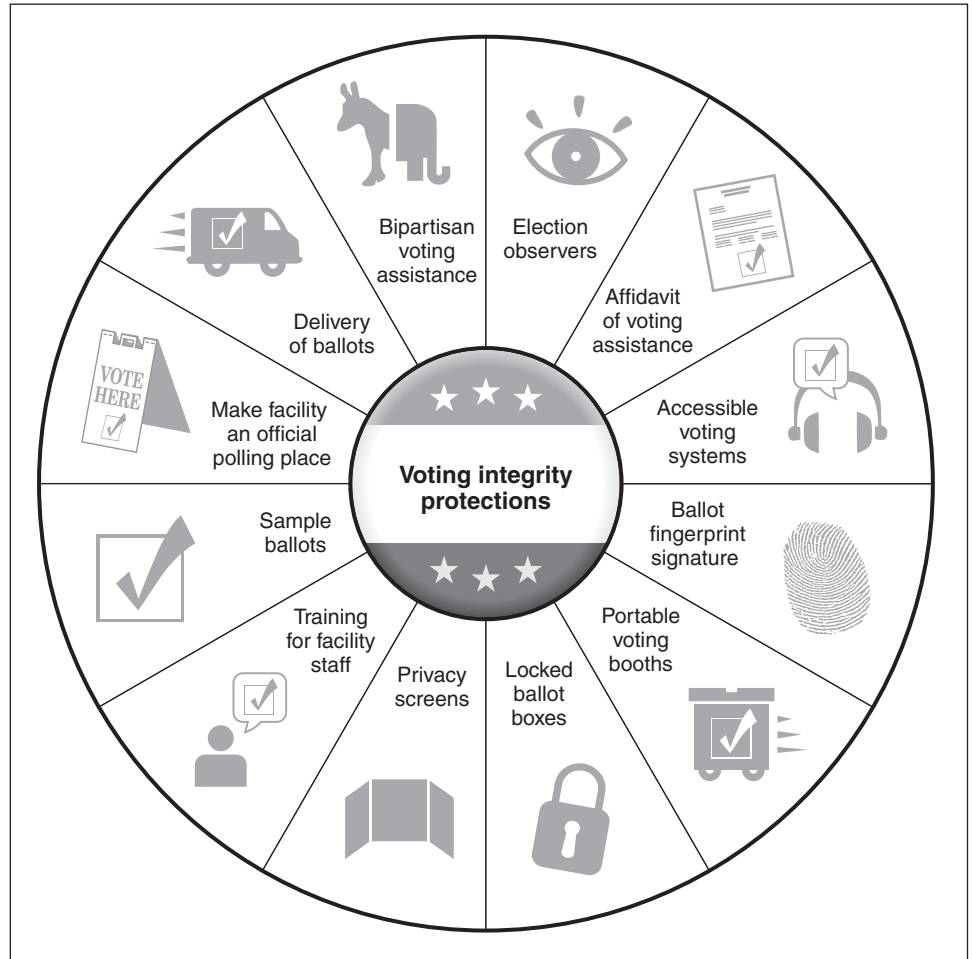
Officials in all seven of the localities we visited implemented various procedures to protect long-term care facility residents against fraud and undue influence. Figure 5 provides examples of protections that can help to ensure voting integrity. Most of the localities we visited provided residents with bipartisan voting assistance when deploying election teams, which consisted of teams of two election workers with different political party affiliations providing voting assistance to each resident. According to some researchers, this practice can lower the risk of one political party unduly influencing the resident. However, residents may face undue influence from others, such as facility staff and family members. For example, at one long-term care facility, a resident told the bipartisan team of election workers assisting her that she was not sure whether she could vote for the candidate she preferred because her child told her to vote for an opposing candidate. Most localities we visited also set up privacy screens on tables to shield residents' ballots from the view of others. In addition, most localities collected completed ballots in a ballot box, and in a few cases, the boxes were locked with padlocks. Also, four localities we visited required residents to sign affidavits documenting that voting

²⁰In the majority of localities we visited election workers were paid; however, in some localities election workers may be unpaid volunteers.

²¹HAVA grants are awarded through HHS and EAC. See the background section of this report for more detail.

assistance was requested and noting who provided the assistance. In Chicago, the election teams included election observers from law enforcement agencies such as the U.S. Attorney's Office or Cook County State's Attorney's Office. These observers generally handle and inspect affidavits for voting assistance and check poll watcher credentials. While none of the localities required residents to provide identification, in Washington County, some residents with physical impairments were able to sign their ballots using a fingerprint, which was on file at the election office. In addition, in one locality, election teams sometimes asked residents for their Social Security numbers to verify that the correct resident was receiving the ballot.

Figure 5: Select Protections to Ensure Voting Integrity for Long-term Care Facility Residents



Source: GAO survey of local election officials and GAO site visits.

Note: State and localities may also help to ensure voting integrity through the development of requirements or guidance to implement these protections.

Some localities implemented additional procedures, which may have helped ensure voting integrity by promoting independent voting. Election teams in Kitsap County and Washington County brought electronic accessible voting systems to long-term facilities, which provided residents with disabilities the opportunity to complete a ballot independently without election worker assistance. Chicago election teams provided residents with sample ballots to demonstrate how to complete the official ballot. We observed that this practice allowed residents and election

workers to assess whether voting assistance was needed to complete the ballot. Additionally, the election team in the District of Columbia brought portable voting booths to each facility, which allowed residents to attempt to vote independently. We observed election teams in this locality allowing residents to choose whether to complete a ballot independently in the portable voting booths or with assistance from an election worker at a table.

A few localities faced challenges fully implementing procedures to protect and ensure voting integrity and independence. Specifically, some local election officials told us that residents were reluctant to use unfamiliar voting methods, such as an accessible voting system. For example, we observed only one resident use an accessible voting system in the three localities we visited that reported using accessible voting systems in facilities. Election workers in two of these localities told us that the accessible voting system was seldom used by residents, who preferred one-on-one voting assistance using a paper ballot. In one instance, local election workers faced difficulties providing bipartisan assistance. In this locality, we observed election workers providing assistance to residents individually rather than in bipartisan teams in order to provide assistance more quickly to the growing number of residents waiting to vote.

Conclusions

Many states and local jurisdictions appear to be moving in the direction of facilitating voting for long-term care facility residents, primarily older voters, by providing alternative voting methods, such as absentee or early ballots and, in some cases, Election Day mail-in ballots. However, at the same time, states and localities vary in the extent to which they ensure that the ballots of these voters in long-term care facilities are not fraudulently completed by someone else, or that these voters are not subjected to undue influence by facility staff or family members. The EAC's plans to develop a new chapter in the EMG on voting in long-term care facilities is a step in the right direction, but remains a work in progress. For the future, state and local accommodations to address physical and cognitive disabilities of long-term care facility residents will directly affect the balance between voting access and the integrity of the voting process. That is, providing accommodations to facilitate voting for long-term care facility residents has advantages for these residents by increasing their access to vote, but can also present challenges for election officials. Officials must balance providing increased access to voting with ensuring that ballots are cast by the appropriate voter, and completed without undue influence from long-term care facility staff, relatives, or

other politically interested parties. A number of localities we visited have taken some actions that attempt to strike this balance. We acknowledge that facilitating voting for long-term care facility residents can be a costly and challenging undertaking, but given the increasing size of the elderly population, it will become progressively more important to implement cost-effective approaches to meet the growing demand for voting accommodations and assistance outside of traditional polling places. Further guidance on how to cost-effectively provide greater voting access for long-term care facility residents, while also ensuring voting integrity, may assist some states and localities in providing voting access and reducing opportunities for fraud and undue influence of a vulnerable and dependent population. However, to the extent that states and localities do not have the opportunity or resources to learn from each other's success and challenges, progress across the nation could be hampered.

Recommendation for Executive Action

We recommend that, as the EAC works with stakeholders to develop guidance on voting in long-term care facilities, the EAC also collect and disseminate information on cost-effective promising practices for providing voting access while also ensuring voting integrity.

Agency Comments and Our Evaluation

We provided a draft of this report to EAC, HHS, and Justice for review and comment. In its comments, EAC indicated agreement with our findings and recommendation. Specifically, EAC stated that it shared our concern that current voting practices in long-term care facilities must be improved and enhanced, and indicated that it plans to produce a full chapter on this topic for its EMG on serving voters in long-term care facilities. HHS and Justice provided no formal comments. HHS provided technical comments, which we incorporated into the report as appropriate. EAC's comments are reproduced in appendix III.

We are sending copies of this report to the EAC, HHS, Justice, relevant congressional committees, and other interested parties. In addition, the report will be made available at no charge on GAO's Web site at <http://www.gao.gov>.

If you or your staffs have any questions about this report, please contact Barbara D. Bovbjerg at (202) 512-7215 or bovbjergb@gao.gov, or William O. Jenkins at (202) 512-8777 or jenkinswo@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made major contributions to this report are listed in appendix VI.



Barbara D. Bovbjerg
Director, Education, Workforce, and Income Security Issues



William O. Jenkins, Jr.
Director, Homeland Security and Justice Issues

List of Requesters

The Honorable Tom Harkin
Chairman
Committee on Health, Education, Labor,
and Pensions
United States Senate

The Honorable Herbert Kohl
Chairman
Special Committee on Aging
United States Senate

The Honorable Charles E. Schumer
Chairman
The Honorable Robert Bennett
Ranking Member
Committee on Rules and Administration
United States Senate

The Honorable Dianne Feinstein
United States Senate

Appendix I: Scope and Methodology

Our objectives were to identify the actions taken to facilitate and protect voting for long-term care facility residents at (1) the state level and (2) the local level. For both of our objectives, we interviewed officials of the Department of Justice (Justice), the Department of Health and Human Services (HHS), national organizations that represent election officials, and multidisciplinary researchers. We also reviewed relevant federal laws, regulations, guidance, and other documentation. We did not analyze state requirements or guidance, but instead relied on states' responses to our survey. In addition, we interviewed officials at the Election Assistance Commission (EAC) and reviewed EAC guidance on facilitating voting in long-term care facilities. We interviewed multidisciplinary researchers in the area of long-term care voting and reviewed relevant literature to identify practices at the state and local level that may facilitate voting in long-term care facilities while ensuring voting integrity. To obtain information on state actions, we administered a Web-based survey of election officials in all 50 states, the District of Columbia, the Commonwealth of Puerto Rico, and three U.S. territories (American Samoa, Guam, and the U.S. Virgin Islands). To obtain information on local actions, we administered a survey of local election officials in 104 local election jurisdictions and conducted site visits to seven localities. We conducted our work from April 2008 through November 2009 in accordance with all sections of GAO's Quality Assurance Framework that were relevant to our objectives. The framework requires that we plan and perform the engagement to obtain sufficient and appropriate evidence to meet our stated objectives and to discuss any limitations in our work. We believe that the information and data obtained, and the analysis conducted, provide a reasonable basis for any findings and conclusions.

Review of Documentation and Interviews with Federal Officials, Researchers, and Organizations

To gather information on the actions states and localities are taking to facilitate and protect voting in long-term care facilities, we interviewed federal officials, multidisciplinary experts, representatives of national organizations, and reviewed relevant documentation. Specifically, we spoke with officials in the Voting and Disability Rights Sections of the Civil Rights Division from Justice and in the Administration on Aging and the Centers for Medicare and Medicaid Services from HHS to better understand the federal government's role in facilitating voting for long-term care facility residents. To examine available guidance to state and local election officials on facilitating and protecting voting in long-term care facilities, we interviewed EAC officials, observed an EAC working group meeting on facilitating voting in long-term care facilities, and reviewed the *EAC Quick Start Management Guide on Elderly and Disabled Voters in Long Term Care Facilities*. To gain perspectives of

management, improvement, and challenges to the facilitation of voting to long-term care residents, we spoke with representatives of the National Association of Secretaries of State (NASS) and National Association of State Election Directors (NASSED). We also reviewed relevant research literature and interviewed principal, multidisciplinary researchers in the area of long-term care voting, including researchers from the American Association of People with Disabilities, the American Association of Retired Persons, the American Bar Association Commission on Law and Aging, the University of Pennsylvania Institute on Aging, and the National Academy for State Health Policy to identify practices that may facilitate voting in long-term care facilities and whether they may protect against fraud and undue influence. We found this research literature to be sufficiently reliable for the purposes of this report.

Survey of States, the District of Columbia, the Commonwealth of Puerto Rico, and Territories

To gather information on state actions to facilitate and protect voting for long-term care facility residents, we administered a Web-based survey of officials responsible for overseeing elections from the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, and three U.S. territories (American Samoa, Guam, and the U.S. Virgin Islands). The survey included questions about state and local actions to facilitate voting in long-term care facilities.¹ The survey was conducted using a self-administered electronic questionnaire posted on the Web. We collected the survey data between December 2008 and February 2009. We received completed surveys from all 50 states, the District of Columbia, the Commonwealth of Puerto Rico, and three U.S. territories for a 100 percent response rate.

Because this was not a sample survey, there are no sampling errors. However, the practical difficulties of conducting any survey may introduce nonsampling errors, such as variations in how respondents interpret questions and their willingness to offer accurate responses. To minimize nonsampling errors, we pretested draft survey instruments with state election officials in Kansas, Virginia, and Wisconsin to determine whether

¹The survey was administered in conjunction with a related GAO study examining polling place accessibility. To address the objectives of that study, the survey included questions on (1) state requirements and policies for early voting, absentee voting, and voter identification; (2) state voting accommodations for people with disabilities; (3) state funding and experiences implementing the Help America Vote Act of 2002 (HAVA) voting access requirements; and (4) level of interaction with Justice officials and usefulness of Justice guidance. More information on that study can be found in [GAO-09-941](#).

(1) the survey questions were clear, (2) the terms used were precise, (3) respondents were able to provide the information we were seeking, and (4) the questions were unbiased. We made changes to the content and format of the questionnaire based on pretest results. Because respondents entered their responses directly into our database of responses from the Web-based surveys, the possibility of data entry errors was greatly reduced. We also performed computer analyses to identify inconsistencies in responses and other indications of error. In addition, a second independent GAO analyst verified that the computer programs we used to analyze the data were written correctly. We contacted election officials in some states to gain a deeper understanding of selected survey responses, and obtained and reviewed relevant documentation for selected states. The scope of this work did not include contacting election officials from each state and local jurisdictions to verify all survey responses or other information provided by state officials. Similarly, we did not analyze reported state requirements to verify what they require, but instead relied on the states' responses to our survey.²

Survey of Local Election Jurisdictions

To gather information on local actions to facilitate and protect voting for long-term care facility residents, we surveyed 104 local election officials.³ The survey asked local election officials to identify whether their election jurisdiction was taking any action to facilitate voting in long-term care facilities and to identify any actions taken. We conducted the survey by e-mail. We collected the survey data between September 2008 and February 2009 and received an 88 percent response rate.

The sample of local election jurisdictions was taken from a related GAO study examining polling place accessibility for voters with disabilities⁴ that used a two-stage sampling method to create a nationally representative random selection of polling places in the contiguous United States, with the exception of those in Oregon.⁵ Specifically, the local election

²For the purposes of our study, we defined requirements as requirements under state law, regulation, or executive order/directive, but excluding federal requirements.

³Local election jurisdictions were generally county or city equivalents. In Maine, Massachusetts, Michigan, and Minnesota local election jurisdictions were townships.

⁴GAO-09-941.

⁵We excluded Alaska and Hawaii for cost and efficiency reasons related to the other study and Oregon because voters exclusively use mail-in ballots.

jurisdictions used for the survey were those which had one or more of their polling places randomly selected in the sample of polling places. The survey estimates calculated for this report did not have a low enough margin of error to allow us to generalize results to localities nationally. In addition, the scope of this work did not include contacting election officials from each local jurisdiction to verify all survey responses or other information provided by local officials.

Local Site Visits

To obtain a more detailed understanding of local actions to facilitate voting in long-term care facilities, we conducted site visits to seven localities —Burlington, Vermont; Shelburne, Vermont; Chicago, Illinois; the District of Columbia; Kitsap County, Washington; Multnomah County, Oregon; and Washington County, Oregon. We selected localities generally regarded as innovative or potentially effective in their approach to facilitate voting for long-term care facility residents based on interviews with agency officials, representatives of professional organizations, and multidisciplinary researchers. We conducted all of the site visits in October and November 2008, before the federal election on November 4, 2008.

In each locality, we interviewed local election officials and long-term care facility staff. During interviews with local election officials and long-term care facility staff, we used a standard interview protocol that we developed which enabled us to obtain detailed and comparable information. In each locality, we discussed with local election officials the process for facilitating voting for long-term care facilities, including program history, coordination with stakeholders, and challenges. At each locality, we selected one or two long-term care facilities to visit based on input from local election officials. In total, we visited 10 long-term care facilities and at each we met with facility staff responsible for coordinating with local election officials regarding the voting process for residents, which was typically the facility's Activity Director. During these interviews, we discussed the voting process for facility residents, including coordination with local election officials and the unique voting challenges for residents. While we met with local election officials and long-term care facility staff in all the localities we visited, in a few instances, we were unable to complete our interviews during our site visit, but conducted interviews afterwards over the telephone.

We also observed the administration of the voting process prior to Election Day at each of the long-term care facilities we visited. During these observations we used a standard protocol we developed that

enabled us to collect uniform and detailed information that was comparable across all of the long-term care facilities we visited. We collected information on the number of election workers, number of facility residents voting, and the types of voting assistance provided.

Appendix II: Summary of Federal Laws Related to Voting Accessibility for the Elderly and People with Disabilities

Although state and local governments are responsible for administering elections, several federal laws set forth requirements that must be met during the federal election process. Specifically, federal laws have been enacted in major areas of the voting process, including several that are designed to help ensure that voting is accessible for the elderly and people with disabilities.

The Voting Rights Act of 1965

The Voting Rights Act of 1965 (VRA)¹, as amended, provides for voting assistance to voters with disabilities. Specifically, the VRA, among other things, authorizes voters who require assistance to vote by reason of blindness, disability, or inability to read or write to be given assistance by a person of the voter's choice, other than the voter's employer or agent of that employer or officer or agent of the voter's union.

Voting Accessibility for the Elderly and Handicapped Act

In 1984 Congress enacted the Voting Accessibility for the Elderly and Handicapped Act (VAEHA),² which requires that political subdivisions responsible for conducting elections assure that all polling places for federal elections are accessible to elderly voters and voters with disabilities, with limited exceptions. One such exception occurs when the chief election officer of the state determines that no accessible polling places are available in a political subdivision, and that officer ensures that any elderly voter or voter with a disability assigned to an inaccessible polling place will, upon advance request, either be assigned to an accessible polling place or will be provided with an alternative means to cast a ballot on the day of the election. Under the VAEHA, the definition of "accessible" is determined under guidelines established by the state's chief election officer, but the law does not specify standards or minimum requirements for those guidelines. Additionally, the Act requires states to make available voting aids for elderly and disabled voters, including instructions printed in large type at each polling place, and information by telecommunications devices for the hearing impaired. The VAEHA also contains a provision requiring public notice, designed to reach elderly and disabled voters, of absentee voting procedures. The VAEHA also contains provisions that make absentee voting more accessible by prohibiting, with limited exceptions, the requirement of a notarization or medical certification of disability when granting an absentee ballot.

¹Pub. L. No. 89-110 (1965).

²Pub. L. No. 98-435 (1984).

Help America Vote Act of
2002

The Help America Vote Act of 2002 (HAVA)³ contains a number of provisions designed to help increase the accessibility of polling place voting for individuals with disabilities. In particular, Section 301(a)⁴ outlines minimum standards for voting systems for federal elections. The provision states that the voting system must be accessible for people with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation as for other voters. To satisfy this requirement, each polling place must have at least one direct recording electronic device or other voting system equipped for people with disabilities. HAVA may apply to assisted voting provided to long-term care facility residents, if the long-term care facility is considered a “polling place,” which is generally designated at the state and local level.

In addition, there are several federal laws that provide broad protections of the rights of people with disabilities, which indirectly apply to voting.

Older Americans Act of
1965

The Older Americans Act of 1965 (OAA),⁵ as amended, supports a wide range of social services and programs for older persons. The OAA authorizes grants to agencies on aging to serve as advocates of, and coordinate programs for, the older population. Such programs cover areas such as caregiver support, nutrition services, and disease prevention. Importantly, the OAA also provides assistance to improve transportation services for older individuals, which may include transportation to polling places.

The Americans with
Disabilities Act of 1990

Title II of the Americans with Disabilities Act of 1990 (ADA)⁶ and its implementing regulations⁷ require that people with disabilities have access to basic public services, including the right to vote. However, it does not strictly require that all polling place sites be accessible. Under the ADA, public entities must make reasonable modifications in policies, practices,

³Pub. L. No. 107-252 (2002).

⁴42 U.S.C. § 15481(a).

⁵Pub. L. No. 89-73 (1965).

⁶Pub. L. No. 101-336 (1990).

⁷28 C.F.R. Parts 35, 36.

or procedures to avoid discrimination against people with disabilities. Moreover, no individual with a disability may, by reason of the disability, be excluded from participating in or be denied the benefits of any public program, service, or activity. State and local governments may comply with ADA accessibility requirements in a variety of ways, such as by redesigning equipment, reassigning services to accessible buildings or alternative accessible sites, or altering existing facilities or constructing new ones. However, state and local governments are not required to take actions that would threaten or destroy the historic significance of a historic property, fundamentally alter the nature of a service, or impose undue financial and administrative burdens. In choosing between available methods of complying with the ADA, state and local governments must give priority to the choices that offer services, programs, and activities in the most integrated setting appropriate.

Title III of the ADA covers commercial facilities and places of public accommodation. Such facilities may also be used as polling places. Under Title III, public accommodations must make reasonable modifications in policies, practices, or procedures to facilitate access for individuals with disabilities. They must also ensure that no individual with a disability is excluded or denied services because of the absence of “auxiliary aids and services,” which include both effective methods of making aurally and visually delivered materials available to individuals with impairments, and acquisition or modification of equipment or devices. Public accommodations are also required to remove physical barriers in existing buildings when it is “readily achievable” to do so; that is, when it can be done without much difficulty or expense, given the entity’s resources. In the event that removal of an architectural barrier cannot be accomplished easily, the accommodation may take alternative measures to facilitate accessibility. All buildings newly constructed by public accommodations and commercial facilities must be readily accessible; alterations to existing buildings are required to the maximum extent feasible to be readily accessible to individuals with disabilities.

Appendix III: Comments from the Election Assistance Commission



U. S. ELECTION ASSISTANCE COMMISSION
OFFICE OF THE EXECUTIVE DIRECTOR
1225 New York Avenue, NW, Suite 1100
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November 06, 2009

Barbara D. Bovbjerg,
Director Education, Workforce, and Income Security Issues
U.S. Government Accountability Office
Washington, D.C. 20548

and

William O. Jenkins, Jr.
Director, Homeland Security and Justice Issues
U. S. Government Accountability Office
Washington, D.C. 20548

Dear Ms. Bovbjerg and Mr. Jenkins,

RE: Comments on GAO 10-006, "Information on Promising Practices Could Strengthen the Integrity of the Voting Process in Long-term Care Facilities"

The Government Accountability Office's (GAO) report to Congressional requestors entitled "Information on Promising Practices Could Strengthen the Integrity of the Voting Process in Long-term Care Facilities" is a helpful look into an under-researched segment of the American electorate. The authors attempt to encompass the most prevalent concerns about administering voting for this population: fraud, undue influence, and voter capacity.

The U. S. Election Assistance Commission (EAC) conducted a working group about serving voters in long-term care facilities in May 2008 in Philadelphia, PA. The participants included GAO researchers, national disabilities advocates, participants in the Vermont Mobile Polling experiment (Secretary Markowitz, Dr. Jason Karlawish, and Charles Sabatino), as well as local and State election officials. As the EAC's own Quick Start Management Guide on "Serving Voters in Long-Term Care Facilities" notes, the percentage of individuals over age 65 in the United States will nearly double by 2050. The issues raised by this report will likely become more pronounced if not addressed in a more systematic manner.

As noted in this report, EAC will produce a full chapter for its Election Management Guidelines on Serving Voters in Long-Term Care Facilities to complement the Quick Start Guide already available on our website. This topic will be included in a broader chapter on Accessibility.

**Appendix III: Comments from the Election
Assistance Commission**

EAC is pleased to work with GAO on this most important subject and shares its concern that current practices must be improved and enhanced. We are grateful for the work of this report as it complements our efforts and provides valuable information to improve our future products.

Very truly yours,



Thomas R. Wilkey

Appendix IV: GAO Contacts and Staff Acknowledgments

GAO Contacts

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Staff Acknowledgments

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Related GAO Products

Voters with Disabilities: Additional Monitoring of Polling Places Could Further Improve Voting Accessibility. [GAO-09-941](#). Washington, D.C.: September 30, 2009.

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