



Governor's Advisory Council for Exceptional Citizens (GACEC)
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MEMORANDUM

DATE: March 5, 2024

TO: The Honorable Members of the Delaware General Assembly

FROM: Ann C. Fisher, Chairperson
GACEC

RE: **House Bill No. 293 Accessible Polling Places**

The Governor's Advisory Council for Exceptional Citizens (GACEC) has reviewed House Bill No. 293, which seeks to add a provision to Chapter 2 of Title 15, Elections, requiring the Department of Elections (DOE) to ensure that polling places are accessible. Council **supports** the proposed legislation and would like to share the following observations.

House Bill 293 adds a specific requirement for accessibility of polling places, although it places it in Chapter 2 of Title 15, which covers general provisions relating to the authorities of the DOE. Council has questions about this placement and queries whether it would make more sense to place it in Chapter 45.

In proposed Section 221(a), the bill requires the DOE to ensure that polling places have adequate and accessible spaces and that all polling places in the state be accessible to persons with disabilities, in compliance with the Americans with Disabilities Act (ADA). Subsection (b) makes exceptions in two circumstances: first, in an emergency, and second, if the Commissioner of Elections determines that all polling places in a polling area have been surveyed and none are accessible or can be made accessible, and that any voter in that polling area has been reassigned to an accessible polling place or has been given an alternative means of voting.

Council would like to note the following:

1. Emergency is not defined. Council recommends 'emergency' be clearly defined, either as a situation where the Governor has issued an Order declaring an emergency, or when a specific polling place is unusable on Election Day due to circumstances beyond the control of the DOE and that cannot be remediated.

2. There is no enforcement provision in this bill. Council suggests, at a minimum, that language be added providing for a complaint process or some type of judicial enforcement. Language could be added either providing a mechanism to file a complaint for relief to Superior Court, or that complaints can be filed under the Equal Accommodations statute. Another alternative may be something filed through the Architectural Accessibility Board.
3. It has been noted that there have been occasions when accessible locations, often schools, are not accessible on Election Day because a particular feature, such as an accessible door or ramp, has not been made available. Council recommends language be added that requires any polling location make its accessible features fully available on Election Day, or that the DOE makes this a requirement of any contract or agreement that the DOE makes with the owner or operator of a polling place.

In conclusion, HB 293 should improve accessibility by being much more explicit about what the DOE must do. We appreciate this opportunity to work towards greater voter accessibility. Thank you for your time and consideration of our support of the proposed legislation and our recommendations. Please feel free to contact me or Pam Weir at the GACEC office should you have any questions.