

2015

Polling Stations Not Up to ADA Standards Prevent Voting

Bethany Dixon

Follow this and additional works at: <https://lawcommons.luc.edu/pilr>



Part of the [Civil Rights and Discrimination Commons](#), [Criminal Procedure Commons](#), [Environmental Law Commons](#), and the [Human Rights Law Commons](#)

Recommended Citation

Bethany Dixon, *Polling Stations Not Up to ADA Standards Prevent Voting*, 21 Pub. Interest L. Rptr. 17 (2015).

Available at: <https://lawcommons.luc.edu/pilr/vol21/iss1/4>

This Article is brought to you for free and open access by LAW eCommons. It has been accepted for inclusion in Public Interest Law Reporter by an authorized editor of LAW eCommons. For more information, please contact law-library@luc.edu.

Polling Stations Not Up to ADA Standards Prevent Voting

Bethany Dixon

More than 20,000 polling stations throughout the nation do not comply with the Americans with Disabilities Act (ADA).¹ This means that some polling stations have layout designs that prevent voters from accessing voting booths who have visual impairments, wheelchairs, walkers, or other forms of assistance.² Yet the ADA requires that public accommodations and government facilities have environments that are accessible.³ The ADA includes requirements regarding curb heights, cracked sidewalks, and potholes.⁴ These architectural aspects, and others, make it nearly impossible for people with disabilities to access certain polling places.

Absentee voting can be offered for voters with disabilities, but it cannot be the solution to accessibility problems.⁵ Absentee voting is not meant to take the place of in-person voting.⁶ If a voter wants to vote in person, there should be an alternative measure in place that would allow them to do so.⁷

ADA COMPLIANCE AND THE COOK COUNTY BOARD OF ELECTIONS

Polling places should be accessible for voters to both enter the building and reach the polling room. Jonathan Williams, Manager of Community Services at the Cook County Board of Elections notes, “we come pretty close to full accessibility.”⁸ Cook County benefits from the fact that the majority of

¹ *People with Disabilities and Voting*, THE CENTER FOR AN ACCESSIBLE SOCIETY, <http://www.accessiblesociety.org/topics/voting> (last visited Oct. 9, 2015).

² *Solutions for Five Common ADA Access Problems at Polling Places*, ADA.GOV, http://www.ada.gov/ada_voting/voting_solutions_ta/polling_place_solutions.htm (last visited Sept. 9, 2015).

³ *Guide to the ADA Standards*, UNITED STATES ACCESS BOARD, <http://www.access-board.gov/guidelines-and-standards/buildings-and-sites/about-the-ada-standards/guide-to-the-ada-standards> (last visited Oct. 11, 2015).

⁴ ADA.GOV, *supra* note 2.

⁵ *The Americans with Disabilities Act and Other Federal Laws Protecting the Rights of Voters with Disabilities*, ADA.GOV, http://www.ada.gov/ada_voting/ada_voting_ta.htm (last visited Nov. 7, 2015).

⁶ *Id.*

⁷ *Id.*

⁸ Telephone Interview with Noah Praetz, Director of Elections, Cook County and Jonathan Williams, Manager of Community Services, Cook County Board of Elections (Oct. 16, 2015).

their polling places are in buildings that are already required to meet ADA accessibility requirements.

The Cook County Board of Elections reviewed this issue a few years ago and looked into changing many of their polling places.⁹ As of now, Cook County is at about a 98 percent compliance rate with ADA.¹⁰ This means that there are about 50 polling places in Cook County that are not entirely handicap accessible.¹¹ The main reason for this is due to the lack of available handicap parking.¹² For those places that lack handicap parking, workers and volunteers place cones in certain areas and designate those spots as handicap parking.¹³

The remaining polling stations in Cook County are in mobile home parks that use the park office as a polling station.¹⁴ For residents in these trailer parks who cannot make it to the office due to their disability, an election judge brings the ballot to the voter's home.¹⁵ Noah Praetz, the Director of Elections in Cook County, stated that for those facilities that are not 100% accessible "we're trying our best to relocate."¹⁶ There is an ongoing process of searching for public sites that would be more suitable however the polling places must be within the district and conveniently located.¹⁷

POLLING PLACE ACCOMODATIONS UNDER THE ADA

The United States Department of Justice, Civil Rights Division published a list of temporary fixes that polling places can implement.¹⁸ The ADA suggests positioning a poll worker at doors that aren't automatic so that those with wheelchairs or walkers do not have to worry about opening the door.¹⁹ For those polling stations that do not have handicapped parking or parking spaces with enough room for wheelchair lifts to be used, the ADA suggests creating temporary parking areas for handicap parking.²⁰

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ Praetz and Williams, *supra* note 8.

Id.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ UNITED STATES ACCESS BOARD, *supra* note 3.

¹⁹ *Id.*

²⁰ THE CENTER FOR AN ACCESSIBLE SOCIETY, *supra* note 1.

Curbside voting is also an option for voters with disabilities if the polling place is not handicap accessible.²¹ Curbside voting means that the ballot is brought to the edge of the street and the voters may complete the ballot from their cars.²² Voters normally must call ahead and request curbside voting prior to arriving at the polling station.²³ Voters can call the day that they plan to vote, but this is a service that needs some advance preparation.²⁴ If voters are concerned about how to vote on Election Day, Praetz explained “we do have an election day hotline for people who have disability issues.”

Places like church basements are frequently used as polling stations, however, and these buildings are often old and not designed for modern medical equipment. Modern high schools, with their wide halls and large doorways, are better for polling. According to Williams, his team is “always trying to get the optimal polling place and that is also takes in [to consideration] what is the most accessible.”²⁵

ADA COMPLIANCE FOR VISUALLY IMPAIRED VOTERS

Even if a voter can get into a voting facility, visually impaired voters face further obstacles. Many facilities do not have an adequate procedure in place for visually impaired voters. The solution posed has been that these voters could utilize absentee ballots and ask for someone to read the ballot to them. But this denies visually impaired voters the chance to vote privately on Election Day.

The ADA requires that visually impaired voters have access to functional voting machines.²⁶ During the 2012 California general election, audio and tactile features of voting machines stopped working in Alameda County. Poll workers were not trained to set up the machines or to ensure that the machines were working properly. As a result, voters were forced to dictate their votes to others. Consequently, the voters were not able to vote independently or privately.²⁷

²¹ Praetz and Williams, *supra* note 8.

²² *Id.*

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Blind and Visually Impaired Voters Face Barriers to Voting on Election Day*, DISABILITY RIGHTS ADVOCATES, July 25, 2013, <http://www.drlegal.org/pressroom/press-releases/blind-and-visually-impaired-voters-face-barriers-to-voting-on-election-day> (last visited Oct. 11, 2015).

²⁷ *Id.*

In Maryland, visually impaired voters have someone read their ballots to them.²⁸ The person reading the ballot to the voter depends on if the voter can bring someone with them; otherwise, an available poll worker has to assist them.²⁹ This completely eliminates the secrecy of the voting booth. It takes privacy away from the voters and requires that voters rely on someone else in order to vote. This is the same case in many other states as well. Sometimes, visually impaired voters must bring a friend or relative along with them to read the ballot to them.³⁰

Some states use voting machines for the visually impaired that involve a form of audio or enlarged lettering or raised lettering.³¹ The machines ensure that visually impaired voters can vote privately and without the assistance of others—thus ensuring that they can have an anonymous and independent voting experience. The state of Michigan has introduced a voting system that allows visually impaired voters to vote with the same machines that everyone else uses.³² These machines have Braille writing so that visually impaired voters do not need assistance and do not risk having the privacy of their vote compromised. This kind of advancement ensures that all voters have a comparable voting experience.

ADA VOTING ACCOMODATIONS IN ILLINOIS

In November of 2014, two voters from Bureau County, IL were faced with undue burdens when they tried to cast their votes.³³ The voters attempted to use electronic voting machines, but the election judges were not able to find the card that was needed to get the machine up and running.³⁴ The people working the polling station were not adequately trained to help with the situation. They were unable to use the machines that would have allowed them to vote privately and instead had to vote in a location that was not private.³⁵

²⁸ THE CENTER FOR AN ACCESSIBLE SOCIETY, *supra* note 1.

²⁹ *Id.*

³⁰ *Id.*

³¹ *Michigan's Blind and Visually Impaired Reminded of Equal Access to Vote at State's Polls on Election Day*, MICHIGAN DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS, http://www.michigan.gov/lara/0,4601,7-154-28313_46629-289376--,00.html (last visited Oct. 10, 2015).

³² *Id.*

³³ *Big Win in Voting Rights for People with Disabilities in Illinois*, EQUIP FOR EQUALITY, Sept. 22, 2015 <http://www.equipforequality.org/news-item/big-win-in-voting-rights-for-people-with-disabilities-in-illinois/>.

³⁴ *Id.*

³⁵ *Id.*

A settlement was reached in May of 2015.³⁶ Its provisions ensured that polling places would be accessible for future voters with hearing or vision impairments.³⁷ Diagrams of machine placement would be provided, ensuring that privacy is maintained for those who need to use the voting machines.³⁸ Additionally, it was agreed that there would be one election judge at each polling station who would be charged with ensuring accessibility for disabled voters.³⁹

In Cook County, an audio and Braille system has been implemented into the voting system.⁴⁰ In 2006, Cook County Board of Elections worked with the disability community of Chicago to test the equipment before it was approved for use.⁴¹ The designers of the system worked with advocates from the visually impaired community who were able to give feedback on the designs.⁴²

The advocates from disability support groups were able to tell designers what worked and what did not before the final design was used in an election.⁴³ Complete audio ballots are available in four languages at every polling site and all early voting sites.⁴⁴ The audio ballot is built into the usual voting machine with headphones and Braille directional arrows. The voter “scrolls between candidates and presses a button in the center for the candidate they want to vote for.”⁴⁵ Voters can request this format upon arrival at their polling place.⁴⁶

CONCLUSION

Voters most likely to participate in elections are those over the age of 60.⁴⁷ As the baby boomer generation grows older, the number of voters in need of accessible polling places will increase. The United States Election Assistance

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

³⁹ EQUIP FOR EQUALITY, *supra* note 33

⁴⁰ Praetz and Williams, *supra* note 8.

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ Praetz and Williams, *supra* note 8.

⁴⁷ *The EAC Commemorates the 25th Anniversary of the ADA by Hearing How to Make Voting More Accessible for Individuals with Disabilities*, U.S. ELECTION ASSISTANCE COMMISSION, July 28, 2015, <http://www.eac.gov/assets/1/Documents/EAC%20Considers%20Accessible%20Vot ing%20Resources-News-Release-FINAL-7-28-15-indent.pdf>

Commission estimates that “30 to 35 percent of all voters during the next 25 years will need some form of assistance at the polling place whether that is seating, wheelchair accommodations, visual needs, or clear and easy-to-understand instructions.”⁴⁸

Thus, polling places need to be modified to accommodate disabled voters and to ensure that current polling stations are functional. As Praetz stated, “unquestionably, we’re watching that sort of demographic shift and realizing that accommodation is going to be one of the keys of the next 10 or 20 years.”⁴⁹ Cook County has already ensured that visually impaired voters have access to machines that allow them to vote privately and independently.

⁴⁸ *Id.*

⁴⁹ Praetz and Williams, *supra* note 8.