



U.S. Election Assistance Commission
1225 New York Ave. – Suite 1100
Washington, DC 20005

January 24, 2007

EAC Advisory 2007-001: Accessible voting systems for in-person absentee voting

The U.S. Election Assistance Commission (EAC) has recently received an inquiry regarding whether a location for in-person absentee voting must comply with the provisions of Section 301(a)(3) of the Help America Vote Act of 2002 (HAVA). After consideration of the matter, EAC has concluded that Section 301 was clearly intended to be applied to absentee voting as evidenced by the reference to absentee by mail voting in Section 301(a)(1)(B). It follows then that the requirement of Section 301(a)(3) that each polling place have an accessible voting unit also applies to absentee voting polling places.

HAVA does not define the phrase “polling place” in Section 301 or in any other section in which that term is referenced. However, the intent of HAVA to provide accessibility to individuals with disabilities is clear and should not be thwarted by lack of a definition of that phrase. For purposes of the application of Section 301(a)(3), a polling place should be considered to be any location where a voter appears in person to cast a ballot including an early voting site. A polling place is not a voter’s home, place of business or any other location where the voter casts a ballot that is not a location sanctioned and operated by the state, county or local office responsible for conducting elections.

Conclusion. Thus, an absentee in-person voting location would be considered a polling place. Pursuant to Section 301(a)(3) of HAVA, those absentee in-person locations should be equipped with at least one accessible voting device.

Handwritten signature of Donetta Davidson in cursive.

Donetta Davidson
Chair

Handwritten signature of Gracia Hillman in cursive.

Gracia Hillman
Commissioner

Handwritten signature of Paul DeGregorio in cursive.

Paul DeGregorio
Commissioner

¹ The EAC is the Federal agency charged with the administration of HAVA. HAVA requires the Commission to draft guidance to assist states in their implementation of Section 301(a)(3). Although EAC’s administrative interpretations do not have the force of law associated with legislative rules, the Supreme Court has long held that the interpretations of agencies charged with the administration of a statute are to be given deferential treatment by Courts when faced with issues of statutory construction. York v. Secretary of Treasury, 774 F. 2d 417, 419 – 420 (10th Cir. 1985) (citing Compensation Commission of Alaska v. Aragon, 329 U.S. 143, 153 – 154 (1963)); See also Christian v. Harris County, 529 U.S. 576 (2000); Edelman v. Lynchburg College, 122 S. Ct. 1145 (2002).