

Voting Accessibility: The devolution of voting technology

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Legal Requirements for Voting Access

<https://www.at3center.net/repository/atpolicy>

Americans with Disabilities Act (ADA) 1990 – requires “equal access” to programs and services and “effective communication” (two different legal requirements). Applies to all part of the voting process (online registration, polling places, voting systems, etc.)

Help American Vote Act (HAVA) 2002 – requires one accessible voting system per polling place that allows voters with disabilities to vote privately and independently. Directly applies to voting systems used in a polling place.

HAVA – What went wrong

“Accessibility technology is light-years ahead of where it was a year ago, and there is no reason that any polling place shouldn’t be accessible today from an equipment standpoint.”

David Hart, Committee on House Administration – May 17, 2001

Testimony of experts consistently assured Congress that fully accessible paperless systems were readily available on the market. No one predicted the move back to paper and associated access barriers.

HAVA did not require:

- Mandatory accessibility standards for voting equipment (only voluntary)
- Requirements for regular equipment upgrades (rapid AT evolution)
- A private right of action for voters with disabilities for enforcement

From HAVA to today

- Return to hand marked paper ballots for many voters at the polling place ($\approx 75\%$) most likely with segregated ballot marking device with poorly designed access features to as the accessible system.
- Increased use of remote voting options (not done in a polling place) by all voters but especially by voters with disabilities (estimate 40%); with using traditional hand-marked absentee ballot with almost no accessibility for voters with disabilities.
- Limited funding to purchase new technology and no market driving investment in R&D focused on accessibility challenges of paper.
- Litigation on voting accessibility currently filed under the ADA focused on online voter registration system accessibility and use of online remote ballot marking systems to provide voting accessibility.

What is an Accessible Voting System?

Delivers independent, private voting through electronic user interface in 3 parts of voting process

- Marking ballot
- Verifying marked ballot
- Casting an official marked ballot (countable)

Virtually NO paper based voting systems deployed today delivers accessibility.

- Certified to VVSG 2005 or prior FEC
- Testing lab misunderstanding of access requirements
- LA County system might meet standards . . .

What are the major access barriers with paper ballots?

- Marked paper ballots cannot be verified privately & independently.
 - Print content of ballot is not converted back into audio or large visual display for verification
 - Write-in text is not scanned into accessible form for verification
 - Paper ballot must be manually handled to utilize electronic verification
- Marked paper ballots cannot be cast privately & independently.
 - Paper ballot must be manually handled to cast

2016 Survey Voting Access Barriers (almost 15 years after HAVA)

Survey State AT Program & Protection & Advocacy federally funded networks -- N = 76, 24 states, 2 territories & 2 national organizations (AT Act Section 4 and HAVA Section 291 grantees)

Critical access barriers to private and independent voting in rank order –

Accessible Voting System (AVS) not set up and ready to use; no one knows how to set up and operate.

- Need poll workers comfortable and able to set up and support AVS in polling place. AVS needs to be intuitive and easy to learn how to use.

Voting Accessibility Barriers (cont.)

Remote/absentee voting is not accessible; only hand marked paper ballot.

- Need accessible online ballot marking and other accessible remote voting options.

Voter education materials not accessible; voter cannot be prepared to vote.

- Need voter education materials accessible online and/or alternative format materials readily available

Online voter registration system is not accessible.

- Need accessible forms and online application/architecture

Voting Accessibility Barriers (cont.)

AVS does not have access features for complex disabilities, e.g. eye gaze, refreshable braille.

- Need to be able to vote using own technology and AT

AVS unfamiliar, too complex; no time to learn to use.

- Need AVS available to community along with training to ensure voters become comfortable and efficient using to vote.

Polling place inaccessible; AVS not portable - cannot support curbside or remote voting.

Open Comment Themes

Until all voters use similar/same systems accessibility will continue to be elusive --

- *Polling place staff being unfamiliar with the accessible voting machine is a critical issue and recurs frequently and regularly. This is in large part because voters needing accessible voting use a separate and clearly unequal form of voting than voters who can hand mark a paper ballot. Only when EVERYONE must use the same and accessible machine is this likely to change.*
- *The ideal system is when everyone uses the same system to mark and cast their ballot. The return to hand marked paper ballots is a huge step backward from the ideal. When voters with disabilities are the only voters who use a ballot marking device and it produces a different size and content ballot from the hand marked one the secrecy of the ballots cast by voters with disabilities is seriously jeopardized.*

Still have inaccessible polling places --

- *All too often polling places are in older inaccessible buildings. Some of the physical access barriers contained include ramps that are too steep, the only accessible entrance may be a side or rear entrance used mainly for maintenance, and parking lots that are not paved with no clear path of travel to enter the polling place.*

Online voting is desirable solution --

- *Online voting would solve most issues; individuals would use their own assistive technology (AT) from home to vote eliminating transportation barriers, inaccessible polling place problems and inaccessible voting machine issues.*

Frustration with access barriers decades after ADA/HAVA attempted to ensure voting access –

- *The inability to easily access the polling place, lack of alternative formats and accessible voting systems would not be tolerated for any other voter. People with disabilities should have equal access on par with any other voter. Any barrier created by the lack of accessible features should not just be a public policy issue, it should be a crime.*

What might make a difference?

Federal funding/development of standard accessible user interface (mark, verify, cast ballot) for voting (polling place and remote) – make available to vendors.

- Use of expertise within the AT community to support quality access feature development
- Eliminate need for R&D in the voting vendor community (which does not have the resources or expertise)
- Allow for common training on the standard accessibility interface nationwide (supports voters with disabilities have experience with and can efficiently use the access features).

Security

vs.

Accessibility

Paper = inaccessible

Digital=accessible

Potential breaches

Existing Inaccessibility

Can this be solved?

“If the political will is there, we can solve anything.”

Martti Ahtisaari

Is the political will there?