



October 2017

VOTERS WITH DISABILITIES

Observations on Polling Place Accessibility and Related Federal Guidance

Accessible Version

This report was revised on December 4, 2017 to correct page 41, Figure 10, the label of the measure we used to determine whether or not the height of the voting machine or voting surface was consistent with the 2010 ADA Standards for Accessible design criteria.

The corrected label is “44 inches Maximum height to voting machine or voting surface.”

GAO Highlights

Highlights of [GAO-18-4](#), a report to congressional requesters

Why GAO Did This Study

Federal law generally requires all polling places for federal elections to be accessible to all voters, and each polling place to have a system for casting ballots that is accessible for people with disabilities. GAO's work during the 2000 and 2008 general elections showed mixed results on polling place accessibility. GAO was asked to examine voting access for people with disabilities during the 2016 general election.

This report examines in-person voting before and on Election Day 2016. GAO examined (1) the extent to which selected polling places had features that might impede voting access; (2) actions states took to facilitate voting access; and (3) guidance DOJ provided on the extent to which federal accessibility requirements apply to early in-person voting. GAO examined features at a nongeneralizable sample of 178 polling places, identified by selecting 21 counties in 12 states and the District of Columbia (DC). Counties were selected for variation in population size, geographic location, and type of election administration. GAO did not assess legal compliance with federal or state laws. GAO also surveyed state election officials in 50 states and DC (with 98 percent responding); reviewed federal laws and guidance; and interviewed local, state, and federal officials.

What GAO Recommends

GAO recommends that DOJ study the implementation of federal accessibility requirements in the context of early in-person voting and, as necessary, make changes to existing guidance. DOJ generally agreed with GAO's recommendation.

View [GAO-18-4](#). For more information, contact Barbara Bovbjerg at (202) 512-7215 or BovbjergB@gao.gov or Rebecca Gambler at (202) 512-8777 or GamblerR@gao.gov.

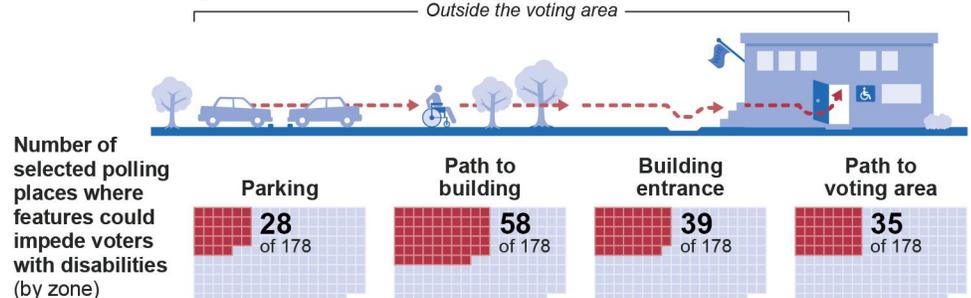
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What GAO Found

GAO examined a nongeneralizable sample of 178 polling places during early in-person voting and on Election Day 2016. At these polling places, GAO examined a number of features outside and inside the voting area. Outside the voting area, GAO was able to examine features at all 178 polling places and found that 60 percent (107) had one or more potential impediments. The most common were steep ramps located outside buildings, lack of signs indicating accessible paths, and poor parking or path surfaces (see figure).



Source: GAO analysis of polling place data collected during the 2016 general election. | GAO-18-4

Of the 178 polling places, GAO was able to fully examine voting stations inside the voting area at 137. Of these 137 polling places, 65 percent (89) had a voting station with an accessible voting system that could impede the casting of a private and independent vote. For example, some voting stations were not set up to accommodate people using wheelchairs, which might have required someone else to help them vote. GAO was not able to fully examine voting stations at 41 polling places due to voting area restrictions.

Most states that completed GAO's survey reported taking actions during the 2016 general election to facilitate voting access for voters with disabilities, including having accessibility requirements, providing election worker training, and conducting oversight. For example, 44 states reported having accessibility standards for polling places, and 48 states reported conducting at least one oversight activity, such as analyzing accessibility complaints.

The Department of Justice's (DOJ) guidance does not clearly specify the extent to which certain federal accessibility requirements are applicable to early in-person voting, an increasingly common form of voting at a designated location before Election Day. In this context, GAO found some variation in the extent to which accessible voting systems are provided for early in-person voting. GAO found one county without accessible voting systems at five of its early in-person voting locations. Also, officials from four states said that these systems are not required by their state laws for in-person voting before Election Day. Given that voting has evolved since federal accessibility requirements were enacted, studying the implementation of these requirements in the context of early in-person voting could position DOJ to determine the extent to which any changes to its guidance are necessary.

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Abbreviations

ADA	Americans with Disabilities Act of 1990
DOJ	Department of Justice
DRE	direct recording electronic
EAC	Election Assistance Commission
HAVA	Help America Vote Act of 2002
MCD	minor civil division
PAVA	Protection and Advocacy for Voting Access

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October 3, 2017

The Honorable Charles Schumer
Minority Leader
United States Senate

The Honorable Roy Blunt
Chairman
Subcommittee on the Departments of Labor, Health
and Human Services, Education, and Related Agencies
Committee on Appropriations
United States Senate

The Honorable Robert P. Casey
Ranking Member
Subcommittee on Children and Families
Committee on Health, Education, Labor, and Pensions
United States Senate

Voting is fundamental to America's representative democracy, and federal law generally requires that polling place locations and voting methods be accessible to all eligible voters for federal elections. In particular, the Americans with Disabilities Act of 1990 (ADA) includes requirements to ensure that people with disabilities have access to public services, programs, or activities, such as voting.¹ Although the ADA does not specifically address the accessibility of polling places, Title II of the ADA and its implementing regulation—which prohibit discrimination on the basis of disability—require public entities to select and use facilities for their services, programs, or activities that will not exclude people with disabilities and to provide appropriate auxiliary aids and services, where necessary, to provide people with disabilities an equal opportunity to participate in the service, program, or activity. Additionally, the Help America Vote Act of 2002 (HAVA) required that, by January 1, 2006, each polling place have at least one voting system that is accessible by people with disabilities in federal elections.² According to HAVA, an accessible

¹Pub. L. No. 101-336, 104 Stat. 327 (codified at 42 U.S.C. §§ 12101-12213).

²Pub. L. No. 107-252, 116 Stat. 1666 (codified at 52 U.S.C. §§ 20901-21145); see 52 U.S.C. § 21081(a)(3).

voting system must provide people with disabilities the same opportunity to vote privately and independently that is afforded to other voters.³

HAVA also established the Election Assistance Commission (EAC) to serve, among other purposes, as a clearinghouse and information resource for the election officials who administer federal elections.⁴ The Department of Justice's (DOJ) Civil Rights Division is responsible for enforcing federal voting laws.

We have previously reported on issues related to the accessibility of polling places for people with disabilities. Specifically, our work on voting accessibility during the 2000 and 2008 general elections showed that although improvements to polling place accessibility had been made between the two elections, work remained to ensure that voting was fully accessible to people with disabilities.⁵ Since our previous work that described the accessibility of polling places used on Election Day, early in-person voting—voting in person at a polling place or other voting location before Election Day without providing an excuse—has expanded across the country,⁶ and is now used in almost three quarters of states.⁷

³52 U.S.C. § 21081(a)(3)(A). This requirement can be satisfied through the use of at least one direct recording electronic (DRE) voting system or other voting system equipped for individuals with disabilities at each polling place. 52 U.S.C. § 21081(a)(3)(B). A direct recording electronic voting system allows voters to mark ballots electronically using a touch screen or push-button interface, and their ballot selections are stored in the machine's memory.

⁴See 52 U.S.C. §§ 20921-30.

⁵GAO, *Voters with Disabilities: Access to Polling Places and Alternative Voting Methods*, [GAO-02-107](#) (Washington, D.C.: Oct. 15, 2001); and *Voters with Disabilities: Additional Monitoring of Polling Places Could Further Improve Accessibility*, [GAO-09-941](#) (Washington, D.C.: Sept. 30, 2009).

⁶We use this definition of early in-person voting throughout the report. Specifically, to examine the accessibility of polling places during the 2016 general election, our definition also includes the completion of an absentee or mail ballot in-person at a polling place or other voting location. Absentee voting generally is a method of voting offered in some states that enables citizens to cast a vote by mail and may require voters to provide an excuse explaining why they cannot vote on Election Day; although some states have "no excuse" absentee voting in which any validly registered voter may request and cast an absentee ballot.

⁷National Conference of State Legislatures, Election Administration website, accessed July 6, 2017, <http://www.ncsl.org/research/elections-and-campaigns/absentee-and-early-voting.aspx>.

You asked us to examine voting access for people with disabilities at polling places used during early in-person voting and on Election Day (November 8) 2016. This report (1) examines the extent to which polling places in selected locations used during the 2016 general election had features that might impede access for voters with disabilities; (2) describes the actions states took to facilitate voting access during the 2016 general election; and (3) examines the guidance that DOJ has provided on the extent to which federal accessibility requirements apply, if at all, to early in-person voting.

To determine the extent to which selected polling places had features that might impede access for voters with disabilities, we examined a nongeneralizable sample of 178 polling places. These included 45 early in-person voting polling places in 11 counties in 6 states and the District of Columbia, and 133 Election Day polling places in 21 counties in 12 states and the District of Columbia. The counties we visited during early in-person voting were a subset of the counties visited on Election Day. However, we did not examine the same polling places on Election Day that we examined during early in-person voting. In each polling place, we made observations, took measurements, and interviewed chief polling place officials.

To identify polling places to examine, we first selected 21 counties from among the 84 randomly selected counties that were part of our study on the accessibility of polling places for voters with disabilities during the 2008 general election.⁸ We selected these 21 counties based on: (1) variation in county population size (ranging from about 80,000 to over 10 million people), with most counties being larger in population size; (2) variation in type of election administration (that is, we selected some counties in which the county administers elections, and we selected other counties in which elections are administered by other government entities, such as cities, townships, or other local government entities); and (3) variation in geographic location.

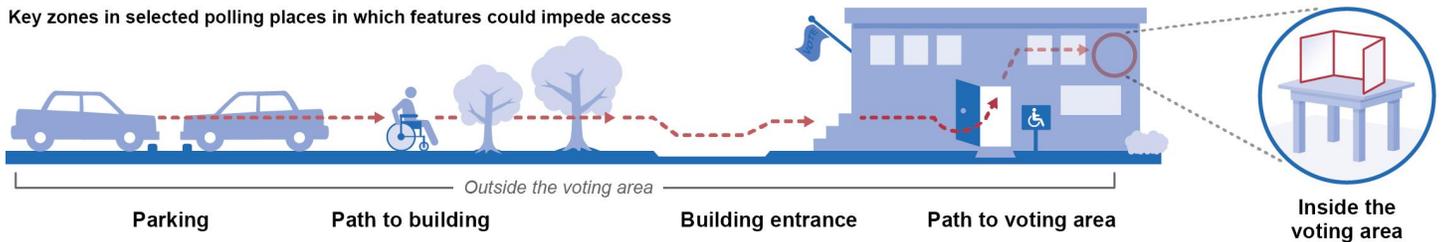
Within these counties, we selected up to seven polling places based on the relative proximity of polling places to one another and variation in types of facilities used as polling places, such as schools, houses of worship, or city halls. Because we selected a nongeneralizable sample of

⁸See [GAO-09-941](#). For a description of how we originally selected the 84 counties and the two-stage sampling method to select polling places, see appendix I.

polling places for the 2016 general election, our results cannot be used to make generalizations about polling places nationwide during the 2016 general election or to make comparisons with the results from our polling place accessibility assessments for the 2000 and 2008 general elections. However, our examination of the selected 178 polling places did provide important information about voter accessibility in a range of polling places in various types of local election jurisdictions across the country during the 2016 general election.

At our selected polling places, we examined features outside and inside the voting area that could have posed a potential impediment during early in-person voting or on Election Day voting.⁹ Figure 1 shows the zones within each area of the polling place where we made observations and took measurements. We examined specific features in each zone that might pose potential impediments for people with disabilities, many of which can primarily affect individuals with mobility impairments, such as voters using wheelchairs.

Figure 1: Areas and Zones in Selected Polling Places That We Examined



Source: GAO analysis of polling place data collected during the 2016 general election. | GAO-18-4

Outside the voting area of the polling place, we examined four zones: (1) parking, (2) the path from parking to the building entrance, (3) the entrance, and (4) the path from the entrance to the voting area. Inside the voting area, we assessed whether (1) an accessible voting system was provided, and (2) aspects of the voting station that could enable the casting of a private and independent vote by a person with a disability. To make these observations, we sent teams of two GAO staff to each selected county in our nongeneralizable sample during early in-person voting from October 26, 2016, through November 6, 2016, and separately

⁹Our use of the term “potential impediment” in this report is broader than our use of the term in our report on the 2008 general election. In our report on the 2008 general election, we used the term potential impediments in reference to features outside the voting area. In this report, the term refers to features both outside and inside the voting area.

on Election Day, November 8, 2016. Each team was equipped with a tape measure and a digital level,¹⁰ as well as a structured data collection instrument with which to document their observations and measurements. The teams used a data collection instrument similar to the one we used to document observations and measurements of features at polling places in the 2008 general election, as well as to document the responses of chief polling place officials to our interview questions. We revised the 2008 data collection instrument to reflect changes made in the *Americans with Disabilities Act: ADA Checklist for Polling Places 2016*—issued by DOJ—and in the *2010 ADA Standards for Accessible Design*.¹¹ Additionally, officials at DOJ, EAC, and disability advocates reviewed a draft version of our data collection instrument, and we incorporated their comments where appropriate. We also pretested the data collection instrument at polling places during one state’s congressional primary in September 2016.

For our observations and measurements both outside and inside the voting area, we did not differentiate the severity of potential impediments because accessibility is dependent on numerous factors, including the nature of an individual’s disability. In addition, we did not assess polling places for legal compliance with HAVA accessible voting system requirements or other federal or state laws, but as described more fully below, we examined features that might impede access to voting for people with disabilities.

We visited 178 polling places. However, in some instances our examiners were not able to complete all measurements inside the voting area because of voting area restrictions.

- Of the 178 polling places, we examined features outside the voting area at all 178.

¹⁰The digital levels were used to measure potential structural impediments in buildings and on walkways. We tested the reliability of the digital levels based on the consistency of readings from all digital levels, by reviewing the manufacturer’s specifications, and talking with a representative of the manufacturer. We determined that the levels were sufficiently reliable for our purposes.

¹¹Our updated data collection instrument, used to document observations and measurements, was based on the *Americans with Disabilities Act: ADA Checklist for Polling Places 2016* as well as the *ADA Standards for Accessible Design*, and was reviewed by officials at DOJ and EAC. In particular, the data collection instrument was updated to include the cross-slope measurement of ramps or curb cuts. See *2010 ADA Standards for Accessible Design* §§403.3, 405.3.

- Of the 178 polling places, we observed whether or not the polling place had an accessible voting system at 167 polling places, although we were not able to observe every measurable aspect of the voting station.¹² At the remaining 11 polling places, we were unable to observe if an accessible system was available. Further, for these polling places, we were able to determine potential impediments both outside and inside the voting area.
- Of the 178 polling places, we determined whether or not the polling place had a voting station inside the voting area that could facilitate or impede the casting of a private and independent vote at 137 polling places. At the remaining 41 polling places we were not able to observe if voting stations with accessible voting systems could impede private and independent voting.

To identify the actions states took to facilitate voting for people with disabilities during the 2016 general election, we administered a web-based survey to state election officials in all 50 states and the District of the Columbia from January 2017 to May 2017. We obtained a 98 percent response, as one state did not submit a survey response. We did not verify survey responses or other information provided by state officials, and some states did not respond to all survey questions. In general, we also did not analyze states' laws to determine their voting access requirements, but instead relied on the states' responses to our survey. However, in several cases, we conducted a limited review of state laws or other related information (such as type of early in-person voting provided) to understand the context of a state's survey response.

To address all three objectives, we reviewed relevant federal laws and regulations as well as other relevant documentation, including (1) DOJ's publicly available guidance on HAVA and ADA implementation, and (2) EAC's 2007 advisory guidance regarding the HAVA accessible voting system requirement.¹³ We also interviewed election administration

¹²We define "voting station" as the location within a polling place where voters may record their votes, including the area around and the actual voting booth or enclosure where voting takes place as well as the voting system. "Voting system" refers to the voting equipment that was used to cast a ballot, such as a DRE, a ballot-marking device, or another type of machine or technology.

¹³Department of Justice, Civil Rights Division, Disability Rights Section, *The Americans with Disabilities Act and Other Federal Laws Protecting the Rights of Voters with Disabilities*. (Washington, D.C.: Sept. 2014); *Americans with Disabilities Act: ADA Checklist for Polling Places 2016*; and Election Assistance Commission, *2007 Guidance on Accessible Voting System Requirements* (Washington, D.C.: Jan. 24, 2007).

experts; officials at EAC, DOJ, and national organizations that represent election officials; local and state election officials; and, disability advocacy organizations. We also compared DOJ's guidance against Standards for Internal Control in the Federal Government.¹⁴ Additional information about our objectives, scope, and methodology is provided in appendix I.

We conducted this performance audit from May 2016 to October 2017 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

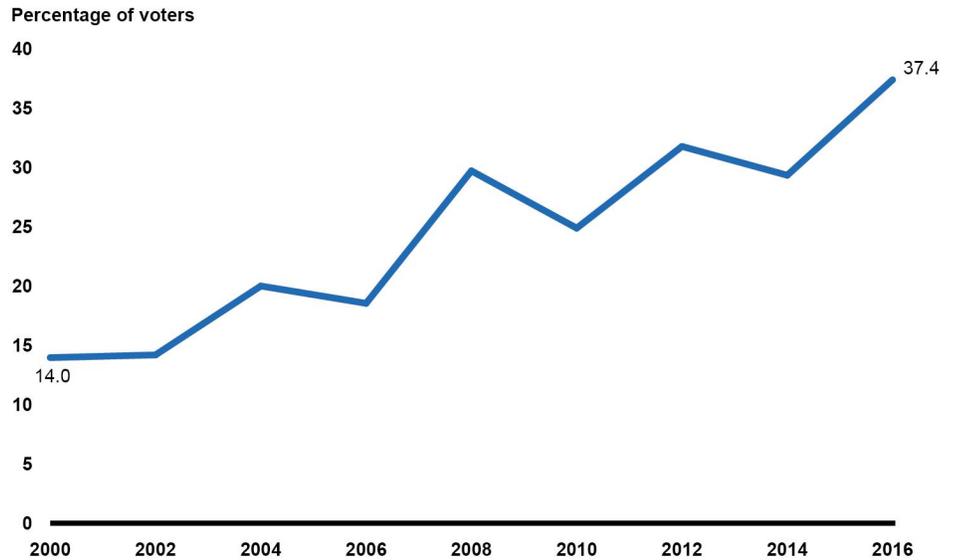
During the 2016 general election, approximately 137 million voters cast ballots in schools, libraries, churches, government buildings, recreation centers, senior centers, and other locations.¹⁵ According to the Census Bureau, over 51 million voters—about one of every three—cast their ballots before Election Day 2016, a number which has grown since 2000 (see fig. 2).¹⁶

¹⁴GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: September 2014). Internal control is a process effected by an entity's oversight body, management, and other personnel that provides reasonable assurance that the objectives of an entity will be achieved.

¹⁵U.S. Federal Election Commission, *Official 2016 Presidential General Election Results: November 8, 2016*; (Washington, D.C.: Jan. 30, 2017).

¹⁶Michael P. McDonald, *2016 November General Election Early Voting*, United States Elections Project (July 13, 2017), http://www.electproject.org/early_2016.

Figure 2: Trend in the Percentage of Voters Casting a Vote before Election Day



Source: U.S. Census Bureau, Current Population Survey. | GAO-18-4

Note: Estimates come from independent analyses of data that includes the U.S. Census Bureau's Current Population Survey. Discrepancies between these analyses and estimates from Census's Current Population Survey data alone could arise from a number of potential factors, including the timing of this analyses and the incorporation of multiple data sources with different collection methodologies.

Authority to regulate elections is shared by federal, state, and local officials in the United States. The responsibility for the administration of federal and state elections resides at the state level, and states regulate various aspects of elections, including, for example, absentee and early voting requirements and Election Day procedures. Within each state, primary responsibility for planning, managing, and conducting elections largely resides with local officials at the county level or in minor civil divisions like cities and towns. These localities implement both Election Day processes as well as any voting processes that occur before Election Day, such as absentee and early in-person voting.

Federal Laws Relating to Voting and Accessibility

While federal elections are generally conducted under state laws and policies, several federal laws apply to voting and some provisions specifically address accessibility issues for voters with disabilities. These federal laws collectively address two issues that are essential to ensuring that voters with disabilities have the same opportunity as voters without disabilities to access and cast their ballots at a polling place: (1) physical

access to the polling place, and (2) voting systems that enable people with disabilities to cast a private and independent vote. Table 1 shows selected federal laws addressing accessibility issues for voters with disabilities.

Table 1: Selected Federal Laws Related to Voting Accessibility for Voters with Disabilities

Selected Law	Highlights of Accessibility Requirements in Selected Laws
The Voting Rights Act of 1965 Pub. L. No. 89-110, 79 Stat. 437 (codified as amended at 52 U.S.C. §§ 10101-702).	<ul style="list-style-type: none"> • Authorizes voters who require assistance to vote (by reason of blindness, disability, or inability to read or write) to be assisted by a person of their choice, provided the assistant is not the voter’s employer or an agent of the voter’s employer or union.
Voting Accessibility for the Elderly and Handicapped Act (VAEHA) Pub. L. No. 98-435, 98 Stat. 1678 (codified as amended at 52 U.S.C. §§ 20101-07).	<ul style="list-style-type: none"> • Requires political subdivisions responsible for conducting elections to assure that all polling places for federal elections are accessible to elderly voters and voters with disabilities.^a • One such exception occurs when the chief election officer of the state determines that no accessible polling places are available (or temporarily available) and the officer ensures that elderly voters and those with disabilities who are assigned to inaccessible polling places be, upon advance request, either reassigned to an accessible polling place or provided another means for voting on Election Day. • Requires election administrators to provide registration and voting aids (such as instructions printed in large type) to the elderly and people with disabilities.
The Americans with Disabilities Act of 1990 Pub. L. No. 101-336, 104 Stat. 327 (codified as amended at 42 U.S.C. §§ 12101-213). See also 28 C.F.R. pt. 35.	<ul style="list-style-type: none"> • Title II and its implementing regulation require that people with disabilities have access to public services, programs, or activities, including the right to vote. • Does not specifically address the accessibility of polling places. Instead, public entities are required to select and use facilities for their services, programs, or activities that will not exclude people with disabilities.^b
Help America Vote Act of 2002 Pub. L. No. 107-252, 116 Stat. 1666 (codified at 52 U.S.C. §§ 20901-21145).	<ul style="list-style-type: none"> • Vests enforcement authority with the U.S. Attorney General to bring a civil action against any state or jurisdiction as may be necessary to carry out specified uniform and nondiscriminatory election technology and administration requirements under HAVA. • Outlines minimum standards for voting systems for federal elections, stating that the voting system must be accessible for people with disabilities, including the blind and visually impaired, in a manner that provides the same opportunity for access and participation as for other voters. • This requirement may be satisfied through the use of at least one direct recording electronic device or other voting system equipped for people with disabilities at each polling place.

Source: GAO analysis of federal laws. | GAO-18-4

^aUnder the VAEHA, the definition of “accessible” is determined under guidelines established by the state’s chief election officer, but the law does not specify standards or minimum requirements for those guidelines. 52 U.S.C. § 20107(1).

^bHowever, public entities are not required to take any action that they can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity or in undue financial and administrative burdens. 28 C.F.R. § 35.164.

In 2010, DOJ promulgated revised regulations for Title II and Title III of the ADA, which included the adoption of the *2004 ADA Standards for*

Accessible Design updated accessibility standards as part of the *2010 ADA Standards for Accessible Design* (2010 Standards).¹⁷ The 2010 Standards—which became effective in March 2012—revised the minimum accessibility requirements, such as specifications for sloped surfaces, new construction or construction modifications to state and local government facilities, public accommodations, and commercial buildings, that had been established in the *1991 ADA Standards for Accessible Design*.

DOJ's and EAC's Roles in Federal Elections

DOJ helps ensure state and local compliance with federal laws and regulations designed to provide voters with disabilities physical access to polling places and voting systems through a number of actions. For example:

- DOJ's Civil Rights Division is responsible for enforcing Title II of the ADA (which prohibits discrimination on the basis of disability in public services), and Section 301 of HAVA (which requires each polling place in a federal election to have a voting system that is accessible to individuals with disabilities).
- DOJ separately investigates allegations of program access violations, including within polling places, under its Title II enforcement authority.¹⁸
- DOJ also provides educational outreach and technical assistance to states and localities. Specifically, based on the *2010 Standards for Accessible Design*, in 2016 DOJ updated technical guidance for polling place accessibility, known as the *DOJ ADA Checklist for Polling Places (ADA Checklist)*. The *ADA Checklist* mainly focuses on ADA accessibility requirements for polling places and offers guidance for temporary measures that can be used to facilitate access for people with disabilities. The *ADA Checklist* is also used by DOJ officials and state and local election administrators to evaluate the accessibility of current and potential polling places.

¹⁷See 75 Fed. Reg. 56,164 (Sept. 15, 2010) and 75 Fed. Reg. 56,236 (Sept. 15, 2010).

¹⁸Under "Project Civic Access," for example, DOJ has reached agreements with a number of cities and towns to open up civic life, including voting, to people with disabilities. Some agreements require altering polling places and providing curbside or absentee balloting.

The EAC—an independent federal commission established by HAVA—has wide-ranging duties that help improve state and local administration of federal elections. Among other things, the EAC is responsible for (1) periodically conducting and making publicly available studies regarding methods of ensuring accessibility of voting, polling places, and voting equipment; (2) serving as a national clearinghouse of and resource for federal election-related information; (3) providing for the certification of voting systems; and (4) providing voluntary guidance to states implementing certain HAVA provisions. EAC does not have legal authority to enforce implementation of the ADA or HAVA.

State and Local Election Jurisdictions and Methods of Voting

The responsibility for the administration of federal elections resides at the state level, and states regulate various aspects of elections including, for example, registration procedures, absentee and early voting requirements, and Election Day procedures. States also establish policies for how voters can cast their ballots—including opportunities to vote in person on Election Day, in person before Election Day (e.g., early in-person voting), by mail under certain circumstances (absentee voting), by mail under any circumstances (no-excuse absentee or all vote-by-mail)—and states can choose to implement a combination of such policies.¹⁹

Within states, implementing federal and state election policies is largely a local responsibility, residing with about 10,500 local election jurisdictions nationwide. Local election officials make a number of planning and management decisions that determine the day-to-day operations of polling places. For example, they can designate any of the variety of locations mentioned earlier as a polling place. Local election officials also recruit and train poll workers.

Some states have implemented voting methods aimed at increasing voter convenience by offering citizens an alternative to voting on Election Day, which may benefit people with disabilities. These methods include in-person voting before Election Day—also referred to as early in-person voting—which has been gaining popularity in federal elections in recent

¹⁹For more information about state laws regarding registration and voting on or before Election Day, see GAO, *Elections: State Laws Addressing Voter Registration and Voting on or before Election Day*, [GAO-13-90R](#) (Washington, D.C.: Oct. 4, 2012).

years.²⁰ In general, this form of voting affords an eligible voter the opportunity to cast a ballot in person prior to Election Day. The provision and implementation of voting before Election Day is governed by state law and varies from state to state; consequently, there is no national definition of early voting.

Methods for in-person voting before Election Day and the extent to which they are used vary across states and localities. Some states or jurisdictions allow voters who have obtained an absentee ballot to cast their vote in-person at a designated location prior to Election Day in a process known as in-person absentee voting. Others allow voters to cast their ballots in the same manner as they would on Election Day during early voting. While both of these forms of in-person voting before Election Day might offer similar experiences for voters, the state laws governing them—such as in the dates, times, and locations that these options are offered—can vary widely as can local procedures for handling these pre-Election Day ballots. For example, ballots cast before Election Day at a clerk’s office might be counted at a central location on Election Day versus being counted at the precinct. Local election administrators may also exercise discretion in determining the number and location of early voting sites as well as their hours of operation.

Accessible Voting Systems for People with Disabilities

Providing an accessible voting system encompasses both the voting method and the operation of the system. In terms of the voting method, HAVA requires the use of a direct recording electronic (DRE) voting system or other voting system equipped for individuals with disabilities to facilitate voting for people with disabilities. These accessible voting systems are primarily electronic machines or devices equipped with features to assist voters with disabilities.

- DRE devices capture votes electronically. These devices come in both push button or touch screen models, and mark ballots when a voter presses a button or touches a screen that highlights the selected ballot option (such as a candidate’s name). Voters can change their

²⁰We have previously reported that for the 2010 general election, 33 states and the District of Columbia required or allowed for early in-person voting, which increased from 24 states and the District of Columbia during the 2004 general election. See GAO, *Elections: Views on Implementing Federal Elections on a Weekend*, [GAO-12-69](#) (Washington, D.C.: Jan. 12, 2012).

selections until they touch the final vote location that indicates a completion of all choices, and their vote is officially cast. These devices can be equipped with features such as an audio ballot and audio voting instructions for the blind.

- Ballot marking devices use electronic technology to mark an optical scan ballot at voter direction, interpret ballot selections, communicate the interpretation for voter verification, and print a voter-verified ballot. Voters use a device's accessible interface to record their choices on a paper or digital ballot. These devices can accommodate voters who prefer to vote in an alternate language or require use of a foot-pedal or a sip-and-puff device.²¹

In terms of the operation of the system, HAVA specifies that the accessible voting system must provide the same opportunity for access and participation, including privacy and independence, as provided to other voters.²²

Most Selected Polling Places We Examined Had One or More Features Outside or Inside the Voting Area That Could Impede Access for Voters with Disabilities

We visited 178 selected polling places during either early in-person voting or on Election Day 2016. At these polling places, we examined a number of features both outside and inside the voting area. Of the 178 polling places, we were able to examine features across both areas at 167.²³ A

²¹A sip-and-puff device is a straw-like accessory that allows a voter to make selections by either blowing or sucking into the device.

²²52 U.S.C. § 21081(a)(3)(A).

²³Throughout this report, we characterize the number of selected polling places with potential impediments with modifiers defined as follows: "almost all" represents 90 percent or more of selected polling places; "most" represents 60 percent or more of selected polling places; "the majority" represents 51 percent or more of selected polling places; "many" represents 40 percent or more of selected polling places; and a "minority" represents 20 percent or fewer of selected polling places.

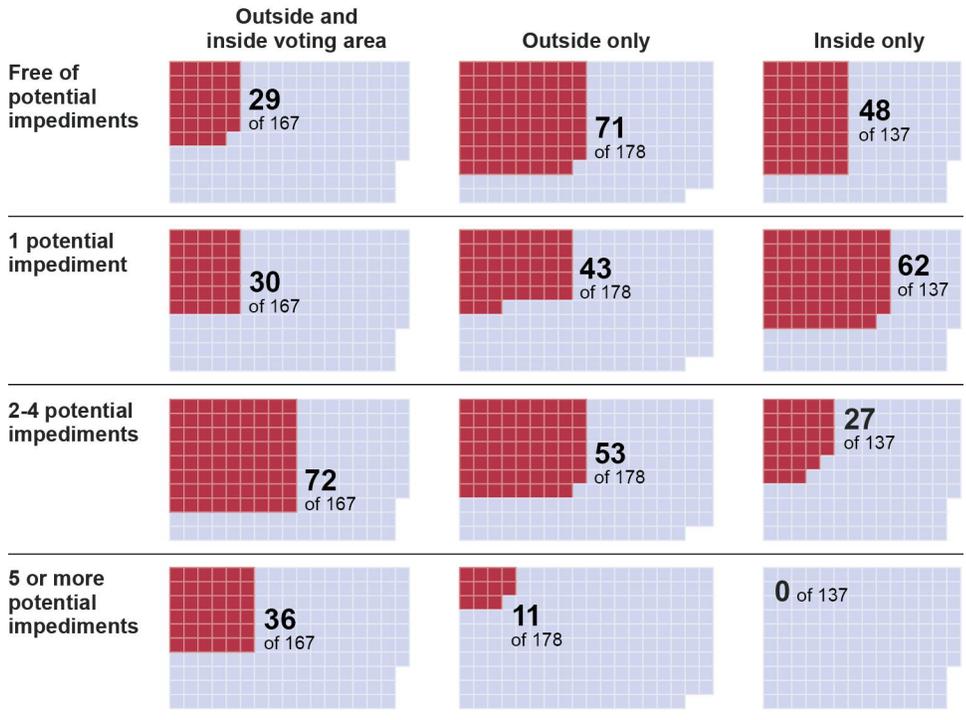
minority of these 167 polling places were free of potential impediments.²⁴ Outside the voting area only—where we were able to measure features at all 178 polling places—most had one or more potential impediments anywhere from (1) parking, (2) the path to the building entrance, (3) the entrance, or (4) the path from the entrance to the voting area. Inside the voting area only—where we were able to observe whether or not the polling place had an accessible voting system at 167 of the 178 polling places—almost all had accessible voting systems. Further, of the 178 polling places, we were able to determine whether or not the polling place had a voting station inside the voting area that could facilitate or impede the casting of a private and independent vote at 137 polling places. Of these 137 polling places, most were set up in a way that could impede casting a private and independent vote.

A Minority of Polling Places We Examined Were Free of Any Potential Impediments

Of the 167 polling places where we could examine features outside and inside the voting area, 17 percent of polling places (29 of 167) were free of any potential impediments across both areas during early in-person voting or on Election Day 2016. That is, 83 percent (138 of 167) of polling places had one or more potential impediments. Figure 3 provides additional details about the number and location of these potential impediments.

²⁴For the purposes of this study, we treated all of the potential impediments with equal significance, although we recognize that, in practice, the effect of any one impediment may depend on the nature of an individual's disability. For example, the width of a door would not necessarily affect an individual who is blind and without mobility impairments, but it could prevent a person using a wheelchair from entering a polling place.

Figure 3: Total Number of Potential Impediments at Selected Polling Places during the 2016 General Election, Outside or Inside the Voting Area



Source: GAO analysis of polling place data collected during the 2016 general election. | GAO-18-4

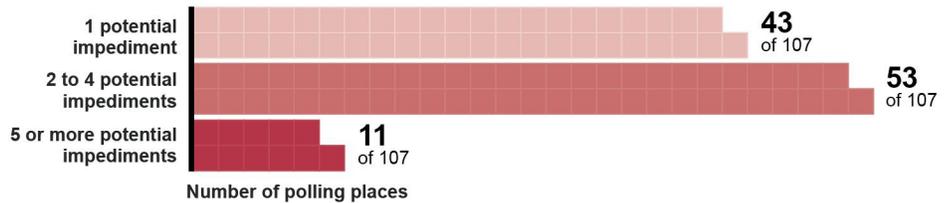
Note: We made observations and measurements outside of the voting area at all 178 selected polling places, which include early in-person and Election Day polling places. However, we observed and measured inside the voting area at 167 polling places, and were able to make full observations and measurements of both areas (including at the voting station) at 137 polling places with accessible voting systems. Also, for inside the voting area, none of the 89 polling places with potential impediments had voting stations with accessible voting systems with more than 3 potential impediments to casting a private and independent vote.

Most Polling Places We Examined Had One or More Potential Impediments Outside the Voting Area

Most polling places (107 of 178, or 60 percent) we examined during early in-person voting and on Election Day had one or more potential impediments from parking to the voting area. Of these 107 polling places, 43 had one potential impediment, 53 had two to four potential impediments, and 11 had five or more potential impediments (see fig. 4). Examples of potential impediments included poor or unpaved parking surfaces and doors that would be difficult for a person using a wheelchair

to open. Forty percent of all polling places we examined (71 of 178) had no potential impediments outside of the voting area.

Figure 4: Number of Selected Polling Places That Had One or More Potential Impediments Outside the Voting Area



Source: GAO analysis of polling place data collected during the 2016 general election. | GAO-18-4

Note: 71 of the 178 polling places we examined had no potential impediments.

At a majority of the polling places with one or more potential impediments outside the voting area, polling place officials we interviewed said that they offered curbside voting to assist voters who may have had difficulty getting to or making their way through a polling place.²⁵ Specifically, of the 107 polling places that had one or more potential impediments, 63 offered curbside voting, while the remaining 44 did not.

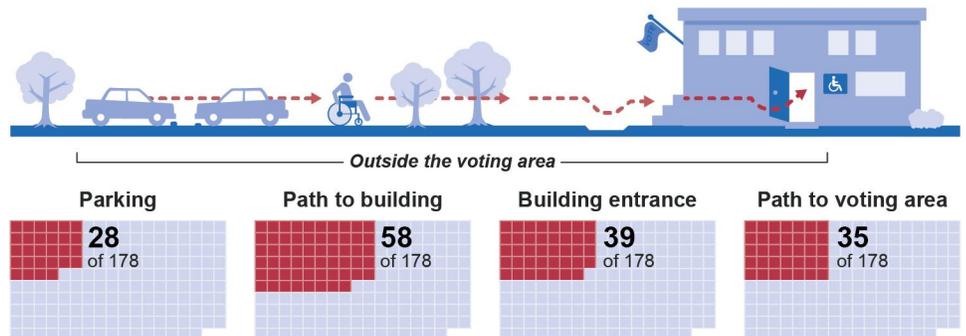
Outside the voting area, we found differences between the polling places we examined during early in-person voting and those we examined on Election Day 2016. Specifically, we found that outside the voting area 64 percent (29 of 45) of the early in-person polling places had one or more potential impediments compared with 59 percent (78 of 133) of the Election Day polling places. In addition, 38 percent (11 of 29) of the polling places used for early in-person voting with one or more potential impediments offered curbside voting while 67 percent (52 of 78) of the

²⁵According to DOJ guidance, curbside voting cannot replace in-person voting except in rare circumstances. Specifically, “in some circumstances, when a public entity is unable to identify or create an accessible polling place...election administrators may instead use an alternative method of voting at the polling place. While absentee balloting can be offered to voters with disabilities, it cannot take the place of in-person voting for those who prefer to vote at the polls on Election Day. Any alternative method of voting must offer voters with disabilities an equally effective opportunity to cast their votes in person. For example, the only suitable polling site in a precinct might be an inaccessible building. In this rare circumstance, election administrators may provide “curbside voting” to allow persons with disabilities to vote outside the polling place or in their cars.” See Department of Justice, Civil Rights Division, Disability Rights Section, *The Americans with Disabilities Act and Other Federal Laws Protecting the Rights of Voters with Disabilities* (Washington, D.C.: September 2014).

Election Day polling places with one or more potential impediments offered it.²⁶

Of the four zones we examined outside the voting area at all 178 polling places, the path from parking to the building entrance was the zone that most commonly had one or more potential impediments, followed by the building entrance (see fig. 5). Specifically, 33 percent (58 of 178) of all polling places we examined had at least one potential impediment on the path to the building, such as an unsafe or poor ramp surface. (See figure 6 for an example of a ramp we observed that was constructed from a folding table and a block of wood.) None of the selected polling places had a potential impediment in all four zones.

Figure 5: Zones Outside the Voting Area with One or More Potential Impediments That Could Impede Access for Voters with Disabilities



Source: GAO analysis of polling place data collected during the 2016 general election. | GAO-18-4

²⁶Furthermore, 42 percent (19 of 45) of all polling places used for early in-person voting that we examined offered curbside voting compared with 62 percent (83 of 133) of the Election Day polling places.

Figure 6: Example of a Polling Place with a Make-shift Ramp Constructed from a Folding Table and a Block of Wood That Could Pose an Impediment for Voters with Disabilities



Source: GAO. | GAO-18-4

In addition, we observed that a higher percentage of polling places we examined during early in-person voting than on Election Day had one or more potential impediments across three of the four zones outside the voting area: (1) the path to the building entrance (17 of 45 polling places during early in-person versus 41 of 133 polling places on Election Day); (2) the building entrance (13 of 45 versus 26 of 133); and (3) the path from the building entrance to the voting area (14 of 45 versus 21 of 133).

Across the polling places we examined during the 2016 general election, the most common potential impediments outside the voting area were steep ramps or curb cuts located outside the building; entrance door thresholds exceeding ½ inch in height; poor parking, pathway, or ramp surfaces; and, a lack of signs clearly indicating accessible paths from parking to the voting area. See appendix II for a full listing of each potential impediment we observed at polling places used for early in-person voting and separately on Election Day 2016.

Almost All Polling Places We Examined Had Accessible Voting Systems, but Most Had Voting Stations with Aspects That Could Impede Private and Independent Voting

Of the polling places in which we made observations and measurements inside the voting area, almost all (158 of 167, or 95 percent) had at least one accessible voting system. The most common brands of accessible voting systems used at these polling places were ballot marking devices. Ballot marking devices are accessible voting systems that use electronic technology to mark an optical scan ballot. However, 5 percent (9 of the 167 polling places) did not have any accessible voting systems. Of these 9 polling places without an accessible voting system, 6 were located at polling places used for early in-person voting. Further, 5 of these 6 polling places without an accessible voting system were located in one local jurisdiction.

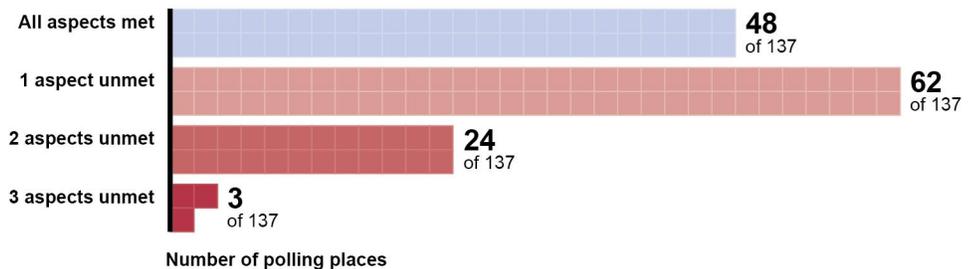
Of the selected polling places in which we were able to make full observations of the voting station, most (89 of 137, or 65 percent) had at least one station with an accessible voting system that could impede casting a private and independent vote.²⁷ To determine if voting stations with accessible voting systems could impede private and independent voting, we assessed four aspects of the voting station: (1) whether the voting system was set up and powered on; (2) whether earphones were available for audio functions; (3) whether the voting station was set up to accommodate people using wheelchairs; and (4) whether the accessible

²⁷We define “voting station” as the location within a polling place where voters may record their votes, including the area around and the actual voting booth or enclosure where voting takes place as well as the voting system. For the purposes of this report, we define “voting system” to be the voting equipment that is used to cast a ballot, such as a DRE, a ballot-marking device, or another type of machine or technology.

voting station provided the same level of privacy for casting a ballot as the level of privacy for voters using a standard voting station.²⁸

Of the 137 polling places in which we were able to measure aspects of private and independent voting in full, 62 polling places did not have a station that met one of these four aspects, 24 did not have one that met two aspects, and 3 did not have one that met three aspects. The remaining 48 polling places we examined—among the 137 which we were able to measure in full—had a voting station with an accessible voting system that met all aspects (see fig. 7).

Figure 7: Number of Selected Polling Places with a Voting Station with an Accessible Voting System That Could Impede Casting a Private and Independent Vote



Source: GAO analysis of polling place data collected during the 2016 general election. | GAO-18-4

Note: To determine if voting stations with accessible system could impede private and independent voting, we assessed four aspects of the voting station: (1) whether the voting system was set up and powered on; (2) whether earphones were available for audio functions; (3) whether the voting station was set up to accommodate people using wheelchairs; and (4) whether the accessible voting station provided the same level of privacy for casting a ballot as the level of privacy for voters using a standard voting station. None of the 89 polling places observed had all four aspects unmet.

As shown in table 2, the aspect of the voting station that most commonly posed a potential impediment to casting a private and independent vote was a setup that would not accommodate wheelchairs. A voting station not set up to accommodate people using wheelchairs might require someone else to help a person with a disability vote, which might not

²⁸If a polling place had more than one station with an accessible voting system, we measured the voting station that seemed to be best configured for voting in a chair or wheelchair. If any aspect was not met, we assessed any other stations with an accessible voting system to determine if one station met all four aspects for facilitating private and independent voting. If we found that all voting stations with an accessible voting system could impede casting a private and independent vote, we reported that the polling place did not have a voting station with an accessible voting system that met one or more of the four aspects we assessed.

provide the same level of privacy for a voter with a disability as offered to other voters.

Table 2: Number of Polling Places with Voting Station Features That Could Impede Casting a Private and Independent Vote on an Accessible Voting System

Accessible voting station features that could potentially impede casting a private and independent vote	Number of polling places with potential impediment	Percentage of polling places with potential impediment^a
Voting system is not set up or powered on	9	7%
Earphones are not attached or prominently visible	13	9%
Voting station is not set up to accommodate voters using a wheelchair	58	42%
Voting station does not provide the same level of privacy for voters with disabilities that is afforded other voters	39	28%

Source: GAO analysis of polling place data collected during the 2016 general election. | GAO-18-4

^aPercentages are based on the 137 polling places with accessible voting stations that GAO was able to fully observe and measure. To determine if voting stations with accessible systems could impede private and independent voting, we assessed four aspects of the voting station: (1) whether the voting system was set up and powered on, (2) whether earphones were available for audio functions, (3) whether the voting station was set up to accommodate people using wheelchairs, and (4) whether the accessible voting station provided the same level of privacy for casting a ballot as the level of privacy for voters using a standard voting station.

A higher percentage of the polling places we observed on Election Day had a voting station with an accessible voting system that could impede casting a private and independent vote compared with the early in-person voting polling places we examined. Specifically, 67 percent (73 of 109) of the Election Day polling places versus 57 percent (16 of 28) of the early in-person polling places had a voting station with an accessible voting system that could impede casting a private and independent vote.

Almost all of the chief polling place officials said that they would allow a friend or relative of a voter with a disability to assist with voting, and most said that they themselves would provide various types of assistance to help people with disabilities who encountered difficulties while using an accessible voting system (see table 3). In addition, officials in 75 percent (126 of 167) of the polling places said that their training provided them with hands-on practice on how to operate the accessible voting system.²⁹ However, officials in 8 percent (14 of 167) of the polling places we examined said that they did not receive any training on accessible voting systems.

²⁹Not all polling place officials answered every question in our data collection instrument. Each percentage is based on the number of polling places where officials answered the question and not on 178.

Table 3: Type of Assistance That Polling Place Officials Reported They Would Provide to Help People with Disabilities Operate the Accessible Voting System

Type of assistance polling place officials would provide	Number of polling places where officials would provide assistance	Percentage of polling places where officials would provide assistance ^a
Explain how to operate the accessible voting system	157	96%
If asked, talk the person through operations while they are voting	151	92%
Demonstrate how to operate the accessible voting system	126	80%
Operate the machine for the person if having difficulties voting	121	75%
Let the person practice on the machine before voting	53	33%

Source: GAO analysis of polling place data collected during the 2016 general election. | GAO-18-4

^aNot all polling place officials answered every question in our data collection instrument. Each percentage is based on the number of polling places where officials answered the question and not on 178.

Most States Reported Having Accessibility Requirements and Conducting Oversight among Other Actions during the 2016 General Election

States that completed our survey reported taking a range of actions to support access for voters with disabilities during the 2016 general election.³⁰ These reported actions included having accessibility requirements, providing election worker training and voter education and outreach, as well as conducting oversight. These results are similar to what states reported in prior GAO work during the 2008 general election.³¹ Also, these reported actions included efforts to facilitate private and independent voting for people with disabilities. For the 39 states that reported requiring or allowing early in-person voting, most states reported

³⁰We surveyed 50 states and the District of Columbia and received a 98 percent response (one state did not complete the survey). In this report, we are using the term “states” in reference to the states and the District of Columbia.

³¹Our 2016 survey allows for comparisons with past results on state accessibility requirements that were published in our 2009 report. See [GAO-09-941](#). However, we updated and added new questions to the survey about other actions, such as conducting oversight, that are not comparable with our past work. For more information, see appendix I.

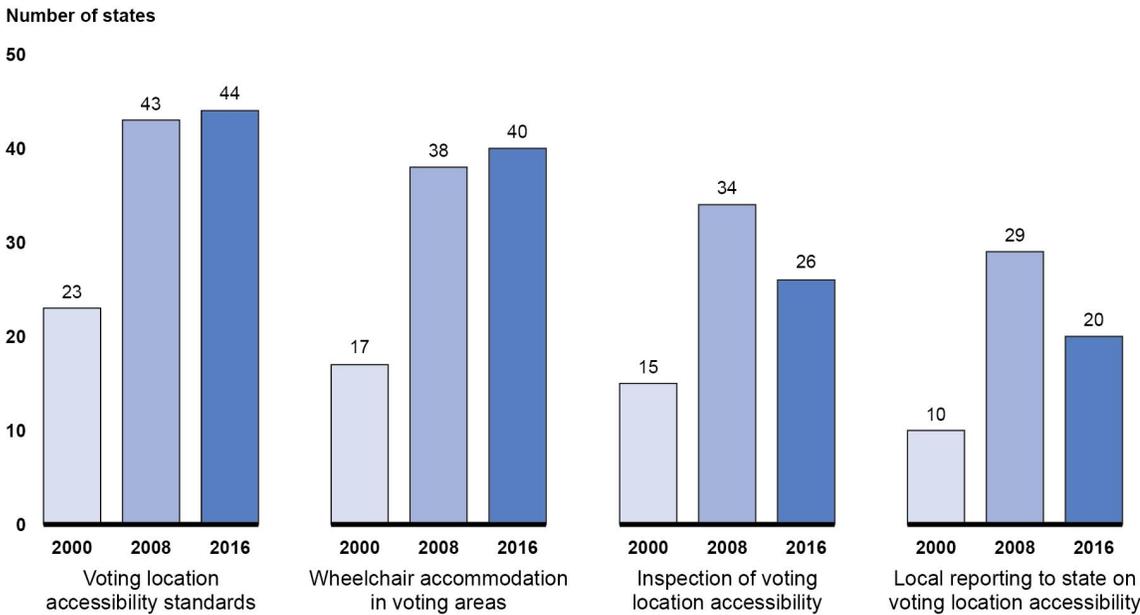
taking similar actions during early in-person voting as on Election Day 2016. Moreover, states reported that the challenges they faced to ensuring accessibility for Election Day were similar to the ones faced for early in-person voting, with a few exceptions.

State accessibility requirements. In 2016, most states that completed our survey reported having accessibility requirements in place under their state law, regulation, executive order, or executive directive. Specifically, the number of states reporting requirements specifying polling place accessibility standards grew slightly from 43 states in 2008 to 44 states in 2016.³² One state reported, for example, that when new polling places are identified, local election officials are required to file a polling place accessibility self-assessment, which the state reviews for approval. In addition, officials from 40 states reported that they required accommodations for wheelchairs in the voting area on Election Day, which increased from 38 states for the 2008 general election. In addition, while most states reported they had state requirements in place to help ensure accessibility, fewer states reported requiring polling places to be inspected in 2016 (26 states) than in 2008 (34 states). Similarly, fewer states reported requiring local jurisdictions to submit inspection reports to the state to help ensure accessibility of polling places for Election Day 2016 (20 states) than in 2008 (29 in 2008).³³ Figure 8 shows the number of states that reported having accessibility and inspection requirements in place for polling places for the 2000, 2008, and 2016 general elections.

³²See [GAO-09-941](#).

³³While the number of states that reported having requirements for inspections and reporting mechanisms decreased between 2008 and 2016, the number of states that reported allowing their localities to have requirements for performing inspections of and provide reporting on polling place accessibility increased slightly between 2008 and 2016. Specifically, 16 states reported in 2016 that they allowed local jurisdictions to establish their own requirements for reporting accessibility issues, whereas 12 states reported this in 2008.

Figure 8: State-Reported Requirements Regarding the Accessibility of Polling Places, as of Election Days in 2000, 2008, and 2016



Source: GAO analysis of states' survey responses on Election Day in 2000, 2008, and 2016. | GAO-18-4

Note: Data for 2016 include 49 states and the District of Columbia while data from 2000 and 2008 includes all states and the District of Columbia; and, for the 2000, 2008, and 2016 surveys, not all states may have answered every survey question.

Education, outreach, and oversight. Most states reported providing education and training to local election officials and poll workers as well as conducting outreach to people with disabilities for Election Day 2016. For example, 43 states reported that they provided guidance to local election officials on voting accessibility for people with disabilities, and officials from 32 states reported that they provided training to local election officials on how to operate an electronic recording system or other accessible voting system. For example, one state reported that it produced a training video for county election officers. In addition to educating and training local election officials and poll workers, most states reported conducting outreach to people with disabilities. Specifically, officials from 38 states reported that they provided voter education to people with disabilities on voting access methods, and officials from 40 states reported that they provided election information at polling places, such as sample ballots or voter instructions. For example, one state reported that they contracted with a Protection and Advocacy for Voting Access group who developed several ads that emphasized voter accessibility at the polls for people with disabilities.

In addition to education and outreach, 48 states reported conducting at least one oversight activity to ensure local compliance with state and federal accessibility requirements for voting on Election Day. For example, 39 states reported compiling and analyzing complaints of polling place accessibility issues occurring on Election Day; 34 states reported that they investigated or adjudicated local complaints on polling place accessibility and accommodations on Election Day; and 35 states reported that they evaluated and verified compliance with state requirements. One state, for example, reported deploying advocacy volunteers and volunteer attorneys to assess polling places to ensure compliance around the state.

Private and independent voting. In preparation for Election Day 2016, almost all states reported taking at least one action to facilitate private and independent voting for people with disabilities. Such voting methods are designed to provide the same level of privacy for voters with disabilities as offered to other voters, and enable people with disabilities to independently verify their vote and make any changes to their ballot before it is cast without assistance. Specifically, 48 states reported that they provided guidance on facilitating private and independent voting to local election officials, and 45 states reported providing training to local election officials and poll workers about this issue.

Early in-person voting. Thirty-nine states reported requiring or allowing early in-person voting, a method of voting by which a voter may complete a ballot in person prior to Election Day.³⁴ Similar to their responses regarding Election Day voting, most states that offered early in-person voting also reported taking a range of actions to ensure compliance with accessibility requirements for people with disabilities. We found

- 35 of 39 states reported having in place state accessibility requirements for polling places for early in-person voting;³⁵
- 31 of 39 states reported training election officials on voting access methods for people with disabilities during early in-person voting;

³⁴For our survey purpose, we defined “early in-person voting” as voting in-person without providing an excuse. Our definition also included the completion of an absentee or mail ballot in-person at a polling place.

³⁵An additional 3 states reported that such provisions were allowed at the local level for early in-person voting, but were not a state-wide requirement for early in-person voting as they were for Election Day; 1 state reported that they did not address this provision.

- 29 of 39 states reported offering voter education to people with disabilities on voting access methods during early in-person voting;
- 36 of 39 states reported performing at least one oversight activity to ensure local compliance with state and federal accessibility requirements for early in-person voting; and
- 36 of 39 states reported providing guidance to local election officials to facilitate private and independent voting for people with disabilities during early in-person voting.

In addition, most states reported that the challenges they face to ensure accessibility for voters with disabilities were similar for both early in-person voting and Election Day voting. In general, a majority of states reported no difference in challenges between early in-person voting or Election Day for these provisions and activities. For example, among the 39 states that indicated requiring or allowing early in-person voting, 32 states reported no difference in providing “voter information at voting locations,” and establishing or maintaining “state-based administrative complaint procedures,” whether it was during early in-person voting or for Election Day. For the states that reported differences in challenges between early in-person voting and Election Day, a majority indicated that there were more challenges associated with Election Day than early in-person voting. For example, 13 states reported that identifying accessible facilities for potential polling places was either “somewhat more challenging” or “more challenging” for Election Day than for early in-person voting before Election Day. Additional information is available in Appendix III, tables 17 and 18.

DOJ Guidance Does Not Clearly Specify the Extent to Which Federal Accessibility Requirements Apply to Early In-Person Voting

DOJ provides guidance related to federal accessibility requirements in the context of voting for people with disabilities; however, this guidance does not clearly specify the extent to which these requirements apply to the various forms of in-person voting before Election Day. For example, one form of in-person voting before Election Day is marking an absentee ballot in-person at an elections office.

HAVA and ADA contain requirements related to accessibility, including requirements related to the accessibility of voting systems used in federal elections. Specifically:

- HAVA section 301(a)(3) requires that a voting system “be accessible for individuals with disabilities, including nonvisual accessibility [. . .] in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters.”³⁶ This section further states that this requirement may be satisfied “through the use of at least one direct recording electronic voting system or other voting system equipped for individuals with disabilities at each polling place.” HAVA does not define the term “polling place.”
- Title II of the ADA and its implementing regulation, which prohibit discrimination on the basis of disability, require public entities to select and use facilities for its services, programs, or activities—such as voting—that will not exclude people with disabilities and to provide appropriate auxiliary aids and services where necessary to provide people with disabilities an equal opportunity to participate in the service, program, or activity.³⁷ According to DOJ’s guidance, *The Americans with Disabilities Act and Other Federal Laws Protecting the Rights of Voters with Disabilities (Federal Voting Laws Guidance)*, the ADA’s provisions apply to all aspects of voting.³⁸ Therefore, in accordance with the ADA, election officials conducting any elections, including federal elections, must provide an opportunity to participate in the elections process that is equal to that afforded others.³⁹ To afford individuals with disabilities equal opportunity to participate in the election process, election officials conducting elections are required to furnish appropriate auxiliary aids and services. To be effective, “auxiliary aids and services must be provided in accessible

³⁶See 52 U.S.C. § 21081(a)(3).

³⁷See 42 U.S.C. § 12132; 28 C.F.R. § 35.130-35.164.

³⁸DOJ, Civil Rights Division, Disability Rights Section, *The Americans with Disabilities Act and Other Federal Laws Protecting the Rights of Voters with Disabilities* (Washington, D.C.: September 2014).

³⁹See 42 U.S.C. § 12132; 28 C.F.R. § 35.130(b). The ADA states that “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 subject to discrimination by any such entity.” According to the DOJ’s *Federal Voting Laws Guidance*, the ADA’s provisions apply to all aspects of voting.

formats, in a timely manner, and in such a way as to protect the privacy and independence of the individual with a disability.⁴⁰

However, under the ADA, officials are not required to take any action that they can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity or in undue financial and administrative burdens.⁴¹ Nonetheless, the election officials have an obligation to provide, if possible, another auxiliary aid or service that results in effective communication. In determining the type of auxiliary aid or service to be provided, officials must give primary consideration to the request of the individual with a disability.⁴²

DOJ is responsible for enforcing the federal voting rights and disability rights laws as well as providing certain guidance and technical assistance regarding voting accessibility. However, DOJ's guidance does not clearly specify the extent to which HAVA's accessible voting system requirement or the ADA's auxiliary aids and services requirement apply to early in-person voting or other forms of in-person voting before Election Day versus Election Day. DOJ's guidance is contained in (1) *Federal Voting Laws Guidance*; and (2) the *ADA Checklist of Polling Place Accessibility (ADA Checklist)*, according to DOJ officials.⁴³ In particular, the *Federal Voting Laws Guidance* discusses HAVA's accessible voting system requirement, but does not clearly specify whether this requirement applies to early in-person voting. Regarding the ADA, this guidance states that the "ADA's provisions apply to all aspects of voting, including voter registration, site selection, and the casting of ballots, whether on Election

⁴⁰See 28 C.F.R. § 35.160(b).

⁴¹28 C.F.R. § 35.164.

⁴²See 28 C.F.R. § 35.160(b)(2).

⁴³DOJ, Civil Rights Division, Disability Rights Section, *The Americans with Disabilities Act and Other Federal Laws Protecting the Rights of Voters with Disabilities* (Washington, D.C.: September 2014); and, *Americans with Disabilities Act: ADA Checklist for Polling Places* (Washington, D.C.: June 2016).

Day or during an early voting process.”⁴⁴ However, DOJ’s *ADA Checklist* states that it is intended for use on Election Day.⁴⁵ Further, the *ADA Checklist* does not reference HAVA’s accessible voting system requirement or the ADA’s requirements for providing appropriate auxiliary aids and services, except for noting that enough clearance must be provided for an individual with a disability to access and use all the voting equipment, including at least one accessible voting machine.

According to DOJ officials we interviewed, the department’s enforcement efforts under HAVA include limited assessments of a jurisdiction’s accessible voting systems, involving examining polling places to determine if an accessible voting system is available and turned on at the polling place and if polling place workers are trained to operate the machine and can demonstrate to voters how to use the machine. Separately, DOJ focuses its ADA enforcement efforts mainly on the physical accessibility of polling places, according to DOJ officials.

As previously discussed, EAC also provides advisory guidance and technical assistance to help improve the administration of federal elections. Within this role, EAC’s Advisory 2007-001, issued in 2007, states that, under HAVA, an in-person absentee voting location would be considered a “polling place” and therefore should be equipped with at

⁴⁴In addition, DOJ’s *Federal Voting Laws Guidance* discusses ADA requirements, stating that “officials must provide appropriate auxiliary aids and services at each stage of the process, from registering to casting a ballot.” The guidance gives examples of appropriate auxiliary aids or services for people who are blind or have low vision, such as a qualified reader, information in large print or Braille, accessible electronic information and information technology; and audio recording of printed information, as well as examples of auxiliary aids for people who are deaf or have hearing loss. Additionally, the guidance discusses an example of a jurisdiction that conducts elections by paper ballot: If a blind voter requested an accessible ballot, a Braille ballot would not be a secret ballot because it would have to be counted separately, and thus the guidance states that “other aids and services would better afford voters who are blind the opportunity to vote privately and independently and to cast a secret ballot,” such as ballot overlays or templates; electronic information and information technology that is accessible (either independently or through assistive technology, such as screen readers); or, recorded text or telephone voting systems.

⁴⁵Although the *ADA Checklist* states that it provides information on polling place accessibility on Election Day and does not state the extent to which the checklist applies to voting locations used during early in-person voting, DOJ officials noted that in past actions to enforce the ADA, the department has defined “Election” or “Election Day” to include both the period of in-person absentee voting and Election Day. See, e.g., Settlement Agreement between the U.S. and Fauquier County Regarding the Accessibility of Polling Places, DJ 204-79-321 (2017).

least one accessible device.⁴⁶ Further, the advisory states that the term “polling place,” as used in section 301(a)(3) of HAVA, should be considered any location where a voter appears in person to cast a ballot, including an early voting site. EAC officials confirmed to us that the commission’s 2007 guidance remained pertinent for the 2016 general election.

Against this federal policy backdrop, we found some variation in the extent to which accessible voting systems were made available, or were required by states, for early in-person voting during the 2016 general election, through responses to our survey of state election officials and our observations and measurements of polling places. In addition, during our follow-up interviews, some state and local election officials cited legal, technological, and administrative challenges to providing DREs or other accessible voting systems for people with disabilities during early in-person voting or other forms of in-person voting before Election Day. Specifically, states had varying requirements with regard to accessible voting systems during early in-person voting, according to survey responses of state election officials. To examine access to polling places for people with disabilities, we defined early in-person voting to include casting a ballot in person prior to Election Day without an excuse as well as completing an absentee ballot or mail in ballot in person at a polling place or other voting location. Using this definition, almost all states that reported that they had early in-person voting (35 of 39) reported requiring or allowing DREs or other accessible voting systems. However, 4 of the 39 states reported either prohibiting or having no explicit policy for providing DREs or other accessible voting systems during this period of voting.

In following-up on our survey, officials from these four states said that their states’ laws dictate the technology to be used for in-person absentee

⁴⁶Election Assistance Commission, *EAC Advisory 2007-001: Accessible Voting Systems For In-Person Absentee Voting* (Washington, D.C.: Jan. 24, 2007).

voting,⁴⁷ and that in their view, the federal accessible voting system requirement does not apply to this form of voting required in their states.⁴⁸

- According to officials from two of these four states, the states' laws preclude counting or tabulating votes during the no excuse, absentee voting period before Election Day. As a result, according to the state officials, these laws exclude use of a DRE, which records a vote when cast by a voter.
- Officials from the other two states—which reported allowing a voter with a disability to complete an excused absentee ballot in-person at an election clerk's office—cited similar challenges to providing DREs or other accessible voting systems for people with disabilities during in-person voting before Election Day. According to an official we interviewed from one of these states, the state's long-standing law requires that absentee voting, which requires an excuse, be conducted by paper ballot. Thus, this method of voting precludes using accessible technology, such as DREs or ballot marking devices, according to one state official. However, the state allows a person with a disability to request and receive assistance in marking the individual's ballot at a polling place, according to the state official. An official we interviewed from the other state said that state law does not define an election clerk's office as a polling place or other voting location, so the federal accessible voting system requirement does not apply to completing an excused, absentee ballot in-person at a clerk's office.
- One county in a fifth state offering early in-person voting did not have accessible voting systems, as previously discussed, at any of the five voting locations we examined during the 2016 general election. According to the county election officials we interviewed, the federal accessible voting system requirement did not apply to locations they used for early in-person voting. In addition, county officials said that they used a vote center model for early in-person voting—as opposed to precinct-based voting as they use on Election Day—which did not

⁴⁷We have previously reported that, since the 1980s, ballots in the United States, to varying degrees, have been cast and counted using five systems: paper ballots, lever machines, punch cards, optical scan, and DREs. Four of these systems involve technology; only the paper ballot system does not. See [GAO-12-69](#).

⁴⁸Two of the four state officials we spoke to reported that their states only provide excused absentee voting, which requires a voter to provide an excuse such as having a disability to vote absentee.

permit them to use accessible voting systems. This vote center model instead permitted people in the county to vote outside of their precincts at any location available for early in-person voting. As a result, each early voting location needed to make available multiple ballots for precinct-specific candidates and initiatives (e.g., bond measures), as well as in different languages; their accessible voting systems were not designed to accommodate these needs, according to these officials. Officials said that they plan in the future to purchase accessible voting systems that will be able to accommodate this model of early in-person voting.⁴⁹

Election officials we interviewed from two of the four states and the one county we discuss above also said that requiring these systems would affect the resources needed to facilitate in-person voting before Election Day as well as the election calendars. For example, an official from one state said that it would require more lead-time for designing and producing ballots, testing the voting equipment, completing paperwork confirming the testing, and securing the accessible voting systems during the period before Election Day.

During our discussions with DOJ officials, we asked them about the extent to which federal accessibility requirements are applicable, if at all, to early in-person voting or in-person absentee voting. DOJ officials said that the department has not taken a public position on the issue of whether the HAVA accessible voting system requirement applies to early in-person voting. Further, with regard to the ADA, although DOJ's *Federal Voting Laws Guidance* states that the ADA applies to all aspects of voting, to include early voting, DOJ officials said that they recognize that the *ADA Checklist* uses the term "Election Day" without further defining the term, and that the use of this term may be commonly understood to limit its application to the traditional day of the election.

DOJ officials also stated that the department has not received any voter complaints about the lack of an accessible voting system during in-person voting before Election Day. They stated that DOJ provides state and local jurisdictions flexibility in applying HAVA provisions given the considerable variation in how election jurisdictions arrange polling places, buy and maintain voting equipment, conduct elections, and count votes. DOJ

⁴⁹An election official from another state we interviewed cited a similar issue, stating that the greater numbers of people voting before Election Day had outpaced purchasing decisions for voting equipment.

officials also noted that there are various possible implications to the department taking a more specific position on guidance related to early in-person voting. For example, these officials told us that changes in their guidance could result in states or local jurisdictions expending additional resources to procure certain types of voting systems or could affect state and local jurisdictions' decisions on offering early in-person voting.

Given that these various factors could affect implementation of federal accessibility requirements in the context of early in-person voting, studying this issue and considering changes to existing guidance, as appropriate, would help DOJ to determine the extent to which any changes to its guidance are necessary. Federal internal control standards and Office of Management and Budget (OMB) guidance call for agencies to review policies for continued relevance and effectiveness in achieving their objectives and, in turn, to communicate changes in policy to external stakeholders when significant changes in conditions occur.⁵⁰ DOJ helps enforce state and local compliance with federal laws and regulations designed to provide voters with disabilities access to both the locations used as polling places and the voting systems, which provide the means to cast the ballot. As previously discussed, more states and voters today are voting in-person before Election Day than when HAVA was enacted in 2002.⁵¹ Within this context, studying the implementation of federal accessibility requirements in relation to early in-person voting could help DOJ take account of conditions that have changed in recent years, such as the increases in early in-person voting, and position the department to

⁵⁰GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: Sept. 10, 2014). Office of Management and Budget (OMB), *Final Bulletin for Agency Good Guidance Practices* (January 2007). According to OMB's guidance, agencies may provide helpful guidance to interpret existing law through an interpretive rule or to clarify how they tentatively will treat or enforce a governing legal norm through a policy statement. Guidance documents, used properly, can channel the discretion of agency employees, increase efficiency, and enhance fairness by providing the public clear notice of the line between permissible and impermissible conduct while ensuring equal treatment of similarly situated parties. Moreover, guidance should aim to communicate effectively to the public about the legal effect of the guidance and the consequences for the public of adopting an alternative approach.

⁵¹National Conference of State Legislatures, Election Administration website, accessed July 6, 2017, <http://ncsl.org/research/elections-and-campaigns/absentee-and-early-voting.aspx>; and, Michael P. McDonald, 2016 November Election Early Voting, United States Election Project (July 13, 2017), http://www.electproject.org/early_2016.

determine the extent to which any changes to guidance might be warranted or appropriate.

Conclusions

Our work examining the accessibility of polling places for voters with disabilities during the 2000, 2008, and 2016 general elections points to the need for additional progress to help voters with disabilities enter and move through polling places, access voting systems, and cast a private and independent vote.

The ADA and HAVA help provide a framework for ensuring access to polling places and voting methods, thereby helping ensure equal opportunity for voters with disabilities to participate in America's democracy. Since the enactment of HAVA in 2002, changes have occurred in how local and state election jurisdictions implement key election activities, such as early in-person voting. Notably, the number of states offering and voters nationwide using early in-person voting methods during the 2016 general election has increased relative to previous federal elections, as previously discussed, and may continue to grow in the future. As voting practices evolve, the need for federal and state agencies to review and update existing policies and guidance on voting accessibility is an important step in providing greater clarity about how they will treat or enforce legal requirements. With a perspective towards future elections, DOJ studying the implementation of the legal requirements for accessible voting systems in the context of early in-person voting and making changes to guidance, as appropriate, could help provide additional information to federal, state, and local entities on these requirements, which could in turn help inform future decision making about how to interpret and address the requirements.

Recommendation for Executive Action

The Attorney General should study the implementation of federal accessibility requirements in the context of early in-person voting and make any changes to existing guidance that are determined to be necessary as a result of the study. (Recommendation 1)

Agency Comments

We provided a draft of this report to the Department of Justice (DOJ) and the Election Assistance Commission (EAC) for review and comment. See Appendix IV for DOJ's written comments and Appendix V for EAC's comments. In its written comments, DOJ generally agreed with our recommendation to study the implementation of federal accessibility requirements in the context of early in-person voting and to make any changes to existing guidance that DOJ determines to be necessary as a result of the study. DOJ also outlined its efforts to enforce the protections for voters with disabilities found in federal law. In addition, DOJ provided technical comments, which we incorporated as appropriate.

The EAC agreed with the information in our report and provided no technical comments.

As agreed with your offices, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the report date. At that time, we will send copies to the appropriate congressional committees, the Attorney General, the EAC's Executive Director, and other interested parties. In addition, the report is available at no charge on GAO's website at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact Barbara Bovbjerg at (202) 512-7215 or BovbjergB@gao.gov; or, Rebecca Gambler at (202) 512-8777 or GamblerR@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made major contributions to this report are listed in appendix VI.



Barbara D. Bovbjerg
Managing Director
Education, Workforce, and Income Security

A handwritten signature in black ink that reads "Rebecca Gambler". The signature is written in a cursive style with a large, prominent 'R' and 'G'.

Rebecca Gambler
Director, Homeland Security and Justice

Appendix I: Objectives, Scope, and Methodology

Our objectives were to (1) examine the extent to which polling places in selected locations used during the 2016 election had features that might impede access for voters with disabilities, (2) describe the actions states took to facilitate voting access for people with disabilities in the 2016 general election, and (3) examine guidance the Department of Justice (DOJ) has provided on the extent to which federal accessibility requirements apply, if at all, to early in-person voting.

To determine the number of selected polling places with features that might impede access for people with disabilities, we examined a nongeneralizable sample of 178 polling places during either early in-person voting or on Election Day (November 8, 2016) to make observations, take measurements, and conduct interviews with chief polling place officials. To determine what actions states took to facilitate voting for people with disabilities, we administered a web-based survey to state election officials in all 50 states and the District of Columbia. For all three objectives, we reviewed relevant federal laws, regulations, federal guidance, and other relevant documentation. In addition, we interviewed officials at DOJ, Election Assistance Commission (EAC), and selected national election organizations, along with selected national disability advocates, and election administration experts.

We conducted this performance audit from May 2016 to October 2017 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Early In-Person Voting and Election Day Polling Places

Selection of Polling Places

To examine selected polling places for features that might impede access for people with disabilities, we examined a nongeneralizable sample of 178 polling places during either early in-person voting or on Election Day (November 8, 2016). Our sample included:

- 45 early in-person voting polling places in 11 counties in 6 states and the District of Columbia; and
- 133 Election Day polling places in 21 counties in 12 states and the District of Columbia.

The counties we examined during early in-person voting were a subset of the counties visited on Election Day. However, in all local election jurisdictions, we did not examine the same polling places on Election Day that we examined during early in-person voting.

To identify polling places to examine, we first selected 21 counties from among the 84 randomly selected counties that were part of our study on the accessibility of polling places for voters with disabilities during the 2008 general election.¹ We selected these 21 counties based on: (1) variation in county population size, with most counties being larger in population size; (2) variation in type of election administration (that is, we selected some counties in which the county administers elections, and we selected other counties in which elections are administered by other government entities, such as cities, townships, or other local government entities); and (3) variation in geographic location. For the selected counties in which elections were administered by cities, townships, or villages—generally known as minor civil divisions (MCD)—we chose up to six MCDs based on their population and on their proximity to each other.

We selected polling places within each county on a nonprobability basis. To do this, we searched the internet in September and early October 2016 to determine whether each county or MCD posted a listing of its polling places. If the information was posted, we downloaded the list. If not, we contacted county or MCD officials to obtain a list of the jurisdiction's polling places. We selected up to seven polling places in each county based on the relative proximity of polling places to each other and variation in the types of facilities used as polling places (such as schools, houses of worship, fire stations, or city halls).² We identified up to three polling places in each MCD. In advance, we contacted election officials in each of the selected states, counties, and MCDs to request permission to visit polling places, and were granted permission to

¹GAO, *Voters with Disabilities: Additional Monitoring of Polling Places Could Further Improve Accessibility*, [GAO-09-941](#) (Washington, D.C.: Sept. 30, 2009).

²A few jurisdictions used a small number of polling places during early in-person voting, which limited our ability to select various types of facilities in these locations.

visit any available polling places, including the 178 selected polling places.

Because we selected a nongeneralizable sample of polling places for the 2016 general election, the results cannot be used to make generalizations about polling places nationwide used during the 2016 general election or to make comparisons with the results from our polling place accessibility assessments for the 2000 and 2008 general elections. However, our examination of the selected 178 polling places provided important information about voter accessibility in a range of polling places in various types of local election jurisdictions across the country during the 2016 general election.

Polling Place Examinations and the Data Collection Instrument

We sent teams of two GAO analysts to each county in our nongeneralizable sample during early in-person voting from October 26, 2016, through November 6, 2016, and separately on Election Day, November 8, 2016. In counties selected for both early in-person voting and Election Day voting, the same team generally was used. Each team was equipped with a tape measure and a digital level,³ as well as a structured data collection instrument with which to document their observations and measurements.

The teams used a data collection instrument similar to the one we used to document observations and measurements of features at polling places in the 2008 general election, as well as to document the responses of chief polling place officials to our interview questions. However, we revised the 2008 data collection instrument to reflect changes made in the *Americans with Disabilities Act: ADA Checklist for Polling Places 2016*—issued by DOJ—and in the *2010 ADA Standards for Accessible Design*.⁴ Additionally, officials at DOJ, EAC, and disability advocates reviewed a draft version of our data collection instrument, and we incorporated their

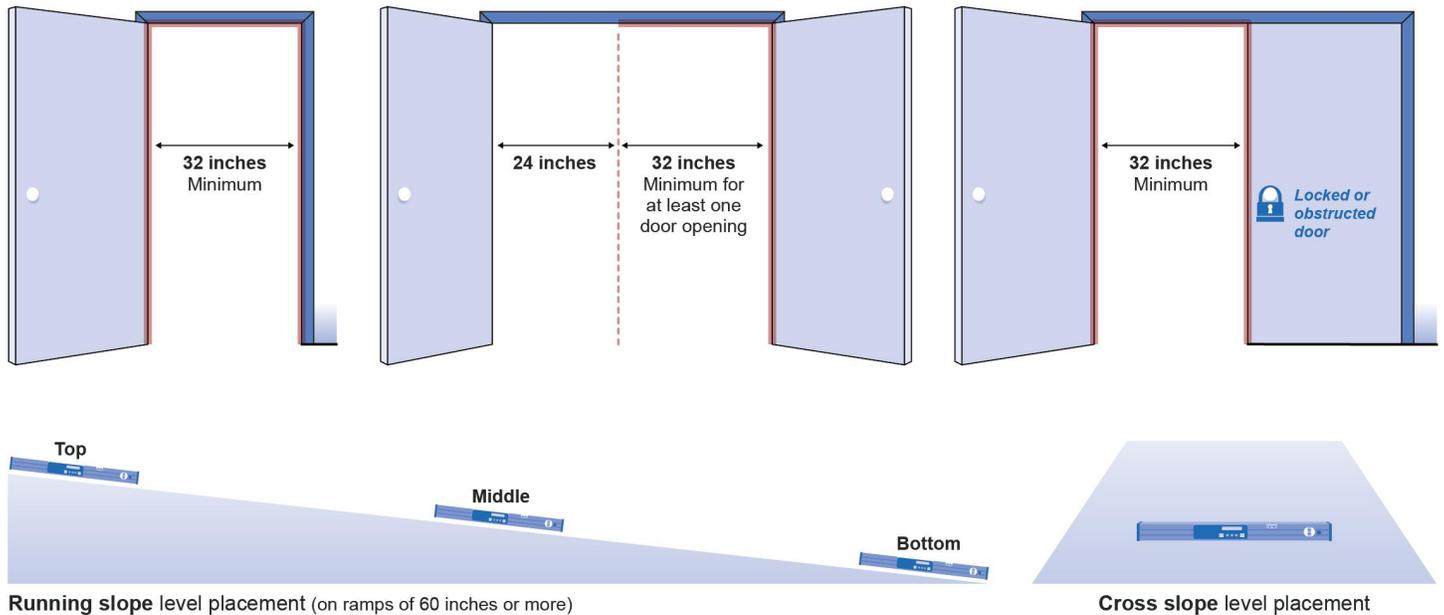
³The digital levels were used to measure potential structural impediments in buildings and on walkways. We tested the reliability of the digital levels based on the consistency of readings from all digital levels, by reviewing the manufacturer's specifications, and talking with a representative of the manufacturer. We determined that the levels were sufficiently reliable for our purposes.

⁴In particular, the data collection instrument was updated to include the cross-slope measurement of ramps or curb cuts.

comments where appropriate. Finally, to examine the ease of use, clarity, and time required to complete the data collection instrument, we pretested the data collection instrument at polling places during one state's congressional primary in September 2016.

To ensure uniformity of data collection, we trained all teams on how to (1) complete the data collection instrument; (2) use the measurement tools; and (3) interview the chief election official in each polling place about the location's accessible voting systems as well as its accommodations for voters with disabilities. See figure 9 for examples of measurements and items for observation that were used to train GAO teams. We also instructed teams to not approach voters or interfere with the voting process.

Figure 9: Examples of Items for Observation and Measurements from Our Data Collection Instrument That Were Used to Train GAO Teams for Polling Place Examinations



Source: GAO's analysis of Department of Justice's 2010 ADA Standards for Accessible Design. | GAO-18-4

Each GAO team received a list of up to seven polling places to examine in each county for early in-person voting or on Election Day. Teams were expected to complete at least four examinations of polling places from the lists where possible. For ease of travel, we allowed GAO teams to examine polling places in the order that was most convenient. We instructed GAO teams not to disclose to anyone outside of GAO the selected polling places to maintain the integrity of data collection. As a

result of time constraints, traffic patterns, and/or geography, some teams were not able to complete examinations of their assigned polling places while other teams were able to examine up to seven polling places.

Collection of Data

We examined features both outside and inside polling places that might pose a potential impediment during early in-person voting and Election Day voting.⁵ Data were first collected in four zones outside of the polling place voting area and were next collected inside the voting area.

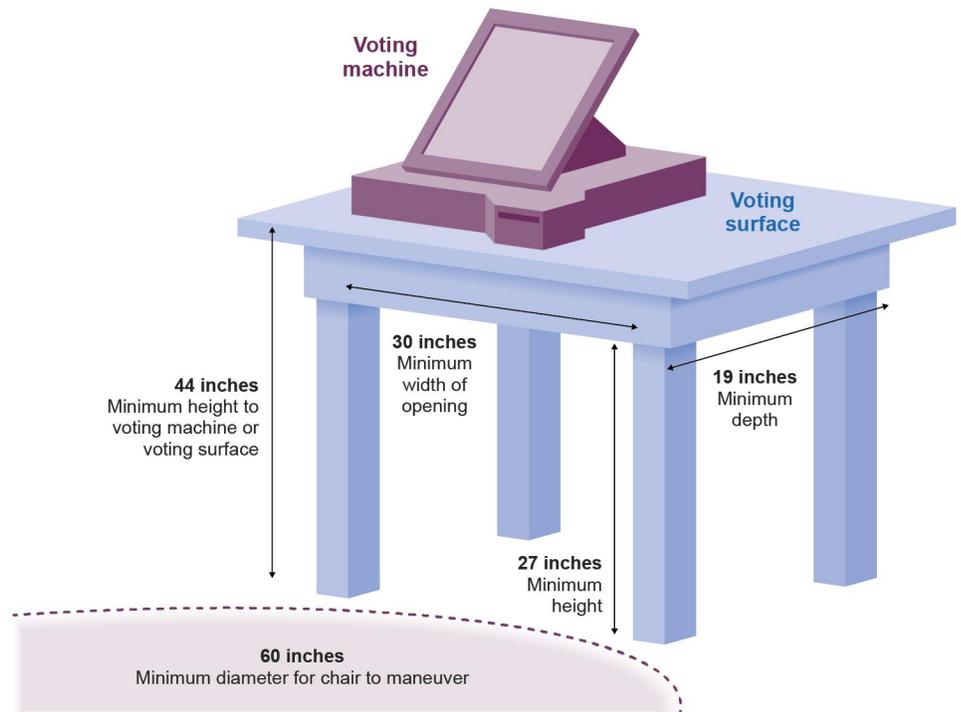
- **Outside the voting area.** We examined features in four different zones outside of the voting area: (1) parking, (2) the path from parking to the building entrance, (3) the building entrance, and (4) the path from the entrance to the voting area. We examined several features within these zones, such as the slopes of sidewalks, ramps or curb cuts, paved surfaces, and door openings.⁶ Consequently, the number and percentage of polling places cited as having one or more potential impediments outside the voting area is derived from an observation that at least one feature located in these zones might impede access to voting.
- **Inside the voting area.** We assessed whether (1) an accessible voting system was provided and (2) whether aspects of the voting station could enable the casting of a private and independent vote by a person with a disability. To assess whether an accessible voting system could impede private and independent voting, we examined the following four aspects: (1) whether the system was turned on, (2) whether it was equipped with special features such as ear phones, (3) whether it was set up to accommodate voters using wheelchairs, and

⁵Our use of the term potential impediments is broader in this report than it was in our 2008 general election report. In our 2008 election report, we used “potential impediments” in reference only to features outside the voting area. In this report, the term refers to features either outside or inside the voting area.

⁶We used DOJ’s 2010 *ADA Standards for Accessible Design* criteria to determine if these features could potentially impede access (for example, if the slopes of sidewalks, ramps or curb cuts had a running slope steeper than 8.3 percent or a cross slope steeper than 2.1 percent; paved surfaces had abrupt changes of over ½ inch; or door openings were less than 32 inches wide). The digital level—which we used to measure the slopes of ramps or curb cuts—measured to the tenth decimal place while the ADA criterion for the running slope is 8.3333 percent and the criterion for the cross slope is 2.0833 percent. Thus, we rounded the criteria to 8.3 percent and 2.1 percent, respectively.

(4) whether it was positioned in such a way as to provide the same level of privacy as afforded to other voters. As a part of this assessment, we identified the types of voting methods available to all voters and took measurements of voting station(s) or table(s) used by people with disabilities to determine if wheelchairs could fit inside the station or underneath the table (see fig. 10 for the measurements we took).⁷ We also interviewed chief poll workers about the availability of curbside voting and accommodations available to people with disabilities.

Figure 10: Measurements Used to Determine If a Voting Station Was Set Up to Accommodate People Using Wheelchairs Based on Criteria in the Americans with Disabilities Act: ADA Checklist for Polling Places 2016



Source: GAO's analysis of Department of Justice's 2010 ADA Standards for Accessible Design. | GAO-18-4

⁷We took multiple measurements of voting station(s) or table(s) used by people with disabilities, such as the height, width, and depth based on the criteria we used. If at least one of these measurements did not conform with the criteria, we identified the polling place as having one or more potential impediments inside the voting area.

For our measurements in both areas, we did not differentiate the severity of potential impediments because disabilities and access are dependent on numerous factors, including the nature of an individual's disability. In addition, we did not assess polling places for legal compliance with the Help America Vote Act of 2002 (HAVA) accessible voting system requirements or other federal or state laws, but we examined features that might impede access to voting for people with disabilities.

In general, the denominator for our calculations is the 178 polling places we examined in which we were able to take measurements and make observations. However, the number of measurements and observations we completed at polling places varied. In some instances our examiners were not able to complete all measurements inside the voting area because of voting area restrictions.

- Of the 178 polling places, we examined features outside of the voting area at all 178.
- Of the 178 polling places, we observed whether or not the polling place had an accessible voting system at 167 polling places, although we were not able to observe every measurable aspect of the voting station.⁸ At the remaining 11 polling places, we were unable to observe if an accessible system was available. Further, for these polling places, we were able to determine potential impediments both outside and inside the voting area.
- Of the 178 polling places, we were able to determine whether or not the polling place had a voting station inside the voting area that could facilitate or impede the casting of a private and independent vote at 137 polling places. At the remaining 41 polling places we were not able to observe if voting stations with accessible voting systems could impede private and independent voting.

We assessed the accuracy of information collected through our data collection instrument by reviewing responses to identify obvious errors or inconsistencies; conducting follow-up to clarify responses when needed;

⁸We define "voting station" as the location within a polling place where voters may record their votes, including the area around and the actual voting booth or enclosure where voting takes place as well as the voting system. "Voting system" refers to the voting equipment that was used to cast a ballot, such as a DRE, a ballot-marking device, or another type of machine or technology.

and, checking responses from the paper-based data collection instrument that were entered manually into an electronic format.

To characterize the number of selected polling places with potential impediments throughout this report, we defined modifiers (e.g., “most”) to quantify this information as follows:

- “almost all” represents 90 percent or more of selected polling places,
- “most” represents 60 percent or more of selected polling places,
- “the majority” represents 51 percent or more of selected polling places,
- “many” represents 40 percent or more of selected polling places,
- a “minority” represents 20 or fewer of selected polling places.

Survey of States and the District of Columbia

To identify the actions states took to facilitate voting for people with disabilities during the 2016 general election, we administered a web-based survey to state election officials in all 50 states and the District of Columbia.⁹ Survey topics included: (1) state actions to accommodate people with disabilities; (2) state implementation of the Help America Vote Act of 2002 (HAVA) voting access requirements and other accommodations for people with disabilities; and (3) state requirements, policies, and methods for voting before Election Day, particularly early in-person voting and other convenience voting methods like absentee voting.

The 2016 survey was based on the survey used in our 2008 work. However, we updated several of the questions and added new questions to examine early in-person voting and application of HAVA requirements in more depth. We also added questions to examine actions states took to facilitate private and independent voting for people with disabilities. These revisions were informed by discussions with election administration experts and election officials. Several experts and election administrators reviewed our draft survey, and we incorporated their comments as appropriate. We conducted the survey using a self-administered

⁹In this report, we are using the term “states” in reference to the states and the District of Columbia.

electronic questionnaire administered via the internet. We collected the survey data from January 31, 2017, to May 5, 2017. We received surveys from 49 states and the District of Columbia, for a 98 percent response rate.¹⁰ As a result, the survey will allow for comparison with past results that were published in our 2009 report.¹¹

This survey was not a sample survey, so there are no sampling errors. However, the practical difficulties of conducting any survey may introduce nonsampling errors, such as variations in how respondents interpret questions and their willingness to offer accurate responses. To minimize nonsampling errors, we pretested the draft survey instrument in five states to ascertain the following: (1) clarity and unbiasedness of survey questions; (2) precision of terminology; and (3) ability of respondents to provide the information sought. We made changes to the content and format of the questionnaire on the basis of pretest results.

Almost all respondents entered their web-based questionnaire responses directly into our survey database, thereby greatly reducing the possibility of data entry errors. However, because of a technical difficulty, two states had to provide their responses directly to a GAO analyst, who then entered the responses directly into the database. To minimize data entry errors for these two surveys, a second analyst separately reviewed the entered responses for accuracy. We also identified any inconsistencies in responses and other indications of error. In addition, a second analyst verified that the computer programs used to analyze the data were written correctly.

Our verification of survey results did not include contacting all state or local election officials to verify survey responses or other information provided by state officials. In general, we also did not analyze states' laws to determine their voting access requirements, but instead relied on the states' responses to our survey. However, in several cases, we conducted a limited review of states' laws or other related information (such as type of early in-person voting provided) to understand the context of a state's response.

¹⁰Not all respondents answered every survey question. In addition, the wording of the 2016 survey question stem changed slightly from our 2000 and 2008 surveys, but the wording for the questions about specific provisions and accommodations are consistent with our previous surveys.

¹¹[GAO-09-941](#).

Review of Federal Laws, Documentation, and Interviews with Federal Officials and Experts

For all three objectives, we reviewed relevant federal laws, regulations, guidance, and other documentation as well as interviewed officials at the DOJ and EAC. Specifically, we reviewed the *Americans with Disabilities Act: ADA Checklist for Polling Places 2016* and additional guidance, such as the 2007 advisory issued by the EAC regarding the HAVA accessible voting system requirement and DOJ's 2014 guidance on ADA and HAVA implementation, the *Americans with Disabilities Act and Other Federal Laws Protecting the Rights of Voters with Disabilities*. We assessed DOJ's guidance in the context of federal standards for internal control for identifying, analyzing, and responding to change as well as communicating with external parties.¹² Relevant documents were obtained and reviewed for selected states.

To learn more about the extent to which the accessible voting system requirements apply to voting locations used for early in-person voting, we spoke with officials from the EAC as well as officials in both the Voting and Disability Rights Sections of DOJ's Civil Rights Division.¹³ These interviews were used to document DOJ's internal processes for handling enforcement actions, to clarify our understanding of the language in official documents, and to review DOJ's actions to monitor and enforce voting accessibility requirements. Further, we interviewed selected local and state election officials from the counties we selected and states we surveyed. In addition, we interviewed officials from the National Disability Rights Network, officials from the National Association of Secretaries of State, and officials from the National Association of State Election Directors, as well as other election and disability area experts. We selected experts based on their experience working with state and local election officials and their expertise with accessibility issues concerning voting for people with disabilities during federal elections, among other factors. The perspectives we obtained from our interviews with association and election officials and disability experts provided insights

¹²[GAO-14-704G](#).

¹³The Voting Section, within Justice's Civil Rights Division, is responsible for enforcement of civil provisions of federal voting laws, such as HAVA. The Disability Rights Section, also within the Civil Rights Division, is primarily responsible for protecting the rights of persons with disabilities under the ADA, which includes ensuring that people with disabilities have access to basic services, such as voting.

regarding officials' views on the accessible voting system requirements. These perspectives cannot be generalized to other associations or officials.

Appendix II: List of Potential Features Outside of the Voting Area That Might Impede Access to Voting

Table 4: Selected Features Outside the Voting Area That Might Impede Access to Voting: Selected Early In-Person Voting Polling Places

	Potential impediment	Number of polling places with potential impediment	Number of polling places
Parking	Poor parking surface	0	45
	One or more unramped or uncut curbs	0	45
	One or more ramped or cut curbs less than 36 inches wide	0	45
	One or more ramps or cut curbs with running slope steeper than 8.3%	3	45
	One or more ramps or cut curbs with cross slope steeper than 2.1% ^a	2	45
	Other potential impediments in parking lot	3	45
Path from parking to building entrance	No sign clearly indicating path designated for people with disabilities	5	45
	Overly narrow sidewalk/pathway	0	45
	No sidewalk/pathway from parking area to building entrance	0	45
	Sidewalk/pathway running slope is steeper than 8.3%	5	45
	Sidewalk/pathway cross slope is steeper than 2.1%	4	45
	Unpaved or poor surface in parking lot or route to building entrance	2	45
	Leaves, snow, litter in path from parking area to building entrance	0	45
	Objects (e.g., signs) protrude into pathway where object not touching the ground without safety cones	0	45
	Steps required in path from parking area to building entrance	0	45
	Poor ramp surfaces (e.g., unpaved, abrupt surface changes, etc.)	0	45
	Presence of leaves, snow, litter on the ramp from parking area to building entrance	0	45
	Suspended objects (e.g., signs, decorative objects) protrude into ramp more than 4 inches where the object is not touching the ground and is at least 27 inches through 80 inches off the ground, without safety cones to identify them	0	45
	Ramps along pathway had a running slope steeper than 8.3%	4	45
	Ramps along pathway had a cross slope steeper than 2.1%	2	45
	Lack handrails on ramp	3	45
Improper handrails on ramp	0	45	

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Potential impediment	Number of polling places with potential impediment	Number of polling places
Ramps in path from parking area to building entrance is < 36 inches wide or can go down to 32 inches wide for 2 feet	0	45
Ramps in path from parking area to building entrance do not have a level landing at the top and bottom of each section that is at least 60 inches long	0	45
Other potential impediments in the path from parking area to building entrance	2	45
Building entrance		
Doorway threshold exceeds ½ inch in height	4	45
Single building entrance doorway opening is < 32 inches wide	3	45
Double building entrance door opening is <32 inches wide, including situations in which one of the doors cannot be opened	0	45
Door hardware requires more than one hand to open	1	45
Revolving door is the only door provided	0	45
Automatic door opener for people with disabilities does not work	5	45
Doorbell does not function	2	45
Other potential impediments at the building entrance	0	45
Path from building entrance to voting area		
No sign clearly indicating route to the voting area designated for people with disabilities	4	45
Doorway threshold exceeds ½ inch in height	0	45
Single doorway opening is <32 inches wide	3	45
Double door opening is <32 inches wide, including situations in which one of the doors cannot be opened	0	45
Doors that would be difficult for a person using a wheelchair to open	1	45
Revolving door is the only door provided	0	45
Automatic door opener does not work	1	45
Steps are required to gain access to voting area	0	45
Ramp's running slope is steeper than 8.3%	0	45
Ramp's cross slope is steeper than 2.1%	0	45
No handrails on ramp inside the building	0	45
Improper handrails on ramps inside the building	0	45
One or more ramps that are < 36 inches wide or can go down to 32 inches wide for 2 feet	0	45
Elevator is not operational or is not properly equipped for people with disabilities		
Elevator is not operational	0	45
The center of the top outside call button in the hall is higher than 48 inches from the ground or floor	0	45
The panel surrounding the elevator car buttons lacks raised lettering or Braille	2	45

Appendix II: List of Potential Features Outside of the Voting Area That Might Impede Access to Voting

Potential impediment	Number of polling places with potential impediment	Number of polling places
Outside or inside elevator buttons require a human touch to operate	0	45
The center of the top floor button(s) in the elevator car is higher than 48 inches from the floor of the elevator	2	45
The elevator is not equipped with audible tones or bells or verbal annunciators that signal each floor as it passes	3	45
Other potential elevator impediments	0	45
Wheelchair lift or buttons are not operational or not proper dimensions	0	45
The lift is not operational or the lift requires a key which is not visibly present	0	45
The outside call button in the hall is higher than 48 inches from the ground or floor	0	45
The width of the opening to enter the lift is less than 32 inches wide	0	45
There is less than a 30-inch by 48 unobstructed floor space on the lift	0	45
The controls inside the lift are higher than 48 inches from the floor of the lift	0	45
Outside or inside lift buttons require a human touch to operate	0	45
The lift requires assistance to operate	0	45
Other potential lift impediments	0	45
Corridors that do not provide an unimpeded width of at least 36 inches can go down to 32 inches for 2 feet, or objects protrude into the corridor where object not touching the ground without safety cones	3	45
Objects (e.g., signs, decorative objects hanging overhead, exposed undersides of stairs) protruding more than 4 inches into the pathway where the object is not touching the ground and is at least 27 inches through 80 inches off the ground, without safety cones to identify them.	3	45
Other potential impediments at doorways and entrances	0	45
Other potential impediments with ramps	0	45
Other potential impediments with corridors	1	45

Source: GAO analysis of selected polling place data collected on Oct. 26, 2016 through Nov. 6, 2016. Criteria to determine if features might impose impediments to access are based on the Department of Justice's 2010 ADA Standards for Accessible Design. | GAO-18-4

³The 2016 data collection instrument was updated to include the measurement of the cross slope for ramps, sidewalks, and curb-cuts on the basis of the Department of Justice's *ADA Checklist for Polling Places 2016*.

Appendix II: List of Potential Features Outside of the Voting Area That Might Impede Access to Voting

Table 5: Selected Features Outside the Voting Area That Might Impede Access to Voting: Selected Polling Places on Election Day

	Potential impediment	Number of polling places with potential impediment	Number of polling places
Parking	Poor parking surface	5	133
	One or more unramped or uncut curbs	1	133
	One or more ramped or cut curbs less than 36 inches wide	0	133
	One or more ramps or cut curbs with running slope steeper than 8.3%	11	133
	One or more ramps or cut curbs with cross slope steeper than 2.1% ^a	4	133
	Other potential impediments in parking lot	3	133
Path from parking to building entrance	No sign clearly indicating path designated for people with disabilities	5	133
	Overly narrow sidewalk/pathway	1	133
	No sidewalk/pathway from parking area to building entrance	3	133
	Sidewalk/pathway running slope is steeper than 8.3%	13	133
	Sidewalk/pathway cross slope is steeper than 2.1%	9	133
	Unpaved or poor surface in parking lot or route to building entrance	8	133
	Leaves, snow, litter in path from parking area to building entrance	1	133
	Objects (e.g., signs) protrude into pathway where object not touching the ground without safety cones	0	133
	Steps required in path from parking area to building entrance	1	133
	Poor ramp surfaces (e.g., unpaved, abrupt surface changes, etc.)	4	133
	Presence of leaves, snow, litter on the ramp from parking area to building entrance	1	133
	Suspended objects (e.g., signs, decorative objects) protrude into ramp more than 4 inches where the object is not touching the ground and is at least 27 inches through 80 inches off the ground, without safety cones to identify them	0	133
	Ramps along pathway had a running slope steeper than 8.3%	13	133
	Ramps along pathway had a cross slope steeper than 2.1%	6	133
	Lack handrails on ramp	1	133
	Improper handrails on ramp	3	133
	Ramps in path from parking area to building entrance is < 36 inches wide or can go down to 32 inches wide for 2 feet	0	133
	Ramps in path from parking area to building entrance do not have a level landing at the top and bottom of each section that is at least 60 inches long	4	133
	Other potential impediments in the path from parking area to building entrance	4	133
	Other potential impediments on a ramp to the actual building entrance	0	133

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	Potential impediment	Number of polling places with potential impediment	Number of polling places
Building entrance	Doorway threshold exceeds ½ inch in height	9	133
	Single building entrance doorway opening is < 32 inches wide	5	133
	Double building entrance door opening is <32 inches wide, including situations in which one of the doors cannot be opened	3	133
	Door hardware requires more than one hand to open	4	133
	Revolving door is the only door provided	0	133
	Automatic door opener for people with disabilities does not work	5	133
	Doorbell does not function	2	133
	Other potential impediments at the building entrance	2	133
Path from building entrance to voting area	No sign clearly indicating route to the voting area designated for people with disabilities	5	133
	Doorway threshold exceeds ½ inch in height	0	133
	Single doorway opening is <32 inches wide	3	133
	Double door opening is <32 inches wide, including situations in which one of the doors cannot be opened	0	133
	Doors that would be difficult for a person in a wheelchair to open	1	133
	Revolving door is the only door provided	0	133
	Automatic door opener does not work	1	133
	Steps are required to gain access to voting area	0	133
	Ramp's running slope is steeper than 8.3%	4	133
	Ramp's cross slope is steeper than 2.1%	0	133
	Improper handrails on ramps inside the building	0	133
	One or no handrails on ramps inside the building	2	133
	One or more ramps that are < 36 inches wide or can go down to 32 inches wide for 2 feet	1	133
	Elevator is not operational or is not properly equipped for people with disabilities		
	Elevator is not operational	0	133
	The center of the top outside call button in the hall is higher than 48 inches from the ground or floor	0	133
	The panel surrounding the elevator car buttons lacks raised lettering or Braille	2	133
	Outside or inside elevator buttons require a human touch to operate	0	133
The center of the top floor button(s) in the elevator car is higher than 48 inches from the floor of the elevator	0	133	
The elevator is not equipped with audible tones or bells or verbal annunciators that signal each floor as it passes	2	133	

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Potential impediment	Number of polling places with potential impediment	Number of polling places
Other potential elevator impediments	1	133
Wheelchair lift or buttons are not operational or not proper dimensions		
The lift is not operational or the lift requires a key which is not visibly present	1	133
The outside call button in the hall is higher than 48 inches from the ground or floor	0	133
The width of the opening to enter the lift is less than 32 inches wide	1	133
There is less than a 30-inch by 48 unobstructed floor space on the lift	0	133
The controls inside the lift are higher than 48 inches from the floor of the lift	0	133
Outside or inside lift buttons require a human touch to operate	0	133
The lift requires assistance to operate	0	133
Other potential lift impediments	0	133
Corridors that do not provide an unimpeded width of at least 36 inches can go down to 32 inches for 2 feet, or objects protrude into the corridor where object not touching the ground without safety cones	2	133
Objects (e.g., signs, decorative objects hanging overhead, exposed undersides of stairs) protruding more than 4 inches into the pathway where the object is not touching the ground and is at least 27 inches through 80 inches off the ground, without safety cones to identify them.	2	133
Other potential impediments at doorways and entrances	3	133
Other potential impediments with ramps	0	133
Other potential impediments with corridors	2	133

Source: GAO analysis of selected polling place data collected on Nov. 8, 2016. Criteria to determine if features might pose impediments to access are based on the Department of Justice's 2010 ADA Standards for Accessible Design. | GAO-18-4

^aThe 2016 data collection instrument was updated to include the measurement of the cross slope for ramps, sidewalks, and curb-cuts on the basis of the Department of Justice's ADA Checklist for Polling Places 2016.

Appendix III: Survey of States Actions to Facilitate Voting Access for People with Disabilities

To identify the actions states took to facilitate voting for people with disabilities during the 2016 general election, we administered a web-based survey to state election officials in all 50 states and the District of Columbia. We received surveys from 49 states and the District of Columbia, for a 98 percent response rate. The tables provided below represent the frequencies of state responses to the questions listed in the title. In addition, we provide comparative information below that was reported in our 2009 report, updated with corresponding responses from our 2016 survey results.¹ We did not verify survey responses or other information provided by state officials, and some states did not respond to all survey questions.

Table 6: States’ Responses to GAO 2016 Survey Question: “To the best of your knowledge, did your state office take any of the following actions to facilitate private and independent voting for people with disabilities in preparation for Election Day, November 8, 2016?”

	Yes	No	Don’t know
Conducted demonstrations of voting equipment to people with disabilities	27	20	3
Provided election information on accessible voting procedures in advance to people with disabilities	40	7	2
Provided guidance to local election officials on facilitating voting for people with disabilities	48	2	0
Provided training to local election officials on assisting voters with disabilities	45	5	0
Provided specific guidance on positioning voting stations at voting locations to prevent other voters from seeing how voters using the accessible machines were marking their ballots	40	7	3
Coordinated with disability council, Protection Advocate Voting agency (PAVA) or other advocacy groups	41	6	3
Other	8	6	15

Source: GAO survey of state election officials. | GAO-18-4

Note: Respondents were asked to select one answer per row. Some states did not respond to all survey questions.

¹[GAO-09-941](#).

Appendix III: Survey of States Actions to Facilitate Voting Access for People with Disabilities

Table 7: States' Responses to GAO 2016 Survey Question: "For Election Day, November 8, 2016, did your state obligate or spend any Help America Vote Act (HAVA), state, and/or local funds for any of the following activities to help facilitate voting access for people with disabilities?"

	Yes, we obligated or spent HAVA funds	Yes, we obligated or spent state funds	Localities obligated or spent	No funds were obligated or spent	Don't know	State has not taken this action
Provide voter education to people with disabilities on voting access methods	16	16	14	6	3	2
Providing voting information at polling places, such as sample ballots or voter instructions	10	19	22	6	2	1
Identify accessible facilities for potential voting locations	4	4	26	8	4	5
Train election officials on voting access methods for people with disabilities	18	18	20	4	0	2
Improve, acquire, lease, modify, or replace voting systems and technology	18	13	19	6	1	5
Improve the accessibility of polling places, such as improving physical access for people with disabilities and providing non-visual access for people with visual impairments	17	2	20	7	3	5
Establish or maintain state-based administrative complaint procedures	7	20	1	20	2	2
Establish or maintain a toll-free telephone hotline that voters may use to file accessibility complaints or to obtain voter-related information including voter accessibility issues	6	26	4	12	1	6
Conduct pre-election reviews of voting locations for accessibility or accommodations	6	7	22	4	5	9
Conduct audits of voting locations' accessibility or accommodations	8	7	15	7	5	12
Monitor local governments' efforts to address the state's audit findings and implementing corrective actions	6	8	5	10	6	18
Other	1	1	1	4	4	13

Source: GAO survey of state election officials. | GAO-18-4

Note: Respondents were asked to select ALL answers that applied within each row. Some states did not respond to all survey questions.

Appendix III: Survey of States Actions to Facilitate Voting Access for People with Disabilities

Table 8: States' Responses to GAO 2016 Survey Question: "In your opinion, for the 2016 general election, how challenging, if at all, has it been for your state to ensure voting access for people with disabilities in the following ways?"

	Very challenging	Moderately challenging	Slightly challenging	Not challenging	No opinion	State has not taken this action
Provide voter education to people with disabilities on voting access methods	1	3	25	17	2	1
Provide voting information at voting locations, such as sample ballots or voter instructions	0	1	9	34	2	3
Identify accessible facilities for potential voting locations	3	10	15	7	3	11
Train election officials on voting access methods for people with disabilities	1	5	17	19	3	3
Improve, acquire, lease, modify, or replace voting systems and technology	7	6	11	8	2	14
Improve the accessibility of voting locations, such as improving physical access for people with disabilities and providing non-visual access for people with visual impairments	2	15	11	9	4	8
Establish or maintain a state-based administrative complaint procedures	0	0	4	41	2	2
Establish or maintain a toll-free telephone hotline that voters may use to file accessibility complaints or to obtain voter-related information including voter accessibility issues	0	1	2	36	1	9
Conduct pre-election reviews of voting locations for accessibility or accommodations	2	5	14	10	3	15
Conduct audits of voting locations' accessibility or accommodations	2	7	9	10	4	16
Monitor local governments' efforts to address the state's audit findings and implementing corrective actions	2	4	11	5	6	19
Other activities your state used to help facilitate voting access for people with disabilities	0	1	8	11	10	11

Source: GAO survey of state election officials. | GAO-18-4

Note: Respondents were asked to select one answer per row. Some states did not respond to all survey questions.

Appendix III: Survey of States Actions to Facilitate Voting Access for People with Disabilities

Table 9: States’ Responses to GAO 2016 Survey Question: “For the 2016 general election, did your state office perform any of the following oversight activities to ensure local compliance with state and federal requirements for voting accessibility and accommodations?”

	Yes	No	Don’t know
Evaluated and verified compliance with state requirements	34	15	0
Inspected Election Day voting location accessibility	18	30	1
Evaluated and verified that localities provide voter education/outreach for people with disabilities	21	26	2
Required certification from county or local election officials that training on voting location accessibility and accommodations was performed	15	33	1
Provided training to county or local election officials to operate a direct recording electronic devices (DRE) or other accessible voting machine	32	17	0
Compiled and analyzed complaints of voting location accessibility issues occurring on Election Day	39	7	3
Investigated or adjudicated local complaints on voting location accessibility and accommodations on Election Day	34	8	7
Other state oversight actions to ensure local compliance with state and federal requirements	11	12	18

Source: GAO survey of state election officials. | GAO-18-4

Note: Respondents were asked to select one answer per row. Some states did not respond to all survey questions.

Table 10: States’ Responses to GAO 2016 Survey Question: “For the 2016 general election, did your state allow for or require jurisdictions to provide early in-person voting?”

	Number
Yes, the state required jurisdictions to provide early in-person voting	36
Yes, the state allowed jurisdictions to provide early in-person voting	3
No	11
Don’t know	0

Source: GAO survey of state election officials. | GAO-18-4

Note: Respondents were asked to select one answer. Some states did not respond to all survey questions.

Appendix III: Survey of States Actions to Facilitate Voting Access for People with Disabilities

Table 11: States’ Responses to GAO 2016 Survey Question: “For early in-person voting, did your state require, allow, prohibit, or not address each of the following accessibility provisions and at voting locations for people with disabilities?”

	State requirement	State allowed but not a requirement	State prohibited	Not applicable	State did not address
Provision of ballot or methods of voting in Braille	6	8	1	2	21
Provision of ballots with larger type	12	11	0	1	15
Provision of magnifying instruments	11	21	0	0	7
Curbside voting available during early in-person voting period	16	9	9	1	3
Voting location accessibility standards	35	3	0	0	1
Inspection of polling place accessibility	18	9	0	1	11
Reporting by local jurisdictions to the state on voting location accessibility	13	11	0	2	13
Accommodation of wheelchairs in voting areas	32	4	0	0	3
Notification to voters of any inaccessible voting locations	13	4	0	4	18
Other accessibility provisions or accommodations	5	2	0	13	12

Source: GAO survey of state election officials. | GAO-18-4

Note: Respondents were asked to select one answer per row. Some states did not respond to all survey questions.

Table 12: States’ Responses to GAO 2016 Survey Question: “For early in-person voting for the 2016 general election, which of the following statements best describes your state’s policy for providing a direct recording electronic (DRE) system or other accessible machine at voting locations used by jurisdictions?”

	Number
State required a direct recording electronic system or other accessible machine at voting locations used by jurisdictions	30
State allowed a direct recording electronic system or other accessible machine at voting locations used by jurisdictions	5
State had no explicit policy for a direct recording electronic system or other accessible machine at voting locations used by jurisdictions	3
State prohibited direct recording electronic systems or other accessible machines at voting locations used by jurisdictions	1
Don’t know	0

Source: GAO survey of state election officials. | GAO-18-4

Note: Respondents were asked to select one answer. Some states did not respond to all survey questions. For the purpose of this question, we did not consider the accessibility of the voting booth or voting station as part of an “other accessible machine.” Only states that allowed or required jurisdictions to provide early in-person voting responded to this question.

Appendix III: Survey of States Actions to Facilitate Voting Access for People with Disabilities

Table 13: States’ Responses to GAO 2016 Survey Question: “To the best of your knowledge, did your state office take any of the following actions to facilitate private and independent voting for people with disabilities during early in-person voting for the 2016 general election?”

	Yes	No	Don’t know
Conducted demonstrations of voting equipment to people with disabilities	20	17	2
Provided election information on accessible voting procedures in advance to people with disabilities	34	4	1
Provided guidance to local election officials on facilitating voting for people with disabilities	36	2	1
Provided training to local election officials on assisting voters with disabilities	35	3	3
Provided specific guidance on positioning voting stations at voting locations to prevent other voters from seeing how voters using the accessible machines were marking their ballots	30	6	3
Coordinated with disability council, Protection Advocate Voting agency (PAVA) or other advocacy groups	30	5	4
Other	2	8	12

Source: GAO survey of state election officials. | GAO-18-4

Note: Respondents were asked to select one answer per row. Some states did not respond to all survey questions. Only states that allowed or required jurisdictions to provide early in-person voting responded to this question.

Table 14: States’ Responses to GAO 2016 Survey Question: “For early in-person voting for the 2016 general election, did your state obligate or spend any Help America Vote Act (HAVA), state, and/or local funds for any of the following activities to help facilitate voting access for people with disabilities?”

	Yes, we obligated or spent HAVA funds	Yes, we obligated or spent state funds	Localities obligated or spent	No funds were obligated or spent	Don’t know	State as not taken this action
Provide voter education to people with disabilities on voting access methods	11	15	15	5	1	3
Provide voter education to people with disabilities on voting access methods	8	15	19	5	2	1
Identify accessible facilities for potential voting locations	3	4	20	5	6	4
Train election officials on voting access methods for people with disabilities	13	14	14	5	1	1
Improve, acquire, lease, modify, or replace voting systems and technology	12	6	15	4	1	8
Improve the accessibility of polling places, such as improving physical access for people with disabilities and providing non-visual access for people with visual impairments	13	4	16	5	4	3
Establish or maintain state-based administrative complaint procedures	6	15	1	13	2	3

Appendix III: Survey of States Actions to Facilitate Voting Access for People with Disabilities

	Yes, we obligated or spent HAVA funds	Yes, we obligated or spent state funds	Localities obligated or spent	No funds were obligated or spent	Don't know	State as not taken this action
Establish or maintain a toll-free telephone hotline that voters may use to file accessibility complaints or to obtain voter-related information including voter accessibility issues	5	15	4	9	1	7
Conduct pre-election reviews of voting locations for accessibility or accommodations	5	3	19	4	2	9
Conduct audits of voting locations' accessibility or accommodations	4	7	10	6	2	11
Monitor local governments' efforts to address the state's audit findings and implementing corrective actions	3	6	4	6	4	17
Other	2	1	0	2	3	14

Source: GAO survey of state election officials. | GAO-18-4

Note: Respondents were asked to select ALL answers that applied within each row. Some states did not respond to all survey questions.

Table 15: States' Responses to GAO 2016 Survey Question: "In your opinion, how challenging, if at all, has it been to implement the following aspects of Help America Vote Act (HAVA) during early in-person voting in your state for the 2016 general election?"

	Very challenging	Moderately challenging	Slightly challenging	Not challenging	No opinion	State has not taken this action
Interpreting HAVA accessibility requirements	1	1	6	25	5	1
Obtaining federal guidance regarding HAVA accessibility requirements, if needed	0	1	7	15	8	7

Source: GAO survey of state election officials. | GAO-18-4

Note: Respondents were asked to select one answer per row. Some states did not respond to all survey questions.

Appendix III: Survey of States Actions to Facilitate Voting Access for People with Disabilities

Table 16: States’ Responses to GAO 2016 Survey Question: “For early in-person voting for the 2016 general election, did your state office perform any of the following oversight activities to ensure local compliance with state and federal requirements for voting accessibility and accommodations?”

	Yes	No	Don’t know
Evaluated and verified localities’ compliance with state requirements	16	21	1
Inspected early in-person voting location accessibility	12	26	0
Evaluated and verified that localities provide voter education/outreach for people with disabilities	10	27	1
Required certification from county or local election officials that training on voting location accessibility and accommodations was performed	11	27	0
Provided training to county or local election officials to operate a direct recording electronic devices (DRE) or other accessible voting machine	26	11	1
Compiled and analyzed complaints of voting location accessibility issues occurring during early in-person voting	23	12	3
Investigated or adjudicated local complaints on voting location accessibility and accommodations during early in-person voting	24	11	3
Other state oversight actions to ensure local compliance with state and federal requirements	10	9	10

Source: GAO survey of state election officials. | GAO-18-4

Note: Respondents were asked to select one answer per row. Some states did not respond to all survey questions. Only states that allowed or required jurisdictions to provide early in-person voting responded to this question.

Table 17: States’ Responses to GAO 2016 Survey Question: “In your opinion, for the 2016 general election, has it been more challenging to ensure accessibility for early in-person voting than for Election Day, more challenging to ensure accessibility on Election Day than for early in-person voting, or has there been no difference between early in-person voting and Election Day?”

	More challenging for early in-person voting than on Election Day	Somewhat more challenging for Early in-person voting than on Election Day	No difference between early in-person voting and Election Day	Somewhat more challenging on Election Day than for earl in-person voting	More challenging on Election Day than for early in-person voting	No opinion	State has not taken this action
Provide voter education to people with disabilities on voting access methods	1	3	29	1	0	2	2
Provide voting information at voting locations, such as sample ballots or voter instructions	0	2	32	1	1	2	0
Identify accessible facilities for potential voting locations	2	1	16	5	8	2	3

Appendix III: Survey of States Actions to Facilitate Voting Access for People with Disabilities

	More challenging for early in-person voting than on Election Day	Somewhat more challenging for Early in-person voting than on Election Day	No difference between early in-person voting and Election Day	Somewhat more challenging on Election Day than for early in-person voting	More challenging on Election Day than for early in-person voting	No opinion	State has not taken this action
Train election officials	1	1	28	2	3	2	1
Improve, acquire, lease, modify, or replace voting systems and technology	1	0	26	0	0	2	9
Improve the accessibility of voting locations, such as improving physical access for people with disabilities and providing non-visual access for people with visual impairments	0	2	22	4	5	2	3
Establish or maintain a state-based administrative complaint procedures process	0	0	32	0	0	3	3
Establish or maintain a toll-free telephone hotline that voters may use to file accessibility complaints or to obtain voter-related information, including voter accessibility issues	0	0	30	0	0	2	6
Conduct pre-election reviews of voting locations for accessibility or accommodations	1	0	18	3	3	4	9
Conduct audits of voting locations' accessibility or accommodations	1	2	17	1	2	4	9
Monitor local governments' efforts to address the state's audit findings and implementing corrective actions	1	2	18	1	2	4	10

Source: GAO survey of state election officials. | GAO-18-4

Appendix III: Survey of States Actions to Facilitate Voting Access for People with Disabilities

Note: Respondents were asked to select one answer per row. Some states did not respond to all survey questions. Only states that allowed or required jurisdictions to provide early in-person voting responded to this question.

Table 18: States’ Responses to GAO 2016 Survey Question: “In your opinion, have the following aspects of the Help America Vote Act (HAVA) been more challenging to implement for early in-person voting than for Election Day, more challenging to implement on Election Day than for early in-person voting, or has there been no difference between early in-person voting and Election Day?”

	More challenging for early in-person voting than on Election Day	Somewhat more challenging for early in-person voting than on Election Day	No difference between early in-person voting and Election Day	Somewhat more challenging on Election Day than for early in-person voting	More challenging on Election Day than for early in-person voting	No opinion	State has not taken this action
Interpreting HAVA accessibility requirements	0	1	33	0	0	3	1
Obtaining federal guidance regarding HAVA accessibility requirements, if needed	0	0	28	1	0	6	3

Source: GAO survey of state election officials. | GAO-18-4

Note: Respondents were asked to select one answer per row. Some states did not respond to all survey questions.

Table 19: State-Reported Requirements Concerning the Accessibility of Polling Places: Election Days 2000, 2008 and 2016

State-Reported Requirement	2000	2008	2016
Voting location accessibility standards	23	43	44
Accommodation of wheelchairs in voting areas	17	38	40
Inspection of voting location accessibility	15	34	26
Reporting by local jurisdictions to the state on voting location accessibility	10	29	20

Sources: GAO-09-941 and GAO analysis of data from its 2016 survey of state election officials. | GAO-18-4

Note: Some states did not respond to all survey questions.

Appendix III: Survey of States Actions to Facilitate Voting Access for People with Disabilities

Table 20: States' Reported Challenges in Implementing Various Aspects of the Help America Vote Act (HAVA), 2008 and 2016

	Very or moderately challenging		Slightly challenging		Not challenging		State has not taken this action	
	2008	2016	2008	2016	2008	2016	2008	2016
Ensuring voting location accessibility	31	16	16	13	3	9	1	6
Purchasing direct recording electronic devices (DRE) or other accessible voting systems	24	11	8	5	15	7	4	20
Providing guidance to counties, cities, or local entities for HAVA-required voting access activities for people with disabilities	20	5	18	13	12	25	1	3
Securing HAVA funding for your state	19	9	13	4	17	16	0	11
Disseminating HAVA funding to counties, cities, or local entities	16	4	12	10	11	17	10	13

Sources: [GAO-09-941](#) and GAO analysis of data from its 2016 survey of state election officials. | GAO-18-4

Note: Some states did not respond to all survey questions.

Table 21: Accommodations That States Reported Requiring Local Jurisdictions to Offer to Voters with Disabilities, as of Election Days 2000 2008 and 2016

Reported Required Accommodations	2000	2008	2016
Curbside voting available on Election Day	28	23	21
Provision of magnifying instruments	7	12	14
Provision of ballots with larger type	2	11	13
Ballot taken to voter's residence on or before Election Day	21	9	27
Provision of ballot or methods of voting in Braille	3	6	9

Sources: [GAO-09-941](#) and GAO analysis of data from its 2016 survey of state election officials. | GAO-18-4

Note: Some states did not respond to all survey questions.

Appendix III: Survey of States Actions to Facilitate Voting Access for People with Disabilities

Table 22: State-Reported Provisions Concerning Accessibility of Polling Places and Accommodations for Individuals with Disabilities, 2008 and 2016

	Required		Allowed		Not Allowed		Not Addressed		Not Applicable ^a		Required or allowed	
	2008	2016	2008	2016	2008	2016	2008	2016	2008	2016	2008	2016
Voting location accessibility standards	43	44	6	4	0	0	0	2	0	n/a	49	48
Inspection of voting location accessibility	34	26	11	13	0	1	4	10	1	n/a	45	39
Reporting by local jurisdictions to the state on voting location accessibility	29	20	12	16	0	0	8	13	0	n/a	41	36
Accommodation of wheelchairs in voting areas	38	40	9	6	0	0	3	4	0	n/a	47	46
Curbside voting available on Election Day	23	21	6	7	12	13	8	9	8	n/a	29	28
Notification to voters of any inaccessible voting locations	16	21	12	5	1	2	20	22	1	n/a	28	26
Provision of ballot or methods of voting in Braille	6	9	14	9	0	1	30	31	30	n/a	20	18
Provision of ballots with larger type	11	13	13	15	0	0	26	22	0	n/a	24	28
Provision of magnifying instruments	12	14	29	25	0	0	9	11	0	n/a	41	39

Sources: [GAO-09-941](#) and GAO analysis of data from its 2016 survey of state election officials. | GAO-18-4

Note: Some states did not respond to all survey questions

^a"Not Applicable" was not a response option for this question for the 2016 survey

Table 23: Reported Changes in State Requirements Concerning Alternative Voting Methods from the 2000, 2008 and 2016

Methods and accommodations	2000	2008	2016
Absentee/mail voting	51	51	49
Curbside voting available on Election Day	28	29	28
Ballot taken to voter's residence on or before Election Day	21	24	27
Early In-Person voting ^a	39	23	39

Sources: [GAO-09-941](#) and GAO analysis of data from its 2016 survey of state election officials | GAO-18-4

^aIn our report on the 2000 general election ([GAO-02-107](#)), we did not identify states that offered early voting as part of our analyses, as we defined it in later reports (2004 general election: see [GAO-06-450](#)). Rather we reported on the absentee and early voting together. For our 2016 report, we define early in-person voting as a method of voting by which any voter may cast a ballot in person prior to Election Day without providing an excuse. For the purposes of this questionnaire, early in-person voting includes completing an absentee or mail ballot in-person at a voting location (as defined in this questionnaire), which is also known as "in-person absentee" voting in some states. Some states did not respond to all survey questions.

Appendix IV: Comments from the Department of Justice



U.S. Department of Justice
Civil Rights Division

*Office of the Assistant Attorney General
950 Pennsylvania Ave, NW - RFK
Washington, DC 20530
Telephone (202) 514-2151*

August 25, 2017

Rebecca Gambler
Director, Homeland Security and Justice
U.S. Government Accountability Office
441 G Street, N.W.
Washington, D.C. 20548

Dear Ms. Gambler:

Thank you for the opportunity to review the final draft of the Government Accountability Office (GAO) report entitled, "*VOTERS WITH DISABILITIES: Observations on Polling Place Accessibility and Related Federal Guidance, GAO-18-4.*" This draft report was reviewed by the components of the Department of Justice that participated in this review, specifically the Voting Section and the Disability Rights Section within the Civil Rights Division. This letter constitutes the Department's formal comments, and we request that the GAO include this letter in the final report.

The Department greatly appreciates the efforts of GAO staff in reviewing issues related to the rights of voters with disabilities in federal elections, including the accessibility of polling places and voting systems. We also appreciate the opportunity to work once again with your staff on these important issues. The right to vote is the cornerstone of our democracy and the Department is committed to ensuring that the right to vote is secure for all eligible voters in our country, including our citizens with disabilities.

Before responding directly to the recommendation contained in the draft report, we believe it is important to provide background on the Department's extensive and continuing efforts to enforce the protections for voters with disabilities found in federal law, including the Americans with Disabilities Act of 1990, as amended (ADA), the Help America Vote Act (HAVA), and the National Voter Registration Act (NVRA), to name a few. Over two years ago, the Department launched the ADA Voting Initiative, a collaboration between the Civil Rights Division and United States Attorneys' Offices from across the country, to focus our enforcement efforts on increasing the accessibility of voting locations for people with disabilities. Through this initiative, the Department has worked with a number of jurisdictions to improve polling place accessibility and the accessibility of the ballot. In fact, over the past few years, Department staff have surveyed well over 1300 polling places in more than 60 counties and cities, to determine whether the facilities are physically accessible to voters with disabilities. We have reached agreements with counties and cities, both big and small, and most recently in Chicago, Illinois, Chesapeake, Virginia, and Richland County, South Carolina, to ensure that people with disabilities can access and use all of their voting facilities.

**Appendix IV: Comments from the Department
of Justice**

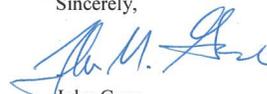
In addition to the ADA Voting Initiative with U.S. Attorneys' Offices, the Civil Rights Division continues to review polling place accessibility through its Project Civic Access. Recently, the Division obtained an agreement with Augusta County, Virginia that focused on polling place accessibility. The Division has reviewed other aspects of state and local voting locations, including the provision of accessible voting systems. Most recently, the Division reached an agreement with the Palm Beach County Supervisor of Elections in Palm Beach County, Florida, to improve the accessibility of the voting system used by the County in federal, state, and local elections. The Department will continue its enforcement efforts in this area and will continue to act on potential violations of federal law with respect to the voting rights of people with disabilities.

The Department has also expanded the guidance we provide on the rights of voters with disabilities, publishing *The Americans with Disabilities Act and Other Federal Laws Protecting the Rights of Voters with Disabilities* and *Solutions for Five Common ADA Access Problems at Polling Places*, and updated our *ADA Checklist for Polling Places*. We post many of our agreements and letters of findings on our website, www.ada.gov.

GAO's draft report recommends that the Department "study the implementation of federal accessibility requirements in the context of early in-person voting and, as necessary, make changes to existing guidance." The Department agrees generally with this recommendation. The Department will study the implementation of federal laws protecting the rights of voters with disabilities in the context of early in-person voting and make changes to that guidance where necessary.

Again, we appreciate the extensive time and resources that you and your staff have put into this report and the opportunity to work with GAO on these very important issues.

Sincerely,



John Gore
Acting Assistant Attorney General

cc: Richard Theis
Director, Audit Liaison Group

Appendix V: Comments from the Election Assistance Commission



U.S. ELECTION ASSISTANCE COMMISSION
1335 EAST-WEST HIGHWAY, SUITE 4300
SILVER SPRING, MD 20910
BRIAN D. NEWBY, EXECUTIVE DIRECTOR

August 28, 2017

Ms. Barbra D. Bovbjerg
Managing Director, Education, Workforce and Income Security

Ms. Rebecca Gambler
Director, Homeland Security and Justice Issues

The U.S. General Accountability Office
441 G Street, NW
Washington, DC 20548

Dear Ms. Bovbjerg and Ms. Gambler:

The U.S. Election Assistance Commission (EAC) is grateful for the opportunity to review the General Accountability Office (GAO) draft report titled "Voters with Disabilities: Observations on Polling Place Accessibility and Related Federal Guidance" (100921).

The EAC appreciates the GAO's comprehensive research efforts related to election administration and voters with disabilities. Since the inception of the Help America Vote Act (HAVA) nearly 15-years ago, the GAO has provided invaluable research to advance voting accessibility across the United States. This report provides important contributions in the areas of polling place accessibility, the assessment of accessible early in-person voting, and actions states have taken to meet the HAVA requirements of providing private and independent election systems for people with disabilities.

Since the establishment of the EAC, the Commission has worked closely with election officials and others in the elections community to promote HAVA's accessibility requirements and to

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bnewby@eac.gov

foster a climate of understanding throughout the country. The commission assists voters with disabilities by empowering and supporting accessibility advances with policy initiatives, voting system certification, outreach efforts, grants, and funding. The EAC provides the following resources for both election officials and voters with disabilities.

PROMOTING AWARENESS: The EAC works closely with election officials to promote HAVA's access requirements. In support of this effort, the commission also engages voters with disabilities, who provide vital feedback that informs election system and administration improvements. For example, leading up to the 2016 election, the EAC held a widely attended field hearing in Boston, Mass., where voters with disabilities provided testimony to help the EAC improve the election process. During its #BeReady16 campaign, the EAC also distributed more than 10,000 federal voting rights cards in Braille, large print, and plain language. These efforts continue today through forums to interact with voters with disabilities and through the distribution of EAC outreach materials to election officials, voters, and advocacy organizations across the U.S.

ELECTION SYSTEM CERTIFICATION: The EAC's Testing and Certification program is the most successful and most implemented voting machine testing and certification program in the nation. It works directly with expert stakeholders to ensure voters with disabilities have access to election systems that meet stringent national standards. The guidelines significantly increase overall requirements for voting systems and expand access, including opportunities to vote privately and independently, for individuals with disabilities. The next iteration of the Voluntary Voting System Guidelines (VVSG) contains expanded requirements covering security, reliability, quality, usability, accessibility, and testing. In order to ensure a development process informed by a cross-section of all American voters, the EAC recently established VVSG public working groups focused on a variety of election-related topics, including human factors and accessibility.

RESEARCH AND DEVELOPMENT: Through the Accessible Voting Technology Initiative (AVTI), a recently completed \$8 million EAC grant program to assist both election officials and voters with disabilities, the EAC and its grantees produced approximately 45 R&D technological and administrative solutions designed to ensure all citizens can vote privately and independently. Under this effort, the EAC also conducted research to help veterans with disabilities in the voting process. For further information and grant reports, please visit: <https://www.eac.gov/payments-and-grants/accessible-voting-technology-initiative/>

In the report's conclusion, GAO states, "our work examining the accessibility of polling places for voters with disabilities during the 2000, 2008, and 2016 general elections points to the need for additional progress to help voters with disabilities enter and move through polling places, access voting systems, and cast a private and independent vote." The GAO's report will be an invaluable resource to the EAC and election officials as we continue to develop, implement, and evaluate effective election administration practices that ensure voting accessibility.

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bnewby@eac.gov

**Appendix V: Comments from the Election
Assistance Commission**

The GAO's report makes clear that while some positive results have been achieved, much work remains to be done to meet the full promise of HAVA. Moving forward, the EAC will use this report and ongoing feedback from voters with disabilities, advocacy organizations, election officials, and others to seek progress. The elections community must ensure that voters with disabilities have access to a private and independent vote.

The EAC appreciates the opportunity to provide information for this report. Please do not hesitate to contact me if you need further information or have any questions regarding our activities on voting accessibility.

Sincerely,

A handwritten signature in blue ink, appearing to read "BDN".

Telephone: 301-563-3959 Fax: 301-734-3108
bnewby@eac.gov

Appendix VI: GAO Contacts and Staff Acknowledgments

GAO Contacts

Barbara D. Bovbjerg, (202) 512-7215 or BovbjergB@gao.gov
Rebecca Gambler, (202) 512-8777 or GamblerR@gao.gov

Staff Acknowledgments

In addition to the contacts above, the following staff members made significant contributions to this report: Brett Fallavollita (Assistant Director), James Whitcomb (Analyst in Charge), Daniel Bertoni, Anna Duncan, Rebecca Kuhlmann Taylor, Shelia Thorpe, and John Vocino.

In addition, key support was provided by David Alexander, Carl Barden, David Barish, James Bennett, Carolyn Blocker, Jennifer Cook, Jessica Du, Justin Dunleavy, Alexander Galuten, Tom Jessor, Jill Lacey, Serena Lo, Sheila McCoy, Margo Mitchell, Jan Montgomery, Heidi Nielson, Jessica Orr, James Perez, Minette Richardson, Almeta Spencer, Jeff Tessin, Walter Vance, and Michelle Wilson.

Appendix VII: Accessible Data

Data Tables

Data Table for Highlights Figure

Outside the voting area	Number of polling places
Parking	28 of 178
Path to building	58 of 178
Building entrance	39 of 178
Path to voting area	35 of 178

Data Table for Figure 1: Areas and Zones in Selected Polling Places That We Examined

Key zones in selected polling places in which features could impede access

- Outside the voting area
 - Parking
 - Path to building
 - Building entrance
 - Path to voting area
- Inside the voting area

Source: GAO analysis of polling place data collected during the 2016 general election. | GAO-18-4

Data Table for Figure 2: Trend in the Percentage of Voters Casting a Vote before Election Day

Year	Percentage of voters
2000	13.96
2002	14.19
2004	20
2006	18.54
2008	29.71
2010	24.88
2012	31.77
2014	29.34
2016	37.39

Data Table for Figure 3: Total Number of Potential Impediments at Selected Polling Places during the 2016 General Election, Outside or Inside the Voting Area

	Outside and inside voting area	Outside only	Inside only
Free of potential impediments	29 of 167	71 of 178	48 of 137
1 potential impediment	30 of 167	43 of 178	62 of 137
2-4 potential impediments	72 of 167	53 of 178	27 of 137
5 or more potential impediments	36 of 167	11 of 178	0 of 137

Data Table for Figure 4: Number of Selected Polling Places That Had One or More Potential Impediments Outside the Voting Area

	Number of polling places
1 potential impediment	43 of 107
2 to 4 potential impediments	53 of 107
5 or more potential impediments	11 of 107

Data Table for Figure 5: Zones Outside the Voting Area with One or More Potential Impediments That Could Impede Access for Voters with Disabilities

Outside the voting area	Number of polling places
Parking	28 of 178
Path to building	58 of 178
Building entrance	39 of 178
Path to voting area	35 of 178

Data Table for Figure 7: Number of Selected Polling Places with a Voting Station with an Accessible Voting System That Could Impede Casting a Private and Independent Vote

	Number of polling places
All aspects met	48 of 137
1 aspect unmet	62 of 137
2 aspects unmet	24 of 137
3 aspects unmet	3 of 137

Data Table for Figure 8: State-Reported Requirements Regarding the Accessibility of Polling Places, as of Election Days in 2000, 2008, and 2016

	2000	2008	2016
Voting location accessibility standards	23	43	44
Wheelchair accommodation in voting areas	17	38	40
Inspection of voting location accessibility	15	34	26
Local reporting to state on voting location accessibility	10	29	20

Data Table for Figure 9: Examples of Items for Observation and Measurements from Our Data Collection Instrument That Were Used to Train GAO Teams for Polling Place Examinations

Top diagram shows measurements required for unimpeded access through a door.

- **Regular door:** Opening must be at least 32 inches wide
- **Double door:** The opening for at least one door must be a minimum of 32 inches wide. The other door’s opening must be at least 24 inches wide.
- **Double door with one door locked or obstructed:** The opening for the unobstructed door must be a minimum of 32 inches wide.

Bottom diagram shows level placement for measuring the slope of a ramp.

Source: GAO’s analysis of Department of Justice’s 2010 ADA Standards for Accessible Design. | GAO-18-4

Data Table for Figure 10: Measurements Used to Determine If a Voting Station Was Set Up to Accommodate People Using Wheelchairs Based on Criteria in the Americans with Disabilities Act: ADA Checklist for Polling Places 2016

Diagram shows measurements required for unimpeded access to a voting machine.

- **Voting surface:**
 - 44 inches minimum height to voting machine or voting surface
 - 27 inches minimum height to bottom of voting surface.
 - 30 inches minimum width of opening
 - 19 inches minimum depth of voting surface

Source: GAO's analysis of Department of Justice's 2010 ADA Standards for Accessible Design. | GAO-18-4

Agency Comment Letters

Text of Appendix IV: Comments from the Department of Justice

Page 1

August 25, 2017

Rebecca Gambler

Director, Homeland Security and Justice

U.S. Government Accountability Office 441 G Street , N.W.

Washington, D.C. 20548 Dear Ms. Gambler:

Thank you for the opportunity to review the final draft of the Government Accountability Office (GAO) report entitled, "VOTERS WITH DISABILITIES: Observations on Polling Place

Accessibility and Related Federal Guidance, GAO-18-4". This draft report was reviewed by the

components of the Department of Justice that participated in this review, specifically the Voting Section and the Disability Rights Section within the Civil Rights Division. This letter constitutes the Department's formal comments, and we request that the GAO include this letter in the final report.

The Department greatly appreciates the efforts of GAO staff in reviewing issues related to the rights of voters with disabilities in federal elections, including the accessibility of polling places and voting systems. We also appreciate the opportunity to work once again with your staff on these important issues. The right to vote is the cornerstone of our democracy and the Department is committed to ensuring that the right to vote is secure for all eligible voters in our country, including our citizens with disabilities.

Before responding directly to the recommendation contained in the draft report, we believe it is important to provide background on the Department's extensive and continuing efforts to enforce the protections for voters with disabilities found in federal law, including the Americans with Disabilities Act of 1990, as amended (ADA), the Help America Vote Act (HAVA), and the National Voter Registration Act (NVRA), to name a few. Over two years ago, the Department launched the ADA Voting initiative, a collaboration between the Civil Rights Division and United States Attorneys' Offices from across the country, to focus our enforcement efforts on increasing the accessibility of voting locations for people with disabilities. Through this initiative, the Department has worked with a number of jurisdictions to improve polling place accessibility and the accessibility of the ballot. In fact, over the past few years,

Department staff have surveyed well over 1300 polling places in more than 60 counties and cities, to determine whether the facilities are physically accessible to voters with disabilities. We have reached agreements with counties and cities, both big and small, and most recently in Chicago, Illinois, Chesapeake, Virginia, and Richland County, South Carolina, to ensure that people with disabilities can access and use all of their voting facilities.

Page 2

In addition to the ADA Voting Initiative with U.S. Attorneys' Offices, the Civil Rights Division continues to review polling place accessibility through its Project Civic

Access. Recently, the Division obtained an agreement with Augusta County, Virginia that focused on polling place accessibility. The Division has reviewed other aspects of state and local voting locations, including the provision of accessible voting systems. Most recently, the Division reached an agreement with the Palm Beach County Supervisor of Elections in Palm Beach County, Florida, to improve the accessibility of the voting system used by the County in federal, state, and local elections. The Department will continue its enforcement efforts in this area and will continue to act on potential violations of federal law with respect to the voting rights of people with disabilities.

The Department has also expanded the guidance we provide on the rights of voters with disabilities, publishing *The Americans with Disabilities Act and Other Federal Laws Protecting the Rights of Voters*

with Disabilities and Solutions for Five Common ADA Access Problems at Polling Places, and updated our ADA Checklist for Polling Places. We post many of our agreements and letters of findings on our website, www.ada.gov.

GAO's draft report recommends that the Department "study the implementation of federal accessibility requirements in the context of early in-person voting and, as necessary, make changes to existing guidance." The Department agrees generally with this recommendation. The Department will study the implementation of federal laws protecting the rights of voters with disabilities in the context of early in-person voting and make changes to that guidance where necessary.

Again, we appreciate the extensive time and resources that you and your staff have put into this report and the opportunity to work with GAO on these very important issues.

Sincerely,

John Gore

Acting Assistant Attorney General

cc: Richard Theis

Director, Audit Liaison Group

Text of Appendix V: Comments from the Election Assistance Commission

Page 1

August 28, 2017

Ms. Barbra D. Bovbjerg

Managing Director, Education, Workforce and Income Security

Ms. Rebecca Gambler

Director, Homeland Security and Justice Issues

The U.S. General Accountability Office 441 G Street, NW

Washington, DC 20548

Dear Ms. Bovbjerg and Ms. Gambler:

The U.S. Election Assistance Commission (EAC) is grateful for the opportunity to review the General Accountability Office (GAO) draft report titled "Voters with Disabilities: Observations on Polling Place Accessibility and Related Federal Guidance" (100921).

The EAC appreciates the GAO's comprehensive research efforts related to election administration and voters with disabilities. Since the inception of the Help America Vote Act (HAVA) nearly 15-years ago, the GAO has provided invaluable research to advance voting accessibility across the United States. This report provides important contributions in the areas of polling place accessibility, the assessment of accessible early in-person voting, and actions states have taken to meet the HAVA requirements of providing private and independent election systems for people with disabilities.

Since the establishment of the EAC, the Commission has worked closely with election officials and others in the elections community to promote HAVA's accessibility requirements and to

Page 2

foster a climate of understanding throughout the country. The commission assists voters with disabilities by empowering and supporting accessibility advances with policy initiatives, voting system certification, outreach efforts, grants, and funding. The EAC provides the following resources for both election officials and voters with disabilities.

PROMOTING AWARENESS: The EAC works closely with election officials to promote HAVA's access requirements. In support of this effort, the commission also engages voters with disabilities, who provide vital feedback that informs election system and administration improvements. For example, leading up to the 2016 election, the EAC held a widely attended field hearing in Boston, Mass., where voters with disabilities provided testimony to help the EAC improve the election process. During its #BeReady16 campaign, the EAC also distributed more than 10,000 federal voting rights cards in Braille, large print, and plain language. These efforts continue today through forums to interact with voters with

disabilities and through the distribution of EAC outreach materials to election officials, voters, and advocacy organizations across the U.S.

ELECTION SYSTEM CERTIFICATION: The EAC's Testing and Certification program is the most successful and most implemented voting machine testing and certification program in the nation. It works directly with expert stakeholders to ensure voters with disabilities have access to election systems that meet stringent national standards. The guidelines significantly increase overall requirements for voting systems and expand access, including opportunities to vote privately and independently, for individuals with disabilities. The next iteration of the Voluntary Voting System Guidelines (VMSG) contains expanded requirements covering security, reliability, quality, usability, accessibility, and testing. In order to ensure a development process informed by a cross-section of all American voters, the EAC recently established VMSG public working groups focused on a variety of election-related topics, including human factors and accessibility.

RESEARCH AND DEVELOPMENT: Through the Accessible Voting Technology Initiative (AVTI), a recently completed \$8 million EAC grant program to assist both election officials and voters with disabilities, the EAC and its grantees produced approximately 45 R&D technological and administrative solutions designed to ensure all citizens can vote privately and independently. Under this effort, the EAC also conducted research to help veterans with disabilities in the voting process. For further information and grant reports, please visit: <https://www.eac.gov/payments-and-grants/accessible-voting-technology-initiative/>

In the report's conclusion, GAO states, "our work examining the accessibility of polling places for voters with disabilities during the 2000, 2008, and 2016 general elections points to the need for additional progress to help voters with disabilities enter and move through polling places, access voting systems, and cast a private and independent vote." The GAO's report will be an invaluable resource to the EAC and election officials as we continue to develop, implement, and evaluate effective election administration practices that ensure voting accessibility.

Page 3

The GAO's report makes clear that while some positive results have been achieved, much work remains to be done to meet the full promise of HAVA. Moving forward, the EAC will use this report and ongoing

feedback from voters with disabilities, advocacy organizations, election officials, and others to seek progress. The elections community must ensure that voters with disabilities have access to a private and independent vote.

The EAC appreciates the opportunity to provide information for this report. Please do not hesitate to contact me if you need further information or have any questions regarding our activities on voting accessibility.

Sincerely,

(illegible signature)

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