

Overview of Polling Place Accessibility Requirements

1. Introduction

This document provides guidance to help understand the federal and state requirements for physically accessible polling places. However, this technical assistance does not constitute a legal interpretation of the statutes, regulations or other standards relating to physical access.

The Federal "Voting Accessibility for the Elderly and Handicapped Act", 42 USC Section 1973ee et seq. (The Act) was signed into law on September 28, 1984, and can be found in Appendix A. The purpose of the law is to ensure polling place access for elderly voters and voters with disabilities.

The Act uses the term "handicapped" to refer to persons with disabilities. To be consistent throughout these guidelines and avoid any ambiguity, the term "voters with disabilities" is used rather than the term "handicapped."

Section 1973ee-1(a) of The Act requires all polling places for federal elections to be accessible to elderly voters and voters with disabilities.

Section 1973ee-6(1) of the Act requires "accessibility" to be defined in guidelines promulgated by the Secretary of State.

Elections Code (EC) section 12280 states, "When designating polling places, the elections official shall undertake necessary measures in the locating of polling places to ensure that polling places meet the guidelines promulgated by the Secretary of State for accessibility by the physically handicapped."

California regulations provide a comprehensive set of requirements covering important areas of accessibility for persons with physical and sensory disabilities. California's physical access regulations are found in the California Building Code, CA Title 24, Part 2, Volume 1, Chapter 11, California Code of Regulations.

Please Note: Although these guidelines contain the most current laws and regulations available at the time of publication, laws and regulations change. Before making a decision that may impact physical accessibility to polling places, county elections officials may view the relevant sections of the most recent version of the California Building Code accessibility regulations at:

www.dsa.dgs.ca.gov/Access/ud_accessmanual.htm

In addition, where this document uses the term “shall” that term means the action is required and where the document uses the term “may” that term means the action is optional, but recommended.

2. Enforcement

The Act allows the United States Attorney General or any individual who is “personally aggrieved by the non-compliance” with accessibility requirements to bring an action for declaratory or injunctive relief in the appropriate district court (The Act, 42 USC Section 1973ee-4(a)).

3. Implementation by County Elections Officials

It is the intent of the Secretary of State in promulgating these guidelines that accessibility requirements are implemented and monitored primarily at the local level. Essential to this intent is the recommendation that each county elections official appoint and maintain a Voting Accessibility Advisory Committee (VAAC) to advise and assist the elections official in ensuring that the provisions of the Act are implemented.

Additionally, county elections officials may wish to refer to the Secretary of State’s Top-to-Bottom Review of Voting Systems’ findings for information about setting up voting booths and voting equipment to ensure accessibility for voters with disabilities.

4. Communications

To assist counties in communicating voter registration and related information to elderly voters and voters with disabilities, the Secretary of State will maintain and advertise a 24-hour, toll-free “text telephone” TTY number, which is (800) 833-8683.

Any county elections official that does not advertise the toll free number may wish to consider installing, maintaining, and advertising its own TTY number. This guideline may also be met if a TTY is located in another office of county government, as long as the level of service is the same. Each county may wish to consider listing its TTY number and/or the Secretary of State’s TTY voter registration and information number in every local telephone directory in which the elections office’s public number is listed.

Voters can also access election information through the Secretary of State’s toll-free voter hotline at (800) 345-VOTE (8683). Deaf and hard-of-hearing voters may call the toll-free voice line by dialing 711 for text relay service or by calling their preferred video relay service provider.

Election information is also available on the Secretary of State's website at www.sos.ca.gov/elections.

5. On-Site Inspections of Polling Places

When designating polling places, the elections official shall undertake necessary measures in the locating of polling places to ensure that polling places meet the guidelines promulgated by the Secretary of State for accessibility by the physically handicapped (EC section 12280). Such measures include conducting an on-site inspection of each of its polling places, including a survey of the accessibility of each site using a Polling Place Accessibility Checklist (PPAC) provided by the Secretary of State and found in Appendix B or a checklist in substantially the same form provided by the Secretary of State. It is recommended that records of each polling place on-site inspection be kept on file and available for public inspection.

Each county elections official may identify and maintain records on more than one polling place in a voting precinct:

- (a) Where an accessible polling place is identified within a precinct, any remaining potential polling places need not be inspected or surveyed until scheduled for use (The Act, 42 USC Section 1973ee-1 (a)). However, counties are encouraged to give a preference to accessible polling places that provide public transportation.
- (b) Where a polling place does not meet the requirements of the guidelines, the county elections official shall make every reasonable effort to identify and survey other potential sites until either an accessible site is located, or until it is established that no accessible site of comparable utility as a polling place exists within the voting precinct (The Act, 42 USC Section 1973ee-1 (a)). It is recommended that documents illustrating county elections official's efforts to seek alternative polling sites be kept on file and available for public inspection.
- (c) Where no accessible polling place is identified within the voting precinct, county elections officials are permitted to employ temporary modifications or measures for the polling place used on Election Day to attempt to provide an acceptable polling place within the precinct (The Act, 42 USC Section 1973ee-1 (b)(2)(A)).

6. Polling Place Physical Accessibility Requirements

The guidelines prepared by the Secretary of State are designed to meet the requirements of The Act as well as comply with state elections laws. These guidelines rely upon state architectural and construction standards. Unless otherwise specified, all citations refer to the California Code of Regulations, Title 24, Part 2, of the California Building Code, as published in the Access Compliance Reference Manual prepared by the Division of the State Architect,

Department of General Services. Illustrations are taken from the February 2004 Americans with Disabilities Act (ADA) Checklist for Polling Places, prepared by the United States Department of Justice and from other sources. Relevant sections of the California Building Code, Title 24 can be found in Appendix C. The inclusion of the relevant sections does not constitute additional accessibility requirements above those contained in the guidelines.

It is intended that these guidelines promote the goal of full access to polling places for elderly voters and voters with disabilities.

A PPAC is provided for use by county elections officials to determine if polling places meet the minimum accessibility standards established by these guidelines as provided for in the California Code of Regulations, Title 24, Part 2, of the California Building Code and other relevant laws and regulations.

Minimum standards for accessible polling places include requirements for:

1. Parking Areas
2. Paths of Travel to the Polling Place
3. Doorways, Hallways and Entrances
4. Voting Areas
5. Signage
6. Ramps, Curb-Ramps and Slopes
7. Elevators and Lifts
8. Restrooms (if they are made available to voters on Election Day)

Nothing in these guidelines shall prevent a county elections official from enacting additional programs, procedures, or features to promote greater accessibility than the minimum standards provided in the guidelines.

7. Temporary Modifications of Polling Places

All polling places shall meet the accessibility requirements of the guidelines except as outlined in this section.

When a polling place is determined to be inaccessible as a result of an on-site inspection, the county elections official shall make a reasonable effort to relocate the polling place to a site within the voting precinct that is accessible.

In some cases, a polling place, while determined not to be fully accessible following an on-site inspection, may still be made accessible to elderly voters and voters with disabilities through the use of temporary modifications. When an accessible polling place cannot be located, county elections officials are permitted to attempt to modify the polling site for use on Election Day by using equipment, devices, or measures designed for temporary access. Possible Modification Techniques can be found in Appendix D.

The county elections official may attempt to modify a polling place by applying temporary measures to provide accessible features or to minimize physical barriers at any polling place. Equipment or measures used to modify areas of a polling place may be placed at arrival points, on the paths of travel throughout the polling place, at entryways, or within a voting area.

County elections officials may wish to consider having the equipment provided at polling places on Election Day evaluated by the local VAAC to determine whether it is appropriate for its intended purpose. The county elections official may also wish to consult with their County ADA Coordinator or local building officials for assistance in determining whether temporary modifications or measures are appropriate for use on Election Day to make the polling place as accessible as possible.

When it is determined that a polling place is not accessible or may not be modified to make it accessible on a temporary basis, the county elections official may either:

- (a) Designate the polling place as inaccessible and so indicate on the appropriate sample ballot, or;
- (b) Request the local VAAC review the results of the PPAC and make a recommendation on the advisability of using the polling place when the county has determined that other fully accessible or more accessible places are not available. This review by the local VAAC

may include consideration of temporary modifications taken to make the polling place as accessible as possible.

8. Inaccessible Polling Places

Although all available polling places in a voting precinct may be determined to be inaccessible, it is intended that all polling places be made as accessible as possible. Therefore, the county elections official shall, to the extent practicable, take the necessary steps (including the use of temporary modifying equipment or measures) to minimize physical barriers at each location used as a polling place (28 CFR Part D 35.150(b)(1)).

9. Early Voting

Elections Code section 3018(b) authorizes “early voting” procedures to allow voters to cast ballots at locations designated as “satellite” election offices. Early voting polling places shall also be accessible or modified with temporary modifying equipment or measures according to the standards set forth in these guidelines.

10. Sample Ballot Accessibility Designations

Polling places found to be accessible based on the results of the PPAC may also be designated as accessible on sample ballots mailed to voters in the voting precincts (EC 13304).

Polling places determined to be inaccessible, but determined to be modified to be accessible may be designated as accessible on sample ballots mailed to voters in the polling precinct (EC 13304).

Polling places that are not accessible or cannot be modified to be made temporarily accessible, may be designated as inaccessible on the sample ballots mailed to voters in the polling precinct (EC 13304).

11. Polling Place Records

Each county elections official may wish to maintain a record, which contains substantially the same information as the Secretary of State's PPAC, of the accessibility of polling places in each voting precinct.

12. Voting Accessibility Advisory Committee (VAAC)

It is the intention of the Secretary of State in promulgating these guidelines that accessibility requirements are implemented and monitored primarily at the local level. Essential to this intent is the recommendation that each county elections official establish a VAAC.

1. Composition of the VAAC

County elections officials are encouraged to consider the following suggestions when establishing their VAAC to ensure adequate representation and input from people with disabilities, organizations of elderly people, and people with experience or background in architectural accessibility:

- (a) Committees in counties with less than 50,000 registered voters have a minimum of three members.
- (b) Committees in counties with 50,000 to 500,000 registered voters have a minimum of five members.
- (c) Committees in counties with 500,000 to 1,000,000 registered voters have a minimum of seven members.
- (d) Committees in counties with more than 1,000,000 registered voters have minimum of nine members.

Existing county boards or committees which meet the representational guidelines of (a), (b), (c) or (d) above, as appropriate, may assume the functions of the VAAC.

2. Functions of the VAAC may include:

- (a) Assisting and advising county elections officials in outreach programs to organizations of elderly individuals and people with disabilities.
- (b) Advising county elections officials on the placement of voting equipment, recognition of barriers to participation by elderly voters and voters with disabilities, and

mechanisms to eliminate or mitigate the impact of these barriers to accessibility.

- (c) Assisting county elections officials in surveying polling place accessibility in compliance with these guidelines.
- (d) Evaluating an inaccessible polling place or voting area to:
 - (i) Determine that an inaccessible polling place, with the use of temporary modifying equipment or measures, can be modified to permit its use by elderly voters and voters with disabilities.
 - (ii) Determine that the polling place is not accessible, and cannot be modified, regardless of the application of temporary equipment or measures.
- (e) Assisting and advising county elections officials in training of precinct workers relative to accessibility of elderly voters or precinct officials with disabilities.
- (f) Assisting in the recruitment of elderly voters or precinct officials with disabilities.
- (g) Undertaking other activities relative to accessibility of the voting process.

13. General Concepts of Physical Accessibility

The following eight sections are general concepts of physical accessibility for polling places. Although these concepts are not all inclusive, the Polling Place Accessibility Checklist provides the technical details necessary to determine accessibility. Photographs and figures are for illustration only and do not constitute additional requirements of the guidelines. The citations in the concepts that follow are from the California Building Code, California Code of Regulations, Title 24, Part 2, Chapter 11. The relevant sections of the building code can be found in Appendix C for your reference only. The inclusion of the relevant sections does not constitute additional accessibility requirements above those contained in the guidelines.

In addition to general concepts of physical accessibility, county elections officials may wish to consider additional measures to accommodate elderly voters and voters with disabilities on Election Day. Possible Accommodations on Election Day can be found in Appendix E.