

Bard College: The Battle for Youth Voting Rights A Case Study

Executive Summary

When the U.S. ratified the 26th Amendment, lowering the voting age from 21 to 18, supporters predicted a surge of voting among young people. But in fact, voting rates are lower for young people than for other age groups. The standard explanation is that young people are transient, distracted by college and other activities, and have not yet embraced civic habits and responsibilities. However, another reason deserves consideration: state and local election officials create barriers to voting, purposefully or otherwise, especially in college towns.

The case includes the following elements:

- [Video Case Study](#): “A Poll To Call Our Own – The Bard College Story”
- Written Case Study (this document)
- Original Documents in Exhibits (in appendix or on course landing page)

The case is a part of a larger project on student voting rights that focuses on the history of four institutions: Tuskegee University, Prairie View A&M University, North Carolina A&T State University, and Bard College. Materials for each of these cases, including written case studies, video case studies, recorded lectures, original materials, and the book *Youth Voting Rights: Civil Rights, the Twenty-Sixth Amendment, and the Fight for American Democracy on College Campuses*, are available on the Bard College Center for Civic Engagement website at: <https://cce.bard.edu/get-involved/election/voting-rights/course/>.

The case explores this controversy through the academic literature, original documents, oral histories, legal findings, and original interviews with Yael Bromberg, constitutional rights attorney, legal scholar, and principal of Bromberg Law, LLC, and key figures at Bard College, including Leon Botstein, its president; Jonathan Becker, vice president for academic affairs and director of the Center for Civic Engagement; Erin Cannan, vice president for civic engagement and deputy director of the Center for Civic Engagement; Sarah deVeer, an alumna and outreach coordinator for the Center for Civic Engagement; and Sierra Ford, Andrew Goodman Foundation Ambassador and a student in the Class of 2026.

Introduction: Voting Rights on Campus

In 2022, a young Black woman named Sierra Ford, from the Atlanta suburb of Marietta, enrolled at Bard College in Red Hook, New York. Since 2008, when Barack Obama first ran for president, she had embraced the importance of voting. With her mother and older sister, she participated in get-out-the-vote activities and handed bottled water to voters standing in lines at polling places.

This case was researched and written by Charles Euchner, with contributions from Jonathan Becker, Yael Bromberg, and Elizabeth Coulter.

This publication was supported [in part] by a grant from the Open Society Foundations and the Mellon Foundation.



Copyright © 2023 Bard College.

This work is licensed under a Creative Commons [Attribution-Non-Commercial 4.0 International License](https://creativecommons.org/licenses/by-nc/4.0/).

From her parents and older sister, Ford learned about the long history of voter suppression in the South. She witnessed the wave of new voting laws after the Supreme Court's 2013 decision in *Shelby County v. Holder*, which ended "preclearance," the Justice Department's review of changes in voting laws before they are allowed to be implemented in areas with a history of racial discrimination.

A newly registered voter, Ford did not expect to find the battle over voting rights at Bard College, an hour north of Manhattan, in what is traditionally considered a blue state. But when she arrived at the bucolic campus in Dutchess County, she was surprised to learn that Bard students and administrators were fighting an ongoing battle to protect the 26th Amendment rights of 18-year-olds to vote: "Coming from the South, I thought it was going to be more progressive in terms of voter enfranchisement," she said.¹

Like most students, Ford did not know much about the 26th Amendment when she arrived at Bard. Other voting rights issues—especially the Voting Rights Act and the *Shelby* decision—dominate the discussion about voting rights. But in her experience with the campus group Election@Bard, she has come to see student participation in elections as promoting lifetime habits of voting—and bolstering a healthy civic culture. "We should be encouraging everybody to exercise their right to vote," she said.

The nature of this struggle differs from the voter suppression efforts in the South and other communities across the U.S. Efforts to restrict voting have often focused on Blacks and other minorities. States from the old Confederacy adopted a series of anti-Black voting provisions in the late 1800s and early 1900s. After the Voting Rights Act of 1965, barriers to voting for all groups fell significantly. Blacks were finally registered to vote, and voted in record numbers, electing record numbers of Blacks in the following decades. But securing full, equal voting rights has remained a struggle—especially after *Shelby*.

The passage of the 26th Amendment in 1971 added a new dimension to the challenge of voting rights. The amendment guarantees 18-year-olds the right to vote, and outlaws age discrimination in ballot access for those over 18, but did not specify where and under what conditions. And, Congress has yet to enact legislation to implement its guarantees via federal statute. Many state and local election boards have adopted procedures that limit young people's access to voting, even reviving barriers that have long been considered unconstitutional.

Bard's commitment to voting rights exceeds that of most colleges and universities. Bard's longtime president, Leon Botstein, has not only supported efforts to secure student voting rights but was a plaintiff, together with students and administrators, in key court cases to secure student voting rights. Another Bard administrator, Jonathan Becker, Bard's vice president for academic affairs and professor of political studies, has made youth voting rights a priority. During the first-year arrival day, students not only attend mixers and get campus tours, they are also encouraged to register to vote. The college's Center for Civic Engagement, which Becker directs, works with a student group, Election@Bard, to educate students and help them register and get to the polls.

Bard's efforts have succeeded but also aroused opposition from some residents, who do not think that college students should vote locally and resent the college's efforts to support student voters.

According to Botstein, "We have no partisan view. Our view is that we have to do everything we can to get more citizens to vote."² As educators and home to legitimate voters, he said, colleges have a legitimate role in helping students participate in democratic processes. "This is not a complicated proposition. And I'm stunned at how little institutions of education have pressed the issue."

In a time of bitter partisan divisions, the stakes are high. In 2022, almost 16 million students—about 5 percent of the total population—attended college across the U.S.³ In virtually all of the "swing" states and districts, these voters could tip the balance in elections from the city council to the president. The question is whether they can and will vote to realize that potential.

¹ Sierra Ford, interviewed by Seamus Heady, December 18, 2023.

² Leon Botstein, interviewed by Seamus Heady, December 22, 2023.

³ Jonathan Becker and Erin Cannan, "Institution as Citizen: Colleges and Universities as Actors in Defense of Student Voting Rights," *The Rutgers University Law Review* 74, no. 4 (Summer 2022): 1875.

The Missions of Bard College

St. Stephen's College was founded as an Episcopalian institution in 1860 and became an undergraduate school of Columbia University in 1928. Renamed Bard College in 1934, the college separated from Columbia when it began admitting women in 1944.

Bard was one of the first American colleges to give full academic status to the creative and performing arts. It was a haven for distinguished scholars fleeing Europe, including philosophers Heinrich Bluecher and Hannah Arendt, artist Stefan Hirsh, and violinist Emil Hauser. Bard has long welcomed refugees, including 300 Hungarians after the Soviet invasion in 1956, scholars from Eastern Europe and Africa in the 1980s and 1990s, and more recently students, faculty, and staff from Syria, Afghanistan, Myanmar, Russia, and Ukraine.

Bard's mission of liberal arts education and civic engagement has led to a national and global network that extends far beyond its bucolic Upstate New York campus of 2,000 students: Bard has programs that serve 10,000 students (7,000 in degree-granting programs) across the United States and around the world, including:

- Ten public Bard High School Early Colleges in New York City, Newark, Cleveland, New Orleans, Baltimore, Washington, DC, and Hudson, New York, through which most students are eligible to receive a tuition-free associate's degree. This program has been replicated over 400 times.
- The Bard Prison Initiative, the largest such degree-granting program in the U.S., with eight campuses in New York State. This program has inspired a robust national movement for serious academic opportunity for incarcerated students and was a driving force in the reintroduction of Pell grants to incarcerated students nationally and Tuition Assistance Program grants in New York State.
- Three "microcolleges," small academic units situated in public places, like libraries, which offer non-traditional students the opportunity to earn college credit and associate's degrees.
- Nearly 20 sites of the Clemente Course in the Humanities, which provides free college courses to adults facing economic hardship.
- Brothers@ is a national program that tackles structural disadvantages marginalized students face in entering colleges and universities and persisting at predominantly white institutions.
- Dual-degree partnerships at Bard College Berlin, the American University of Central Asia in Bishkek, Kyrgyzstan, and the Al-Quds Bard College of Arts and Sciences in East Jerusalem and Abu Dis, on the West Bank.

Bard's vision emphasizes the transformative impact of education, even in politically and socially charged settings. The Al-Quds Bard Master of Arts in Teaching Program, for example, has taught more than 500 students who studied as in-service teachers, reaching more than 110,000 Palestinian students in over 260 schools across the West Bank and East Jerusalem every academic year.⁴ Many have served in supervisory roles in the Palestinian Ministry of Education.

Bard has been a national leader in promoting student voting opportunities and civic education for decades. Bard's work has provided models, research, and assistance for college campuses across New York State.

The Ideal of Institutional Citizenship

⁴ Jonathan Becker, "Bard College: An Ecosystem of Engagement," *Journal of Community Engagement and Higher Education* 11, no. 1 (2019): 41. Listed numbers reflect an increase since this journal article's publication, and were provided directly by Jonathan Becker.

Colleges and universities play an outsized role in their communities. Like Bard College, they are often the biggest employers and cultural institutions in town. They are also a source of tension. Longtime residents often complain about the disruption caused by colleges: traffic, noise, land use, off-campus rowdiness, and tax burdens. Since the ratification of the 26th Amendment, host communities have also worried that, if registered to vote, activist students would dominate local politics.

To Bard President Leon Botstein, the fight for voting rights is foremost—and, in fact, can help find solutions to the other issues in the town-gown relationship.

“Voting is an act of enormous reaffirmation and dignity,” he said.⁵ Low voter turnout benefits local political elites, who can mobilize their voters to go to the polls, but it undermines the overall strength of the community. “Not to participate is, in a way, ensuring that the result will be flawed,” he said. “You have to make it convenient. You cannot ... hinder participation.”

Bard has made students’ voting rights the center of its embrace of the ideal of “institutional responsibility.” Universities have long embraced their responsibility to cultivate the “student as citizen.” As the philosopher Martha Nussbaum argues, higher education should “cultivate the whole human being for the functions of citizenship and life in general”—not just prepare students for careers.⁶ But Bard embraces the broader mission of serving as an “institution as citizen.” Colleges should avoid getting tangled in political and partisan battles, but they should also contribute to common civic values like voting.

Following the 2009 “Declaration of the Civic Responsibility of Higher Education,” national initiatives like Project Pericles and the Campus Compact called for “a national movement to reinvigorate the public purposes and civic mission of higher education.”⁷ Within a few years, the compact was signed by presidents of 565 public, private, two-year, four-year, land grant, and state-related institutions. The document calls for civic education of students, civic engagement by faculty, and partnerships with the communities where colleges are located.

Civic Education at Bard: Jonathan Becker came to Bard in 1997 after years working in Russia, Ukraine, the Czech Republic, and Hungary to promote education and democracy. He was dismayed, he said, to discover that “despite all the rhetoric” of American democracy, students locally were being systematically denied the right to vote.⁸ Becker set out to get students involved in voting and civic affairs. His first move was to provide voter education as part of the college’s orientation for new students. Bard students are taught the many ways they can vote—absentee with their home communities or as residents at Bard—and given help to register.

Bard’s Center for Civic Education coordinates the college’s advocacy for voting rights, participation in lawsuits, civic education programs, and voter registration and get-out-the-vote efforts.

Local voting practices made it hard for students to register and to vote. Some local officials denied they even had a right to vote, despite the clear affirmation of that right in the 1979 Supreme Court case *Symm v. United States*, a case that emerged from Prairie View A&M University when students were targeted and required to fill out detailed questionnaires to register.

The Bias of ‘Where You’re From’: Opponents of student voting in their college communities—usually longtime residents and politicians—often wonder why students do not just vote where they grew up. But to the voting-rights advocates at Bard, that question misses the point: Anyone over 18 years old should enjoy the same autonomy as anyone else about where they call home.

⁵ Botstein, Heady interview.

⁶ Becker and Cannan, “Institution as Citizen,” 1876-77.

⁷ Campus Compact, “Presidents’ Declaration on the Civic Responsibility of Higher Education,” May 23, 2009, <https://compact.org/resources/presidents-declaration-on-the-civic-responsibility-of-higher-education>.

⁸ Jonathan Becker, interviewed by Seamus Heady, December 20, 2023.

"You know, students aren't their parents," says DeVeer.⁹ "They're creating their own identity outside their parents." Botstein notes that longtime residents do not complain about service men and women deciding where they want to establish a residency. "Doesn't the military shift people around?"

Erin Cannan says simply: "The law's the law. It's been confirmed, over and over, that students have the right to vote."¹⁰ She dismisses arguments that students should vote in their hometown ("the likelihood of students returning home ... is a false assumption"), are transient ("we don't say that about renters or people at military bases"), or that the community has a right to set voting standards ("that's not for us to decide"). She also argues that voting in their college community will give them an invaluable education in local politics, one of the neglected parts of the American political system.

Bromberg adds, "Students are counted during the Census as campus residents, which dictates budgetary appropriations to their local communities. They cannot be politically included in one instance but excluded in another."¹¹

The Bias of Absentee Voting: A generation after the ratification of the 26th Amendment—and the Supreme Court's ruling that college students must be registered under the same rules as other residents of a community—few students understand the full scope of their right to vote. Most students assume that they must vote by absentee ballot in the community where they grew up.

Even youth voting rights activists, like Bard's Erin Cannan and Sarah deVeer, first assumed they had to vote in their family's home rather than their new home at college. As an undergraduate at the State University of New York at Geneseo, Cannan took a bus to her home in Rochester to vote; as a graduate student in Pennsylvania, she voted by absentee ballot. She simply did not fully understand her opportunity to vote where she was living.

Either option is legitimate, she now says, but voting locally tends to promote more local engagement. Voting, she says, "is an expression of your agency, your civic identity." Full participation creates an "excitement" and "connection" that is felt "on a cellular level."¹²

Sarah deVeer, a Bard graduate, has made voting education a centerpiece of her work at Bard's Center for Civic Engagement. A New Orleans native, she voted absentee until she started working at Bard. Her goal is "helping students understand what I didn't understand as a student."¹³ By registering locally, students are more likely to get involved in local issues, from local policing to the environment to economic development.

While Botstein agrees that voting absentee in a hometown is legitimate, he also emphasizes the importance of forging local ties. "These are people who live in the area, and they are subject to the judges, right? So why shouldn't they play a part in electing them?"¹⁴

A Long Train of Controversies

The ratification of the 26th Amendment in 1971 lowered the minimum voting age in all elections from 21 to 18. At the time, supporters and detractors alike argued that young people would flock to the polls. More young people than ever were enrolled in college, and surveys showed that education was correlated with voting rates. Even more compelling, the activism of the 1960s and 1970s suggested a historic level of interest in politics.¹⁵

⁹ Sarah deVeer, interviewed by Seamus Hedy, January 2, 2024.

¹⁰ Erin Cannan, interviewed by Seamus Hedy, December 20, 2023.

¹¹ Yael Bromberg, interviewed by Seamus Hedy, May 24, 2024.

¹² Cannan, Hedy interview.

¹³ deVeer, Hedy interview.

¹⁴ Botstein, Hedy interview.

¹⁵ Jennifer Frost, "On Account of Age": The Youth Franchise Movement and the Twenty-sixth Amendment," *Australasian Journal of American Studies* 40, no. 2, (December 2022): 60-61.

In fact, voting rates have always been low for young people. Only twice in the last three decades have more than 25 percent of young people under 30 years of age voted in midterm elections: in 2018 (31 percent) and 2022 (27 percent).¹⁶ Those numbers can be considered either a failure or an opportunity. Among college students, the numbers were better, according to a survey by Tufts University: 40.3 percent of 10 million students in 2018. But that recent boom has provoked a new round of voter suppression efforts across the U.S.¹⁷

But the 26th Amendment left open how the right to vote would be applied. As the legal scholar Nancy Turner notes, the amendment left a number of issues open to contention:

[C]ourts have by no means held that students have an absolute right to vote. The Supreme Court has upheld various durational residency requirements and registration deadlines, and has concluded that states have a legitimate interest in making sure voters are “bona fide” residents of the state. Moreover, in 2008, the Supreme Court found that voter identification requirements were constitutional, reasoning that state interests in detecting and deterring voter fraud were sufficiently weighty to justify the evenhanded limitations placed on voters by requiring photo identification for in-person voting.¹⁸

On other issues, like the location of polling places, federal and state courts commonly defer to local election officials.

In many states and localities, where elections are decided with relatively few votes, election rules could mean the difference between winning and losing. Any rule change could either boost or dampen voter turnout. Even when the issues have been resolved by higher authorities, local actors contest those issues.

As Becker and Cannan note, the suppression of the youth vote also contributes to the suppression of other groups. “Higher education now includes large percentages of BIPOC (Black, indigenous, and people of color), first-generation, disabled, and low-income students who may be more readily influenced by vote suppression efforts.”¹⁹

Newcomers to voting usually do not know how to respond to overt or covert efforts at voter suppression. When challenged at the polls, they usually do not know their full rights any more than voters who are not challenged. “Can you imagine the first time you vote ... and this person is challenging your right to vote?” Cannan says.²⁰ “You don’t know what your rights are. If you don’t have the college supporting you and pushing back, you might think, ‘Why should I bother?’”

Suppression of the youth vote can have long-term consequences for voter participation. The earlier a person can develop the habit of voting, the more likely they are to participate in later elections. The first time voting is, as Erin Cannan notes, “a rite of passage” into adulthood and civic responsibility. When that moment goes well, voters become more committed to democratic participation; when it goes badly, they often become resigned and cynical.

Battles Over Registration and Voting Practices

¹⁶ Abby Kiesa, “Why Did Near Record-High Numbers of Young People Vote in the Midterms?” *Governing*, December 18, 2022, <https://www.governing.com/now/why-did-near-record-high-numbers-of-young-people-vote-in-the-midterms>.

¹⁷ Michael Wines, “The Student Vote is Surging; So Are Efforts to Suppress It,” *The New York Times*, October 24, 2019, <https://www.nytimes.com/2019/10/24/us/voting-college-suppression.html>.

¹⁸ Nancy Turner, “The Young and the Restless: How the Twenty-Sixth Amendment Could Play a Role in the Current Debate Over Voting Laws,” *American University Law Review* 61, no. 6 (2015): 1510.

¹⁹ Becker and Cannan, “Institution as Citizen,” 1875.

²⁰ Cannan, Hedy interview.

Since the ratification of the 26th Amendment in 1971, the right to vote among young people has been hampered by misunderstandings of residency, the registration process, absentee ballots, the disproportional use of provisional or affidavit ballots, the borders of voting districts, the location of polling places, challenges, and intimidation on Election Day.

On all of these issues—in Dutchess County and across the U.S.—young voters have confronted resistance to their franchise rights by state, county, and local officials. In some instances, the resistance might be considered innocent: Officials, especially the many citizen poll-workers, misunderstood the law and their duties in running elections, without malign intent. But in other instances, the resistance was intentional. Even after being informed of their legal responsibilities and duties, officials continued to pose barriers to youth voting.

In the 1970s, election officials across the country questioned whether students should be allowed to vote in where they went to college. Election officials often argued that students' "real" homes were the places where they grew up. But in its 1979 decision in *Symm v. United States*, the U.S. Supreme Court rejected the idea that young people should face a more stringent residency test than any other resident of a community. If a student declared her residency to be her college town, the local elections officials should accept their eligibility to register to vote without imposing issues like special questionnaires.

Almost two decades later, in 1997, Jonathan Becker took a job at Bard College after working to promote democracy in Eastern Europe in the post-Soviet era. He learned that Dutchess County officials were acting to restrict the voting rights of Bard students and other young people. The county election board used the following questionnaire in its voter registration process for college students.²¹

Name of applicant _____
Address D _____ ED _____

1. Is your present residence claimed as a student or as an institution of learning? Yes ()
No () Other (describe) _____
2. What year are you in college? _____ How long do you expect to live at present residence? _____
3. What is your parents' home address? _____
4. To what extent do your parents contribute to your support: All or nearly all () More than half () Less than half () None ()
5. Where did you live during the past summer vacation? _____
6. Where do you expect to be during Next winter vacation? _____ Next summer vacation? _____
7. Do you have some of your possessions at an address other than your present residence? If so, give address? _____
8. If you have a bank account: Give name and address of bank. _____ Give address you use on bank account. _____
9. If you paid income tax: Address on last return _____ Year ____.
10. Address on driver's license or motor vehicle registration: _____
11. Any additional information to substantiate your claimed voting residence: _____

The questionnaire distributed to Bard students in 1996 was not unlike that struck down by the Supreme Court twenty years earlier in *Symm v. U.S.*, a precedential case concerning Prairie View A&M students in Texas.

Opponents of the 1996 questionnaire cited four major concerns. First, under the 1979 Supreme Court decision in *Symm*, all 18-year-olds are eligible to vote wherever they declare their domicile. They must meet the same state residency requirements as other residents—but should not be required to meet a higher standard of residency.²²

²¹ "Questionnaire Incites Controversy," *The Bard Observer*, September 20, 1996, <https://cce.bard.edu/get-involved/election/files/Residence-Questionnaire.pdf>.

Second, the questionnaire asked questions that are irrelevant to the eligibility to vote. Third, those questions asked for personal or sensitive information, violating students' basic federal rights to privacy under the Federal Education Rights & Privacy Act. Fourth, the questionnaire was only given to students, not to other people who might have moved to the area recently and might not stay for the indefinite future.

A student organization called SAVE—Student Activists for Voting Equality—was formed by students at Bard and Vassar to fight restrictions on the right to vote. They discovered that one person held a veto over local election policies. Under New York State's election laws, each county has an elections commission with a representative of both major parties, and both representatives had to agree to make changes in practice. William Paroli, the Republican board member, backed restrictions on youth voting. After students confronted him at his office in 1979, he said he would support student voting rights, but voting restrictions continued.

A special task force of the county legislature investigated the issue, held public hearings where they met with students, and concluded that the county had no right to use the questionnaire. But Paroli still refused to accept the finding and continued to veto changes in voter restriction policies. Only when he was forced off the board in an unrelated bribery scandal and a new commissioner was elected did the county drop the questionnaire.

Battles Over Polling Places

Starting in 2009, Bard officials and students sought to move the District 5 polling place from the Episcopal Church of St. John the Evangelist in Barrytown to Bard's Bertelsmann Campus Center. They persuaded the Red Hook Town Council to pass resolutions in 2009 and 2016 to support the move. But as Town Supervisor Robert McKeon noted: "Whatever we do is really at the mercy of the county board of elections."²³

The Bard position was simple, as Bard undergraduate student Eva-Marie Quinones (who is now a dual JD-PhD candidate in political science) told the council in 2016: "Polls should be where the people are." Since 65 to 70 percent of voters in the district listed the campus as their residence, a campus voting place would be accessible to them. Beyond that, Bard argued that state law set three basic standards for all polling places:

- **Access to Polling Sites:** The church was in a remote location, one and a half miles from campus, where most [student] voters lived. That site was located on a county road with no verge, sidewalks, or crosswalks, and where cars traveled at high speeds; thus was inaccessible to pedestrians. The church is also not serviced by public transportation as envisioned by state law governing polling place designations.

On a typical election day, cars and vans taking voters to the polls were jammed into the church's small lot. On a rainy or cold day, the church offered no covered place to wait to vote. The college brought pop-up tents to offer protection on one rainy election day, but that only made it harder for cars and vans to maneuver in the small parking area.

- **Adequate Space in the Polling Place:** State law requires one voting booth for every 300 registered voters in the polling area, and the church offered a cramped facility and made it extremely difficult to situate handicap-accessible voting machines.

- **Compliance with the ADA:** Dutchess County election officials willfully ignored federal accessibility standards under the Americans with Disabilities Act (ADA). An accessibility survey for

²² For a thorough overview of the 26th amendment and its many challenges over the years, see Yael Bromberg, "The Future is Unwritten: Reclaiming the Twenty-Sixth Amendment," *The Rutgers University Law Review* 74, no. 5 (Summer 2022): 1671-1696.

²³ The Andrew Goodman Foundation, *Bard Ambassadors Advocate for Polling Place*, YouTube Video, 28:30, May 4, 2016, <https://www.youtube.com/watch?v=XOZfA55Ty2I>.

the Church performed by representatives of the county Board of Elections left many answers blank and ignored obvious ADA violations, including the slope and width of the ramp, clearance of door frames, and clearly marked handicap accessible parking places.

The Bard campus center offered a clear and obvious alternative. It offered more than three times the space of the church, was within walking distance for most of the district voters, offered plenty of nearby parking, was accessible through public transportation, and was ADA-compliant. In the event of bad weather, voters can wait their turn indoors.

At a 2016 meeting of the town board, students and administrators from Bard again made the case for moving the polling station to Bard.²⁴ The town representatives supported the request but appealed to Bard students and administrators to respect the “tradition” of voting at the church and to be “respectful of the people” at St. John’s Church. Board members suggested a compromise, with polling places at both locations. They also suggested that, with a rise in voter registration, two separate polling places might solve the problem. “Whatever encourages everybody to vote and increases access, I’m for it,” said board member Sarah Imboden. Students advocated before the town board in order to build popular support, knowing that the ultimate designation of the polling site needed to be made by the board of elections.

Once the total number of voters surpassed 1,200, the Board of Elections “will have no other alternative but to rearrange District 5,” Supervisor McKeon said, but he cautioned that the change could take another five years. The reason: political boundaries were scheduled to be redrawn after the Census at the start of the next decade.

Bonnie Goad of Bard argued that the clear requirements of the law should determine the issue, not local traditions or the desires of the St. John’s parish. “I understand this long tradition and the sense of community—I appreciate that,” she said. “While traditions are very special, tradition might also need to ... meet the requirements of the law, which is public transportation, accessibility for people with disabilities, and a space requirement. If those aren’t met, we are missing something. ... I would hate to see tradition trump what our legal responsibilities are.”

Supervisor McKeon also noted the elephant in the room: Even though students’ right to vote where they attend college is settled law, some residents still do not accept that right. The debate over polling locations, he said, “engenders a lively discussion about who should and who shouldn’t be able to vote.” Even though “the law is the law and it’s clear on that issue,” some people active in local politics still do not accept that reality.

Despite the town board’s support for a Bard voting site, the County Board of Elections continued to make the church the district’s sole voting location until 2020.

Breakthrough in 2020: Amid the global coronavirus pandemic in 2020, Bard once again sought to move the polling place from the church to the campus center. When the county election board rejected the shift, Bard and its student group Election@Bard joined the Andrew Goodman Foundation in filing a lawsuit against the Dutchess County Board of Elections in the Dutchess County Supreme Court (a trial court). Attorney Yael Bromberg had been meeting with Election@Bard since Fall 2019 to support its ongoing organizing and advocacy efforts; those efforts had slowed due to repeated intransigence by the board. However, with the added encouragement and resources, Election@Bard persisted in presenting the proposal yet again before the county election board. When the board again rejected the students’ proposal, the attorneys, students, faculty, and college leadership were ready for the next step: litigation. The legal effort was led by Bromberg and Doug Mishkin, both associated with The Andrew Goodman Foundation, who then recruited the added support of a global law firm to join their legal team.

To the previous three arguments—that the law required access to all, adequate space, and accessibility for disabled people—the suit noted the public health challenge posed by the pandemic. The church lacked the space needed to meet the social-distancing standards recommended by public health officials. The campus center offered enough space for voters to meet those standards. A Bard biologist demonstrated that the Campus Center was many times safer than the Church. Even Church officials

²⁴ The Andrew Goodman Foundation, *Bard Ambassadors Advocate for Polling Place*.

suggested that the Church was unsafe and recommended the use of an alternate location. However, the New Republican Election Commissioner, Eric Haight, refused to consider moving the location.

On October 13, 2020, Judge Maria Rosa denied Bard's request to move the polling station. She agreed with Haight's argument that a site change would confuse voters who planned to vote at the church. But no more than 24 hours after the court decision, the county moved two other voting sites within the Town of Red Hook. The Plaintiffs went back to court and filed a motion for reconsideration based on the development of new facts; Haight's prior representations on the record that the polling site could not be moved to Bard were proven erroneous when two other sites were moved immediately after Judge Rosa's decision was filed. If the county was willing to move two other sites, it should be willing to move the site serving the Bard community. Judge Rosa agreed. On October 30, just days before the November 3 election, she ordered Dutchess County to allow a voting site at Bard College as well as St. John Church. "The basis for this court's decision and order has now been eliminated," she wrote. "Apparently, there was, and is, time to move the polling place for District 5 in Red Hook."²⁵

Haight appealed the decision to the New York State Court of Appeals, which encouraged a negotiated settlement. In late October, both the Plaintiffs and the Board agreed that there would be two polling sites in District 5 of Red Hook for the 2020 election: St. John's Episcopal and the Bard Campus Center.

2020 and Beyond: By all accounts, voting at the Bard site went well. But the campus polling place soon got tangled in a new round of local politics.

Republican Erik Haight and Democrat Hannah Black failed to meet a March 15 deadline to determine where polling would take place in the district in 2021. Red Hook's Town Board supported the campus center polling station at a February meeting. When the Board did meet, Haight raised unverified complaints about the campus center and proposed alternative locations, including Bard's Performing Arts Center, which was located at the edge of the 850-acre campus, inaccessible via public transportation, and in a site not regularly used for administrative functions and the Bard Alumni Center, situated across from the main campus on a busy county road where two Bard students had died a few years before and without crosswalks and inaccessibility to public transportation. Since the two-member board was stymied—wholly because of Haight's opposition to a campus polling site—Haight unilaterally asserted that the polling place should revert to its pre-2020 location at the church.

Bard students and faculty, again with the support of Bromberg and Mishkin, who recruited Attorney Mike Donofrio of Stris & Maher LLP to join their legal team, once again went to court—and, again, Judge Rosa ruled in their favor, stating that the precedent in the district was the two polling places as had existed in 2020 and that any change would require the agreement of both commissioners. The decision was affirmed by a four-judge panel of the New York Appellate Division. But it would take state legislation to settle the matter, once and for all.

Legislative Victory: By 2022, a coalition of voting-rights groups—including Bard, Let New York Vote, GenVote, NYPIRG, Citizens Union, Common Cause, and the Andrew Goodman Foundation—shifted the policy arena from the courthouse to the legislature. The coalition supported a new law, folded into the state's April budget, to mandate county election boards to locate polling places on college campuses with at least 300 registered voters. The law said that the polling place could be located off campus if it was approved by the college and that the polling district would be contiguous with the campus (some college campuses, like that at Vassar College, were gerrymandered into multiple districts, meaning that students who moved from one dormitory to another often had to re-register to vote because they were in a new legislative district).

The new law, signed by Governor Kathy Hochul, created a state mandate for on-campus polling sites. It was arguably the most significant affirmation of the rights of young voters in the State of New York since the 1979 *Symm* decision. That law could be a model for other states. The campus polling mandate

²⁵ Saba Ali, "Bard, Board of Elections dispute: See why college claims 'repeated violations' in Red Hook," *Poughkeepsie Journal*, August 16, 2022, <https://www.poughkeepsiejournal.com/story/news/politics/elections/2022/08/16/bard-files-board-of-elections-complaint-over-red-hook-site/65404094007/>.

informed in part Bromberg's drafting of the Youth Voting Rights Act sponsored by Senator Elizabeth Warren and Representative Nikema Williams in 2022 and reintroduced in the 2023-2024 legislative session.

A year later, Governor Hochul signed another batch of laws for voting rights. One law allows registered New Yorkers to vote by mail, allows same-day voter registration, expands opportunities to register and re-register to vote, and provides opportunities for prisoners to register in anticipation of their release. U.S. Representative Elise Stefanik, who embraced former President Donald Trump's false claims about voter fraud, filed an ultimately unsuccessful suit to block the laws. Stefanik claimed that the new laws favored Democrats, who, she said, were "trying to destroy what is left of election integrity in New York."²⁶

Other Controversies Over Voting Rights

When they investigated the long history of student voting rights in Dutchess County, Bard officials Jonathan Becker and Erin Cannan found "a deeply entrenched, systematic bias that prevented students from successfully registering."²⁷ Sarah deVeer, an outreach official at Bard's Center for Civic Engagement, calls voter suppression in Dutchess County "weaponization of invisible systems."²⁸

These "invisible" systems include misleading information, voter harassment, overuse of provisional ballots, and inaccurate information about voting rolls at polling places.

Unreasonable Demands for Student Addresses: In the early 2010s, Board of Elections officials insisted that students list their dorm room numbers as their official address for voting. It was a demand that was also only focused on students and not, for example, on adults living in elder-care facilities. Registrations of students who did not include dorm numbers were rejected. In 2012, students from Bard, Marist, and the Culinary Institute of America, supported by the New York Civil Liberties Union, filed suit in federal court, *Pitcher v. Dutchess County Board of Elections*. The judge reinstituted the eligibility of student voters whose registrations had been rejected, and in 2013, a consent decree was signed whereby students could register using the main campus addresses.

Harassment at Polls: Student voters have been harassed at the polls, with poll watchers questioning whether students had a right to vote where they attended college. In 2009, poll watchers challenged as many as one in five students at the polls, said longtime poll watcher Erin Cannan. One of the encounters is captured on a 2009 video, posted on Election@Bard web page.²⁹ After a student named Casey Asprooth-Jackson stated his name, a poll watcher leaned over the voting logs. After glancing at the log for one or two seconds, he challenged the student's registration.

"Challenge," the poll watcher said.

"What's the basis of the challenge?" the student asked.

"Residency."

"What's the specific reason? Can you ask him that?"

"Residency."

"What's wrong with the residency?"

"That's the only answer you get."

"So you have no real reason."

"I'm challenging for residency, that's all I'm going to tell you."

"So it's arbitrary?"

²⁶ Karen DeWitt, "Hochul Signs a Law to Allow Mail-In Early Voting; Stefanik Files a Lawsuit," *WXXI News*, September 20, 2023, <https://www.wxxinews.org/capitol-bureau/2023-09-20/hochul-signs-a-law-to-allow-mail-in-early-voting-stefanik-files-a-lawsuit>.

²⁷ Becker and Cannan, "Institution as Citizen," 1886.

²⁸ deVeer, Hedy interview.

²⁹ BGIAProgram, *Barrytown (District 5) on Election Night*, YouTube Video, 1:48, November 16, 2009, <https://www.youtube.com/watch?v=ng4QF9lnPds>.

“[Inaudible] take the challenge and then we’ll go further.”

Afterward, someone holding a phone camera asked the poll watcher, “What was the basis for challenging that?” The poll watcher confronted him and wrested away his phone.

In a complaint in Dutchess County Supreme Court, supported by Bard, Asprooth-Jackson, and other students, stated that such challenges were commonly lodged against students but not other residents.³⁰ Such challenges create hardships for voting. A challenged voter must either agree to cast a provisional ballot or seek relief from the court on election day. The first option requires filling out a detailed affidavit (which can be challenged again, without a chance for the voter to respond) and not having the ballot counted. The second requires hours of effort. The judge ruled with the students, and their affidavit ballots were counted unchallenged.

Overuse of Provisional Ballots: Election officials have also been charged with abusing the use of provisional ballots. When a registration question could not be resolved quickly at the polls—when a student’s name is not on the right list of registered voters—election officials have told students to vote with a provisional ballot.

Such ballots dramatically increased the likelihood that they would not be counted.³¹ To offer expert advice in such circumstances, Erin Cannan of Bard has served as a poll worker for 18 years, and other Bard officials served as poll watchers.

Inaccurate Information about Voting Rolls: At polling places, students have periodically discovered that their names are not on voting lists—at least, not in a form that they know. “Sometimes it’s just confusion about last name and first name, like is it Allison Scott or Scott Allison?” Becker says. Other confusion arises over addresses. Since students usually live on campus and change dorms every year, an address from one year does not carry over to the next.

When such problems are encountered, election officials often tell students to fill in provisional ballots, which require filling out detailed affidavits. But if the affidavit has any problems, the provisional ballots may not be counted.

To counter this problem, the college educates students and recruits poll watchers. An online FAQ advised students: “If you registered locally but cannot confirm your registration status, please get in contact with us! It is possible the [Board of Elections] misspelled your name or address or made another error on the form. We maintain internal records of all registrations, including documentation of your form.” If a student encounters a problem, the Bard poll watcher can check the database to clear up any confusion.

When Bard officials offered information from their databases, they were asked to leave by BOE officials. In 2012, when many students and other voters were purged from the voting rolls, Becker sought to provide them with their registration information from the county voting database to clarify the matter. BOE Machine Coordinator Lori Patricola told him he had to leave the polling place because he was engaged in “electioneering.”

Bard’s Activist Approach to Voting Rights

Under the National Voter Registration Act of 1992 (NVRA)—usually known as the Motor Voter Law—the federal government mandated that government offices, like motor vehicle bureaus and public assistance

³⁰ *Olivia Conti, et. al. v. Fran Knapp and David Gamache*, 2009.

³¹ Figures vary across states, but a study by Gunther Peck suggests that provisional ballots are not counted in elections. In North Carolina in 2008, Peck found, 73 percent of provisional ballots cast by young voters were rejected. That not only denies young people their franchise. It also indicates pervasive age and race discrimination. Young voters were 14 times more likely to use a provisional ballot than senior citizens. The issue is compounded by race. In Durham County, Blacks were 25 times more likely than Whites to use a provisional ballot. See Bromberg, “The Future is Unwritten,” 1690, and Becker and Cannan, “Institutions as Citizens,” 1886.

centers, provide opportunities for people to register to vote. The law had an immediate impact. In one 18-month period, from January 1995 to June 1996, these new registration opportunities resulted in 20 million people either registering to vote for the first time or renewing their registration. Another law, the 1998 Reauthorization of the Higher Education Act of 1965 (HEA), also mandates that colleges and universities make a good faith effort to distribute by regular or electronic mail voter registration forms and make those forms widely available to students. Only higher education institutions in states exempt under the NVRA are exempt under the HEA (Idaho, Minnesota, New Hampshire, North Dakota, Wisconsin, and Wyoming).

On most college campuses, the law was an afterthought. But Bard was different. Bard actively used its orientation process to encourage students to register, either in Red Hook or in their hometowns. Bard also developed a series of voter education projects, sponsored get-out-the-vote drives, used buses to get students to polls at the off-campus church polling place, and held parades and other events to make voting a civic event. It also supported litigation to allow students to register from their main campus addresses, to have their challenged vote counted, and to have a polling place on the Bard campus.

These efforts sometimes provoked suspicion in the community. After one election, local residents complained about the buses, suggesting that Bard was using its influence for partisan or self-interested reasons. One social-media post read: “Oh, the Bard students have always been an issue with our election. They literally bus them and give them extra credit for voting.” Another post read: “Now they vote on campus, and the people who voted at the church in Barrytown have to navigate their way to the polling station. You know, the TAXPAYING residents.”³²

Bard officials say the college is simply championing the basic rights of its students, with no partisan agenda. “In the midterm election of 2018, the students were very active. We were sending vans every 20 minutes,” said Sarah deVeer, an outreach coordinator with the Center for Civic Education.³³ “What are we supposed to do? Not let them vote? We were trying to discourage students from walking. Later in the day, it’s dark and it’s dangerous at all times of day.”

The college has won allies in the town of Red Hook and even in the larger county, which tends to be more conservative. But a small faction—which Erin Cannan calls “the not-wanting-to-vote group”—remains suspicious of young people voting. Because both members of the election commission must agree on all policies, Commissioner Haight can block efforts to make it easy for young people to register and vote. “It’s literally one person who doesn’t have to do anything,” Cannan says.³⁴

Old ideas about young voters—that they should stay attached to their hometowns through college—persist.

To counter resistance to young people exercising their 26th Amendment right, Bard adopted a plan called “Bard Votes Everywhere” in 2022. The plan set a goal of increasing student registration from 90 to 92 percent and actual voting from 81 to 83 percent. To accomplish that, the college committed to aggressive registration efforts, nonpartisan events across campus, and helping students who encounter problems with registration or voting.

The plan named eight campus partners, including the Center for Civic Engagement, the Office of Student Activities, the Office of Residential Life, and the Athletics Department. The plan also committed to working with community partners, like the Dutchess County Board of Elections and nonprofit organizations like the Andrew Goodman Foundation.

“Bard provides its students with a *Bildung*, an education rooted in the actuality of the real world and the preparation to enter it,” the plan stated. “This includes an emphasis on the relevance of current events, inclusivity in all aspects of learning, and nuanced respect in academic language. Part of that standard, educational process is informing students how they can ‘give back’ to their communities.”³⁵

³² Found on Facebook.

³³ deVeer, Hedy interview.

³⁴ Cannan, Hedy interview.

³⁵ “Bard College’s ALL IN Campus Democracy Challenge Action Plan,” Election@Bard, <https://allinchallenge.org/wp-content/uploads/Bard-College-Action-Plan-2022-June.pdf>.

The plan also aims to make voting an exciting moment. Before election day, the college holds a parade to celebrate democracy—a 21st-century nod to the torchlight parades of yore. Bard's goal is to help young people establish a lifelong civic habit. Research shows that people who vote at younger ages are more likely to vote later—especially in local elections, which attract low turnouts and allow control by small factions.

In a small but profound way, Sadia Saba's experience demonstrates this idea. As a first-year student, she helped people register to vote at a farmer's market. "I might have gotten like a handful of people to register to vote," she later remembered.³⁶ "But it was so transformative for me. I'm just helping someone fill out one form, but it's an intimidating form. ... That moment was the tipping point that made me realize that this was something that I wanted to continue being a part of."

The Future of Voting Rights for Young People

Leon Botstein suggests two ways the movement for youth voting rights should expand.³⁷ First, he says, higher education should make voting rights a core issue—especially in the sciences and technology. If students in the sciences are not engaged in democracy, he says, the U.S. will not be able to solve problems like global warming and artificial intelligence. "Are we going to want clean air and clean water? Who really knows about them? More of the students at [Massachusetts Institute of Technology] than a college that isn't a technical institute." Those schools owe it to their students and society, then, to promote voting rights.³⁸

Second, he suggests that American colleges do everything possible to help their foreign students to vote. "I want to make sure that the students who come from abroad will have the right to vote in their home countries," he said. "They may have to go down to the consulate or embassy to vote in the Brazilian election or the Mexican election. We have to help them do that." The point, he says, is to embrace the concept of civil engagement in the lives of all student-citizens.

Nationally, the battle over youth voting will continue until basic rights and procedures are mandated by federal law. In 2022, Senator Warren and Representative Williams sponsored the Youth Voting Rights Act, which would not only mandate campus polling places but also allow pre-registration of young voters, allow students to use their college IDs to prove identity at the polls, expand registration opportunities on campus, empower individuals to bring suits to enforce the 26th amendment, and gather data on youth participation in elections.

Public cynicism, Botstein says, threatens democracy. When groups feel excluded from politics—whether they are laid-off factory workers in the Rust Belt, families struggling to get health care in their jobs, or students in New York's Hudson Valley—they often drop out of the system. Colleges offer a unique opportunity to break the vicious cycle of alienation.

"Our job is to educate people, whoever they are, whether they're artists or future doctors or people in business," he says, "that voting is an essential act of your freedom and your dignity."

Questions for Discussion and Debate

- What does Bard's story tell us about the fight for student voting in a "blue" state?
- What role can an institution play in defending student voting rights?
- What can academic institutions (administration, faculty, and students) do to promote voting?
- Does your institution follow best practices?
- How can tools of government, including elected officials and the courts, be used to protect voting rights?

³⁶ Sadia Saba, interviewed by Seamus Heady, May 23, 2024.

³⁷ Botstein, Heady interview.

³⁸ Students in the sciences and mathematics recorded the second biggest increase in voting, from 47 to 62 percent, from 2016 to 2020. See Exhibit 6 of the present study.

- How do federal changes in voting law—like the Supreme Court’s decision in *Shelby County v. Holder*, which ended federal oversight of election laws in states and districts with long histories of voting-rights violations—affect the culture of voting rights in other parts of the country?
- How do local struggles like Bard’s inform statewide, national, and global trends? How might this inform a theory of social change?
- Note the relationships formed during the lawsuits between the students, faculty, college leadership, attorneys, and government officials. How might this inform a theory of social change?

EXHIBITS

Exhibit 1: Timeline of Voting Related Issues

1985—NYPIRG campaign to ensure Purchase students the right to vote.

1998—Dutchess County rejects Bard students' registration applications based on their judgments, using a questionnaire, that they are not really residents.

2009—State supreme court rules election boards cannot require students to fill out special ballots.

2012—Federal court orders Bard students to be allowed to register after the county election board rejected them.

2013—Settlement of Bard-Marist-CUA suit over rejected registration applications in U.S. District Court for the Southern District of New York.

2018—Governor Cuomo restores voting rights to formerly incarcerated residents, potentially adding as many as 35,000 new voters to the rolls.

2000—Three New Paltz students, backed by the local GOP, challenge the validity of 1,496 voters. The Supreme Court rejects a request that students vote by affidavits, a form of ballot that is less likely to be counted.

2009—Dutchess County students forced to vote by affidavit ballot if they changed address, even if within the same district. The Supreme Court rules in favor of students.

2012— Students from Bard, Vassar, and the Culinary Institute of America were barred from registering because they did not list their dorm and room number along with the street address.

2020—In the pandemic election, with both confusion and energy all around, State Supreme Court Judge Maria Rosa orders the Town of Red Hook to move a polling station from Episcopal Church of St. John the Evangelist to the Bertelsmann Center at Bard—a reversal of her earlier decision.

2020—The first year with a campus polling site goes well, Bard officials report. Polling site was allowed for this one day only, so it could be lost by the next election.

2020—Andrew Goodman Foundation says it will track ballots rejected for technical rejections across the country.

2020-21—Dutchess County Committee and its chairperson, Elisa Sumner, demand the DA investigation of Commissioner Haight.

2022—Governor Kathy Hochul signs New York state law mandating polling places on campus with 300 or more voters.

2022—Bard College adopts a formal plan to promote registration and voting.

2022—Bard officials issue a formal complaint to the New York State Board of Elections, charging “repeated violations” by Dutchess County of the right to vote.

2023—Senator Elizabeth Warren and Representative Nikema Williams reintroduce the Youth Voting Rights Act.

Exhibit 2: The 26th Amendment

During the Vietnam War, young men 18 and older were subject to the draft for service in the military. Overall, 2.7 million American men and women served in Vietnam, and 58,000 service members were killed. At the same time, young people dedicated themselves to a series of political movements for civil rights, against the war and arms proliferation, women's rights, and community rights. Yet the voting age in most states was 21. Students were facing life-and-death consequences of politics, and at the forefront of nearly every social movement during the Second Reconstruction, but had no say in the electoral process.^{39 40}

Led by Senator Jennings Randolph of West Virginia, a moderate Democrat, politicians in both parties questioned the fairness of this system. Randolph had first introduced the measure in 1942, and it was introduced approximately 150 times in Congress until it hit a tipping point. By the late 1960s, a bipartisan consensus emerged for lowering the voting age. Senator Birch Bayh, who prevented the elimination of the Senate Subcommittee on Constitutional Amendments and then went on to Chair it and help steer the ratification effort, praised young voters and the "skill and enthusiasm they have infused into the political process." It was this subcommittee that would propose the sweep of new amendments during this time period. He took the lead on significant constitutional and statutory efforts such as the Twenty-Fifth Amendment (presidential succession), abolition of the Electoral College, the Equal Rights Act and Title IX. Expanding the franchise, conservative Senator Barry Goldwater (R) said, "will help remove the crusty, shopworn reasons why the policies and goals which are promised to voters never seem to get accomplished." President Richard Nixon acknowledged that young voters "will awaken them to a new sense of responsibility toward our nation and direct their energies and interests toward the constructive task of making democracy work."⁴¹

Congress initially passed the measure via statute, via the 1970 amendment to the Voting Rights Act of 1965, to lower the voting age to 18 and outlaw age discrimination in access to the ballot. In signing the bill, President Richard Nixon warned that the new law might be challenged in court because Congress passed a measure that applied not only to federal races, but also to state and local races, traditionally the domain of the state legislative process. And indeed, the United States Supreme Court published a split 5:4 decision on the question, ruling that Congress could govern as to federal elections only. Ultimately, due to both political pressure and the rise of moral opinion, both houses of Congress passed a new constitutional amendment lowering the voting age from 21 to 18, in both federal and state elections, and sent the amendment to the states for ratification. Pressure had been mounting as states faced the bureaucratic nightmare and costs connected with administering elections where different age restrictions applied to federal and state races. It was the quickest amendment to be ratified in U.S. history, with wide bipartisan appeal across the nation; the requisite 38 states approved the amendment in less than 100 days.⁴²

Some predicted that the infusion of young people would create an intellectual and moral revolution in the U.S. By 2023, 20 million college students were enrolled in colleges across the country.⁴³ But implementation of the new constitutional right would prove difficult. Some politicians eagerly sought the youth vote. But other politicians, who stood to lose the youth vote—especially those in areas with large concentrations of youth voters, like college towns and military bases—tried to suppress the new voters.⁴⁴ State and federal courts in the era immediately following ratification upheld the rights afforded by the Twenty-Sixth Amendment.

³⁹ Yael Bromberg, "Youth Voting Rights and the Unfulfilled Promise of the Twenty-Sixth Amendment," *University of Pennsylvania Journal of Constitutional Law* 21, no. 5 (2019): 1105-1166.

⁴⁰ Yael Bromberg, "The Future Is Unwritten: Reclaiming the Twenty-Sixth Amendment," *Rutgers University Law Review* 74, no. 5 (Summer 2022): 1671-1696.

⁴¹ Jonathan Becker and Erin Cannan, "Institutions as Citizens," 1871.

⁴² For a summary legislative history, see Yael Bromberg, "Youth Voting Rights and the Unfulfilled Promise of the Twenty-Sixth Amendment," 1120 – 1131.

⁴³ Becker and Cannan, "Institution as Citizen," 1875

⁴⁴ Becker and Cannan, "Institution as Citizen," 1873.

After an early burst of excitement, the youth vote lagged behind other age groups. The voting rate for young people was 25 percent lower than for senior citizens.⁴⁵ The voting gap was partly a matter of the itinerant lifestyles of young people. Often on the move, still developing habits as adults, students, and other young people do not yet have the commitment to civic rituals like voting. But low youth voting rates were also owed to suppression by politicians fearful of their potential power as voters.⁴⁶ Whether young people voted was a matter of long-term importance, as Jared McDonald and Michael Hanmer note: “[V]oting decisions are habit-forming and therefore set the pattern for later life. When someone makes the decision to vote for the first time, they become far more likely to engage in future elections.”⁴⁷

The Negative Imperative: As in many provisions of the Constitution, the 26th Amendment describes the right to vote in anti-discrimination terms: “The right of citizens of the United States, who are eighteen years of age or older, to vote *shall not be denied or abridged* by the United States or by any State on account of age.” The amendment does not state what various officials—federal, state, and local officials in charge of the vast and complicated machinery of campaigns and elections—must do to make sure that everyone over 18 enjoys the right to vote.⁴⁸

As the courts have noted, the right to vote entails more than the mere right to register and then cast a ballot. It also entails a certain level of fairness in a wide range of voting policies and practices. All of society’s population should enjoy equal access to registration and polling places. Political scientists and election scholars often advocate for a proportionate level of representation in elective bodies, although state and federal law in the United States does not mandate this goal.

Exhibit 3: Student Voting Bill of Rights ⁴⁹

In 2016, the Students Learn Students Vote Coalition adopted a “bill of rights” for student voting. The bill includes three basic rights:

1. The right to register to vote, at home or on-campus, without any restrictive deadlines or documentation requirements, including:
 - The right to pre-register to vote starting at age 16.
 - The right to remain registered to vote, even if they miss an election.
 - The right to register to vote using easily accessible and widely available documentation.
 - The right to register to vote online without needing a specific state ID.
 - The right to same-day voter registration, without burdensome requirements or restrictions.
2. The right to cast a ballot without any major restrictions or barriers, including:
 - The right to choose to vote by mail for all voters.
 - The right to choose to vote early in person for all voters.
 - The right to vote regardless of past or current convictions or incarceration status.
 - The right to vote without providing photo ID.
 - The right to an open and accessible polling place.

⁴⁵ Becker and Cannan, “Institution as Citizen,” 1874.

⁴⁶ Becker and Cannan, “Institution as Citizen,” 1875.

⁴⁷ Jared A. McDonald and Michael J. Hanmer, *Understanding and Confronting Barriers to Youth Voting in America*, University of Maryland Center for Democracy and Civic Engagement Working Paper, 2019, quoted in Becker and Cannan, “Institution as Citizen,” 1874.

⁴⁸ The legislative history of the amendment does describe its power and purpose, with specific reference to the goal of eliminating “special burdens.” This background is described in the OSUN open source flipped lecture by Prof. Yael Bromberg and in her legal scholarship.

⁴⁹ *Student Voting Bill of Rights*, Students Learn Students Vote Coalition, <https://slsvcoalition.org/student-voting-bill-of-rights/>.

3. The right to an educated and empowered vote, including:

- The right to accurate and comprehensive civics education.
- The right to choose representatives in fairly-drawn districts.
- The right to access fair and accurate information about all candidates in local, state, and national elections.
- The right to access materials in one's preferred language.

Exhibit 4: Increase in Student Voting in Two Presidential Elections ⁵⁰

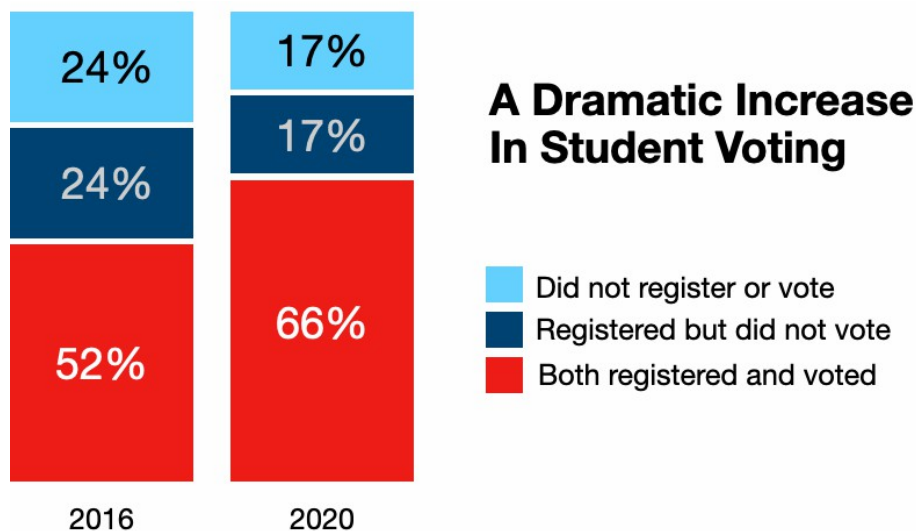


Exhibit 4. Stacked bar chart comparing student participation in the 2016 and 2020 presidential elections. In 2016, 24% of students did not register to vote, 24% registered but did not vote, and 52% both registered and voted. In 2020, 17% did not register or vote, 17% registered but did not vote, and 66% both registered and voted.

Exhibit 5: Voting Rate Increases by Kinds of Institutions and Students ⁵¹

⁵⁰ *Student Voter Turnout: Key Data on Recent Trends and Opportunities*, Union of Concerned Scientists, August 7, 2023, <https://blog.ucsusa.org/ingrid-paredes/student-voter-turnout-key-data-on-recent-trends-and-opportunities/>.

⁵¹ Nancy Thomas, Adam Gismond, Prabhat Gautam, and David Brinker, *Democracy Counts 2020: Record-Breaking Turnout a Student Resiliency*, Institute for Democracy and Higher Education and Jonathan M. Tisch College of Civil Life at Tufts University, 2021, 7-8, <https://tufts.app.box.com/v/democracy-counts-2020>.

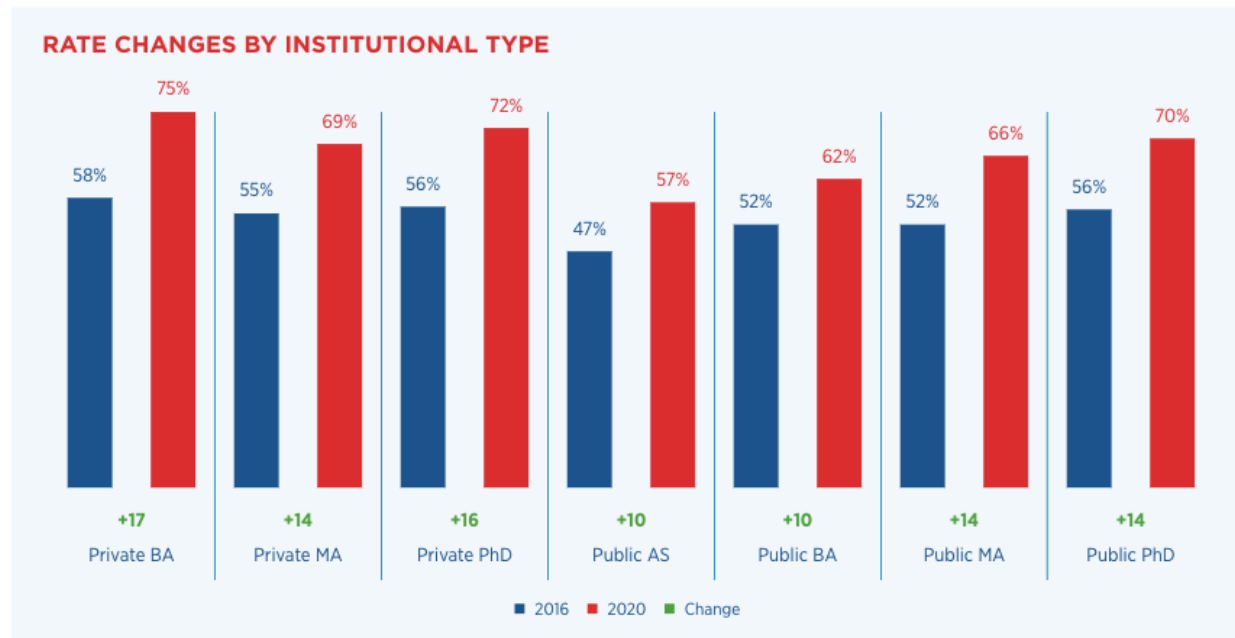


Exhibit 5.1. Bar chart showing changes in student voting rates by institutional type and student level between 2016 and 2020. Each pair of bars compares the 2016 rate (blue) and the 2020 rate (red) for students at Private Bachelor's, Private Master's, Private Doctoral, Public Associate's, Public Bachelor's, Public Master's, and Public Doctoral institutions. The green label below each pair indicates the percentage point increase. Overall, all institutions show an increase in voting rates, ranging from 10 to 17 percentage points, with Private Bachelor's students exhibiting the largest increase.

MSIS AND WOMEN'S COLLEGES

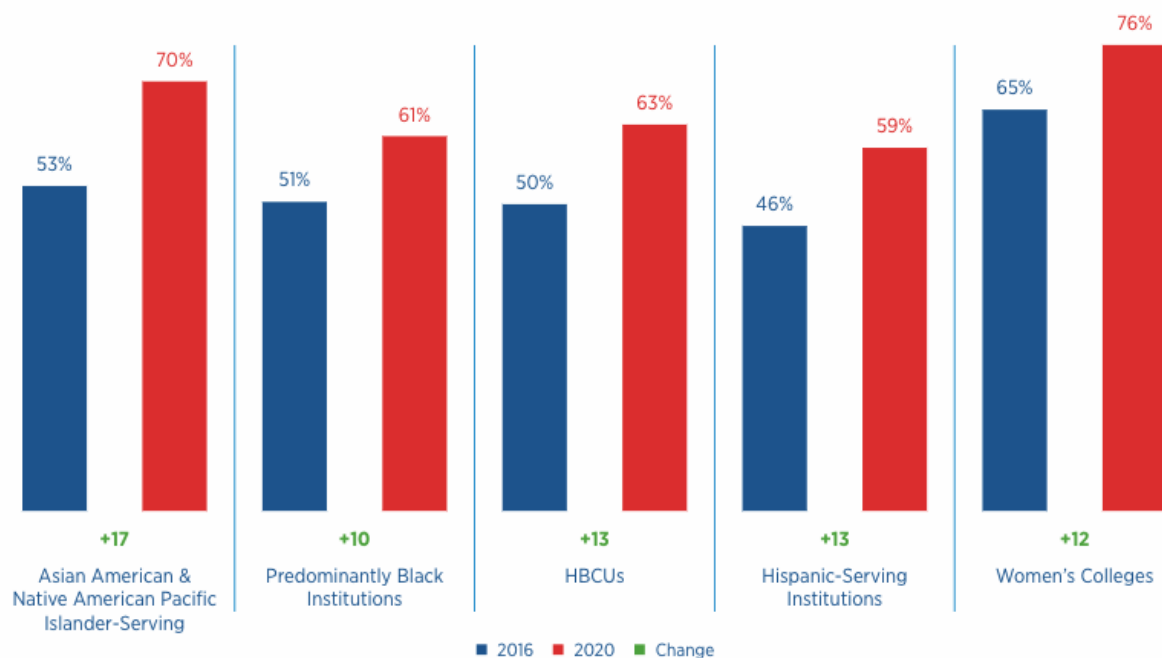


Exhibit 5.2. Bar chart showing changes in student voting rates from 2016 and 2020 at Minority-Serving Institutions and Women's Colleges. Asian American and Native American Pacific Islander-Serving

Institutions saw an increase of 17 percentage points, Predominantly Black Institutions increased by 10 percentage points, Historically Black Colleges and Universities increased by 13 percentage points, Hispanic-Serving Institutions increased by 13 percentage points, and Women's Colleges increased by 12 percentage points.

Exhibit 6: Voting Increases by Field of Study, from 2016 to 2020 ⁵²

Field	2016	2020	Change
Agriculture and Natural Resources	52%	68%	+16
Business	46%	60%	+14
Education and Library Science	60%	71%	+11
Engineering	42%	58%	+16
Healthcare	52%	65%	+13
Humanities	49%	62%	+13
Natural Sciences and Mathematics	47%	62%	+15
Psychology	51%	65%	+14
Social Sciences and History	54%	68%	+14
Technical Fields	45%	56%	+11
Other	42%	60%	+18

⁵² Nancy Thomas, Adam Gismondi, Prabhat Gautam, and David Brinker, *Democracy Counts 2020*, 16.