



★ VIRGINIA ★  
DEPARTMENT *of* ELECTIONS

the Handbook

# **Chapter 5**

## **Accessibility**

August 2025

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## 5. ACCESSIBILITY

<b>REQUIRED FORMS</b> <a href="#">ELECT-310C-Accessibility-Accessibility-Checklist.docx</a> <a href="#">ELECT-310C-ADACC-ADA-Compliance-Confirmation-7.2023.pdf</a>	<b>ADDITIONAL RESOURCES</b> <a href="#">Voting and Polling Places   ADA.gov</a> <a href="#">State and Local Governments   ADA.gov</a> <a href="#">U.S. Access Board ADA Accessibility Standards Accessibility Posters</a>
<b>REFERENCE</b> <a href="#">Quick Start Guide – EAC 6 Tips</a> <a href="#">ADA Checklist for Polling Places</a> <a href="#">EAC Election Management Guide Chapter 19: Accessibility</a>	<b>REGULATIONS</b> <a href="#">I VAC 20-20-40 Virginia's Help America Vote Act Plan</a>

### 5.1 CHAPTER ORGANIZATION

Every qualified voter has the right to vote, regardless of whether he or she has a disability or limited English proficiency. This chapter is designed to help electoral board members and general registrars ensure that reasonable accommodations are made for all voters in both the registrar's office and at all polling places. §5.2 lists the key federal and state laws underpinning accessibility in elections throughout the Commonwealth. §5.3 discusses the requirements in these laws, divided into subject matters such as voting equipment, polling place accessibility, requests for assistance, and curbside voting. §5.4 discusses ADA requirements for officers of election training, §5.5 and §5.6 address both the limitations of implementation and the enforcement mechanisms designed to ensure voters with disabilities are guaranteed an equal opportunity to vote. §5.7 lists local, state, federal and other public sector resources focused on elections accessibility issues. §5.8 discusses a few funding suggestions for localities seeking to implement accessibility improvements.

### 5.2 LEGAL BASIS



The following laws govern accessibility in polling places:

- The Voting Rights Act of 1965 (VRA)<sup>1</sup>
- Voting Accessibility for the Elderly and Handicapped Act of 1984 (VAEHA)<sup>2</sup>
- Title II of the Americans with Disabilities Act (ADA)<sup>3</sup> and Rehabilitation Act of 1973<sup>4</sup>
- Help America Vote Act of 2002 (HAVA)<sup>5</sup>
- Virginians with Disabilities Act (VDA)<sup>6</sup>
- The Code of Virginia, Title 24.2<sup>7</sup>

<sup>1</sup> See [52 U.S.C. §20102](#).

<sup>2</sup> See [52 U.S.C. §20101](#).

<sup>3</sup> See [42 U.S.C. §12131](#) et seq.

<sup>4</sup> See [29 U.S.C. §794](#).

<sup>5</sup> See [52 U.S.C. §20901](#).

<sup>6</sup> See [§§51.5-1](#) and [51.5-43](#).

<sup>7</sup> See [§24.2](#).



In addition, the United States Department of Justice (DOJ) has provided standards related to accessibility and a detailed ADA checklist for evaluating polling place accessibility.<sup>8</sup>

## 5.3 REQUIREMENTS

### 5.3.1 General Assistance to Voters

State and local governments must give persons with disabilities equal opportunity to benefit from all programs, services, and activities. This includes voting. Government entities and employees must communicate effectively with persons who have disabilities, ensure that buildings in which services are provided are accessible, and provide opportunities to request accommodating aids and services.<sup>9</sup> Any voter requiring assistance may receive it from a person of the voter's choosing "(If he is blind, he may designate an officer of election or any other person to assist him. If he is unable to read and write or disabled for any cause other than blindness, he may designate an officer of election or some other person to assist him other than the voter's employer or agent of that employer, or officer or agent of the voter's union").<sup>10</sup> ELECT has developed helpful signage regarding accessible voting that can be found on FormsWarehouse.

### 5.3.2 Voting Equipment

HAVA requires voting systems to be accessible for individuals with disabilities. They must allow for use in a private and independent manner, including non-visual access for the blind and visually impaired.<sup>11</sup> Virginia law requires that voting equipment allow alternative languages when DOJ determines that a specified number of the population does not speak or understand English well enough to engage in the electoral process.<sup>12</sup> These federal and state requirements override Virginia's general statutory rule declaring English the official state language.<sup>13</sup>



#### Law Note

Each polling place must **have at least one piece of voting equipment that permits a voter with a disability to cast his or her ballot in a private and independent manner.** The voting booth provided for persons casting provisional ballots should also be accessible. This should be a table that can accommodate a wheelchair. The table should be at least 30 inches wide, with a surface no more than 27 inches high, and an underneath clearance of at least 19 inches. If a voter with a disability wishes to vote on an inaccessible machine instead, he or she may request assistance.

<sup>8</sup> See [Voting and Polling Places, ADA Checklist for Polling Places](#).

<sup>9</sup> See [42 U.S.C. §12132](#). See also DOJ, [State and Local Government](#).

<sup>10</sup> See [52 U.S.C. §10508](#); see [§§24.2-649, 24.2-704](#).

<sup>11</sup> See generally HAVA [52 U.S.C. §20101](#) et seq. See also GREB Handbook Chapter 15 Recounts and Contested Elections for more information on accessible voting machines.

<sup>12</sup> See [§24.2-626.1](#). See also [DOJ list of covered jurisdictions](#).

<sup>13</sup> See [§1-511](#).



HAVA and the Code of Virginia require that every precinct has **at least one voting machine** that provides non-visual voting access for individuals with disabilities.<sup>14</sup> **Voting equipment with audio capability for use by blind voters has been certified for use in Virginia.**<sup>15</sup> It is **recommended that multiple officers of election at each polling place know how to set up, use, and instruct voters on use of the accessible voting system. For voters with a visual disability, the locality should also make magnifiers available at each polling place or at each voting station.** For most voting equipment, magnifying sheets tend to work better than magnifying glasses with handles. Magnifying sheets are relatively inexpensive and available in many stores or catalogs.

### 5.3.3 Voters who have a Visual or a Print Disability

Voters who indicate that they will require assistance due to a visual impairment or print disability are entitled to vote using an electronic ballot marking tool made available to the localities by the Department of Elections.<sup>16</sup> The current electronic ballot marking tool is Enhanced Ballot; instruction for Enhanced Ballot can be found on ELECT's website.<sup>17</sup> The Virginia Absentee Ballot Application Form (SBE 701/703.1) and ELECT's online Citizen Portal provide registered voters the option to identify as needing assistance due to a print disability. The General Registrar will offer those voters the ballot marking tool which allows them to electronically and accessibly receive and mark their absentee ballot using screen reader assistive technology. For more information on this process, refer to GREB Handbook Chapter 7, section 7.5.4.1.

### 5.3.4 Communications

All media materials concerning voter registration or voting which are distributed or published by the registrar's or electoral board's office or local governing body should prominently display the local voter registration office's email address and telephone number. This will allow better communication with voters who have hearing disabilities or other disabilities. It is strongly recommended that the general registrar use an official email address that is generic in nature and not based on the name of an individual. Using individual names can cause confusion when the individual is absent or retires, and the voter may still retain an old email address in their records or email address book.

Every registrar and electoral board member should actively publicize the availability of absentee ballots, curbside voting, accessible equipment, and the right to ask for assistance. It is important to ask each voter directly what works for them, with sensitivity to individual differences. **Voters should be informed that these accessibility measures, including curbside voting, are available throughout Virginia's 45 days of early voting at the general registrar's office or satellite voting locations, as well as on Election Day.**

#### 5.3.4.1 Website

When a voter looks up his or her polling place on the ELECT website, the accessibility information which the locality entered in VERIS will be displayed. Localities should

<sup>14</sup> See [§24.2-626.1](#).

<sup>15</sup> See GREB Handbook Chapter 4 Voting Equipment for more information.

<sup>16</sup> See [§24.2-103.2](#).

<sup>17</sup> See ELECT, [Accessible Voting](#).



provide some detail as to the efforts made to ensure that the polling place is in fact ADA compliant, such as stating that a checklist was used to assess accessibility.

#### 5.3.4.2 Teletypewriters (TTY or TDD)

Telecommunications devices for the deaf (“TDD”) or teletypewriters (“TTY”) provide another way for people to communicate and obtain information about registering and voting. A TTY or TDD is a device with a keyboard and display that allows users to send and receive typed messages across phone lines. TTY users can directly call other TTY users and exchange typed messages to easily communicate. Communication between a TTY/TDD-user and someone without a TTY device is also possible and can be accomplished by calling a Relay Service. A specially-trained Relay Service operator receives the messages on a TTY and relays the messages to a hearing individual using a standard telephone. A standard phone user can also place a call through a Relay Service operator to a TTY user. Many localities have a TDD/TTY line for government offices. If the locality doesn’t have a TDD/TTY line, instruct voters to use the ELECT TTY line, or use the TTY number of the Virginia Relay Center – a service designed specifically for TDD/TTY users, government agencies and other service providers.<sup>18</sup> Speech-to-speech relay enables a person with a speech impairment to converse on the telephone via a trained communication assistant. To access these services, call “711.”

#### 5.3.4.3 Signage

Signs instructing voters on the location of curbside voting, where to park, where to enter and exit the polling place, and which table to go to, etc. help reduce the verbal communication required for a voter with a hearing disability. **These aids are required on Election Day.** “The electoral board or the general registrar [must] provide and have posted outside each polling place appropriate signs to direct people with disabilities and elderly persons to any special entrance designed for their use.”<sup>19</sup> Further, printed instructions for checking in at the pollbook table and for the use of voting equipment should be prominently displayed at the level where persons with disabilities can read. ELECT has developed several signs that can be posted in a polling place alerting voters to the resources available (see FormsWarehouse > Accessibility).

#### 5.3.5 Minority Language Provisions

If the illiteracy rate of the minority group is higher than the national illiteracy rate and one of the following thresholds is met within that jurisdiction, the jurisdiction is required to provide all election information directed to English speaking voters in the covered minority language(s) as well.

Thresholds:<sup>20</sup>

- More than 10,000 United States citizens of voting age residing there belong to a single language minority and are limited English proficient,

<sup>18</sup> See [Virginia Relay](#).

<sup>19</sup> See [§24.2-604.1](#).

<sup>20</sup> For more information about minority language provisions and thresholds, see [DOJ webpage for language minority voting rights](#).



- More than five percent of United States citizens of voting age residing there belong to a single language minority and are limited English proficient,
- More than five percent of American Indian citizens of voting age residing on an Indian reservation within the jurisdiction belong to a single language minority and are limited English proficient.

Pursuant to §24.2-128, “Whenever a covered locality provides any voting or election materials, it shall provide such materials in the language of the applicable minority group as well as in the English language. For purposes of this requirement, “voting or election materials” means registration or voting notices, forms, instructions, assistance, voter information pamphlets, ballots, sample ballots, candidate qualification information, and notices regarding changes to local election districts, precincts, or polling places. For purposes of this requirement, “registration notices” means any notice of voter registration approval, denial, or cancellation required by the provisions of Chapter 4 (§ 24.2-400 et seq.). A covered locality may distribute such materials in the preferred language identified by the voter.”<sup>21</sup>

As of December 2021, there are 4 Virginia localities that are required to provide materials in other languages:

- Fairfax County: Spanish and Vietnamese
- Prince William County: Spanish
- Manassas City: Spanish
- Manassas Park City: Spanish

Election results, voter registration information, and other related information are translated on ELECT’s website into Spanish, Korean, and Vietnamese.<sup>22</sup>

Before any change occurs that would restrict interpreter services or materials in languages other than English, local governing bodies must follow the procedures regarding covered practices as outlined in § 24.2-129. Failure to do so could result in a cause of action brought in a circuit court by the Attorney General or any qualified voter.

### 5.3.6 Voter Registration Facility Accessibility

Pursuant to §24.2-413, registration locations, including the general registrar’s office and certain state and local agencies, must be accessible.<sup>23</sup> Further, the NVRA “Requires all offices that provide public assistance or state-funded programs that primarily serve persons with disabilities to provide an opportunity to register to vote in federal elections.”<sup>24</sup>

### 5.3.7 Polling Place Accessibility

Polling places are required to be accessible by the Virginians with Disabilities Act, the Voting Accessibility for the Elderly and Handicapped Act, and Title II of the Americans with Disabilities Act.<sup>25</sup> The local governing body is required to provide “adequate facilities at each polling place

<sup>21</sup> See [§24.2-128\(B\)](#).

<sup>22</sup> See [§24.2-105.1](#).

<sup>23</sup> See [§24.2-413](#).

<sup>24</sup> See DOJ, [Voting and Polling Places](#).

<sup>25</sup> See [§24.2-310\(C\)](#).



for the conduct of elections.”<sup>26</sup> For the purpose of this law, ELECT interprets adequate facilities to include buildings that are physically accessible to persons with disabilities.

**The electoral board should complete an approved ADA Checklist to ensure that any new polling place is accessible, or can be made so, before recommending it to the local governing body.** The current [ELECT ADA Checklist \(rev. 2023\)](#) based upon the [DOJ ADA Checklist \(rev. 2016\)](#).<sup>27</sup> While electoral boards may use either checklist to assess and document ADA compliance, ELECT's ADA checklist includes the requirements for curbside voting as mandated by [§24.2-649.1](#). Accordingly, ELECT's ADA checklist is the recommended document for electoral board completion as it includes this unique state statutory requirement. **If a local electoral board prefers to use the DOJ's ADA Checklist (with expanded information and diagrams), they should take care to also assess and document compliance with curbside voting as required by §24.2-649.1**



**The electoral board must complete an ADA Checklist every time the locality approves a new polling place or there is a change in accessibility at an existing polling place.** As best practice, ELECT recommends that electoral boards periodically reassess the accessibility of all polling places. Just because a polling place was accessible last year does not mean it will be this year. For example, tree limbs could grow back, concrete could develop breaks, or parking signs may be removed. Investing a little time before each election can pay great dividends in preventing complaints about a new barrier at a previously accessible polling site.



#### **Retention of and Public Access to the ADA Checklist**

ADA checklists should be kept like election materials with the caveat that every time the polling place is used the 2 year clock starts again. The public is entitled to the checklist under §24.2-107 and can be inspected and copied.

Local electoral boards must also submit to ELECT each year an ADA Compliance Confirmation (ELECT-310C-ADACC ADA); this confirmation verifies that a checklist was used in the assessment of all polling places in the locality, affirms that the checklists are within the records of the local electoral board, and all polling places within the locality are compliant with applicable law.<sup>28</sup> This must also be confirmed annually during a public meeting of the electoral board and recorded in the minutes of the meeting.

When choosing a polling place, it is best practice to choose a location that is compliant year-round rather than a polling place that may need to be modified temporarily to comply with accessibility requirements.

Localities are authorized to use an alternative polling place if an emergency makes a polling place unusable or inaccessible.<sup>29</sup> The electoral board or general registrar must provide notice to all candidates appearing on that ballot and to the “voters appropriate to the circumstances of the emergency.”<sup>30</sup> ELECT must approve all emergency polling location changes.<sup>31</sup> Emergency

<sup>26</sup> See [§24.2-310\(B\)](#).

<sup>27</sup> A suggested accessibility survey form and the Annual ADA Compliance Confirmation are included in Formswarehouse under [Accessibility](#).

<sup>28</sup> *Id.*

<sup>29</sup> See [§24.2-310\(D\)](#).

<sup>30</sup> See [§24.2-310\(C\), \(D\)](#).

<sup>31</sup> *Id.*





polling place move requests are unforeseen, temporary in nature, and must be submitted by the general registrar through JIRA. If the condition at the original polling place is unable to be resolved in a timely manner, the locality will need to follow all pre-clearance requirements and submit a new JIRA ticket for a standard polling place change.<sup>32</sup> Emergency polling place changes are meant to be temporary and only valid for the following election, not to be used for an entire year as this circumvents the preclearance requirements of §24.2-129.

When entering polling place information into VERIS, the registrar must check whether the polling place has met ADA standards and include a comment detailing the level of compliance. If an existing polling place is found to be inaccessible, take the following steps:

- Notify the local governing body that the locality's polling place is in violation.
- Determine whether reasonable permanent or temporary changes can be made to make the site accessible.
- If the site cannot be made accessible through reasonable means, survey the precinct and the adjoining area within one (1) mile of the precinct boundary in an attempt to find an alternative site that is accessible or can be made temporarily accessible on Election Day.
- The accessibility status of each polling place in the locality should always be updated in VERIS.

The following exceptions may be granted under United States and Virginia law:

- If an alternate site is in a private facility normally ineligible for polling place selection, the registrar may request that the State Board approve its use on an emergency basis due to the unavailability of any other building meeting accessibility requirements.<sup>33</sup>
- The specifications made in this chapter reflect the 2010 ADA Standards. The 1991 ADA Standards and the 2010 ADA Standards, as applied to polling places, are very similar. Elements and spaces in a building constructed or altered before March 15, 2012, that complied with the 1991 ADA Standards may remain in compliance with the 2010 ADA Standards.

### *Parking Spaces*

If parking is provided for voters, then accessible parking must also be provided at a ratio of one (1) accessible space for every 25 spaces in the parking lot. If only one accessible space is provided, it must be a van-accessible space.

To be considered accessible, a parking space must meet the following criteria:<sup>34</sup>

- Be at least 8 feet wide for cars and 11 feet wide for vans.
  - Exception: van parking spaces can be 8 feet wide minimum where the access aisle is also 8 feet
- Have an access aisle that is 5 feet wide for car and van spaces (**all parking lots must have at least one van-accessible space**).
  - Two parking spaces may share a common access aisle.

<sup>32</sup> See [§24.2-129](#).

<sup>33</sup> See [§24.2-310.1](#).

<sup>34</sup> See [ADA Center, Information on Accessible Voting](#). See also [Accessible Parking Spaces](#).



- **Must be marked with an upright sign with the symbol of accessibility.**
  - For van-accessible parking spaces, the sign must designate it as a van-accessible space. This does not prevent other non-van vehicles from parking in that space.
- **Located closest to the accessible entrance of the polling place.**
- Connected by an accessible aisle to an accessible route to the accessible entrance of the polling place.

Accessible parking spaces may be temporarily created for Election Day using portable signs and traffic cones. These parking places should be the closest spaces to the entrance, creating the shortest distance possible to travel. The route taken from the parking space to the entrance should be level, stable, and firm in all directions.

#### 5.3.7.1 Signage

No special signs are required at buildings where all voters (those with disabilities and those without) use the same entrance on Election Day. However, if the accessible voting entrance is separate from the main voting entrance, then the following standards apply:<sup>35</sup>

- The accessible entrance must be marked by the symbol of accessibility.
- All other entrances must have directions to the accessible entrance.

ELECT has also developed signage that can be posted in the polling place, alerting voters to the resources available. These signs can be found in FormsWarehouse.

**NOTE: Curbside voting signage must be placed *upright* at every polling place.**

#### 5.3.7.2 Curbs and Ramps

Temporary ramps may be used on Election Day. However, a better solution is to work with the owner of the building to establish reasonable accessibility. Ramps are necessary where there are steps into the building or inside the building. Permanent ramps are the best option, but temporary ramps can also work when necessary. They can be purchased or rented from a variety of vendors in compliance with locality purchasing procedures.

Curbs or ramps in the path of travel must generally have the following features:<sup>36</sup>

- They must be at least three feet (36 inches) wide not including any flared sides.
- They should have a stable, firm, slip-resistant walking surface.
- They should have a slope that rises or falls no more than one (1) foot in height for every 12 feet in length (the 1' in 12" rule).
- They should have a relatively level cross slope and should not be steeper than 1:48.
  - Cross slope is the slope perpendicular to the direction of the walkway and can be measured the same way as a slope.
- If a ramp is more than six inches off the ground, it must have handrails on both sides.

<sup>35</sup> See [ADA Accessibility Standards](#) and [ADA Checklist for Polling Places](#).

<sup>36</sup> *Id.*



- They cannot have openings greater than ½ inch wide.

#### 5.3.7.3 Walkways (Inside & Out)

To be considered accessible, a walkway must meet the following criteria:<sup>37</sup>

- It must be at least three feet (36 inches) wide.
- It should have a slope that rises or falls no more than one foot in height for every 12 feet in length.
- It should have no edges that could cause a person or service animal to trip or fall.
- It should have a relatively level cross slope (the slope perpendicular to the direction of the walkway).
- It should be made of a smooth, consistent material, i.e. no loose gravel or dirt.
- It should have headroom in the pathway of at least 80 inches from the surface.
- It cannot have openings greater than ½ inch wide.
- It cannot have abrupt changes in level greater than ½ inch tall unless a ramp is provided. Sudden changes in height less than ¼ inch tall are always acceptable; however, changes between ¼ inch and ½ inch can be beveled at a slope no greater than 1:2.
- The 1:12 rule applies to all standards of accessibility for walks, ramps, etc.

#### 5.3.7.4 Protrusions

Items sticking out from walls (such as fire extinguishers) pose a threat to both blind voters – who cannot detect them with a cane – and to those with limited sight. Items mounted on walls between 27 and 80 inches off the floor cannot protrude more than 4 inches from the wall.

A temporary solution is to place a large item on the floor (such as a potted plant) below the protruding item to make it detectable with a cane. A permanent solution is to build protruding walls on either side of the item or lower the item so that it is less than 27 inches above the floor.<sup>38</sup>

#### 5.3.7.5 Doors and Doorways

Doors are among the most common accessibility barriers in polling places. For people in wheelchairs, an inaccessible door can defeat the hard work of getting out of a vehicle, through the parking lot, and up the walk. Several features can make a door inaccessible:

- Round doorknobs are difficult for people with limited use of their hands. Replace with ADA compliant hardware.<sup>39</sup> If they can't be replaced, buy levers that fit over round doorknobs.
- Interior doors must be operable with 5 pounds of force or less. As a temporary fix, prop the door open or station an election official (or election page) to assist with opening and closing.<sup>40</sup> The best solution (and most expensive) may be to install a power door opener.

<sup>37</sup> See [ADA Accessibility Standards](#) and [ADA Checklist for Polling Places](#).

<sup>38</sup> See [ADA Voting Solutions for Polling Places](#).

<sup>39</sup> *Id.*

<sup>40</sup> *Id.*



- There is no requirement for the opening force of exterior doors. However, 8.5 pounds of force is typically sufficient to keep the door closed and still be usable by persons with disabilities.<sup>41</sup>
- Door width is often a problem for wheelchairs. There should be at least 32 inches of clear space for a wheelchair to get through. This is measured from the face of the door to the stop on the other side, not including any door hardware.<sup>41</sup> Some doors that just barely fail to meet this criterion can be adjusted to gain that extra inch or two by using special hinges.
- If there is a door threshold with an abrupt change of more than ¼ inch, it is inaccessible. Either a new threshold or a covering ramp will need to be installed.

#### 5.3.7.6 Stairs

Based on reports to the federal Election Assistance Commission (EAC), stairs remain the greatest physical obstacle at our nation's polling places for both people in wheelchairs and those with difficulty walking. **If access to a polling place or voting room within a polling place involves stairs, then there must be an alternate route to the voting room; otherwise, the site is not accessible.**<sup>42</sup> There must be, either inside or outside the building, a ramp or ramps, or an accessible elevator, or a wheelchair lift that voters with limited mobility can use to access the polling place. If an alternate route must be used, large signs directing voters with disabilities are required.<sup>43</sup> The main entrance should be the same as the accessible entrance, where possible.

#### 5.3.7.7 Inside the Polling Place

The inside path of travel must meet the same guidelines as the path outside. Loose rugs, plush carpets, slick floors and the like can cause problems for people using wheelchairs, canes, and walkers. Further, **floor surfaces must be stable, firm, and slip resistant.**<sup>44</sup> Instruct officers of election to be sure that hallways and voting rooms are free of such hazards and to make adjustments as needed.

#### 5.3.7.8 Seating

Every polling place should be furnished with seats for use by elderly voters or those with mobility impairments. Even if the polling place has no waiting lines, seats should be available for those lawfully present who just need to rest.

### 5.3.8 Request for Assistance

The Virginia Voter Registration Application includes a box allowing voters with physical disabilities to so indicate. Registrars should attempt to contact voters who check this box to explain available accommodations such as voting curbside or absentee with an application. Be sure to communicate to the Electoral Board and officers of election any information needed to plan for Election Day including arrival time for curbside voting. The Attorney General issued an opinion in 2010 that voters may communicate a request for curbside voting to election officials in advance of coming to the polling place.<sup>45</sup>

<sup>41</sup> *Id.*

<sup>42</sup> See [ADA Checklist for Polling Places](#).

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

<sup>45</sup> See [2010 Op. Va. Att'y Gen. 46 \(Oct. 28, 2010\)](#).



As a best practice, when a voter requests assistance in their polling place, the voter and their designated assistant should fill out the SBE-649 form while in the polling place. However, the Code of Virginia does not specifically prohibit the voter and assistant from filling the SBE-649 form before arriving at the polling place. If the voter is unable to sign the document due to a disability or the inability to read or write, the mark discussed in §24.2-649, as well as in section 5.3.11 of this chapter, must be made in front of an officer of election.

### 5.3.9 Curbside Voting

Each polling place must offer a curbside voting option as well as an accessible entrance. Curbside voting does not satisfy or eliminate the requirement for an accessible entrance to the polling place that the voter can use at their option.

**Curbside voting must be offered at every polling place. Any voter with a disability or who is age 65 or older is entitled to utilize curbside voting.**<sup>46</sup> However, during a declared state of emergency related to a communicable disease, any voter, regardless of age or disability, is entitled to utilize curbside voting.<sup>47</sup>



#### Law Note

Pursuant to the ADA [42 U.S.C. §12102](#), *disability* is defined as, “(A) a physical or mental impairment that substantially limits one or more of the major life activities of such individual; (B) a record of such an impairment; or (C) being regarded as having such an impairment.” Further, 42 U.S.C. §12132, states, “...no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.” Curbside voting is a government service for individuals with disabilities. This service must be available not only to individuals with a disability, pursuant to the provisions of the ADA and [§24.2-649.1](#).

The area designated for curbside voting outside of the polling place shall be within 150 feet of the entrance to the polling place. **This area shall be clearly marked with signage and include prominent instructions on how to notify an officer of election of the voter's request to vote outside of the polling place.**<sup>48</sup> In no case shall the voter or their assistant be required to enter the polling place to provide such notice.<sup>49</sup> The voter may choose to call ahead to alert election officials of their desire for curbside voting or may send another person inside the polling place to alert the officers of election.<sup>50</sup> The EAC also provides a quick start guide with some best practices for curbside voting.<sup>51</sup>

<sup>46</sup> See [§24.2-649.1](#).

<sup>47</sup> *Id.*

<sup>48</sup> *Id.*

<sup>49</sup> *Id.*

<sup>50</sup> See [2010 Op. Va. Att’y Gen. 46 \(October 28, 2010\)](#).

<sup>51</sup> See EAC, [Curbside Voting Quick Start Guide](#).



Take the following steps to ensure curbside voting goes smoothly:

- Provide clear and visible signage informing voters of the option to vote curbside, the location of curbside voting, and how a voter is supposed to notify an election official that he/she is waiting curbside. **The signage should be upright and visible in all venues and at all times while voting is taking place (e.g. at the registrar's office and any satellite offices used during the 45-days of early voting, as well as at all polling places).**
  - Ensure that no campaign/referendum materials or campaign personnel are blocking the curbside voting area or signage.
  - Establish a location that allows the curbside voter to obtain information from candidates and others campaigning outside the polling place.
  - Provide a method for the voter to announce his/her arrival (e.g. a buzzer, bell system, or phone number to call for curbside assistance).
  - Ensure that election officials inside the polling station respond promptly and deliver the same information that is provided to voters inside the polling location;
  - Provide a portable voting system that is accessible and allows the voter to cast his/her ballot privately and independently while voting curbside.<sup>52</sup>



#### Best Practice

Chief Officers of Election or general registrars may assign an officer of election, election page, or volunteer to periodically check outside each polling location to monitor if curbside assistance is needed. More officers of election may be assigned to accommodate additional curbside voters.

### 5.3.10 Large Print Materials

The state must make registration and voting aids available for disabled and elderly individuals, including the large print instruction posters displayed in polling places and registrars' offices.<sup>53</sup> Large print directional and instructional signs should help voters with limited sight navigate the polling place and the voting process. Pictures or symbols on signs are also helpful.

### 5.3.11 No Signature or Mark Required for Certain Voters



**No signature or mark is required for a voter who is blind to receive assistance at the polling place from an officer of election.**<sup>54</sup> Additionally:

- The Request for Assistance form (ELECT-649) allows a voter to sign or make a mark to indicate their need for assistance inside the polling place from an elections officer or another assistant due to blindness, disability, an inability to read or write, or the need for language translation. However:

<sup>52</sup> For more information on signage and accessibility, see DOJ, [The Americans With Disabilities Act, and Other Federal Laws Protecting the Rights of Voters with Disabilities](#).

<sup>53</sup> See [52 U.S.C. §20104](#).

<sup>54</sup> See [§24.2-649](#).



- A box can be checked to indicate if the voter is unable to sign due to a disability or the inability to read or write. In this case, the voter's own mark is sufficient signature and must be marked in the presence of an officer of election.
- No mark or signature shall be required of a voter who is blind.
- A voter registration form (VA-NVRA-1) does not have to be signed by the voter if they have a physical disability<sup>55</sup>~~[[REDACTED]]~~.
- No signature is required by a voter's assistant on the Envelope B to return an absentee ballot.<sup>56</sup> If the voter is unable to sign the Envelope B due to a disability, then the person assisting should note that fact on the line for the signature of the voter.

### 5.3.12 Service Animals

Under the ADA, a service animal is defined as a dog (of any breed or size) or miniature horse that has been individually trained to do work or perform tasks for an individual with a disability. The task performed by the animal must be directly related to the person's disability. An emotional support or therapy animal who only provides comfort to the person is not considered a service animal under the ADA or the VDA.<sup>57</sup>

Pursuant to Federal Regulation 28 CFR 35.136, a public entity may ask 2 questions to assess if an animal qualifies as a service animal: <sup>58</sup>

- Is the dog (or miniature horse) a service animal required because of a disability?
- What work or task has the animal been trained to perform?

Under no circumstances can a public entity require documentation of training, require demonstration of the task, or inquire about the nature of someone's disability.

While a service animal is *not* required to wear a vest or other ID that indicates they are a service animal, 28 CFR 35.136(d) states, "A service animal shall be under the control of its handler. A service animal shall have a harness, leash, or other tether, unless either the handler is unable because of a disability to use a harness, leash, or other tether, or the use of a harness, leash, or other tether would interfere with the service animal's safe, effective performance of work or tasks, in which case the service animal must be otherwise under the handler's control (*e.g.*, voice control, signals, or other effective means)." <sup>59</sup>

A public entity may ask the individual with a disability to remove their service animal if the animal is out of control and the handler does not take effective action to control the animal, or if the animal is not housebroken. In situations where the service animal is removed, the individual with a disability must still be provided with the opportunity to vote or otherwise engage in the elections process without the service animal.

<sup>55</sup> See Virginia Const., [art. II, §2](#). See also [§24.2-418\(A\)](#).

<sup>56</sup> See [§24.2-706\(C\)](#).

<sup>57</sup> See Code of Federal Regulations [28 CFR 35.136](#). See [§51.5-40.1](#).

<sup>58</sup> See Code of Federal Regulations [28 CFR 35.136](#).

<sup>59</sup> *Id.*



In situations where a voter with a service dog arrives at a polling place and another voter has a phobia of dogs or is allergic to dogs, both voters must be accommodated and shown the same level of respect and access to the polling place.

## 5.4 Officer of Election Training

Officer of Election training must include a section on working with persons with disabilities and operating the accessibility features of all voting equipment. Officer of Election online training course provided by ELECT includes a module addressing Accessibility and Etiquette. Officer of election training must also include instruction on how to assist voters who use curbside voting.<sup>60</sup> Please emphasize these key best practices regarding interacting with the elderly or persons with disabilities in every training:

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<sup>60</sup> See [§24.2-649.1\(E\)](#).







### Best Practices

Officers of election have the most face-to-face contact with voters with disabilities. They are in the best position to create a positive, inclusive voter experience.

Please –

- *look out for and, where possible, **remove obstacles** in the polling place;*
- *when needed, assist with door-opening;*
- *when requested, provide other means of helping;*
- *remember the **legal rights** of persons with disabilities **to ask for assistance** with ballot-marking—Ask your chief officer of election or general registrar for a recap if you aren't sure;*
- *keep an eye out for people requesting to **vote curbside** (an option offered for voters aged 65 or older and voters with disabilities) and*
- *be sensitive to the needs of voters with disabilities.*

Remember that people with disabilities want, expect, deserve, and are legally entitled to reasonable accommodations to give them equal access throughout the voting process. If the best alternative cannot be done, then try for the next best alternative.

- Treat people the **way you want** to be treated;
- Speak **directly to the person**, not to their companion;
- Change your position so you are **at eye level** with the person;
- **Introduce yourself** by name;
- Respect **personal space**; do not touch the person or the person's wheelchair, service animal, etc. without their prior consent or request;
- **Ask** the person **to repeat** what they said if necessary (including *writing it, or verbally repeating, or paraphrasing*);
- **Never** assume what a person is saying or what help they may need.
- *Do not assume* someone who is deaf or hard of hearing or who has an intellectual disability requires you to speak loudly or slowly;
- **Presume competence**;
- Let people be independent; **ask before** providing assistance; let the person control his/her movements;
- Do not ask questions focused on the person's condition and do not express sympathy or admiration or other feelings related to the person's disability;
- Treat adults as adults and with respect;
- Use "**people-first language**," which *puts the person before the disability* (e.g. Instead of "a disabled person," say "a person with a disability;" instead of "a table for a wheelchair is needed," say "a table for a person using a wheelchair is needed").
- Anyone can make mistakes. Offer an apology if you forget some courtesy. Keep a sense of humor and a willingness to communicate.



## 5.5 ENFORCEMENT

Adherence to the ADA is a requirement for all polling locations. Localities may face significant legal penalties for non-compliance. If questions arise regarding any limitations on a locality's ability to comply with federal and state accessibility laws, they should be directed to the locality's attorney and administrators.

### 5.5.1 Voting Accessibility for the Elderly and Handicapped (VAEHA)

Localities may be sued in a federal district court by either the United States Attorney General or any person who is personally aggrieved by the locality's noncompliance that prevented them from registering to vote or casting a ballot. Before any person may sue a locality under this law, the complainant must first notify the Commissioner of Elections of the non-compliant condition and allow 45 days to pass before continuing the lawsuit. This law can be used to force a locality to remove an inaccessible condition, but not to award attorney's fees unless the fees were accumulated forcing a locality to comply with an original court judgment.<sup>61</sup>

### 5.5.2 Americans with Disabilities Act (ADA)

Complaints of ADA Title II violations may be filed with the United States Department of Justice (DOJ) within 180 days of the date of the discrimination. In certain situations, cases may be referred to a mediation program sponsored by the DOJ. The DOJ may bring a lawsuit where it has investigated a matter and has been unable to resolve violations.<sup>62</sup>

Title II may also be enforced through private lawsuits in federal court. It is not necessary for a complainant to file a complaint with the DOJ or any other federal agency, or to receive a "right-to-sue" letter before going to court.

### 5.5.3 Help America Vote Act (HAVA)

The DOJ's Civil Rights Division enforces HAVA.<sup>63</sup> Congress did not authorize private enforcement (via litigation) of the requirements of HAVA. Instead, HAVA directs private complaints to be filed into state administrative processes and assigns judicial enforcement to the DOJ.<sup>64</sup> Virginia's plan under the Help America Vote Act of 2002, 52 USC §20901 et seq., states the policy of the board and performance goals for the board to document and measure.<sup>65</sup>

### 5.5.4 Virginians with Disabilities Act (VDA)

Pursuant to [§51.5-43](#), "No person with a disability who is otherwise entitled to vote under the provisions of [§ 24.2-400](#) and who is not disqualified from voting under the provisions of [§ 24.2-101](#) shall be denied the opportunity to register or vote in this Commonwealth because of such disability." Any person with a disability whose rights, guaranteed under the VDA, have been violated can bring a claim in state circuit court. The court can order the defendant (locality) to make changes to its practice or procedures, pay for the plaintiff's legal fees, and award compensatory damages not including payments for pain and suffering.

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<sup>61</sup> See [52 U.S.C. §20105](#).

<sup>62</sup> See [2 U.S.C. §1331](#).

<sup>63</sup> See [52 U.S.C. §21111](#).

<sup>64</sup> See [52 U.S.C. §21112](#).

<sup>65</sup> See Virginia Admin. Code [IVAC20-20-40](#).



Localities are liable for violating the VDA for up to one year from the violation of a person's rights if the person started the action or filed a complaint by registered mail within 180 days of the alleged violation.<sup>66</sup>

### 5.5.5 Code of Virginia

Virginia's adequate facilities provision has no separate enforcement mechanism; like other election law requirements for local governments, ELECT and local electoral boards play an important role in educating local governments. DOJ has brought enforcement actions against localities failing to meet federal law mandates.

## 5.6 RESOURCES

Registrars and electoral board members are not expected to be experts on building structural issues, machine technology for those with disabilities, or other assistive technologies. There are, however, several places and agencies that can provide information and assistance with these issues to help ensure the locality's compliance. The following are some of the resources available in Virginia.

### 5.6.1 Federal Agencies

#### Election Assistance Commission (EAC)

The EAC publishes a helpful guide addressing polling place accessibility, election officer training, and website accessibility. EAC has voter guides published in different languages, including Spanish, Chinese, Japanese, Korean, Tagalog, and Vietnamese.<sup>67</sup> The EAC website also provides other detailed reference materials on voting accessibility.<sup>68</sup>

The EAC provides quick start guides and an innovative video training series for local elections officials and poll workers; we strongly recommend that you check them out [here](#).

#### Department of Justice (DOJ) and ADA.gov



The DOJ provides compliance guidelines in addition to a detailed [ADA Checklist for polling place accessibility](#) with design standards, technical assistance materials, and information about enforcement actions.<sup>69</sup> ADA.gov also provides information to help make voting accessible and resolve common accessibility barriers.

The DOJ provides information about the Americans with Disabilities Act (ADA) through a toll-free ADA Information Line, 1-800-514-0301. This service permits businesses, state and local governments, or others to call and ask questions about general or specific ADA requirements including questions about the ADA Standards for Accessible Design.<sup>70</sup>

<sup>66</sup> See §51.5-46.

<sup>67</sup> Forms in alternate languages can be downloaded from the [EAC website](#).

<sup>68</sup> For more information on accessibility, please see the [EAC guide](#), and the [EAC voting accessibility website](#).

<sup>69</sup> See [52 U.S.C. §10303\(f\)](#), and [28 CFR 55](#). See also, [DOJ webpage on the ADA and voting](#).

<sup>70</sup> See [ADA Information Line webpage](#).



### United States Access Board

The Access Board is an independent federal agency that promotes equality for people with disabilities through leadership in accessible design and the development of accessibility guidelines and standards.<sup>71</sup> Created in 1973 to ensure access to federally funded facilities, the Access Board is now a leading source of information on accessible design. The Access Board develops and maintains design criteria for the built environment, transit vehicles, information and communication technology, and medical diagnostic equipment under the Americans with Disabilities Act of 1990 (ADA) and other laws. The ADA Accessibility Standards can be found on their website.<sup>72</sup> The Access Board may be contacted at [info@access-board.gov](mailto:info@access-board.gov) or 202-272-0080.

#### 5.6.2 ADA Coordinators

The ADA requires governments to appoint an ADA coordinator if they have more than 50 employees. **If your locality meets this threshold, your local ADA Coordinator should prove to be an excellent resource.** This individual is most likely in the personnel or building inspections department of the local government. The local ADA coordinator may not be an expert on the technical aspects of ensuring accessibility, but he or she should be able to help with interpreting the law and with surveying potential or existing polling places to evaluate their accessibility. ELECT's ADA coordinator may be contacted by emailing [adavoter@elections.virginia.gov](mailto:adavoter@elections.virginia.gov).

#### 5.6.3 Regional ADA Centers

The federally-supported ADA Center for the Mid-Atlantic Region provides training, information, and technical assistance on the Americans with Disabilities Act (ADA) for businesses, consumers, schools, and government agencies within the Mid-Atlantic Region. Government entities can call for guidance and information on what is required, who is covered, and how to work through a disability related question. Go their website for more information.<sup>73</sup>

#### 5.6.4 Centers for Independent Living

Virginia law also provides for government supported Centers for Independent Living, which are private, non-profit, community-based advocacy organizations staffed by persons with disabilities.<sup>74</sup> These agencies can provide advice and assistance with a wide variety of disability issues. There are many such centers across Virginia.<sup>75</sup>

#### 5.6.5 Virginia Department for the Deaf and Hard of Hearing

This department can provide information about sign language, interpreters, special hearing devices, and communications issues: Call 1-800-552-7917 or visit their website.<sup>76</sup>

#### 5.6.6 Virginia Department for the Blind and Vision-Impaired

This department can provide information about Braille accommodations, large print, recording on tapes, and other visual-assistive technologies: Call 1-800-622-2155 or visit their website.<sup>77</sup>

<sup>71</sup> See [US Access Board website](#).

<sup>72</sup> See U.S. Access Board, [Accessibility Standards](#).

<sup>73</sup> See [Mid-Atlantic ADA Center website](#) has more information on accessible information technology and training resources.

<sup>74</sup> See [§51.1-163](#).

<sup>75</sup> For more information on the Centers for Independent Living, please visit their [website](#).

<sup>76</sup> Visit the Department for the [Deaf and Hard of Hearing website](#) for more information.

<sup>77</sup> See [Virginia Department for the Blind and Vision Impaired website](#) for more information.



### 5.6.7 Virginia Assistive Technology System (VATS)

VATS is a program of the Virginia Department of Rehabilitative Services. It is a statewide project working to increase awareness and accessibility of assistive technology through programs, information, and technical assistance. Their mission is to ensure that Virginians of all ages and abilities can acquire the appropriate, affordable assistive and information technologies and services they need to participate in society as active citizens. Its website includes an equipment finder. Call 1-800-552-5019 or see the Virginia Assistive Technology System website.<sup>78</sup>

### 5.6.8 Job Accommodation Network

provides information on vendors and manufacturers of equipment and devices for people with disabilities: Call 1-800-526-7234 or visit their website.<sup>79</sup>

### 5.6.9 disAbility Law Center of Virginia

The disAbility Law Center of Virginia (dLCV) is the designated Protection and Advocacy organization of Virginia. They provide many resources to people with disabilities and advocate for the independence and rights of people with disabilities. Call (804) 225-2042 or (800) 552-3962. They can also be contacted via their “Get-Help” portal at [dLCV.org/get-help](http://dLCV.org/get-help).

## 5.6 FUNDING ACCESSIBILITY IMPROVEMENTS

Electoral boards and registrar offices (like all public bodies) operate with limited resources. Below are suggestions to help afford accessibility improvements when the local governing body may be reluctant or unable to provide funding:

- Local Disability Services Boards may suggest grant money that can be used to make such purchases. Contact the local board to find out how to apply for funding.
- The federal government offers tax incentives for businesses to make their facilities more accessible to people with disabilities.
- Check with any of the agencies listed in the Resources section above. Many of the agencies have funds for purchasing assistive technology or know of inexpensive sources for these items.
- Consider sharing the costs of such items with other government offices that can use them when they are not needed for elections.

<sup>78</sup> See [Virginia Assistive Technology System website](#).

<sup>79</sup> See [Job Accommodation Network website](#).

