

*UNIVERSITY LEGAL SERVICES, INC.*  
*Protection and Advocacy Program*  
*for the District of Columbia*

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**NO PARITY AT THE DC POLLS: REPORT ON ACCESSIBILITY OF  
POLLING PLACES AND VOTING EQUIPMENT FOR PEOPLE WITH  
DISABILITIES DURING THE  
NOVEMBER 2, 2004 GENERAL ELECTION**

University Legal Services (ULS) is the federally designated protection and advocacy agency that represents people with disabilities to ensure their access to facilities, services and programs in the District of Columbia. Pursuant to the Help America Vote Act (HAVA), protection and advocacy agencies, including University Legal Services (ULS), are charged with “ensuring the full participation in the electoral process of individuals with disabilities, including registering to vote, casting a vote and accessing polling places.” 42 U.S.C. § 15461 et. seq. (2002).

**VOTING RIGHTS OF DC CITIZENS WITH DISABILITIES**

On September 5, 2001, five people with disabilities and several disability rights advocacy organizations filed a lawsuit against the Board of Elections and Ethics (Board) alleging violations of Title II of the Americans with Disabilities Act (ADA). 42 U.S.C. § 12101 et. seq. (1990). Specifically, their claims concerned the right of people with disabilities to vote on equipment that is accessible to voters with visual and manual impairments/limitations, and to have physical access to polling places throughout the District of Columbia. In the fall of that year, the parties entered into a court ordered Settlement Agreement whereby the Board agreed to provide new, accessible touch-screen voting systems in all precincts by the Primary Election held earlier this year. Additionally, the Board agreed “to make all polling places physically accessible to mobility-impaired voters to the maximum extent feasible . . . and to maintain accessibility to the maximum extent feasible.” Settlement Agreement at p.1. Ensuring accessibility of polling places and voting equipment allows people with disabilities to vote in privacy and without assistance at their local precinct just as other people vote.

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To ensure the full participation of people with disabilities and to gauge the Board's progress under the Settlement Agreement, during the January 13, 2004 Presidential Primary Election, ULS surveyed the accessibility of 25 polling places as well as the accessibility of the new touch screen voting machines. Soon thereafter, ULS issued a Report on the Accessibility of Polling Places and Voting Equipment for People with Disabilities during the Presidential Primary Election (January Report). In short, ULS reported that while it was evident that the Board was actively working to increase the accessibility of the entire voting process, there were still significant problems relating to voters with disabilities.

Specifically, ULS found that the Board was utilizing several polling places that were inaccessible to people with mobility impairments, including individuals using canes, walkers, and wheelchairs. Additionally, for those polling places that were in fact accessible, ULS found that poll workers failed to properly post signs directing voters with disabilities to the accessible entrance. Similarly, poll workers failed to place the touch-screen voting system in an accessible area of the precinct, making it difficult for people with disabilities to access the machine without assistance. Lastly, ULS noted that poll workers had limited, if any, knowledge about the use of the touch-screen machine and were often unable to answer questions from voters with disabilities.

After the January Report, ULS began working closely with the Board to monitor the progress of modifications to polling places that were required in order for the Board to comply with the terms of the Settlement Agreement. The Board provided ULS with regular status reports and requested advice about prioritizing modifications. Ultimately, the Board was able to make seven polling places located in public schools accessible in time for the November 2, 2004 General Election. ULS located three alternative polling precincts that were accessible to people with disabilities to replace inaccessible precincts the Board had been using. Although it was not used during the General Election, ULS also located one other accessible alternative precinct that will be used in future elections. Additionally, modifications to additional polling places will be made over time in compliance with the Settlement Agreement.

### **MONITORING DURING THE NOVEMBER 2, 2004 GENERAL ELECTION**

In preparation for the General Election, ULS surveyed 250 voters in the community who indicated at the time of registration that they were people with disabilities who may require assistance during voting. In response to the survey, voters were asked several questions about the accessibility of the polling places including: (1) whether signs were posted directing voters to the accessible entrance; (2) whether individual voters were able to vote without assistance; (3) whether the polling place was

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accessible; and (4) the type of machine used to cast the ballot. Twenty percent of those surveyed responded.

Additionally, ULS advocates monitored the accessibility of fifty-three polling places throughout the District comprising about 30% of all total polling places. Each advocate was experienced in determining accessibility for people with disabilities. The monitors surveyed each polling place to determine: (1) the accessibility of each polling place; (2) whether signage directing voters to the accessible entrance was properly posted; (3) the use of curbside voting; (4) whether parking for people with disabilities was provided; (5) if the polling place had a working elevator; (6) whether signs were properly posted in the interior of the polling place; and (7) if voters were able to access voting equipment and cast ballots without assistance. In conducting the survey, ULS applied the provisions of HAVA in addition to the accessibility standards of the ADA.

## FINDINGS

In general, it appears that many polling places utilized by the Board are accessible to people with disabilities. There are, however, several areas in which improvement is necessary. It is clear that the poll worker training provided by the Board is grossly inadequate with respect to addressing the needs of people with disabilities. First, it appears that poll workers were not properly trained regarding the placement of the accessible touch-screen machines and properly posting signage directing voters to the accessible entrances. Poll workers exhibited limited or no knowledge of the use of the accessible touch-screen machine. Additionally, the Board must continue to improve the accessibility of several polling precincts. A detailed discussion of ULS' findings is provided below.

Significantly, the problems found during the General Election mirror those found during ULS' monitoring of the January Primary Election. As aforementioned, on January 30, 2004, the Board received ULS' report detailing findings regarding the accessibility of polling precincts during the Primary Election. Most importantly, ULS offered several simple solutions for the Board to consider and implement, including proper placement of accessible voting machines and signage directing people to accessible entrances, as well as ensuring adequate poll worker knowledge of the use of the touch-screen voting machines. It is apparent, however, that none of ULS' recommendations were followed.

After monitoring fifty-three polling places during the General Election and engaging in numerous discussions regarding precinct deficiencies with poll workers and precinct captains, as well as addressing the concerns of the community regarding voting, it appears that the problems during both the Primary and General Elections can, in part, be attributed to poor poll worker training by the Board. Indeed, poll worker training

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accounted for many of the problems that are discussed below, second only to the continued use of inaccessible polling places.

(a) Voting Machines Were Placed on Inaccessible Routes

At several polling places, the touch-screen voting machines were not located on routes that were easily accessible to people with disabilities, especially those with mobility limitations. Under the Settlement Agreement, the Board is required to provide at least one accessible touch-screen voting machine in each polling place. The machines allow voters with visual, hearing and mobility impairments to vote privately and without assistance just like other voters.

The use of the machines, however, was severely compromised because, in many instances, poll workers placed machines in tight corners or too close to other voting equipment. Thus, people with mobility or visual impairments were not provided easy access to the machines. Additionally, due to the poor placement of the machines, people with disabilities may have had to ask poll workers or others for assistance they would not have required if the machines had been placed in more accessible areas.

Of the fifty-three polling places monitored, touch-screen machines were inaccessible or difficult to access at the following locations:

- Metropolitan Memorial United Methodist Church
- Horace Mann Community Center
- Church of the Annunciation
- D.C. Center for Therapeutic Recreation
- Pennsylvania Avenue Baptist Church
- Sharpe Health School
- Ballou Senior High School

The situation at Pennsylvania Avenue Baptist Church merits some discussion. The church was accessible by ramp through a side entrance. The touch-screen machine was placed directly in front of the entrance. A ULS advocate approached the precinct captain to explain that the machine was blocking the entrance thereby making both the machine and the entrance inaccessible, and to suggest that she relocate the machine to a more accessible location. The request was flatly refused without explanation. The precinct captain demonstrated no knowledge of or concern about the needs of people with disabilities nor any knowledge of the requirement that polling places be accessible.

Additionally, the touch-screen machine at Sharpe Health School was placed close to a wall in the back of the polling place. Its proximity to the wall made it extremely difficult for a wheelchair rider to access the machine without assistance. The placement of the machine at this polling place was highlighted in ULS' January Report. *See* January

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Report, p. 3. It appears, however, that no changes were made between the reports issuance and the November General Election.

(b) Signs Were Not Posted Directing Voters to Accessible Polling Entrances

By far the most pervasive problem during the election, numerous polling places did not have signs posted directing voters with disabilities to the accessible entrances. Where signs were posted, they often pointed *away* from the actual accessible entrances. Failing to post signs or improperly posting signs directing people with disabilities away from the accessible entrance defeats the efforts of the Board and community advocates to ensure that voters with disabilities have equal access to polling places.

For people with mobility impairments, particularly wheelchair riders, the accessible entrance is the only way they can enter the polling places. Unlike the main entrance, which is easily seen by voters as they approach the polling place, accessible entrances are often located on the side or rear of the buildings. Thus, signs directing voters to those entrances are absolutely imperative. Without those signs, people who require the accessible entrance may feel forced to vote curbside or may turn away from voting all together.

Seventeen polling places comprising one third of the fifty-three precincts monitored had no signs posted or had posted signs improperly including:

- Eliot Junior High School
- Takoma Elementary School
- Payne Elementary School
- St. Sophia's Greek Orthodox Church
- Fort Stevens Recreation Center
- J.O. Wilson Elementary School
- Ruth K. Webb Elementary School
- St. Margaret's Episcopal Church
- Powell School
- Murch School,
- Langdon Park Recreation Center
- Taft School
- Burroughs Elementary School
- Chevy Chase Community Center
- St. John's College High School
- Truesdell Elementary School
- McGogney Elementary School

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The situation at J.O. Wilson Elementary School demonstrates the Board's failure to instruct poll workers regarding the importance of directing people with disabilities to the accessible entrance. The sign directing voters to the accessible entrance was pointing towards the street rather than the entrance, and was almost impossible to see. A ULS advocate spoke to the precinct captain about correcting the sign directing people to the accessible entrance. Rather than properly posting the sign, the captain stated that poll workers would be available to provide curbside voting. The advocate explained that where a polling place is accessible, curbside voting should only be an option and not the only manner by which individuals with disabilities should vote. The precinct captain agreed to properly display the sign. When the advocate returned to the polling place a few hours later, however, the sign had not been changed.

At Takoma Elementary School, the sign for the accessible entrance incorrectly directed voters to a side entrance that had several steps. Rather than simply changing the direction of the sign, the precinct captain explained that voters could wait at that entrance and poll workers would come out in fifteen minute intervals to direct them to the accessible entrance on the other side of the school. Again, the precinct captain displayed no knowledge of or concern for the needs of people with disabilities or even a basic understanding of accessibility requirements. The situation at Takoma School is particularly egregious because it is one of the schools where the Board made modifications to ensure accessibility. The actions of the precinct captain, however, made the polling place inaccessible and completely defeated the purpose of the modifications.

Aside from the failure of some polling places to post signs accurately directing voters to the accessible entrance, there were many locations where poll workers completely failed to post *any* signs. Both Fort Stevens Recreation Center and St. Sophia's Greek Orthodox Cathedral Church are fully accessible to wheelchair riders and people with disabilities, but the accessible entrances are not readily apparent from the street. The accessible entrances are ramped and the doors can be easily opened without assistance. The poll workers at both locations, however, failed to post any signs about accessibility. Thus, it appeared that the polling places were only accessible by stairs.

At Fort Stevens Recreation Center, a poll worker stated that signs were unnecessary because most people had been voting at the polling place for years and already knew where the accessible entrance was located. The poll worker appeared completely unaware that newly registered voters and people who had just moved into the precinct would not be familiar with the polling place's layout. Additionally, the ULS advocate asked the poll worker if he was aware that the Board allows people with disabilities to vote at any polling place throughout the city, and thus, there could be many people voting at Fort Stevens for the first time. Sadly, the poll worker was unfamiliar with this Board rule.

(c) Several Polling Precincts Were Not Accessible

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The Board has made great strides with respect to the accessibility of polling precincts. Indeed, the majority of polling places are now fully accessible. However, a few polling places still in use are not completely accessible to people with disabilities due to certain physical barriers.

In order for a polling place to be fully accessible, the length of the path from the roadway to the accessible entrance must be free of barriers. According to the District of Columbia Voter Guide issued by the Board, the vast majority of polling places are accessible at either the main entrance or an alternative entrance. However, at some of the supposedly accessible polling places that were visited by ULS, the alternative entrance was locked or the path of travel was obstructed which prevented people with mobility impairments from entering. Such barriers prevent wheelchair access and continue to exclude people with disabilities from the voting process in violation of the ADA and other federal laws.

Of the fifty-three polling places surveyed, the following four were not accessible:

- Rabaut Administrative Building
- McGogney Elementary School
- Ballou Senior High School
- Edmund Burke School

At the Rabaut Administrative Building, for example, the designated entrance for wheelchair users is located at the side of the facility in a fenced area. During the General Election, however, the fence leading to the entrance was locked, making it impossible to access the entrance.

Similarly, the path of travel to the accessible entrances at McGogney Elementary, Ballou High School and Edmund Burke were blocked by obstructions making it difficult, if not impossible, for people with mobility impairments to access the polling places. Specifically, at McGogney Elementary, the accessible entrance is located at the rear of the facility, but the path to the entrance was overgrown with weeds and there were several deep craters in the concrete. Additionally, at both Ballou and Edmund Burke, there were large bumps on the accessible paths that were insurmountable to people with disabilities, especially manual wheelchair riders.

(d) Poll Workers Had Little Knowledge of the Use of the Touch-Screen Machine

Few poll workers demonstrated knowledge of the use of the touch-screen machine. In order for many people with disabilities to vote without assistance, they must use the touch-screen machines. There are supposed to be technical specialists on-call at each polling place in the event the touch-screen machines break down. Nevertheless, poll

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workers must have knowledge of the basic use and functions of the machine to enable them to assist those voters who choose to use the machines and those voters who have no choice but to use the machine. In several instances, however, poll workers were unable to provide *any* assistance and could not answer questions about the machine's audio component or hand-held device.

For example, at Truesdale Elementary School, an elderly blind woman attempted to vote for the first time in her life. A news team from a local television station was there to record the event and interview the woman about her experience. A poll worker accompanied the woman to the touch-screen machine, but the woman was unable to get the machine to work. Two poll workers spent over 30 minutes trying to help the woman, but they were unable to answer her questions about use of the audio device. At no time did a technical expert offer any assistance to allow the woman to use the voting machine. After 40 minutes, the machine's audio component started to work and the woman was finally able to vote.

## SOLUTIONS

With exception of issues related to physical accessibility, it appears that the vast majority of the problems during the General Election are related to failures in poll worker training provided by the Board. The Board must understand that training its poll workers to address the needs of people with disabilities is absolutely imperative to prevent discrimination in future elections and to ensure equal access to the entire voting process.

ULS understands that the Board currently offers poll worker training sessions in which people with disabilities are addressed. However, given ULS' findings both during the November General Election and the January Primary, it is obvious that that training does not address several of the key issues discussed herein related to access, including posting signage, machine placement, general knowledge of voting equipment, and voting rights and regulations. In order for the Board to comply with the provisions of the ADA and HAVA, it must ensure that poll workers receive training on access for people with disabilities. With little difficulty or additional expense to the Board, poll workers can be trained on the need to properly post signs and to place accessible equipment in open, accessible areas. Likewise, the Board should train at least one poll worker, preferably the precinct captain, on the use of the touch-screen machines. Without such training, voters with disabilities will not be able to vote privately and without assistance, and will continue to be excluded from full and equal participation in the electoral process.

Moreover, the Board must ensure that all of its polling places are physically accessible to people with disabilities. It is imperative that Board staff visit each of the polling places close to the time of any election to ensure that the path of travel is unobstructed and to make any changes necessary to increase accessibility. Additionally, poll workers must be made aware of the existence of the accessible entrance, the need to

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post signs directing voters to the entrance and the fact that people with disabilities are not required to vote curbside. Also, it is imperative that poll workers understand that people with disabilities are permitted to vote at any precinct of their choosing.

## CONCLUSION

Addressing these issues and implementing solutions do not require an extraordinary amount of effort on the part of the Board. The Board should simply include ULS' recommendations in its existing poll worker training curriculum. ULS is willing to assist the Board in training poll workers regarding the needs of voters with disabilities or will supplement any training provided by outside organizations to ensure that such training addresses the issues discussed in this report.