

# Help Arkansas Vote: A Survey of Polling Place Accessibility



**DisabilityRights**

**ARKANSAS**

## **Acknowledgements**

Disability Rights Arkansas, Inc. (DRA) is the federally authorized and funded Protection and Advocacy system for individuals with disabilities in Arkansas. DRA's mission is to vigorously advocate for and enforce the legal rights of people with disabilities in Arkansas. DRA is authorized to protect the human, civil and legal rights of all Arkansans with disabilities consistent with federal law.

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# **Help Arkansas Vote: A Survey of Polling Site Accessibility in Arkansas**

## **Executive Summary**

Voting is a fundamental right. Federal and state law requires that polling places must be accessible to people with disabilities. The Americans with Disabilities Act, enacted 28 years ago, requires that state and local governments ensure polling place accessibility. The Help America Vote Act, enacted in 2002, provided funding to the states to eliminate barriers to polling place accessibility.

In 2016, Self Advocates Becoming Empowered (SABE), an advocacy group for people with disabilities, conducted a “voter experience survey” of people with disabilities. They found that 22% reported that a lack of physical accessibility at their polling place was a barrier to the exercise of their right to vote.<sup>1</sup>

In 2017, the U.S. Government Accountability Office released a report titled Voters with Disabilities: Observations on Polling Place Accessibility and Related Federal Guidance, based on data gathered during the 2016 elections.<sup>2</sup> The GAO reviewed a sample of 178 polling places in 21 counties spread over 12 states and the District of Columbia. Of these, 60% had a potential barrier to accessibility outside the polling place which could prevent a person with a disability from casting their vote.

Building upon the SABE and GAO reports, Disability Rights Arkansas surveyed 90% of the polling places throughout Arkansas for accessibility. DRA surveyed the parking areas, exterior paths of travel, and entrances to polling places to determine what barriers to entry to the polling places still exist. DRA found that 49% of the surveyed polling places had at least one barrier that could prevent a voter with a disability from accessing the polls.

Upon concluding the survey, DRA reached out to the state and counties to determine what has been done to ensure accessibility of polling places in the state. We found that the state has not provided adequate guidance to county officials on polling place accessibility and county officials are still not making sure that polling places are accessible.

Inaccessible polling places are unacceptable. Arkansas state and county officials must take immediate action to ensure that barriers that could prevent voters from accessing their polling places are eliminated immediately. This report highlights a significant problem and presents DRA's recommendations to ensure that people with disabilities do not encounter barriers to exercising their fundamental right to vote.

## **Polling Places Must Be Accessible to People with Disabilities**

Over the last thirty-five years, federal and state governments have passed laws to make sure people with disabilities have equal access to voting opportunities. This means, among other things, that people with disabilities have a right to polling places that are physically accessible. The Voting Accessibility for the Elderly and Handicapped Act of 1984,<sup>3</sup> Title II of the Americans with Disabilities Act of 1990,<sup>4</sup> the Help America Vote Act of 2002,<sup>5</sup> and Title 7 of the Arkansas Code require that polling places be accessible.<sup>6</sup>

### *Accessibility Standards*

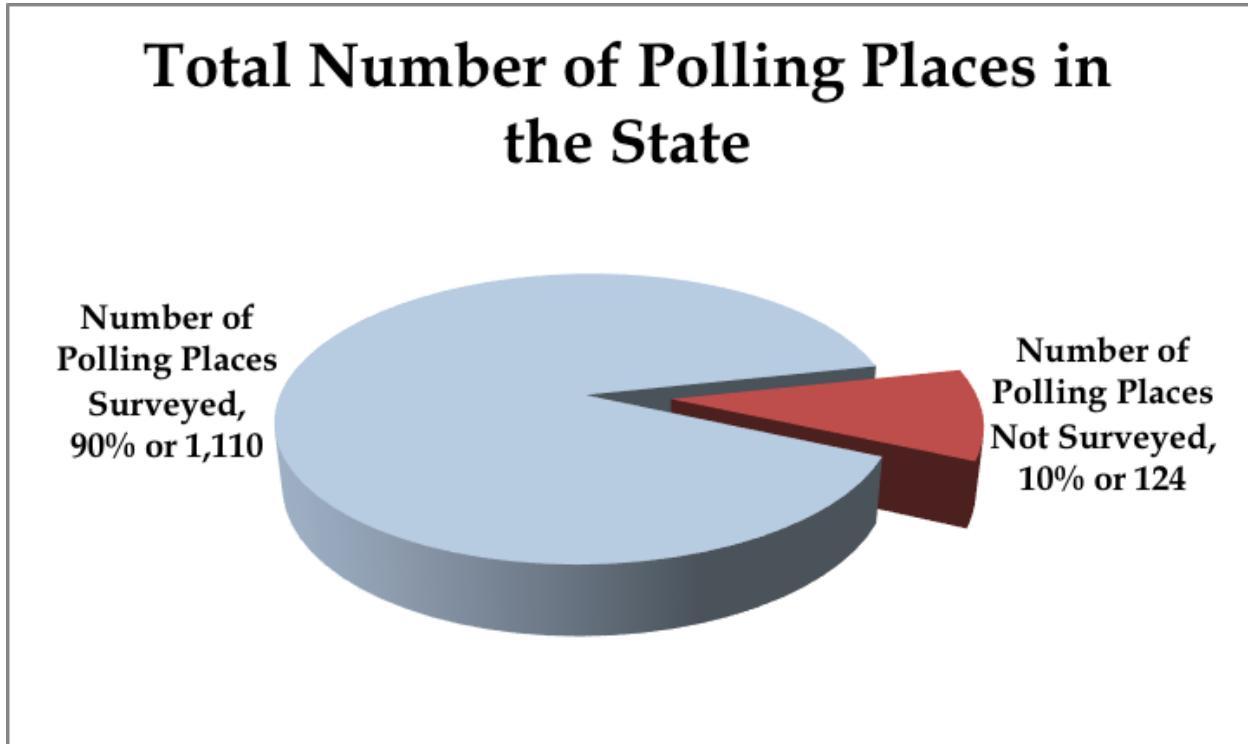
The U.S. Department of Justice (USDOJ) is tasked with enforcement of the Americans with Disabilities Act (ADA). In addition to regulations governing accessibility for all public services,<sup>7</sup> the USDOJ has issued ADA Standards for Accessible Design, which is an official standard for accessibility of architectural design for places open to the public.<sup>8</sup> The USDOJ has also published guidance for determining whether polling places meet required accessibility standards. These resources include:

- *The ADA Checklist for Polling Places*;<sup>9</sup>
- *The Americans with Disabilities Act and Other Federal Laws Protecting the Rights of Voters with Disabilities*;<sup>10</sup> and
- *Solutions for Five Common ADA Access Problems at Polling Places*.<sup>11</sup>

These USDOJ resources provide clear direction on identifying and remedying architectural inaccessibility at polling places. They are available to state and county officials and to the public through the internet at [www.ada.gov](http://www.ada.gov) and are posted on DRA's website at [www.disabilityrightsar.org](http://www.disabilityrightsar.org).

## Survey of Arkansas Polling Places

From October 2017 to July 2018, DRA surveyed polling places in all Arkansas counties. The polling places for each county were identified by the County Clerks. There were a total of 1,234 polling places in the state identified by County Clerks. Issues such as locked gates and construction prevented surveys of some polling places. DRA was able to survey 1,110 polling places, or 90%, of the identified polling places.

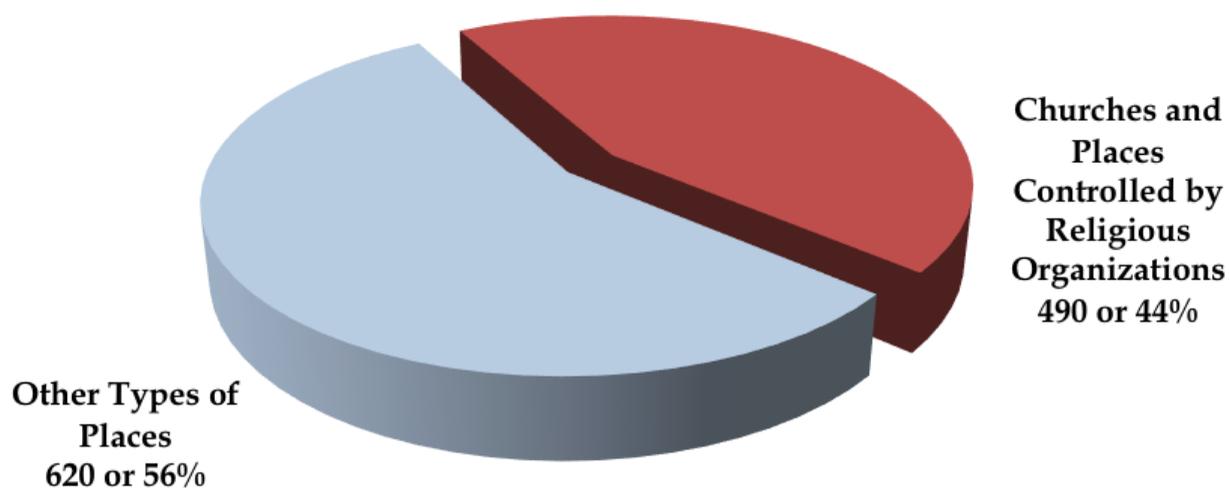


### *Churches and Places Controlled by Religious Organizations as Polling Places*

The Americans with Disabilities Act exempts “religious organizations or entities controlled by religious organizations, including places of worship” from accessibility requirements.<sup>12</sup> This includes churches, which are frequently used as polling places in Arkansas. Of the 1,110 polling places surveyed by DRA, 460 were churches or places controlled by religious organizations.

However, all polling places, even churches and places controlled by religious organizations, must meet accessibility requirements. This means that if a church or place controlled by a religious organization is used as a polling place, the county must make sure that the place is accessible on Election Day.

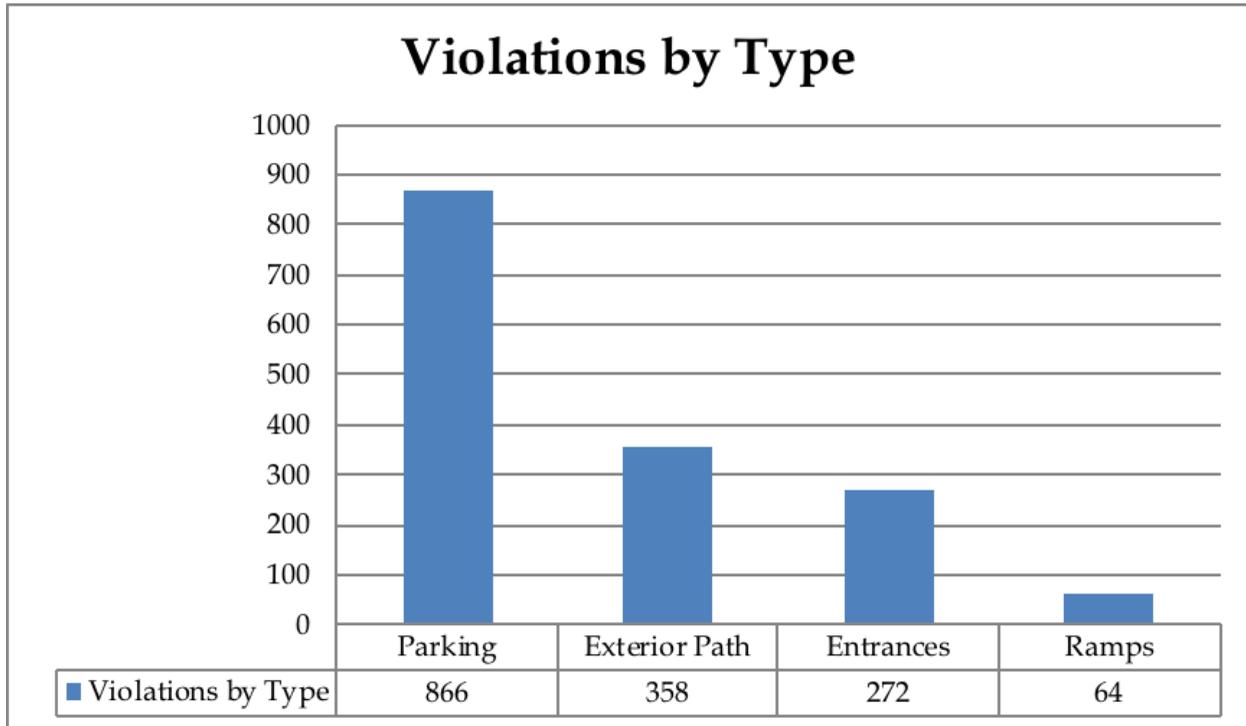
## Churches and Places Controlled by Religious Organizations used as Polling Places



### Scope of DRA Survey

DRA's survey was limited to the outside of the polling place and gaining entrance to the polling place. Most polling places are public or private buildings that are used for purposes other than for voting. The interiors of many places were not open or available for viewing at the time of the surveys. Also, most polling places are not set up for voting until Election Day. Because of the large number of polling places around the state, DRA could not survey the interiors of all polling places during an election. DRA's survey included examination of the parking area, exterior paths of travel, and entrance areas at each polling place. The survey was based on requirements for architectural accessibility in the Americans with Disabilities Act Checklist for Polling Places provided by the USDOJ.<sup>13</sup>

Because the surveys were not conducted during elections, any temporary modifications which may be in place during an election in order to make the site accessible were not available for observation at the time of survey.



### Results of the Survey

Based on survey results, DRA determined that approximately 49% of the surveyed polling places had barriers to accessibility. If those barriers are not eliminated by voting day, the county would be in violation of both federal and state law. Some polling places had multiple barriers; others had only one.

DRA found violations of accessibility requirements that include:

- A lack of designated accessible parking with proper signage;
- A lack of stable, firm, and slip-resistant parking areas and walkways;
- A lack of curb cuts connecting the parking area to an accessible walkway;
- A lack of necessary and accessible ramps;
- A lack of signage identifying accessible routes of travel; and
- A lack of accessible entrance ways and accessible doors.

Some of these barriers can be remedied with inexpensive, simple measures. Examples of these measures are signage for parking spaces and door handle modifications. The barrier can be eliminated if knowledge, planning, and correction of the barrier occur before Election Day.



Some of the identified barriers, however, cannot be remedied easily or inexpensively. The United States, through the Help America Vote Act, has provided funding to Arkansas and other states specifically for the purpose of assisting with the elimination of barriers to accessibility.<sup>14</sup> These barriers must be addressed through not only the commitment of resources for modifications, but also the education of county officials responsible for selection of voting places.

### *Parking*

Accessible parking is a requirement for polling places. If parking is provided for any voter, accessible parking must be provided for voters with disabilities.<sup>15</sup>

Accessible parking requires a number of things including: (1) reserved parking with adequate signage to clearly reserve those spaces for people with disabilities; (2) level, stable parking surfaces; (3) parking spaces that are wide enough and include parking for vans; and (4) an access aisle adjacent to the parking space that is wide enough to allow voters to exit their vehicle.<sup>16</sup>



*Unpaved and grassy parking area with no walkway*

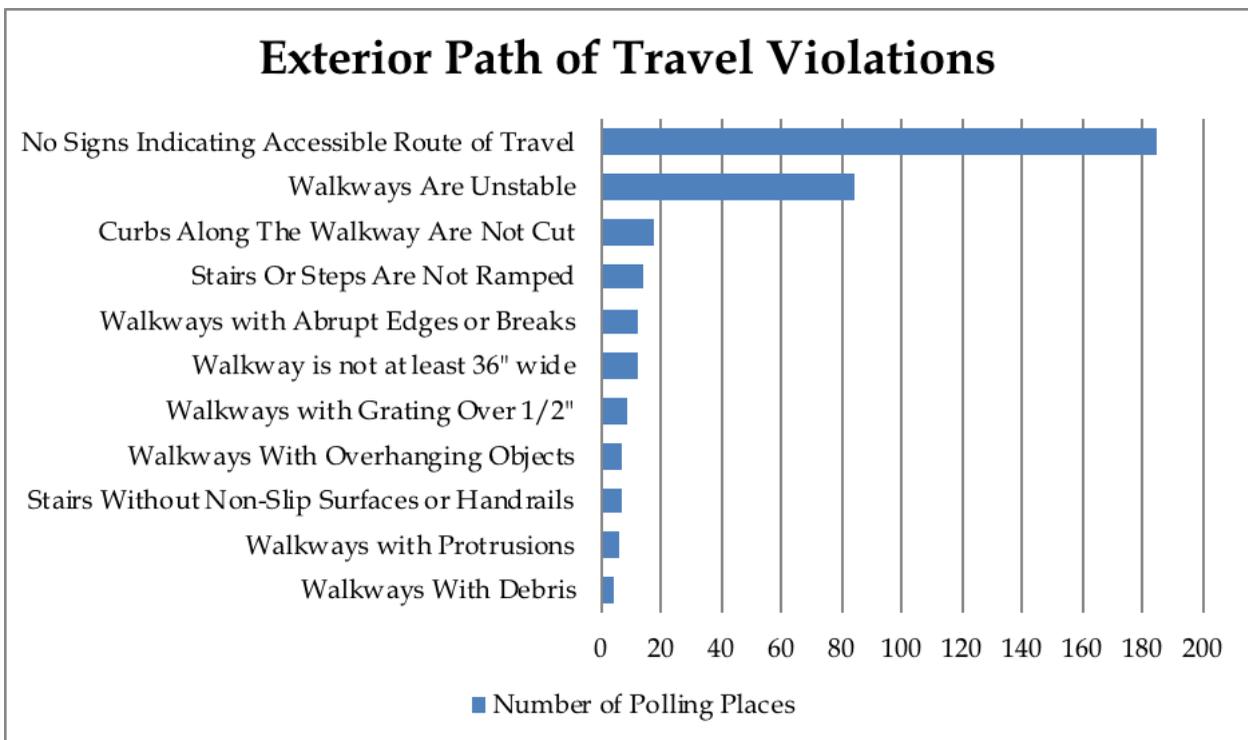
DRA found numerous violations of parking requirements at polling places. These violations included a lack of reserved off-street parking spaces for people with disabilities at 255 polling places, a lack of reserved parking signage at 236 polling places, and a lack of stable parking surfaces at 195 polling places.

## Exterior Paths of Travel

Making sure that there is an accessible exterior path of travel to the entrance of the polling place– i.e., the travel from a vehicle to the entrance of the polling place – is an accessibility requirement.

An accessible exterior path of travel requires a number of things including: (1) a marked accessible route of travel; (2) a route for access from the vehicle to the front entrance on a surface that is stable, firm, and slip resistant (e.g., clear of gravel or mud); (3) walkways that are not narrower than 36 inches to accommodate individuals with disabilities who may use equipment for mobility, like a wheelchair; and (4) curb cuts if necessary to allow access from the parking area to the walkway.<sup>17</sup>

DRA found numerous violations of exterior path of travel requirements at polling places. These violations included a lack of signs indicating any accessible route of travel at 185 polling places and a lack of stable walkways at 84 polling places.



## Stairs and Ramps

Stairs can present a significant barrier for some people with disabilities, and addressing this barrier is an accessibility requirement. People who use walkers or wheelchairs, or who otherwise have mobility impairments, require a path from their vehicle to the polling place that does not require them to climb stairs.

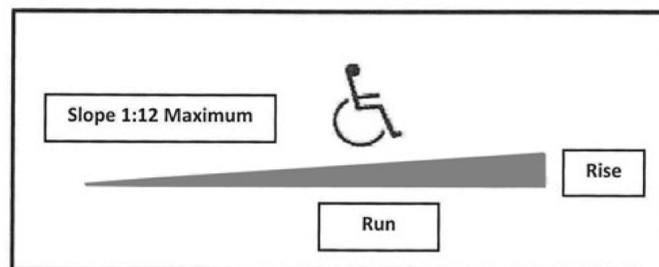


*Unpaved parking space with narrow walkway and ramp*



*Uneven walkway with grating on path*

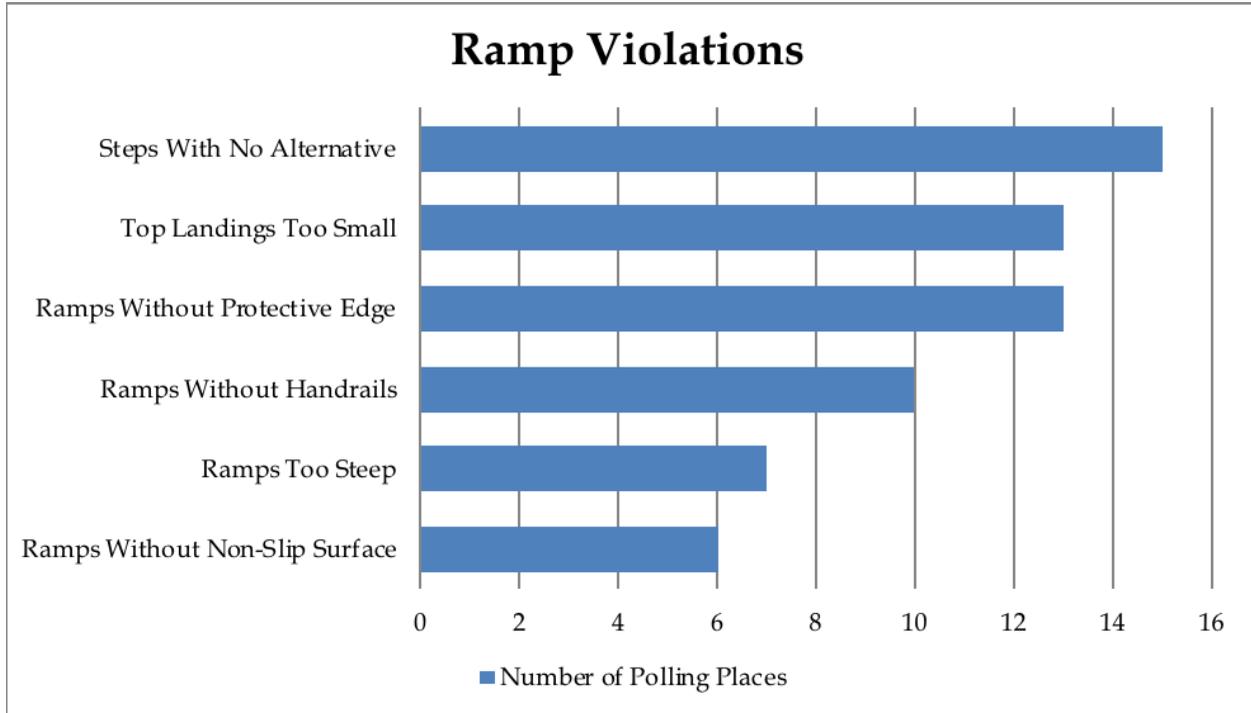
Ramps are typically utilized to remedy the problem of stairs. A ramp with a slope greater than 1:20 inches must meet all specific requirements related to the allowable slope of the ramp. This means that a ramp may not have a slope steeper than 1:12 inches.<sup>18</sup>



In addition, the accessibility standards set requirements for the width of a ramp, the size of landings for the ramp, and the provision of handrails and edge protection for the ramp.<sup>19</sup>

Landings must be at least as wide as the ramp, at least 60 inches long, and designed to prevent water accumulation.<sup>20</sup> Any intermediate landings between ramps must be both 60 inches wide and long.<sup>21</sup> When a ramp rises more than six inches, handrails are required.<sup>22</sup>

DRA found violations of requirements related to stairs and ramps at polling places. There were fewer violations of the accessibility standards for ramps than for other standards. These violations, however, create significant barriers for access unless fixed.

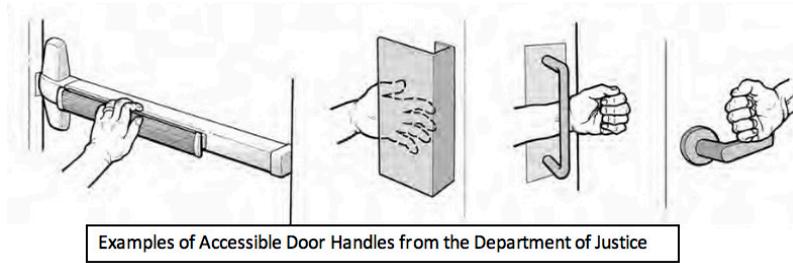


### *Doors and Entrances*

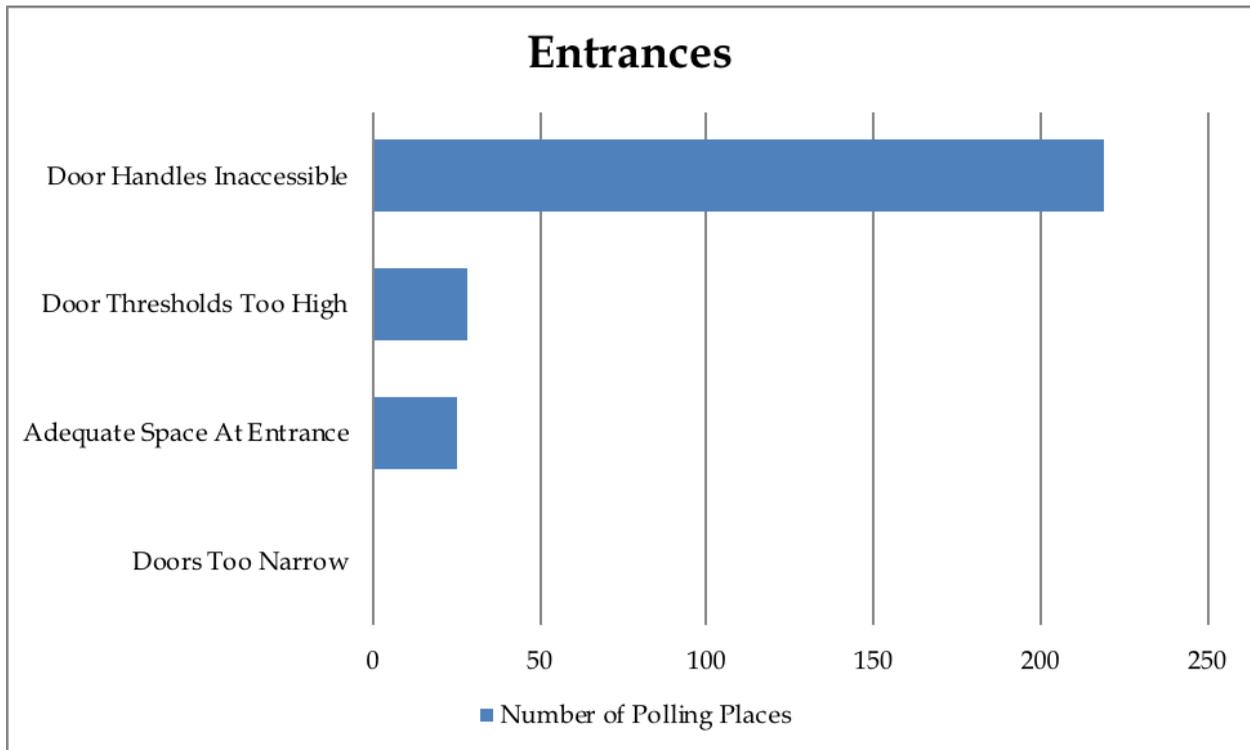
Entrances must be accessible. This means that thresholds must not be too high, and there must be adequate space at the door for entering the building.<sup>23</sup> This also requires that the doors either be automatic or not require more than five pounds of force to open.<sup>24</sup> Doors also must be equipped with handles that are accessible.<sup>25</sup>



*Unpaved parking area with no walkway and a steep ramp*



Polling place entrances with a rounded doorknob are difficult to use by people who have difficulty gripping. Door handles that are arch, lever, or push-plate type handles are more accessible for people who have difficulty gripping objects. DRA found that a common accessibility violation was the type of door handle for entrance to the polling place. This was a problem at 219 polling places.



### Communications with Counties about Survey Results

In Arkansas, County Election Commissioners are ultimately responsible for selecting polling places and administering elections. The State of Arkansas’s Chief Election Officer is designated as the Secretary of State, who oversees the State Board of Election



*Doorway with inaccessible round knob and high threshold*

Commissioners. The State Board of Election Commissioners is required to ensure that the counties comply with election laws, including with regard to accessibility.

After conducting surveys in a county, DRA wrote to the County Clerks and County Election Commissioners to let them know of their findings. DRA's letter provided information about the requirements for architectural accessibility and the barriers that needed to be remedied.

Forty-six of Arkansas seventy-five counties responded to the information provided by DRA and expressed a desire to remove barriers to accessibility. Some counties provided information about plans to address accessibility barriers through temporary measures put in place on Election Day.

Although there are measures that can be taken to temporarily fix some accessibility violations, these require planning and work in advance of Election Day. For example, reserved parking spaces can be designated by marking the spaces with temporary signage on Election Day. Reserved parking spaces also could be relocated to be nearer to the building and accessible entrances. Another example would be doorknobs which can be remedied by purchasing a removable doorknob extension handle and installing it before Election Day and removing it after then. Traffic cones can be used to designate access aisles for reserved parking.

Other accessibility violations, like most unstable parking surfaces or stairs, do not lend themselves to temporary solutions. Improving parking surfaces and installing a ramp require advance planning, construction, and expense. Parking surface issues can be fixed with permanent solutions like pouring concrete for accessible parking spaces and access aisles.

## *Vote Centers*

The vote center model allows people to vote at a vote center in their county instead of requiring them to vote at their specifically assigned polling place.<sup>26</sup> All of the county's vote centers would have to meet accessibility requirements. DRA is aware of at least eight Arkansas counties<sup>27</sup> that have or are considering moving toward vote centers for several reasons, including as a convenience for voters and as a way to alleviate issues with accessibility. Questions about vote centers should be directed to the County Election Commissioner in these counties.

Vote centers are not a solution to making polling places accessible and can have negative consequences for voters with and without disabilities. The creation of vote centers does not eliminate the need to make all polling places accessible. One concern is that counties utilizing vote centers might believe that since a person can vote at any vote center within their county, only one vote center needs to be accessible. All polling places, whether the county is utilizing vote centers or not, must be accessible. In some parts of the state, many counties that have switched to vote centers have reduced the overall number of polling places they operate. For many people, vote centers will be farther away. For people with disabilities, limited resources, or a lack of transportation, traveling increased distances to vote is a hardship. Counties which do make the decision to shut down places should also seek to ensure that there are transportation options in place to get voters to the polls on Election Day.

### **Support for Counties and Oversight by State**

Of the 46 counties who responded to DRA's letter, many counties reported that they are not being provided with adequate guidance on polling place accessibility from the Arkansas State Board of Election Commissioners or the Secretary of State's Office, the two state agencies responsible for the oversight of elections in Arkansas.

DRA's conclusion, based on communications with counties and information obtained through Freedom of Information Requests, is that state does not adequately support counties and their Election Commissions in understanding the requirements for accessibility or complying with election laws to make sure that polling places are accessible.

### *State Board of Election Commissioners*

The County Board of Election Commissioners Procedures Manual is published and distributed by the State Board of Election Commissioners (State Board). The Manual requires that the State Board:

- Assist the counties with making sure that their polling places are accessible;
- Send out “detailed and comprehensive” directives regarding accessibility;<sup>28</sup> and
- Regularly put together reports on the county officials’ efforts to provide accessible places.<sup>29</sup>

In response to a Freedom of Information Act request by DRA for January 2014 to March 2018, the State Board did not produce any records indicating compliance with the requirements of the Manual. The State Board did not provide any training materials or any record of “detailed and comprehensively written directives” regarding accessibility, or any reports of county officials’ efforts. Many county officials confirmed that the State Board had not provided any training or guidance on accessibility.

The State Board did provide a 2005 document, “State Board of Election Commissioners Guidelines for ADA Compliance with Polling Site Accessibility.” This four page document is an overview of ADA requirements for polling places. This document lacks necessary information and detail, does not contain pictures or diagrams, and recommends no solutions for common issues.

The State Board has no record of surveying polling places for accessibility since 2014 when it had the counties conduct self-evaluations. The State Board received survey responses from only eight of the state’s seventy-five counties. The State Board did not conduct any follow-up or further oversight activities.

### *Arkansas Secretary of State*

DRA also submitted a Freedom of Information Act request to the Arkansas Secretary of State for January 2014 to March 2018 seeking records of compliance by the State Board of Election Commissioners with the Manual. The Arkansas Secretary of State did not produce any records, and notified DRA by phone that it did not have any records of these required activities.

## Conclusion and Recommendations

Arkansas needs improvement in the accessibility of its polling places. Education and technical support for counties on accessibility requirements is a critical foundation to any improvements. Education of the public about those requirements and to people with disabilities about their rights and how to address violations of their voting rights also is a critical foundation to improvement.

There are simple steps that can be taken to make improvements. Some, such as temporary signage and door handle extensions, are simple fixes that are easy to accomplish. Some of the accessibility barriers are more challenging to fix and require more in terms of planning, funding, and work. All of these steps require an understanding of the accessibility requirements and timely attention before an election is occurring.

DRA recommends the following steps be taken by the state and counties:

1. The Secretary of State and the State Board of Election Commissioners take immediate steps to make sure that all counties are moving their polling places to accessible locations or making their current polling places accessible.
2. The state must monitor the counties to determine whether their polling places are accessible and commit resources to assist the counties with fixing any accessibility problems.
3. State and county officials, along with other community stakeholders, collaborate to develop informational material and resources to provide education to the public regarding their voting rights, equal access to voting for voters with disabilities, and how to report and resolve complaints about voting.
4. State and county officials, along with other community stakeholders, collaborate to provide training to state and county officials and employees and poll workers about the accessibility requirements for polling places and other rights of voters with disabilities.

## Endnotes

- 1 Voters with Disabilities Election Report, Self Advocates Becoming Empowered, July 2017. (<http://www.sabeusa.org/wp-content/uploads/2017/03/2016-Voter-Survey-Final-Report-28229.pdf>. Last Accessed September 7, 2018.)
- 2 GAO Publication No. GAO-18-4, October, 2017. (<https://www.gao.gov/assets/690/687555.pdf>. Last accessed September 7, 2018.)
- 3 The Voting Accessibility for the Elderly and Handicapped Act requires that election authorities “assure that all polling places for federal elections are accessible to elderly voters and voters with disabilities.” 52 U.S.C. § 20102.
- 4 Title II of the Americans with Disabilities Act requires that persons with disabilities have equal access to state and local governments. 42 U.S.C. § 12132. More specifically, the Department of Justice, who is required to enforce Title II, requires that all public entities make “reasonable modifications to rules, policies, or practices” to ensure nondiscrimination in the programs, services and activities of state and local governments, including elections. 28 C.F.R. §§ 35.130, 35.150.
- 5 The 2002 Help America Vote Act seeks to improve voting access for individuals with disabilities in a number of ways, including by (1) providing grants to states and local governments to improve the accessibility of polling places, (2) creating minimum standards for the accessibility of voting systems, and (3) establishing a state-based administrative complaint procedure to remedy any grievances covered by the provisions of HAVA. 52 U.S.C. §§ 20901, 21021, 21081, 21112.
- 6 Title 7 of the Arkansas Code requires that all polling places to be accessible. The law requires county boards of election commissioners to provide voting locations that are accessible to voters with disabilities and to provide reasonable and adequate methods for voters with disabilities to personally and secretly vote at the polling places. Ark. Code Ann. § 7-5-311.
- 7 28 C.F.R. §§ 35.130, 35.150.
- 8 United States Department of Justice 2010 ADA Standards for Accessible Design, [https://www.ada.gov/regs2010/2010ADASTandards/2010ADASTandards\\_prt.pdf](https://www.ada.gov/regs2010/2010ADASTandards/2010ADASTandards_prt.pdf). Last accessed August 31, 2018.
- 9 <https://www.ada.gov/votingck.htm>. Last accessed August 13, 2018.
- 10 [https://www.ada.gov/ada\\_voting/ada\\_voting\\_ta.htm](https://www.ada.gov/ada_voting/ada_voting_ta.htm). Last accessed August 13, 2018.
- 11 [https://www.ada.gov/ada\\_voting/voting\\_solutions\\_ta/polling\\_place\\_solutions.htm](https://www.ada.gov/ada_voting/voting_solutions_ta/polling_place_solutions.htm). Last accessed August 13, 2018.
- 12 42 U.S.C. § 12187.
- 13 <https://www.ada.gov/votingchecklist.pdf>. Last accessed September 6, 2018.
- 14 The Help America Vote Act has included an opportunity for states to apply for federal grants to improve their polling places and voting processes. The federal government made funds available to states for (1) making polling sites physically accessible, (2) providing the same opportunity for access and participation (including privacy and independence) to individuals with the full range of disabilities, (3) providing training for all persons associated with the administration of elections regarding accessibility, and (4) providing individuals with disabilities with information about polling site accessibility. 52 U.S.C.A. § 21021. Arkansas received more than \$225,000 to ensure the physical accessibility of polling places through the state. <https://www.sos.arkansas.gov/elections/voter-information/arkansas-and-hava>. Last accessed September 7, 2018.
- 15 United States Department of Justice 2010 ADA Standards for Accessible Design, Section 208.1, [https://www.ada.gov/regs2010/2010ADASTandards/2010ADASTandards\\_prt.pdf](https://www.ada.gov/regs2010/2010ADASTandards/2010ADASTandards_prt.pdf). Last accessed September 7, 2018.
- 16 United States Department of Justice 2015 ADA Compliance Brief: Restriping Parking Spaces, [https://www.ada.gov/restriping\\_parking/restriping2015.html](https://www.ada.gov/restriping_parking/restriping2015.html). Last accessed September 7, 2018.
- 17 United States Access Board: Architectural Barriers Act Standards, Sections 402 & 403, <https://www.access-board.gov/guidelines-and-standards/buildings-and-sites/about-the-aba-standards/aba-standards/chapter-4-accessible-routes>. Last accessed September 7, 2018.
- 18 United States Department of Justice 2010 ADA Standards for Accessible Design, Section 405.2, [https://www.ada.gov/regs2010/2010ADASTandards/2010ADASTandards\\_prt.pdf](https://www.ada.gov/regs2010/2010ADASTandards/2010ADASTandards_prt.pdf). Last accessed September 7, 2018.
- 19 *Id.*, Section 405.8.

- 20 Id., Section 405.7.
- 21 Id.
- 22 Id., Section 405.8.
- 23 United States Access Board: Architectural Barriers Act Standards, Sections 404, <https://www.access-board.gov/guidelines-and-standards/buildings-and-sites/about-the-aba-standards/aba-standards/chapter-4-accessible-routes>. Last accessed September 7, 2018.
- 24 Id.
- 25 Id.
- 26 Ark. Code Ann. § 7-1-113.
- 27 These counties are Arkansas, Baxter, Clark, Craighead, Crawford, Crittenden, Lonoke, and Polk.
- 28 County Board of Election Commissioners Procedures Manual, 2018 Edition, State Board of Election Commissioners, p. 44.
- 29 Id.

