

MAINE STATE LEGISLATURE

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Department of the Secretary of State

Bureau of Corporations, Elections and Commissions

Shenna Bellows
Secretary of State

Julie L. Flynn
Deputy Secretary of State

February 1, 2024

The Honorable Craig Hickman, Senate Chair
Joint Standing Committee on Veterans and Legal Affairs
100 State House Station
Augusta, ME 04333-0100

The Honorable Laura Supica, House Chair
Joint Standing Committee on Veterans and Legal Affairs
100 State House Station
Augusta, ME 04333-0100

Dear Senator Hickman, Representative Supica and Members of the Committee,

Pursuant to Resolves of 2023, Chapter 73, which directed the Secretary of State to establish a Working Group to Study Polling Places at Schools in Order to Protect Security and Accessibility, we are pleased to report on the results of work that occurred with six meetings of the working group between November and January. Working group members are listed in Appendix A.

The working group was directed to:

1. Identify the number of school buildings in the State that are designated as polling places;
2. Examine and identify practices in other states around the use of school buildings as polling places;
3. Evaluate the criteria necessary to protect the security of school students and staff and election staff and voters when school buildings are used as polling places;
4. Identify possible changes to practices around the use of school buildings as polling places to protect voter accessibility and to safeguard the security of school students and staff and election staff and voters when a school building is used as a polling place; and
5. Make recommendations based on the findings of the working group.

The working group reviewed the law surrounding designation of a polling place in Title 21-A, Section 631-A. Municipal governmental entities (select board or city council) designate the polling place subject to approval by the Secretary of State of any changes to polling places. If the polling place is in a school, that is subject to school board approval as well. Polling places must conform to the Americans with Disabilities Act (ADA) as well as federal and state election law requirements. Additionally, predictability of a polling location (using the same location year after year) increases the likelihood that voters will know where to vote and be able to participate. See the Secretary of State policy for change of a voting place in Appendix B.

The working group identified 72 polling places located at schools in July 2020, listed in Appendix C. The working group reviewed a map of those polling places, noting that they are across the state in large and small jurisdictions. The working group noted that the number of polling places in schools varies between general elections (presidential and gubernatorial November elections) and primaries and between odd and even numbered years.

The working group reviewed the Maine elections calendar (see Appendix D) and reviewed the process whereby schools establish the school calendar including days that students are in school and non-student days under Title 20-A, Section 4801. School calendars are developed locally and approved by the school board; Schools must provide 180 days of which at least 175 days must be instructional. Schools within a regional school district that follow the same calendar are prohibited from accruing more than 5 dissimilar instructional dates from other schools in the district. District calendars must be sent to Maine Department of Education for approval by June 1 annually. The working group discussed the fact that closing a school for instruction on election days may challenge the schools' ability to meet instructional day requirements. Closing schools to instruction for the June primary at the end of the school year is even more challenging than doing so in November.

The working group examined practices from the New England states around the use of school buildings as polling places. (Secretary of State staff reached out to fellow Secretary's offices, and the Maine School Board Association connected with New England counterparts.) Rhode Island and Connecticut have statutory provisions regarding the use of schools as polling places. Rhode Island closes schools for the presidential preference primary and for general elections in even years. Schools may hold in-service days for teachers on those days or hold activities at the school as long as school activities are physically separated from voting. Rhode Island and Massachusetts encourage schools and municipalities to have agreements (memoranda of understanding (MOUs)) to make roles and responsibilities clear. Vermont and New Hampshire, like Maine, vary, and local municipalities coordinate with local school districts where voting takes place in a school.

The working group hosted a presentation from Disability Rights Maine (DRM) who presented an overview of voting place accessibility (see Appendix E) including federal and state laws protecting voting rights for people with disabilities (the Voting Accessibility for the Elderly & Handicapped Act of 1984, the Americans with Disabilities Act of 1990, the Help America Vote Act of 2002, *Merrill v. Dunlap* of 2020, and *Doe v. Rowe* of 2001). DRM also shared information from the U.S. Department of Commerce National Institute of Standards in Technology "Promoting Access to Voting," which recommends using government buildings as polling locations as they are already compliant with ADA specifications. Additionally, DRM presented preliminary accessibility survey data collected by DRM on-site during the November 2023 referendum election. DRM recommends use of schools for voting where possible because schools have often made significant improvements to accessibility for people with disabilities.

The working group created and conducted a school/voting place accessibility and security survey sent out to municipal clerks, school administrators and community advocates. There were 469 responses, the majority of whom were municipal officials. All sixteen counties were represented. Of the survey respondents, 23.45% vote at a school; 70.36% vote at another public building. A majority (65%) found it very easy to get into a polling place; 3.9% thought people with disabilities would find it difficult to access the polling place. 90% of respondents feel very safe or somewhat safe at their polling place and 89% think voting staff are safe or somewhat safe. Respondents were split on the question of whether "all schools should be closed on election day" with slightly more disagreeing than agreeing. See Appendix F for a summary of survey results.

The working group discussed some measures being undertaken by the Maine School Safety Center to increase school security. The Secretary of State shared information about the program to conduct SAFE assessments of clerks' offices and polling locations in coordination with the Cybersecurity and Infrastructure Security Agency. The working group would like to continue meeting and to invite school security officials, law enforcement and the federal authorities to present to the working group to more thoroughly explore criteria necessary to protect the security of school students and staff and election staff and voters when school buildings are used as polling places.

The working group concluded its work with the following recommendations:

1. The working group recommends that the working group continue to meet for the duration of 2024 to facilitate coordination between election officials and school officials on issues of security and accessibility of voting as well as to explore best practices for effective coordination between schools and election officials.
2. The working group recommends that municipalities and school districts be encouraged to develop and sign agreements for use of the school as a polling place where that occurs so that roles and responsibilities for accessibility, security and other issues be clearly defined.
3. The working group recommends that the Department of Secretary of State develop a resource bank including a model memorandum of understanding and other resources to assist municipalities and schools seeking to negotiate use of schools as polling places to enhance accessibility and security.
4. The working group recommends a report back to the 132nd Legislature regarding any proposed statutory changes to facilitate accessibility and security of use of schools as polling places.

The working group would be happy to provide an in-person presentation of this report to the Joint Standing Committee on Veterans and Legal Affairs to answer any questions members of the Committee might have about this work. We are grateful for the opportunity to convene on these important issues and look forward to continuing this vitally important work in 2024.

Sincerely,



Shenna Bellows
Secretary of State

Appendix A

Working Group Membership

1. The Secretary of State or the secretary's designee – Secretary of State Shenna Bellows
2. The deputy secretary of state of the Bureau of Corporations, Elections and Commissions within the Department of the Secretary of State or the deputy secretary's designee – Heidi Peckham, Director of Elections and the APA, Bureau of Corporations, Elections and Commissions, Department of Secretary of State
3. The Commissioner of Education or the commissioner's designee – Robert Susi, Director of the Maine School Safety Center, Department of Education
4. A representative of the Maine School Boards Association, appointed by the Secretary of State – Steven Bailey, Executive Director of Maine School Boards Association
5. A representative of the Maine School Superintendents Association, appointed by the Secretary of State – Heather Perry, Superintendent of Schools, Gorham
6. A representative of the Maine Town and City Clerks' Association, appointed by the Secretary of State – Merton Brown, Town Clerk, Kennebunk
7. A representative of the Maine Municipal Association, appointed by the Secretary of State – Wendy Rawski, Town Clerk, Eliot
8. A representative of an organization dedicated to advancing the legal rights of individuals with disabilities, appointed by the Secretary of State – Kim Moody, Executive Director, Disability Rights Maine
9. A representative of an organization dedicated to the protection of voters who are from historically underrepresented or marginalized communities, appointed by the Secretary of State – Safiya Khalid, Co-Founder and Executive Director, Community Organizing Alliance

Policy for Changing the Location of a Voting Place

Prepared by the Office of the Secretary of State

To ensure that all voting places in the State of Maine meet the requirements for accessibility, are of adequate size to accommodate the required number of voting booths, including Maine's Accessible Voting Solution (AVS), and are arranged in such a manner to ensure proper traffic flow, municipalities that want to change the location of a voting place must follow this policy.

Section I. Notification to Secretary of State's Office of Proposed Change of Location

1. The municipal officers or the Municipal Clerk must submit An *Application to Change the Physical Location of the Voting Place* to the Secretary of State's Office **at least 60 days before an election**, allowing sufficient time for the municipality to certify accessibility. [This deadline was established in statute in 2011 to allow sufficient time for the correction of any deficiencies at the new location; Title 21-A §631-(A)(3)].
2. Except in the case of an emergency which makes the current voting place unusable, the Secretary of State's Office will not approve the change of location for a voting place unless the municipality follows this application process.
3. As part of the application process, the municipal officers or the Municipal Clerk must submit a drawing of the proposed layout of the voting area within the voting place. The drawing does not have to be to scale, but must include:
 - the dimensions of the voting area;
 - the number and size of voting booths;
 - a clear indication of where the AVS will be placed;
 - where the other components of the voting place will be located (voting booths, ballot box or tabulating machines, Election Clerks with Incoming Voting List, guardrail, Registrar's area, area for pollwatchers);
 - how accessibility requirements will be met (parking, accessible entrance, navigation through voting place by individuals using accessible equipment/aids, such as wheelchairs, walkers, assistance animals, etc.).
4. As part of the application process, the municipal officers will be provided with a "Municipal Self-Certification for Voting Place Accessibility" form which must be completed. The person who completes this form verifies that each accessibility category has been reviewed for compliance under the Americans with Disabilities Act (ADA) and either meets the requirements defined therein or will be addressed within a reasonable timeframe to provide accommodation to individuals with disabilities.
5. After all documentation has been submitted for the application process, the Secretary of State's Office will review the documentation, make any follow up contacts that are necessary, and notify the municipal officers of its determination.

Section 2. Requirements for the Accessible Voting Solution (AVS).

1. Pursuant to Title 21-A §812-A, each municipality shall provide one AVS at each voting place used in the conduct of state elections.
2. The AVS must be set up at each voting place using the table, equipment, privacy screen, and accessible devices that were provided with the system.
3. The AVS must be set up in such a manner that the power and extension cords are out of the area where the voter will be sitting (preferred) or adequately taped down so as not to cause an obstruction or hazard.
4. The AVS must be set up so that a voter's privacy is maintained – do not place the voter so that others passing by might observe a voter's choice or cause distraction to a voter [Title 21-A MRSA §671(8)]. Ideally, the voter's back should be to the wall, with 5 feet of maneuverability around the table.
5. The Municipal Clerk must perform the AVS Logic and Accuracy testing as early as possible during the scheduled test period to ensure adequate time to address any problems.

Section 3. Requirements for Accessibility.

1. All voting places need to be accessible by state law, meaning that they must meet the requirements for accessible routes of the 1981 Standards of Construction in Title 25, chapter 331. However, since federal laws require accessibility for voting places used for federal elections (Title II of the Americans with Disabilities Act, and the Help America Vote Act), it is best to follow these accessibility standards to the extent they are more stringent than Title 25, chapter 331.
2. Certification must be made by a municipal official with building code experience that the voting places meet accessibility requirements in 10 areas:
 - Parking Spaces
 - Sidewalks and Walkways
 - Passenger Drop Off Areas
 - Building Entrance
 - Hallways and Corridors
 - Ramps
 - Elevators
 - Lifts
 - Voting Area
 - Second Voting Area (if applicable, i.e. absentee)
3. Several resources are available for determining if accessibility requirements are met. They include:
 - The Secretary of State's booklet *"Ensuring Accessibility: Goals and Solutions for Improving the Accessibility of Maine's Voting Places"*. A .pdf version is available at www.maine.gov/sos/cec/elec/temp
 - ADA Accessibility Guidelines website: www.access-board.gov/adaag/html/adaag.htm
 - Department of Justice website: www.usdoj.gov/crt/ada/stdspdf.htm

Section 4. Requirements for Arrangement of Voting Place.

1. The ballot box/tabulating machines must be arranged so they are in view of persons present. [Title 21-A §627(1)].
2. Each voting booth must be arranged so those outside the guardrail enclosure can see who enters and leaves it. [Title 21-A §627(1)]. See Title 21-A §629 regarding the number of voting booths.
3. A guardrail must be constructed so that only those inside its enclosure can approach within 6 feet of the ballot box and voting booths. “Guardrail” is not defined in the law, however, there must be a physical barrier to enclose the voting area – such as a rope and stanchions, chairs, tables or some combination of physical elements that form a barrier enclosing the voting activity and separating it from the observation activity. [Title 21-A §627(2)].
4. The voting place must be large enough to allow at least one worker from each political party (Democrat, Green Independent, Republican and any qualifying parties) to remain outside the guardrail as a poll watcher. They must be able to see and hear all activity of voting within the guardrail, including the voters stating their names and residence address at check-in, and the Election Clerk repeating the names, enrollment (when applicable), and districts (if applicable) before issuing ballots. [Title 21-A §627(4)].

Section 5. Requirements for Voting Booths.

1. For a General Election (the November election in each even-numbered year) there is a requirement for a minimum number of voting booths based on the number of voters. There must be 1 voting booth for each 200 voters or fraction over 100 voters (this includes those voters with active status only). [Title 21-A §629(1)A)].
2. For elections other than general elections (Primary, Referendum), the municipal officers may provide fewer than the minimum number of booths used for General Elections, when circumstances indicate fewer booths will be adequate to provide for the orderly flow of voters. [Title 21-A §629(1)B)].
3. In addition to this minimum number of regular booths, for all elections, there must be 1 voting booth for persons with disabilities. This is now the Accessible Voting Solution station required under Title 21-A §812-A. [Title 21-A §629(1)(A-1)].

Section 6. Positions at Voting Place.

1. Title 21-A MRSA §681 limits who can be within the guardrail enclosure to no more than 2 voters in excess of the number of voting booths.
2. If sufficient space exists, then party workers and others in addition to the minimum number of pollwatchers (pursuant to section 627) are allowed to remain outside the guardrail enclosure to observe the process.

Section 7. Voting Procedure.

Title 21-A MRSA §671 addresses the flow of voters in and out of the guardrail enclosure.

Section 8. Reasons for Changing Voting Place.

1. Reasons that are considered permanent in nature include:
 - Current location is no longer available for use as a voting place;
 - Current location is no longer large enough for use as a voting place;
 - It would be cost prohibitive to bring current location into compliance for accessibility;
 - Municipality is consolidating wards.
2. Reasons that are considered emergency in nature include:
 - New location is necessary due to extenuating circumstances which make the existing, permanent voting place unavailable for one or more elections.
3. Reasons that are considered temporary in nature include:
 - Municipality prefers to have different voting places for different elections.

Maine 2020 June Primary Election School Polling Locations				
CTY	Municipality	Voting Place	Voting Address	Voting Town
YOR	ALFRED	Alfred Elementary	21 Sanford Road	Alfred
YOR	ARUNDEL	Mildred L. Day School	600 Limerick Road	Arundel
SOM	ATHENS	Somerset Academy Building	26 Academy Street	Athens
SAG	BATH	Bath Middle School	6 Old Brunswick Road	Bath
YOR	BIDDEFORD	Tiger Gym Biddeford High School	10-20 Maplewood Avenue	Biddeford
SOM	BINGHAM	Quimby Middle School Gym	263 Maine Street	Bingham
HAN	BLUE HILL	Blue Hill Consolidated School	60 High Street	Blue Hill
SAG	BOWDOIN	Bowdoin Central School	1460 Main Street	Bowdoin
SAG	BOWDOINHAM	Bowdoinham Community School	23 Cemetery Road	Bowdoinham
PIS	BROWNVILLE	Brownville Elementary School	774 Main Road	Brownville
CUM	BRUNSWICK	Brunswick Junior High School	65 Columbia Avenue	Brunswick
HAN	BUCKSPORT	G. H. Jewett School Gymnasium	66 Bridge Street	Bucksport
WAS	CALAIS	Calais Elementary School	53 Garfield Street	Calais
CUM	CAPE ELIZABETH	Cape Elizabeth High School	Ocean House Road	Cape Elizabeth
ARO	CASWELL	Dawn F. Barnes Elementary	1025 Van Buren Road	Caswell
KEN	CHELSEA	Chelsea Elementary School	566 Togus Road	Chelsea
CUM	CUMBERLAND	Greely High School	303 Main Street	Cumberland
HAN	DEDHAM	Dedham School Gymnasium	2065 Main Road	Dedham
PEN	DEXTER	Ridgeview School	175 Fern Road	Dexter
WAS	EASTPORT	Shead High School	89 High Street	Eastport
YOR	ELIOT	Marshwood Middle School	626 Harold L. Dow Highway	Eliot
CUM	FALMOUTH	Falmouth High School	74 Woodville Road	Falmouth
KEN	FARMINGDALE	Hall Dale High School	111 Maple Street	Farmingdale
KEN	FAYETTE	Fayette Central School	2023 Main Street	Fayette
CUM	FREEPORT	Freeport High School Gymnasium	30 Holbrook Street	Freeport
KEN	GARDINER	Gardiner Area High School	40 West Hill Road	Gardiner
SAG	GEORGETOWN	Georgetown Central School	52 Bay Point Road	Georgetown
PEN	GLENBURN	Glenburn School Gym	991 Hudson Road	Glenburn
CUM	GORHAM	Gorham Middle School	106 Weeks Road	Gorham
CUM	GORHAM	Great Falls Elementary School	73 Justice Way	Gorham
CUM	GORHAM	Gorham High School	41 Morrill Avenue	Gorham
KEN	HALLOWELL	Hall-Dale Elementary School	26 Garden Lane	Hallowell
SOM	HARMONY	Harmony Elementary School	18 Main Street	Harmony
CUM	HARPSWELL	Harpswell Community School	308 Harpswell Islands Road	Harpswell
PEN	HERMON	Patricia A. Duran School	235 Billings Road	Hermon
FRA	JAY	Elementary School Gym	12 Tiger Drive	Jay
YOR	KENNEBUNKPORT	Consolidated Elementary School	25 School Street	Kennebunkport
YOR	LEBANON	Lebanon Elementary School	65 Upper Guinea Road	Lebanon
PEN	LINCOLN	Mattanawcook Academy Gymnasium	33 Reed Drive	Lincoln
WAL	LINCOLNVILLE	Lincolnvile Central School	523 Hope Road	Lincolnvile
AND	LISBON	Lisbon High School Gym	2 Sugg Drive	Lisbon

AND	LIVERMORE	Livermore Primary School	107 Gibbs Mills Road	Livermore
YOR	LYMAN	Lyman Elementary School	39 School House Road	Lyman
PEN	MILLINOCKET	Stearns High School	199 State Street	Millinocket
KEN	MONMOUTH	Monmouth Academy Gymnasium	96 Academy Road	Monmouth
SOM	NORRIDGEWOCK	Mill Stream Elementary School	26 Mercer Road	Norridgewock
YOR	NORTH BERWICK	North Berwick Primary School	25 Varney Road	North Berwick
YOR	OLD ORCHARD BEACH	Old Orchard Beach High School	40 E Emerson Cummings Boulevard	Old Orchard Beach
PEN	ORRINGTON	Center Drive School	17 School Street	Orrington
SAG	PHIPPSBURG	Elementary School Gym	1047 Main Road	Phippsburg
CUM	PORTLAND	East End Elementary School	195 North Street	Portland
CUM	PORTLAND	Reiche Elementary School	166 Brackett Street	Portland
CUM	PORTLAND	Deering High School Gymnasium	370 Stevens Avenue	Portland
CUM	RAYMOND	Jordan Small Middle School	423 Webbs Mills Road	Raymond
KEN	READFIELD	Readfield Elementary School Gym	84 South Road	Readfield
SOM	RIPLEY	Courser Memorial School	47 West Ripley Road	Ripley
OXF	RUMFORD	Mountain Valley High School Gymnasium	799 Hancock Street	Rumford
YOR	SANFORD	Sanford High School & Technical Center	100 Alumni Boulevard	Sanford
CUM	SCARBOROUGH	Scarborough High School - Alumni Gym	11 Municipal Drive	Scarborough
LIN	SOUTH BRISTOL	South Bristol School	2024 State Route 129	South Bristol
KEN	VASSALBORO	Vassalboro Community School	1116 Webber Pond Road	Vassalboro
KEN	WAYNE	Wayne Elementary School	48 Pond Road	Wayne
YOR	WELLS	Wells Junior High School	1470 Post Road	Wells
WAS	WESLEY	Wesley Elementary School	13 Whining Pines Drive	Wesley
CUM	WINDHAM	Windham High School Main Gym	406 Gray Road	Windham
KEN	WINDSOR	Windsor School	366 Ridge Road	Windsor
WAL	WINTERPORT	Samuel L Wagner Middle School	19 Williams Way	Winterport
KEN	WINTHROP	Winthrop High School Gym	211 Rambler Road	Winthrop
PEN	WOODVILLE	South Woodville Schoolhouse	624 Woodville Road	Woodville
SAG	WOOLWICH	Woolwich Central School	137 Nequasset Road	Woolwich
CUM	YARMOUTH	Yarmouth High School Gym	286 West Elm Street	Yarmouth
YOR	YORK	York High School - Robert E. Butler Gymnasium	1 Robert Stevens Drive	York

School Polling Places: 72



Department of the Secretary of State

Bureau of Corporations, Elections and Commissions



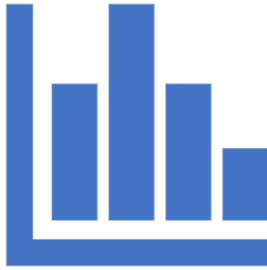
Shenna Bellows
Secretary of State

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Maine State Elections Calendar

2024	2025	2026	2027	2028
<ul style="list-style-type: none">• March 5, Presidential Primary Election• June 11, State Primary Election (federal offices and state and county offices)• November 5, General Election	<ul style="list-style-type: none">• November 4, 2024, Potential Referendum Election	<ul style="list-style-type: none">• June 9, 2026, State Primary Election (Governor, state and county offices)• November 3, 2026, General Election	<ul style="list-style-type: none">• November 2, 2027, Potential Referendum Election	<ul style="list-style-type: none">• March 7, 2028, Presidential Primary Election• June 13, 2028, State Primary Election (federal offices and state and county offices)• November 7, 2028, General Election

- General Election Day is always the first Tuesday after the first Monday in November under federal law.
- Presidential Primary Election Day is the first Tuesday after the first Monday in March of the presidential election year under state law.
- State Primary Election Day is the second Tuesday of June under state law.



School and Polling Place Survey Results

December-January 2024

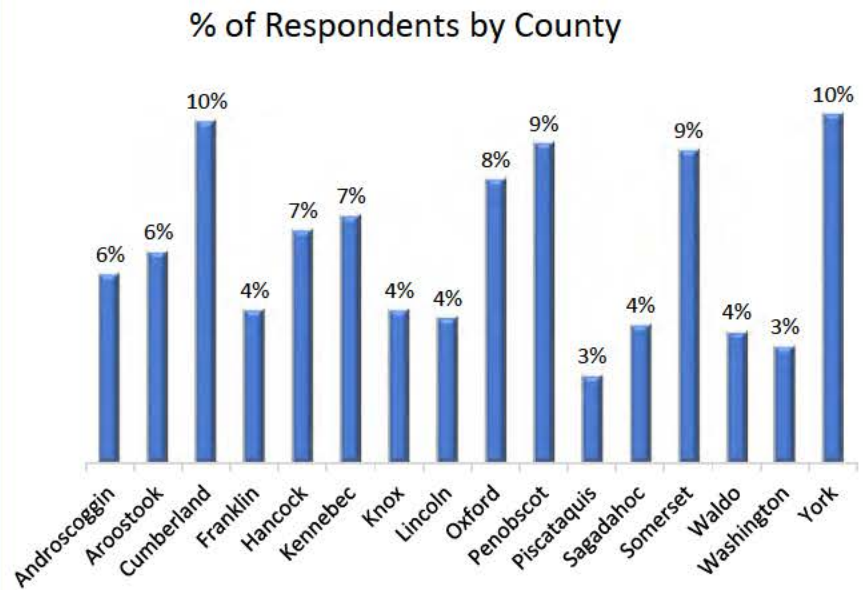
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469
Respondents

Role	Number
Community advocate or service provider	3
Municipal or election official	357
School official	73
School staff	8
Teacher and elected official	1
Security or law enforcement professional	25
Other (please specify)	2

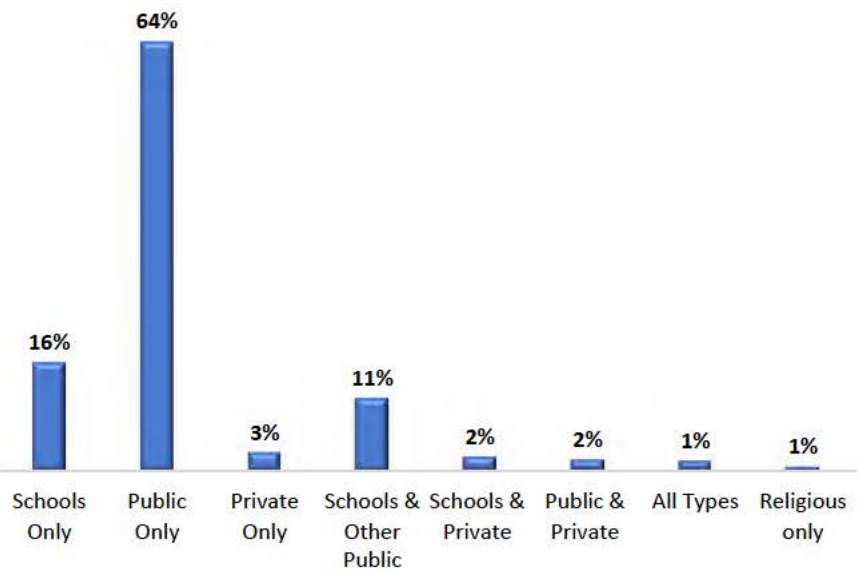
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Respondents



3

Types of Buildings Used as Polling Places



4

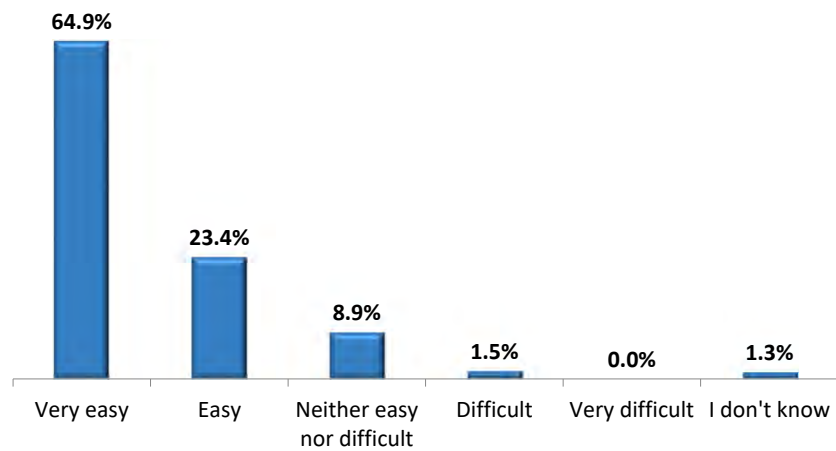
Where Respondents Vote

Public school	23.45%
Other public building	70.36%
Church or religious building	1.49%
Other private building	4.48%

5

Accessibility

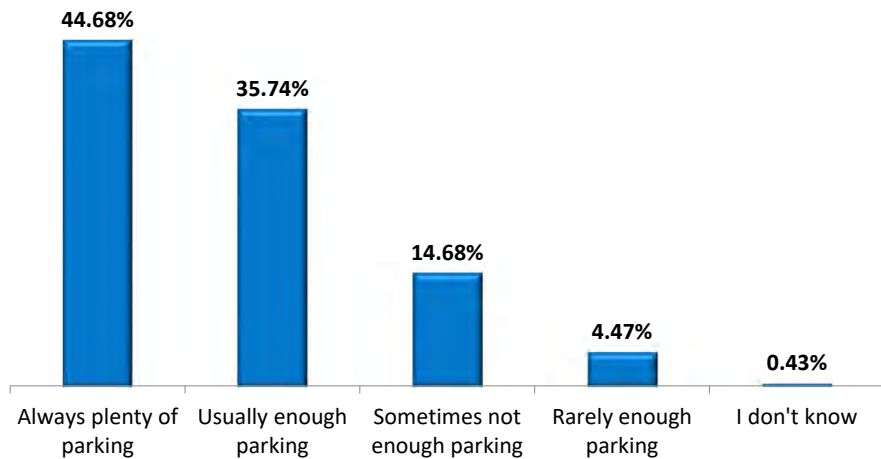
How easy is it for people in your district to get to your polling place?



6

Accessibility

How would you describe parking at your polling place?

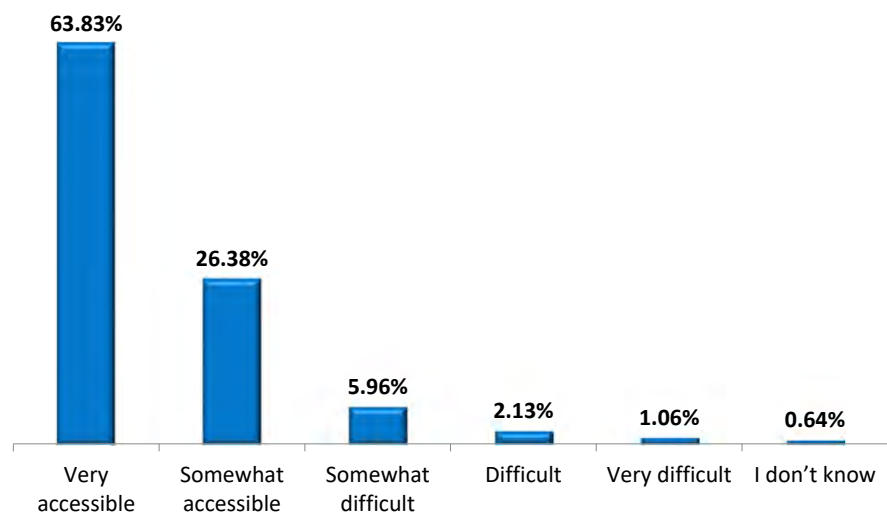


7

Accessibility

Getting to and into the polling place using doorways, stairs, elevators, accessible parking

I think people with physical disabilities or limited mobility find it....



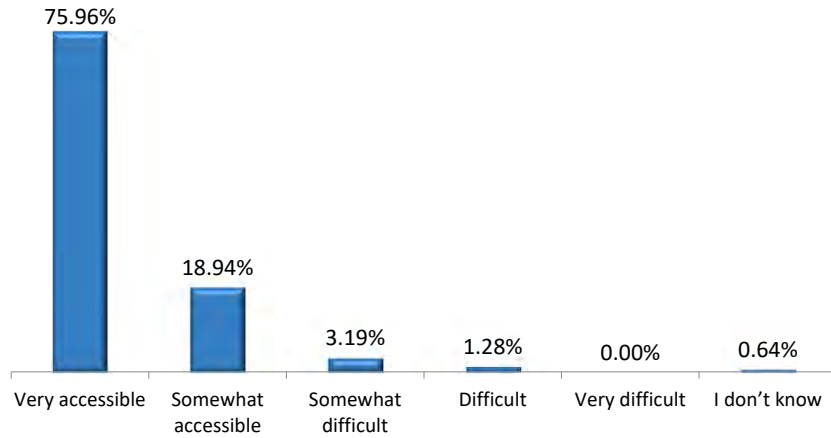
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Accessibility

Moving within the
polling place

Getting to voting
booths and
machines

I think people with physical disabilities or
limited mobility find it....



9

Accessibility

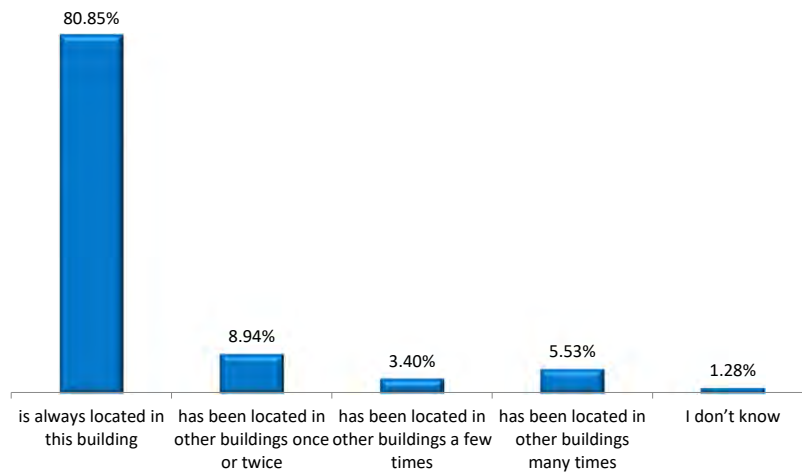
Recommended Improvements

None	33%
Automatic Doors	14%
Entrances	10%
Parking	9%
Ramp	8%
Space	6%
Location	4%
Distance	2%
Direct Assistance	2%

10

Consistency

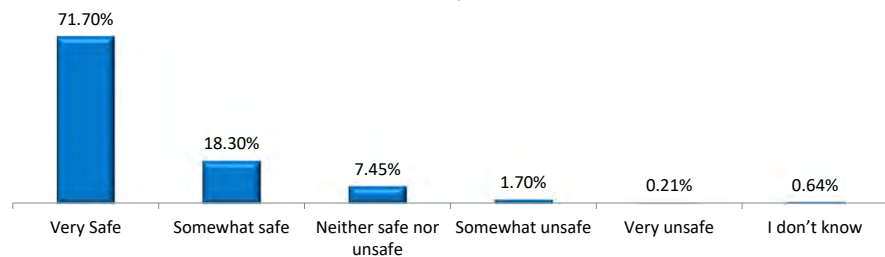
How consistently is this building used as your polling place? My polling place...



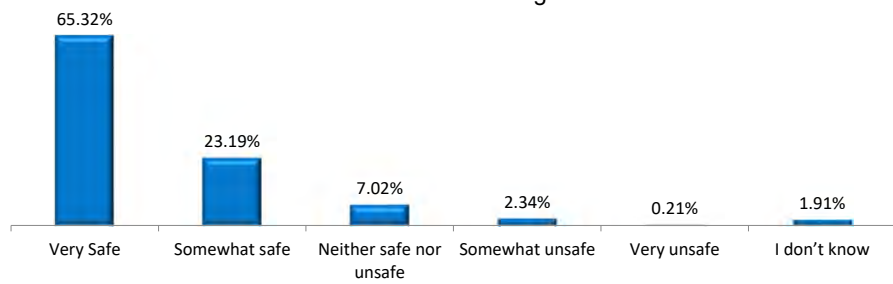
11

Safety on Election Day

How safe do you feel ...?



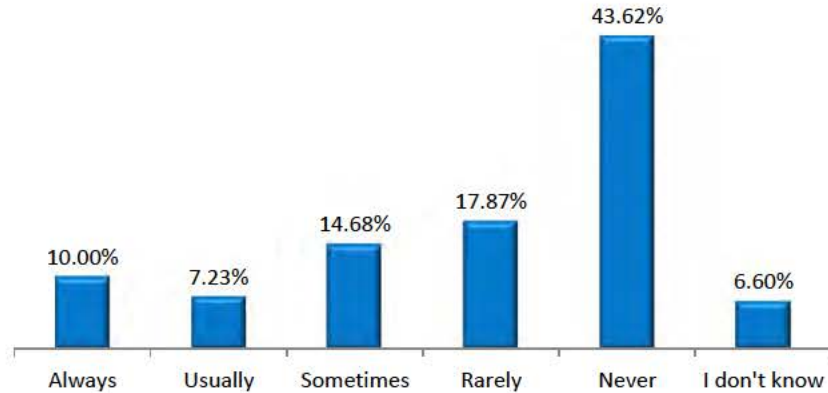
How safe do think voting staff are ...?



12

Police Presence on Election Day

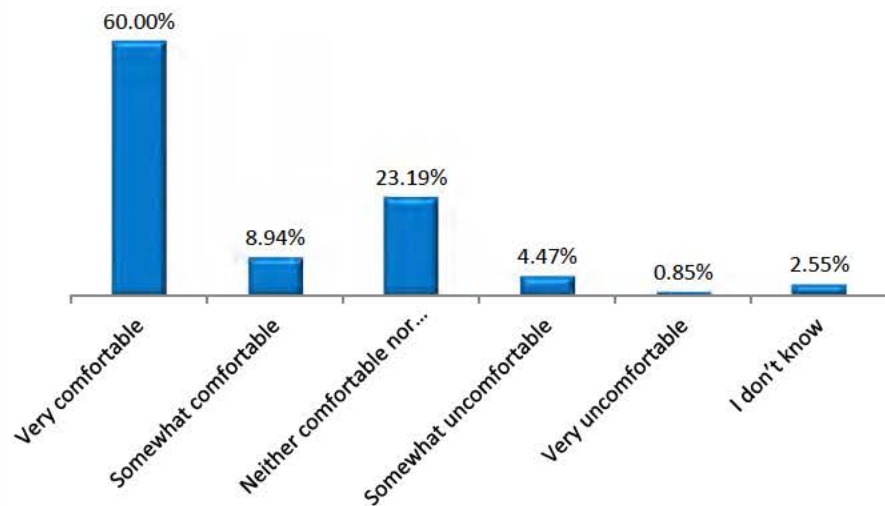
How often is there a police presence ...?



13

Police Presence on Election Day

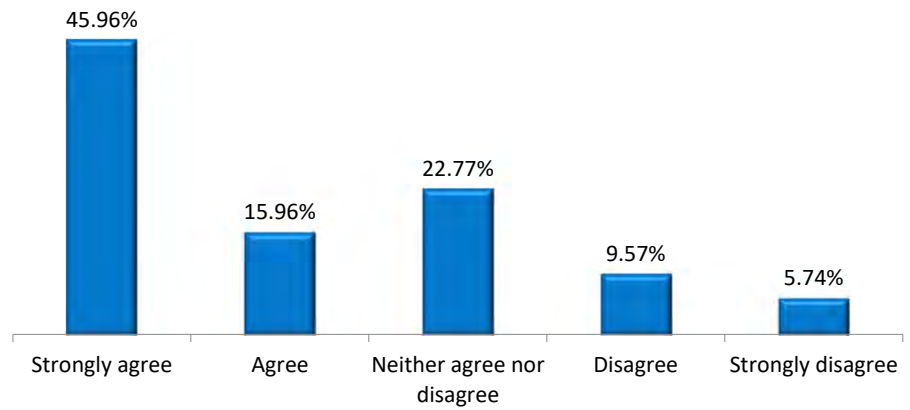
How would you feel if there was a police presence ...?



14

Student Presence on Election Day

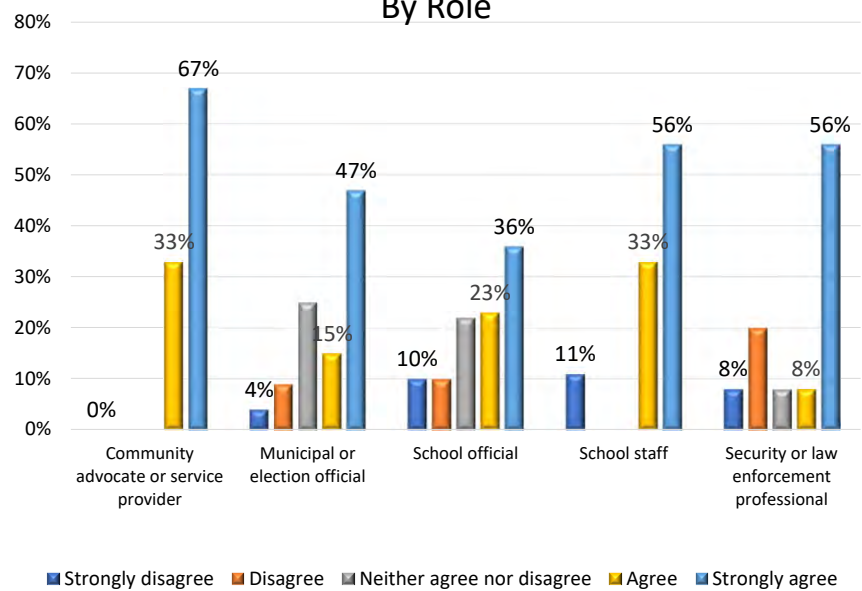
Students should not be in school on election day if the school is used as a polling place.



15

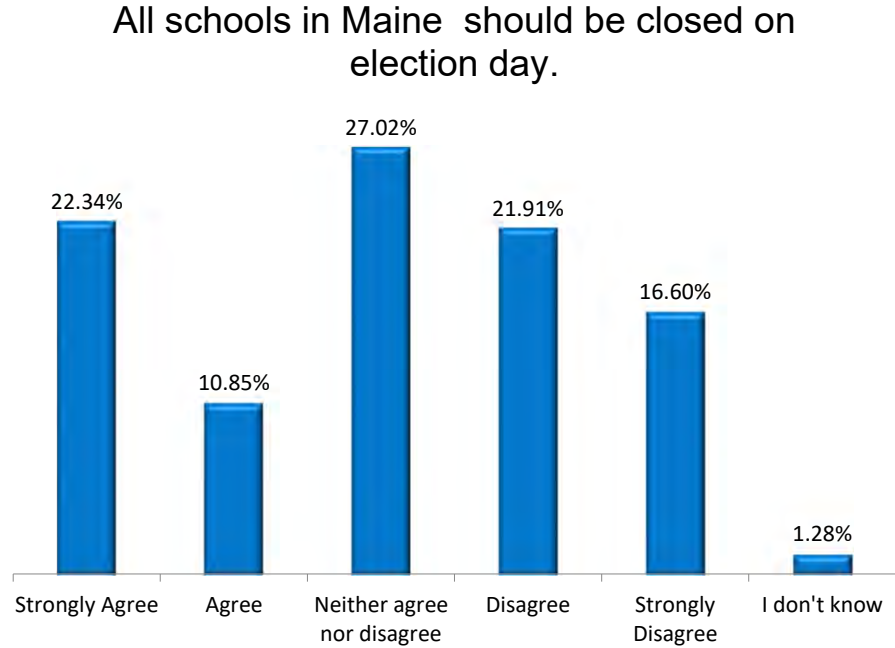
Student Presence on Election Day

By Role



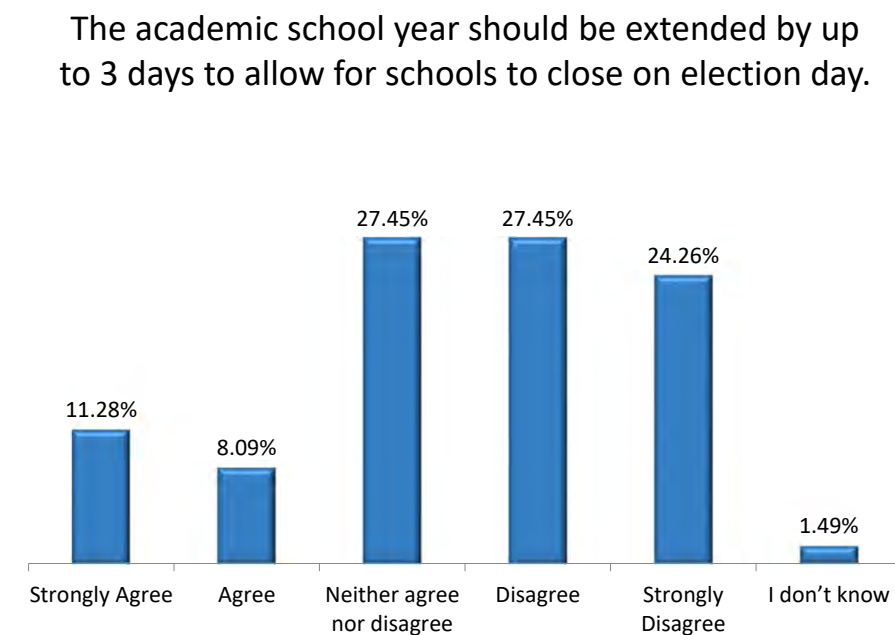
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Schools on Election Day



17

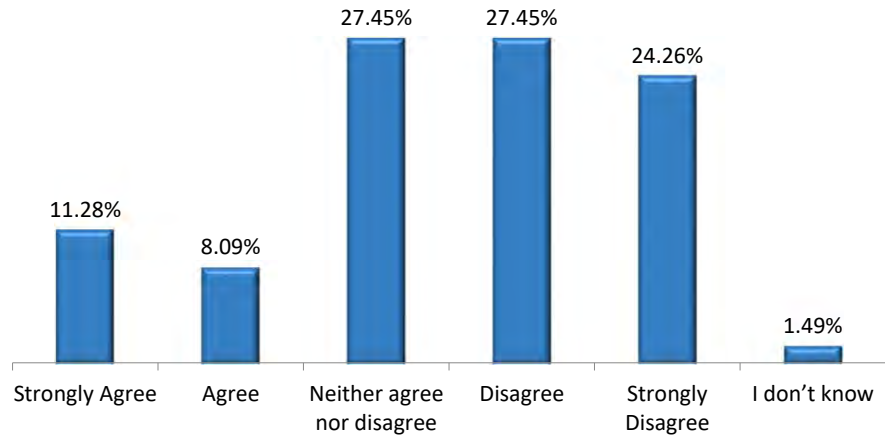
Academic Year



18

Academic Year

The academic school year should be extended by up to 3 days to allow for schools to close on election day.



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Summary

76%	Municipal or election official
64%	Towns only use public buildings but not schools
30%	Towns use schools
90%	Getting to polling places is easy or very easy
88%	Usually enough or plenty parking
90%	Getting into the polling place accessible
76%	Moving within the polling place accessible
33%	No improvements to accessibility needed
14%	Auto doors
10%	Better/additional entrances
90%	Polling place location consistent

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Summary

88%	Feel somewhat or very safe
88%	Think voting staff are safe
60%	Police rarely or never present
68%	Comfortable with police present
62%	Agree students shouldn't be in schools
59%	School officials agree students shouldn't be in schools
38%	Schools should not be closed on election day
51%	Against extending the school year
77%	School officials against extending the year



Accessible Polling Places: Legal Frameworks and Persistent Barriers

Presentation to the LD 419 Elections and School Security Working Group

12.4.2023

1

Disability Rights Maine (DRM)

Disability Rights Maine works to advance justice and equality by enforcing rights and expanding opportunities for people with disabilities in Maine.

-Part of the Protection and Advocacy System (P&A) for People with Disabilities (one in each state and territory as well as the District of Columbia and the Native American Disability Law Center).

DRM conducts outreach and monitoring and provides information and referral services; self advocacy assistance; individual and systemic legal representation and investigation; and education and training.

2

DRM – Voting Access

-The Help America Vote Act (HAVA) established Protection and Advocacy for Voter Access (PAVA) programs in each state to:

- enforce the right to equal opportunities for people with disabilities in gaining access to polling places, registering to vote, and casting a ballot;

- conduct training and education activities on voting rights for people with disabilities and their allies; and

- engage in systemic work to promote the involvement of people with disabilities in decisions that impact them.

3

DRM – Voting Access

-DRM has engaged in litigation around voting access including:

Merrill v. Dunlap, (filed July 2020 and subsequently settled)(secured accessible electronic voting and vote by mail procedures for voters with print disabilities in time for the 2020 election and going forward)

Doe v. Rowe, 156 F. Supp.2d 35 (D. Me. 2001) (“The Court finds that Article II, Section I of the Maine Constitution, along with its implementing statute...violate both the Due Process Clause and the Equal Protection Clause of the Fourteenth Amendment. Thus, the State's disenfranchisement of those persons under guardianship by reason of mental illness is unconstitutional. Additionally, the Court finds that in implementing its voting restriction, State Defendants have violated Title II of the ADA and Section 504 of the Rehabilitation Act.”)

4

Why?

“The right to vote is the foundation of American democracy. Free and fair elections that reflect the will of the American people must be protected and defended... People with disabilities continue to face barriers to voting and are denied legally required accommodations in exercising their fundamental rights and the ability to vote privately and independently.”

Executive Order on Promoting Access to Voting, *available at*: <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/03/07/executive-order-on-promoting-access-to-voting/>

“If people with disabilities voted at the same rate as people without disabilities who have the same demographic characteristics, there would be about 1.75 million more voters.”

Fact sheet: Disability and Voter Turnout in the 2020 Elections, *available at*: https://www.eac.gov/sites/default/files/document_library/files/Fact_sheet_on_disability_and_voter_turnout_in_2020_0.pdf

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Federal Laws Protecting Voting Rights for People with Disabilities

- Elections are generally conducted under state laws and policies, but...
- Federal law specifically address accessibility issues for voters with disabilities, requiring that voters with disabilities have the same opportunity as voters without disabilities to access and cast their ballots
- This includes: physical access to the polling place *and* voting systems that enable people with disabilities to cast a private and independent vote.

“The Americans with Disabilities Act and Other Federal Laws Protecting the Rights of Voters with Disabilities”, U.S. Department of Justice <https://www.justice.gov/file/69411/download>

6

Voting Rights Act of 1965

-Section 208 of the VRA provides that “any voter who requires assistance to vote by reason of blindness, disability, or inability to read or write may be given assistance by a person of the voter’s choice, other than the voter’s employer or agent of that employer or officer or agent of the voter’s union.” 52 U.S.C. § 10508

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The Voting Accessibility for the Elderly & Handicapped Act (1984)

-Requires accessible polling places in federal elections for elderly individuals and people with disabilities.

-Where no accessible location is available to serve as a polling place, voters must be provided an alternate means of voting on Election Day.

52 U.S.C. §§ 20101-07

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Americans with Disabilities Act (1990)

Prohibits discrimination against individuals with disabilities in all areas of public life, and all public and private places that are open to the general public.

- Public entities must ensure that people with disabilities have a full and equal opportunity to vote (Title II).
- The ADA applies to all aspects of voting, including voter registration, site selection, and the casting of ballots, whether on Election Day or during an early voting process.

42 U.S.C. §§ 12101-213. See also 28 C.F.R. pt. 35

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Americans with Disabilities Act (1990)

“Under the ADA, jurisdictions must select polling sites that are or can be made accessible, so that voters with disabilities can participate in elections on the same terms and with the same level of privacy as other voters.” USDOJ - <https://www.justice.gov/file/69411/download>

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Americans with Disabilities Act (1990)

“The ADA’s regulations and the ADA Standards for Accessible Design set out what makes a facility accessible and should be used to determine the accessibility of any facility being considered for use as a polling place. This publication, the ADA Checklist for Polling Places (2016 Checklist), provides guidance to election officials for determining whether a polling place already has the basic accessibility features needed by most voters with disabilities or can be made accessible on Election Day using temporary solutions to remove barriers.”

<https://www.ada.gov/resources/polling-places-checklist/>

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Help America Vote Act (2002)

- Outlines minimum standards for voting systems for federal elections to ensure that voters with disabilities have the same opportunity to vote “privately and independently” by mandating that every polling place have at least one voting system that is accessible to people with disabilities.

- Gives DOJ authority 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

52 U.S.C. §§ 20901-21145

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Problems Persist (2016)

“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.” (p.15)

“Voters with Disabilities: Observations on Polling Place Accessibility and Related Federal Guidance.”
gao.gov. U.S. Government Accountability Office. October 2017. available at:
<https://www.gao.gov/assets/gao-18-4.pdf>

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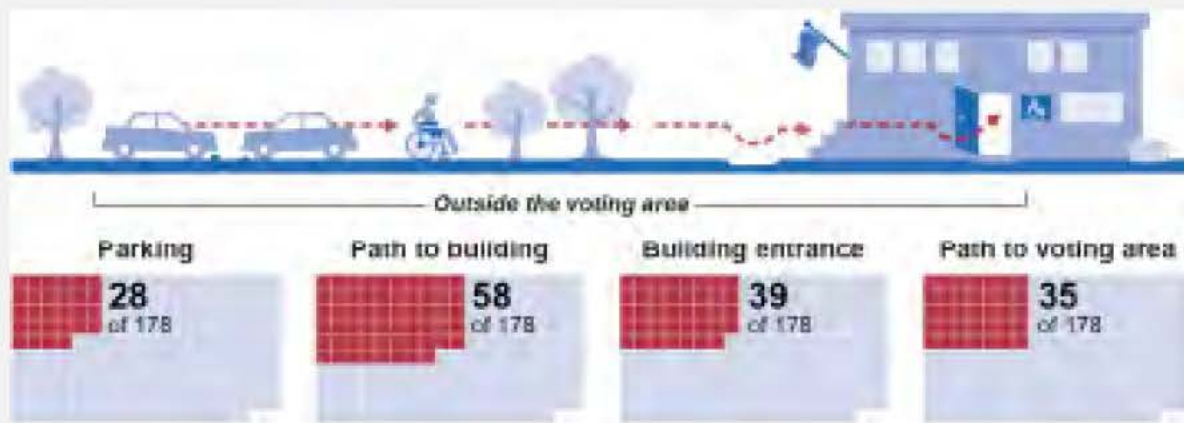
Problems Persist (2022)

“About one in seven voters with disabilities encountered difficulties voting in 2022, which was a slight increase from the one in nine voters with disabilities who encountered difficulties in 2020.”

“The likelihood of difficulties voting in person in 2022 was 20% among people with disabilities compared to 6% among people without disabilities.”

U.S. Election Assistance Commission (EAC) / Rutgers University, Disability and Voting Accessibility in the 2022 Elections (July 2023), available at: https://www.eac.gov/sites/default/files/2023-07/EAC_2023_Rutgers_Report_FINAL.pdf

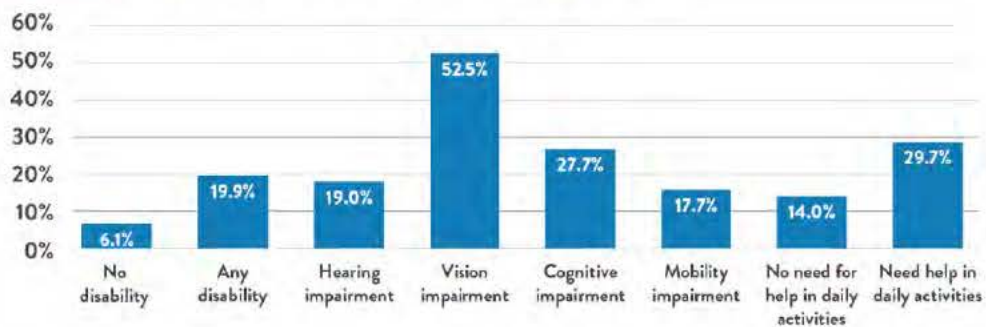
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Source: GAO analysis of polling place data collected during the 2018 general election. | GAO-18-4

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FIGURE 2 Any Difficulty Voting in Person by Disability Type, 2022



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DOJ Enforcement

St. Louis (Settled 1/2021)

DOJ surveyed 39 polling places and observed that all of the 39 polling places “contained at least one or more architectural barrier, such as stairs, excessively sloped parking areas, narrow doorways, steep ramps, protruding objects, and inaccessible doorknobs, that rendered the facilities inaccessible to voters with disabilities.”

See: <https://www.justice.gov/opa/pr/justice-department-reaches-agreement-board-election-commissioners-city-st-louis-ensure>

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DOJ Enforcement

Newton County, AR (Settled 6/2021)

All of the polling places surveyed “contained architectural barriers that rendered the facilities inaccessible to voters with disabilities, such as a lack of accessible parking areas and accessible routes due to gravel and grass ground surfaces; excessively sloped ramps, some without handrails and edge protection; numerous gaps and level changes along exterior routes; and protruding objects”

See: <https://www.justice.gov/opa/pr/justice-department-reaches-agreement-newton-county-arkansas-and-its-board-election>

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DOJ Enforcement

Jefferson County, KY (Settled 6/2021)

All of the 22 polling places surveyed “contained noncompliant elements that rendered the facilities inaccessible to voters with disabilities, such as a lack of van accessible parking; excessively sloped ramps, some without handrails and edge protection; excessively sloped portions of parking spaces, access aisles, and exterior routes to the entrance; numerous gaps and level changes along exterior routes; and protruding objects.”

See: <https://www.justice.gov/opa/pr/justice-department-secures-agreement-jefferson-county-kentucky-officials-ensure-polling-place>

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Schools as Polling Places?

“Consider using government (county and municipal) buildings as polling places, as they are more likely to be ADA-compliant.” (p65)

National Institute of Standards and Technology, U.S. Department of Commerce, *“Promoting Access to Voting: Recommendations for Addressing Barriers to Private and Independent Voting for People with Disabilities”* (March 2022), available at:

<https://nvlpubs.nist.gov/nistpubs/SpecialPublications/NIST.SP.1273.pdf>

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Schools as Polling Places?

“With almost no exception, the testimony received from state and local election administrators identified schools as the preferred venue for polling places. They have the needed and desirable space, are inexpensive, widespread, conveniently located, and accessible for people with disabilities.” (p.33)(emphasis added)

The American Voting Experience: Report and Recommendations of the Presidential Commission on Election Administration (January 2014) Available at:

https://www.eac.gov/sites/default/files/eac_assets/1/6/Amer-Voting-Exper-final-draft-01-09-14-508.pdf

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Schools as Polling Places?

“The Commission strongly recommends that all states review their state laws and contemporary practices within their jurisdictions to ensure the continued and future use of schools as polling places. The Commission more specifically recommends close attention to the use of professional or in-service training days to enable voting to take place on days when students would not be on location in school.” (p.34)

The American Voting Experience: Report and Recommendations of the Presidential Commission on Election Administration (January 2014) Available at:

https://www.eac.gov/sites/default/files/eac_assets/1/6/Amer-Voting-Exper-final-draft-01-09-14-508.pdf

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DRM 2023 Election Polling Survey

-In the November 2023, DRM and the League of Women Voters surveyed 165 polling places, across all 16 counties in Maine.

-Barriers to accessible voting were identified in almost 60% of polling locations.

-Notably, 30 polling locations were in schools and 135 were in other locations. 60% of the schools visited were fully accessible.* This in contrast to the non-school polling sites visited, where only 38% of those non-school sites were determined to be free of any barriers to voting.

*These are preliminary results. And some of the issues identified were unrelated to the physical location but instead to the availability of functioning AVS systems; and others were relatively minor.

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Questions/Discussion



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