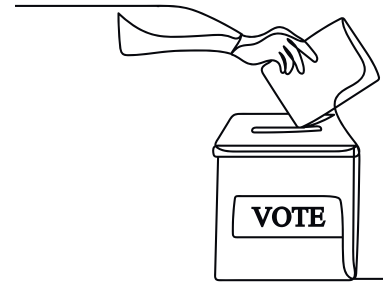

Voter Suppression of Native Americans in Arizona

Native Americans in Arizona urgently need a fully functioning Voting Rights Act and a federal baseline of voter access. Native Americans in Arizona continue to face discrimination and are denied equitable opportunities to vote.

Native Americans in Arizona deserve the civil rights protections provided by the John Lewis Voting Rights Advancement Act which incorporates the Native American Voting Rights Act and the Freedom to Vote Act.

Without these protections, Native Americans in Arizona will continue to be unfairly denied their basic rights as American citizens.



NATIVE AMERICANS CAN SWING ELECTIONS IN ARIZONA.

Notwithstanding barriers to voting, Native Americans make a difference in election outcomes. In 2018, Senator Kyrsten Sinema (D-Ariz.) won by 55,000 votes. **On-reservation precincts in Arizona cast 67,996 votes.**

Native Americans also made a difference in the 2020 Presidential election. President Biden swung Arizona by just over 10,000 votes. **Voters on the Hopi and Navajo reservations in northeastern Arizona alone cast nearly 60,000 ballots.**

ARIZONA WAS AND REMAINS HOSTILE TOWARDS NATIVE AMERICAN VOTERS.

Well aware of the potential of Native American political power, Arizona was one of the last states to allow Native Americans to vote at all, arguing in a 1948 case that two World War II veterans were incompetent to vote because they were Native American. *Harrison v. Laveen*, 196 P.2d 456 (Ariz. 1948).

Until the 1970s, Arizona maintained an English literacy requirement that effectively prevented most Arizona Native Americans from voting. Arizona required voters to pass an English literacy test as a prerequisite to voter registration. Ariz. Rev. Stat. §16-101(A)(4)-(5) (1956). In 1988, the United States brought suit against Arizona for continuing to deny Native voters language assistance and “unlawfully deny[ing] or abridge[ing] the voting rights of Navajo citizens.” *United States v. Arizona*, No. 99-1989 (D. Ariz. May 22, 1989) (Consent Decree) (as amended Sept. 7, 1993).

In 2006, the Department of Justice reported instances of harassment and voter intimidation by polling officials against members of the Navajo Nation. The Federal Examiner and Observer Program, Hearing Before the Subcomm. on the Constitution of the H. Comm. on the Judiciary, 109th Cong. 16 (2005) (statement of Penny Pew).

And in 2020, the Supreme Court upheld Arizona’s ban on ballot collection assistance that the 9th Circuit had previously found to be intentional discrimination in part because Arizona was well aware of the law’s disenfranchising effects on Native Americans. *Brnovich v. DNC*, 141 S. Ct. 2321 (2021).

INFRASTRUCTURE FAILURES IN ARIZONA CONTRIBUTE TO VOTER SUPPRESSION.

Today, 32.9 % of Native Americans live in poverty, more than twice the statewide average. Infrastructure remains poor with some Native homes lacking access to running water and unpaved dirt roads making travel difficult. Many Native homes across Arizona remain unaddressed and lack residential mail delivery. Basic needs like a working vehicle and filling a tank to gas to travel to vote can be hard to meet. For example, in some parts of the Navajo Nation only one in ten families owns a vehicle. Brief for the Navajo Nation as Amicus Curiae Supporting Respondents in *Brnovich v. Democratic Nat’l Comm.*, 594 U.S. ___ (2021), at 14.

Indifferent to, or capitalizing upon, these infrastructure failures election officials in Arizona discriminate against Native Americans.

REGISTRATION, EARLY VOTING, AND POLLING PLACES ARE TOO FAR FROM NATIVE AMERICANS IN ARIZONA.

County seats, often the only places where Native Americans can access registration and early voting services are prohibitively far away.

- For the Kaibab Paiute, early voting is only located at this county seat **285 miles away**. This requires a five to seven hour trip around the Grand Canyon.
- Navajo voters in Teec Nos Pos must travel 95 miles one way, **over an hour and a half, to reach the closest early voting location** in Chinle. Dennehotso to Chinle are also long drives, over 77 miles each way, approximately one hour and twenty minutes.
- The furthest Navajo community serviced by Apache County is approximately **220 miles away**. The average distance is 50 miles one way.
- Depending on where a Navajo Nation voter lives on the reservation, his or her designated Navajo Nation Chapter may be different from the voter's designated county polling place for his/her precinct. When this happens, the Navajo voter will have to vote in two separate locations on election day. **This can result in the voter having to travel more than 120 miles round trip to vote on Election Day**. Voting Rights and Election Administration in Arizona: Field Hearing Before the Subcomm. on Elections of the H. Comm. on Administration, 116th Cong. 6 (2019) (testimony of Jonathan Nez, Navajo Nation President).

NATIVE VOTERS ARE DISCRIMINATED AGAINST BECAUSE OF LACK OF ADDRESSES.

- In 2020, the candidacy of a Navajo candidate running for sheriff in Apache County was challenged for including a post office box on the candidate petition. *Reynolds v. Dedman*, No. CV2020-0057 (Apache Cty. Sup. Ct. 2020). In 2008, a number of Navajo candidates' legitimacy was challenged because their signature petitions included post office boxes and not physical addresses, the latter of which is often the only address assigned to rural residences. Patty Ferguson-Bohnee, *The History of Indian Voting Rights in Arizona: Overcoming Decades of Voter Suppression*, 47 ARIZ. ST. L.J. 1099, 1123 (2015).
- In the 2020 General Election, **over 2,000 voters were placed on the suspense list in Apache County, primarily due to questions surrounding their residency**. The county placed them in the incorrect precinct. These voters therefore did not show up on the voting roster when they went to vote on election day at no fault of their own.
- In 2012, Apache County impermissibly **purged 500 Navajo voters because the County Recorder failed to accept a P.O. Box** and the applicant's drawing on the voter registration form to show the location of their home.
- In part because of confusion around addressing, during the 2014 and 2016 general elections in Apache, Navajo, and Coconino counties, the vast majority of out-of-precinct ballots were in areas that were almost entirely American Indian. **In the 2012 election, Apache, Navajo, and Coconino Counties experienced the highest rate of rejected provisional ballots for all counties in the state of Arizona.**

VOTER SUPPRESSION OF NATIVE AMERICANS IS INTENTIONAL.

Prior to *Shelby County v. Holder*, Arizona was required to preclear its laws because of its repeated voting rights violations.

- Native Americans in Arizona relied on ballot collection because they live in remote areas, they don't receive mail at their homes, post offices are far and delivery can be unpredictable, and they may not have a car or money for gas to drop off a ballot at a safe place of deposit. The most logical way to deliver mail was to pool mail and give it to a trusted community member. Prior to *Shelby*, Arizona tried to pass a ballot collection ban but ultimately withdrew the request when the United States asked for more information about the law's effects on minority voters. Arizona enacted a ballot collection ban immediately after *Shelby*, despite knowing of Native Americans relied upon ballot collection. *Brnovich v. DNC*, 141 S. Ct. 2321 (2021).

- In 2020, Arizona's Pima County closed the voting center on the Pascua Yaqui reservation even though most of the cost would have been covered by the Secretary of State. Rather than simply providing the ballots and staff to operate the site, the county spent more than \$180,000 in legal fees fighting the Pascua Yaqui's attempt to gain on-reservation voting access.
- In 2018, a Native voter from Arizona described feeling disrespected when he went to vote "[s]o, yes, I would like you, person at the poll, to respect me as a Native American, respect my culture. But if you can't do that . . . then do this. Treat me as a human being and be respectful to my elders, respectful to my children." Native American Rights Fund (NARF), *Obstacles at Every Turn: Barriers to Political Participation Faced by Native American Voters* at 46 (testimony of Claude Jackson).

Native voters in Arizona face hurdles that no American citizen should have to exercise their right to vote. Federal action is needed now to undo this injustice and to protect Native voters from further abuse.



FOR MORE INFORMATION, VISIT [VOTE.NARF.ORG](https://vote.narf.org)