

In the Supreme Court of the United States

DONALD J. TRUMP, ET AL., APPLICANTS

v.

STATE OF CALIFORNIA, ET AL.

**On Application for Stay of the Injunction Issued by
the United States District Court for the District of
Massachusetts and Request for Administrative Stay**

**BRIEF OF THE AMERICAN ASSOCIATION OF
PEOPLE WITH DISABILITIES, AS *AMICUS*
CURIAE, IN OPPOSITION TO A STAY**

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STATEMENT OF THE INTEREST OF *AMICUS CURIAE*¹

The American Association of People with Disabilities (AAPD) is a national organization led by people with disabilities. It advocates for the civil rights of over 70 million disabled Americans. AAPD works to build civic engagement in the disability community and improve election access to its members. AAPD has disability vote coalitions in 22 states, including states that permit voting by mail. In *Watson v. Republican National Committee*, 609 U.S. — (2026), AAPD co-authored an amicus brief led by the League of Women Voters that, in relevant part, emphasized how voters with disabilities lean heavily on mail voting to participate in the political process.

AAPD is equally concerned about the Application in this case. With an election three months away, AAPD has an interest in ensuring that its members have a fair opportunity to cast effective ballots through existing, lawful methods.

¹ No party or its counsel authored this brief in whole or in part. Neither did any party or its counsel make a monetary contribution intended to fund the preparation or submission of this brief. No one besides the AAPD, its members, and its counsel made any such monetary contribution. Rule 38.6.

SUMMARY OF THE ARGUMENT

The application should be denied. The Court should reach that conclusion based on the public interest alone.

States have accommodated the unique needs of sick and disabled voters for more than a century. In many states, that accommodation is mail voting. It allows voters to make their choices at home, using the tools and technology familiar to them, and to have their selection securely delivered to voting officials through the postal service. The alternative is physical attendance at polling places—many of which are not set up to accommodate any disabilities, let alone the diverse range of disabilities that require a variety of different types of access and accommodations. Some disabled voters, particularly older adults, are physically unable to drive or walk to the polls.

By enjoining the Executive Order at issue here, the district court merely maintained a decades-old status quo so that everyone—including voters with disabilities—can vote using the lawful methods on which they have come to rely. Regardless of the Court's view of the merits, undoing the injunction will (at best) sow confusion about how AAPD's members can vote. At worst, it will nullify their vote entirely by imposing new and chaotic layers of bureaucracy that cannot be untangled in time for disabled voters to return a mail ballot. The prudent course is to maintain the status quo for the 2026 election, while the government promulgates the rules it says are forthcoming. The stay should be denied.

ARGUMENT

Voters with disabilities rely heavily on the postal service to cast their ballots. Many of them, of necessity, must do so in the upcoming election. And the extended process of requesting and returning a mail ballot, in light of each person’s specific disability, means clarity on the governing rules is essential well in advance of the election.

The question before the Court is whether it will allow the President and the postal service to rush through changes to those rules three months before an election. The district court enjoined those changes and maintained the status quo with which all voters are currently familiar. Granting a stay of that injunction, at best, will sow confusion about how people with disabilities can vote. At worst, it will deny them the ability to vote entirely. The Solicitor General concedes that nothing in the district court’s order applies to future elections—i.e., ones other than the election scheduled to take place three months from now. (App. 7.) The prudent course is to leave the injunction in place (applicable, as it is, only to the 2026 election). The postal service can promulgate its rules, people with disabilities can comment on them, and the postal service can react to those comments, without disrupting an election already in full swing.

I. The States have long protected the ability of people with disabilities to vote by mail.

People with disabilities make up 13% of the non-institutionalized population, a percentage that only increases with age. U.S. Census Bureau, *Table S1810, 2023: ACS 5-Year Estimates Subject Tables*.² Nearly 25% of the national population is over the

² <https://perma.cc/K9K5-AHMCA>.

age of sixty. U.S. Census Bureau, *Table S0101, 2023: American Community Survey (“ACS”) 5-Year Estimates Subject Tables*.³ Accordingly, the States have shaped their election laws to accommodate the needs of that sizeable population.

More than a century ago, states enacted absentee voting laws “making express provision for sick and disabled voters.” P. Orman Ray, *Absent-voting Laws*, 18 Am. Pol. Sci. Rev. 321, 321 (1924). By 1928, fourteen states had extended absentee voting specifically to such voters. Helen M. Rocca, *A Brief Digest of Laws Relating to Absentee Voting and Regulation* 7, Nat’l League of Women Voters (1928).⁴ California, for instance, quickly extended absentee voting to voters “who because of injury or disability [were] absent from their precincts or unable to go to the polling place.” 1923 Cal. Stat. ch. 283 (as amended by Supplement to the Codes and General Laws of the State of California of 1923 §§ 1357, 1360 (1927)).

Numerous laws recognize that voters with disabilities are entitled to accommodations in the voting process, including the ability to vote absentee and by mail. *See, e.g.*, Miss. Code 23-15-713(d) (extending absentee voting to those with “a temporary or permanent physical disability and who, because of such disability, is unable to vote in person without substantial hardship”); *id.* §23-15-629(1)-(2) (allowing voters with permanent disabilities to automatically receive absentee ballots without reapplying).

All fourteen states that require an excuse to vote absentee include illness or disability as permissible excuses. *See* Ala. Code 17-11-3; Ark. Code 7-5-402; Conn. Gen.

³ <https://perma.cc/F9WK-3MTH>

⁴ <https://perma.cc/9AJV-VDZA>.

Stat. 9-135; Del. Code tit. 15, §5502; Ind. Code 3-11-10-24; Ky. Rev. Stat. 117.085(1)(a), 117.077; La. Stat. 18:1303; Miss. Code 23-15-713; Mo. Rev. Stat. 115.277; N.H. Rev. Stat. 657:1; S.C. Code 7-15-320; Tenn. Code 2-6-201; Tex. Elec. Code 82.002; W. Va. Code 3-3-1. Eight of those states include age. *See* Ind. Code 3-11-10-24; Ky. Rev. Stat. 117.085(1)(a); La. Stat. 18:1303; Miss. Code 23-15-713; S.C. Code 7-15-320; Tenn. Code 2-6-201; Tex. Elec. Code 82.003; W. Va. Code 3-3-1.

These protections are critical because voters with disabilities often face substantial barriers during elections. These include bedbound or hospitalized voters who must vote by mail if they are to vote at all. Even those who can physically attend the polls consistently report higher incidences of voting difficulties because not all precincts have the funds or expertise to accommodate their disability. Dr. Lisa Schur et al., *Disability and Voting Accessibility in the 2022 Elections: Final Report on Survey Results Submitted to the Election Assistance Commission* 9 (July 2023).⁵ In 2022, fourteen percent of voters with disabilities reported difficulties voting—more than three times the rate of other voters. *Id.* In Virginia’s 2024 general election, for example, only 69% of polling places had both properly set-up accessible voting machines and staff who knew how to operate them, among other barriers. Press Release, The disAbility Law Ctr. of Va., *Accessibility Gaps Found at Virginia Polling Places During 2024 Election* (May 21, 2025).⁶

⁵ <https://perma.cc/5AEN-48KB>.

⁶ <https://perma.cc/BN3Z-UVWH>.

Transportation challenges also affect older voters and voters with disabilities. S. Li, *Characteristics of Zero-Vehicle Households Among Older Americans and Their Travel Implications*, 91 J. Am. Planning Ass'n 430 (2025); Bureau of Transp. Stats., U.S. Dep't of Transp., *Travel Patterns of American Adults with Disabilities* (Nov. 22, 2024).⁷ National data from the Election Assistance Commission show that only 70.8% of people with disabilities can drive their own or a family vehicle, compared to 90.5% of people without disabilities. Schur et al., at 58. And because rural voters are more likely to have disabilities, the inability to drive can be an insurmountable obstacle to voting in person. See Ctrs. for Disease Control, *Prevalence of Disability and Disability Types by Urban-Rural County Classification* (Apr. 8, 2025).⁸

Voters with disabilities are therefore more likely to return their ballots by mail or need assistance to ensure their ballot is returned. Schur, et al., at 8, 25, 38. Mail delays compound these challenges. See, e.g., Letter from Thomas J. Marshall, Gen. Couns., U.S. Postal Serv., to Jocelyn Benson, Mich. Sec'y of State 2 (July 29, 2020)⁹ (warning that in conveying ballots by mail “there is a significant risk that . . . ballots may be requested in a manner that is consistent with your election rules and returned promptly, and yet not be returned in time to be counted”). So does limited mail service

⁷ <https://perma.cc/7AAW-HD72>.

⁸ <https://perma.cc/AYJ7-YNFK>.

⁹ <https://perma.cc/L7Z4-ZF8E>

and USPS budget cuts in rural areas,¹⁰ particularly in acutely rural areas of states like Alaska “where mail service is limited.” Alaska Div. of Elections, *Alaska Absentee Ballot Application*.¹¹

Voters who rely on assistance to request, cast, or return their absentee ballot need additional time. For example, even where states fund support services to Deaf-Blind individuals, some service providers (like in Ohio and New Jersey) cap the amount at sixteen hours a month,¹² generally meaning one visit per week. This leads to time lags between when a ballot is received, cast, and returned. A voter might complete their ballot but lack access to an assistor for another week. The ability to rely on USPS to return the ballot is thus a crucial lifeline for those voters.

¹⁰ U.S. Postal Serv., *Changes in Service Standards–FAQs* 6-9 (Dec. 17, 2025), <https://perma.cc/N925-QUU6>; Aspen Inst., *Supporting Ballot Access in Rural Communities* (Sept. 3, 2025), <https://perma.cc/5QE7-2A6W>; U.S. Postal Regul. Comm’n, *Advisory Opinion on the Operational and Service Standard Changes Related to the Delivering for America Plan* (Jan. 31, 2025), <https://perma.cc/K792-G4YA>; see also, e.g., Nick Loomis, *Privatize or downsize the USPS? Rural customers worry either option will hurt them*, Neb. Pub. Media (July 16, 2025), <https://perma.cc/32XA-V64U> (describing threats to rural mail service and detailing how “[c]utting services to rural communities as a means of pulling the Postal Service out of the red has already started”).

¹¹ <https://perma.cc/M3M8-HJ8S>.

¹² Helen Keller Nat’l Ctr. for DeafBlind Youths and Adults, *Active Support Service Provider (SSP) and CoNavigator (CN) Programs* (Mar. 2024), <https://perma.cc/AR4S-58FE>.

II. The Court should deny the application in the public interest alone, due to the effect the Executive Order will have on the ability of people with disabilities to exercise their right to vote.

The Executive Order, on its face, calls for substantial new changes to election administration. (2a-3a.) The most significant are the mandates that (1) the Department of Homeland Security create “citizenship lists,” and (2) that the postal service “shall not transmit mail-in or absentee ballots from any individual” unless the voter’s name is on those lists. (3a.) Neither DHS nor the postal service has ever performed this function before. AAPD believes that these actions are both unlawful and unwise in general. However, the Court should deny the application based on the acute public interest in stability created by the specific posture of the case here.

For people with disabilities, voting is not as simple as waking up on election day and going to a voting booth. It often requires weeks of planning, anticipating and accounting for delays and other hurdles, and executing those plans without the physical capabilities of able-bodied voters. It is therefore critical that the applicable rules be clear well in advance of an election. It is difficult, and often impossible, for voters with disabilities to pivot voting plans when the rules change. Doing so, even a few months before an election, throws a wrench in that process that is not easily remedied.

“A stay is not a matter of right, even if irreparable injury might otherwise result.” *Nken v. Holder*, 556 U.S. 418, 433 (2009) (quotations omitted). Instead, it is “an exercise in judicial discretion, and the propriety of its issue is dependent on the circumstances of the case.” *Id.* (cleaned up). Among other things, this Court considers “the

relative harms to applicant and respondent, as well as the interests of the public at large.” *Trump v. Int’l Refugee Assistance Project*, 582 U.S. 571, 580 (2017) (cleaned up).

The public interest is a particularly compelling concern where a stay would impair the rights of millions of people not officially before the Court. Thus, for example, the Court held that a stay pending appeal was not warranted where the government imposed an eviction moratorium at the tail end of the pandemic. *Ala. Ass’n of Realtors v. U.S. Dep’t of Health and Hum. Servs.*, 594 U.S. 758, 765-66 (2021). It reasoned that the equities “do not justify depriving the applicants of the district court’s judgment in their favor,” because “the moratorium has put the applicants, along with millions of landlords across the country, at risk of irreparable harm by depriving them of rent payments with no guarantee of eventual recovery.” *Id.* at 766.

Likewise, the Court has repeatedly emphasized the need for restraint when courts are asked to intervene in election procedures. *O’Brien v. Brown*, 409 U.S. 1, 4-5 (1972); *Purcell v. Gonzalez*, 549 U.S. 1, 5-6 (2006). “When an election is close at hand, the rules of the road should be clear and settled.” *Democratic Nat’l Committee v. Wis. State Legislature*, 141 S. Ct. 28, 30-31 (2020) (Kavanaugh, J., concurring in denial of application to vacate stay). “That is because running a statewide election is a complicated endeavor.” *Id.* “And at every step, state and local officials must communicate to voters how, when, and where they may cast their ballots through in-person voting on election day, absentee voting, or early voting.” *Id.* Preventing changes to those rules “not only prevents voter confusion but also prevents election administrator confusion—and thereby protects the State’s interest in running an orderly, efficient election and

in giving citizens (including the losing candidates and their supporters) confidence in the fairness of the election.” *Id.*

These principles apply with full force here. The district court merely blocked a last-minute attempt by federal agencies—who, like federal courts, have no expertise in running elections—from “rewriting state election laws so close to an election.” *Id.* at 32. In that sense, the district court only prevented federal agencies from committing the same errors this Court has condemned in the district courts themselves.

The Solicitor General denies that any change in election administration is really in the offing, but reality belies that assertion. If the postal service is going to use “citizenship lists” to impound ballots, as the EO contemplates (3a), then the States will be compelled to ensure that their lists match up with the federal government’s. Otherwise, the states risk providing mail-in ballots to people whom DHS later concludes are ineligible to vote, having to contact those voters to collect further documentation in order to cure the issue, and recalling ballots if the eligibility dispute cannot be resolved informally or through litigation.

The suggestion that the States’ challenge is premature also founders on this principle. The Solicitor General would have the Court grant the stay until the agencies do precisely what the President has ordered, with any review (presumably) to occur at that time. (App. 11-12.) But at that point, the federally imposed alterations to the election process will become effective in September or October—within the timeframe where this Court has found last-minute alterations to be problematic. *Democratic Nat’l Committee*, 141 S. Ct. at 31 (Kavanaugh, J., concurring in denial of application to

vacate stay) (six weeks); *Merrill v. Milligan*, 142 S. Ct. 879, 879 (2022) (Kavanaugh & Alito, JJ., concurring in the grant of applications for stays) (nine weeks). It would also do precisely what this Court has warned against as a prudential matter: “channel [an] election dispute to shortly before election day.” *Bost v. Ill. State Bd. of Elections*, 607 U.S. 71, 80 (2026).

Moreover, now that most agencies are beholden to the President’s will alone, it is unlikely that any of them (let alone the post office) will do anything but comply with the terms the Executive Order sets out. *Trump v. Slaughter*, 609 U.S. — , 2026 WL 1855612, *11-12 (2026). Indeed, *Slaughter* cited President Wilson’s firing of a postmaster as the “landmark” decision supporting the President’s ability to fire appointees at will, something the Postmaster General will bear in mind when implementing the Executive Order. *Id.*; *Myers v. United States*, 272 U.S. 52 (1926). The injury to the States and their disabled citizens is “certainly impending” now. *Clapper v. Amnesty Int’l USA*, 658 U.S. 398, 409 (2013) (quotations omitted).

All of this is particularly troublesome to voters who live with disabilities. They already must comply with existing state rules on registration, proof of citizenship, and on requesting and returning a mail-in or absentee ballot. If DHS and the postal service have the power to block their only avenue of voting until they are satisfied that the voter is eligible, then they must take the additional step of locating and mailing to someone (presumably local election officials, DHS, the postal service, or all three) any

additional documentation.¹³ If one link in this chain fails—either because officials are confused, the mail with proof of eligibility is delayed, plain human error, or the second envelope with their actual ballot is delayed—the result is not to go wait in line on Election Day. It is a total loss of their right to vote.

That injury is, of course, irreparable. And even if the right is not totally abridged, adding additional layers of bureaucracy only makes it more difficult for people with disabilities to be sure that their vote will be counted. Matching up 50 different states’ lists with ones “approved” by the federal government will not be an easy or error-free task. Particularly as applied to voters with disabilities—who rarely see their ballot physically enter a box under the watchful eye of voting officials—federal agencies’ interference now will have the effect of undermining their “confidence in the fairness of the election.” *Democratic Nat’l Committee*, 141 S. Ct. at 30-31 (Kavanaugh, J., concurring in denial of application to vacate stay).

The equities, as well as the public interest, therefore “do not justify depriving [the States] of the district court’s judgment in their favor.” *Ala. Ass’n of Realtors*, 594 U.S. at 766. As a result, the Court should leave it in place. The federal agencies will suffer no perceptible harm from this course of action. As the Solicitor General concedes, the order only applies to actions taken in the context of the 2026 election. (App. 7.) The agencies are therefore free to propose rules, solicit comments from the public (including people with disabilities), and finalize rules in time for an ordinary challenge to resolve

¹³ The post office has suggested that some portion of this process could be done online. This assumes, of course, the question of reliable internet access, which is far from universal in rural areas.

itself in due course leading up to the 2028 or 2030 elections. There is no reason for the Court to force that discussion onto a rocket docket—and confuse or disenfranchise millions of voters in the process.

CONCLUSION

The Court should deny the application.

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