



# United States Department of Justice

## United States Attorney's Office Central District of California

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*E. MARTIN ESTRADA*  
United States Attorney

*312 North Spring Street*  
*Los Angeles, California 90012*

May 16, 2023

### **VIA EMAIL & CERTIFIED MAIL/RETURN RECEIPT**

Eva W. Chu, Esq.  
Deputy County Counsel  
Office of the Los Angeles  
County Counsel  
500 West Temple Street, Suite 653  
Los Angeles, California 90012  
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Re: Investigation of the Los Angeles County Registrar-Recorder's Office  
and the Accessibility of the County's Voting Program, Including Vote Centers,  
Under the Americans with Disabilities Act, DJ #204-12C-476,  
USAO #2016V00854

Dear Ms. Chu:

We write concerning the Department of Justice's investigation of Los Angeles County's voting program under Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12131-12134 (ADA), and the Department's implementing regulation, 28 C.F.R. part 35. Title II of the ADA prohibits public entities, such as the County, from discriminating by reason of disability against qualified individuals with disabilities. The investigation recently focused on physical accessibility for persons with mobility disabilities and persons with vision disabilities at County vote centers during the 2020 primary and general elections and 2022 general election.<sup>1</sup> We also reviewed other aspects of the County's voting programs, including curbside voting and ballot drop boxes.

As you know, the Department has been working since 2016 to address concerns about physical accessibility at County voting locations. Over that time, the Department and the County have been unable to resolve matters to ensure that the County complies with the ADA's

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<sup>1</sup> The three elections included the March 3, 2020 primary election, that ran from February 22 to March 3, 2020; the November 3, 2020 general election, that ran from October 24 to November 3, 2020; and the November 8, 2022 general election, that ran from October 29 to November 8, 2022.

requirements as to its voting programs.<sup>2</sup> The Department reviewed the County's vote centers, surveying 106 vote centers used by the County during the March 3, 2020 primary election, 65 vote centers used during the November 3, 2020 general election, and 52 vote centers used by the County during the November 8, 2022 general election. After careful review of these surveys and other information gathered during the investigation, the Department finds that the County, by reason of disability, excluded qualified individuals with disabilities from participation in and denied them the benefits of the County's voting services, programs, or activities, or subjected such individuals to discrimination, in violation of Title II of the ADA. *See* 42 U.S.C. § 12132; 28 C.F.R. § 35.130(a). More specifically, the County violated Title II of the ADA by:

- (1) depriving qualified individuals with disabilities an opportunity to participate in or benefit from the County's voting services in a manner that is equal to that afforded to nondisabled individuals, in violation of 28 C.F.R. § 35.130(b)(1)(ii);
- (2) providing a qualified individual with a disability with an aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others, in violation of 28 C.F.R. § 35.130(b)(1)(iii);
- (3) limiting qualified individuals with disabilities in the enjoyment of the voting rights, privileges, advantages, or opportunities enjoyed by nondisabled individuals, in violation of 28 C.F.R. § 35.130(b)(1)(vii);
- (4) selecting facilities to be used as polling places and voting centers that have the effect of excluding individuals with disabilities from, denying them the benefits of, or otherwise subjecting them to discrimination, or that have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the service, program, or activity with respect to individuals with disabilities, in violation of 28 C.F.R. § 35.130(b)(4);
- (5) failing to administer the County's voting services, programs, and activities in the most integrated setting appropriate to the needs of persons with disabilities, in violation of 28 C.F.R. § 35.130(d);
- (6) subjecting qualified individuals with disabilities to discrimination because the

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<sup>2</sup> On September 13, 2016, the Department of Justice notified the County that, based on a review of the County's polling places in a June 2016 election, and on other relevant information, the County denied voters with disabilities an equal opportunity to participate in the County's voting program, including by failing to select facilities as polling places that are accessible to persons with disabilities. *See* Letter from Joanna Hull, Assistant United States Attorney, Chief, Civil Rights Section, Civil Division, to Dean C. Logan, Registrar-Recorder/County Clerk, Los Angeles County (Sept. 13, 2016).

facilities used in the County's voting programs are inaccessible to or unusable by individuals with disabilities, in violation of 28 C.F.R. § 35.149; and

- (7) failing to operate the County's voting programs, services, or activities so that, when viewed in their entirety, they are readily accessible to and usable by individuals with disabilities, in the most integrated setting appropriate, in violation of 28 C.F.R. §§ 35.150 and 35.151.

Below are the Department's additional findings of fact and conclusions of law, as well as the minimum steps the County must take to meet its legal obligation and remedy the violations the Department has identified.

### **I. Background and Finding of Facts**

This matter began as a review of the accessibility of the County's polling places for persons with disabilities. With the County's change in 2020 to a system that uses vote centers rather than polling places, the Department's review shifted to the accessibility of the County's vote centers. The Department surveyed 106 vote centers during the March 3, 2020 primary election, 65 vote centers during the November 3, 2020 general election, and 52 vote centers during the November 8, 2022 general election. Voters can cast their ballots in person on Election Day at any County vote center. Alternatively, voters can vote in person during the early voting period at designated locations, by mail, by ballot drop box, or curbside. Based on these site visits and review of other information, the Department finds that the 106 vote centers surveyed during the March 3, 2020 primary election, the 65 vote centers surveyed during the November 3, 2020 general election, and the 52 vote centers surveyed during the November 8, 2022 general election were not physically accessible to voters with disabilities.

The Department reviewed vote centers from different parts of the County and in various types of buildings, including public buildings, schools, private businesses, community centers, and recreational centers. When surveying, the Department used the 2010 ADA Standards for Accessible Design (2010 ADA Standards), 28 C.F.R. § 35.104;<sup>3</sup> the 1991 ADA Standards for Accessible Design (1991 ADA Standards), 28 C.F.R. part 36, app. D; and the Department's ADA Checklist for Polling Places.<sup>4</sup> And in assessing ADA compliance in this matter, we used the 1991 ADA Standards and the 2010 ADA Standards, as applicable. To remedy the non-compliant elements, however, the County must use the 2010 ADA Standards. *See* 28 C.F.R. §§ 35.151(c)(3).

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<sup>3</sup> The 2010 ADA Standards are defined at 28 C.F.R. § 35.104 as the requirements set out in appendices B and D to 36 C.F.R. part 1191 and the requirements provided in 28 C.F.R. § 35.151.

<sup>4</sup> This publication can be found online at [www.ada.gov](http://www.ada.gov).

For the surveys, we reviewed those elements of the vote center necessary to conduct the County's voting programs. We looked at off-street parking, if provided; the routes from the parking area, public transportation stops, or the street to the building entrance; the building entrance; the route to the voting area; and the voting area. We did not determine whether each facility, when used for its ordinary purposes, is compliant with the ADA. Rather, we assessed whether each facility was accessible when used as a vote center during the election, which means that the features and elements that voters with disabilities must rely on, including parking, exterior and interior routes, circulation paths, entrances, doorways, and interior routes and spaces, are readily accessible to and usable by individuals with disabilities when the facilities are in use for voting. Additionally, where parking was provided, we assessed only whether the parking area had at least one van accessible parking space. We reviewed the accessibility of ballot drop boxes<sup>5</sup> and the availability and accessibility of curbside voting at vote centers.

Of the 106 vote centers surveyed during the March 2020 primary election, the 65 vote centers surveyed during the November 2020 general election, and the 52 vote centers surveyed during the November 2022 general election, each had features and elements that did not comply with the applicable ADA Standards, and many had multiple features that did not comply with those Standards. Non-compliant features included a lack of van accessible parking; locked gates, wide gaps, abrupt level changes, and excessive cross slopes on designated accessible routes; ramps with steep running slopes; entrances that were too narrow, lacked level landings, or had high thresholds; interior routes that had protruding objects; and voting areas with narrow routes and a lack of adequate turning space at voting machines. Although many of the non-compliant elements could be addressed with temporary measures (e.g., temporary van accessible parking signs, traffic cones placed under protruding objects, doors propped open, and temporary ramps), we observed very few temporary measures in use during the elections.<sup>6</sup> During the November

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<sup>5</sup> Our review of ballot drop boxes included whether (1) there was an accessible route to the drop box; (2) the clear floor or ground space was at least of the minimum size; level, stable, firm, and slip resistant; and free from vertical changes in level and surface openings no greater than ½ inch; and (3) the drop box handle and/or opening was between 15 inches and 48 inches above the finish floor or ground surface and the handle was operable with one hand without require tight grasping, pinching, or twisting of the wrist.

<sup>6</sup> In fact, the County continued to use non-compliant polling places in the March 2020 election that the Department had identified in its September 13, 2016 letter, *see* fn. 4, *supra*, without providing a temporary or permanent measure to correct the non-compliant features. For example, we found non-compliant elements and features that went unaddressed in both the 2016 and 2020 elections in at least two facilities, including the First Church of the Nazarene in Pasadena and the Valley Plaza Recreation Center in North Hollywood. At a third vote center, the Downey Elks Lodge #2020 in Downey, the County corrected the non-compliance we identified in the 2016 election (a wire across the floor in the route in the voting area) but introduced a number of new non-compliant elements by changing the entrance to one that included steps.

2020 election, we found that four of the seven ballot drop boxes surveyed had features and elements that did not comply with the applicable ADA Standards and regulation. During the November 2022 election, we found that six of the ten ballot drop boxes surveyed had features and elements that were non-compliant. Non-compliant elements included the absence of an accessible route to the drop box; insufficient or unlevel clear floor or ground space at the drop box; or drop box openings that were too high. Attachment A lists the non-compliant features and elements we observed at each of the 106 vote centers in March 2020; Attachment B lists the non-compliant features and elements we observed at each of the 65 vote centers and four ballot drop boxes in November 2020; and Attachment C lists the non-compliant features and elements we observed at each of the 52 vote centers and six ballot drop boxes in November 2022.

The Department finds that the failure to provide vote centers that are readily accessible to and usable by people with disabilities denies voters with disabilities an equal opportunity to vote in person and to enjoy the related benefits that come with it. Voting in person provides voters with disabilities the opportunity to fully participate in a civic event; to talk with their neighbors, fellow citizens, local party officials, election officials, and poll workers; and to get candidate or issue-related information.

Further, the County's curbside voting program was not accessible. We observed a number of vote centers that had no signage indicating that curbside voting was available, and some centers provided signage but did not include a telephone number or any other means by which a voter could contact the election official at the facility. And even where the County's curbside voting signage included a telephone number, voters with disabilities could not readily access curbside voting if they did not have a cell phone when they arrived. A voter with physical disabilities who voted during the August 2019 special election complained of just such curbside voting barriers.<sup>7</sup> She told us that although a curbside voting sign was posted in front of the parking area at the voting facility, there were no election officials outside the facility to identify and assist curbside voters. There was no buzzer or other mechanism by which a voter with a disability could alert election staff that the voter wished to vote curbside. The complainant had to rely on a family member to go inside the polling place, wait in line and register her, bring the

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Further, the County continued to use the non-compliant Imperial Courts Recreation Center as a vote center in the November 2022 general election without the necessary measures to correct the non-compliant features. The Department had identified the Imperial Courts Recreation Center as non-compliant in its list of the 106 inaccessible vote centers which the United States provided to the County on July 31, 2020.

<sup>7</sup> Although the complaint is included in the Department's findings here, the complainant may file a private suit pursuant to section 203 of the ADA, 42 U.S.C. § 12133, whether or not the Department finds a violation. *See* 28 C.F.R. § 35.172(c)(3).

complainant's identification inside to have the election staff check the identification, bring a ballot outside for the complainant to vote, and finally return the ballot inside the facility to submit it to the election staff for casting. Additionally, the complainant had to ask her family member to complete the ballot because the complainant needed a stable, hard surface to write on but election staff failed to provide a clipboard or other stable surface. During the entire voting process, no election staff or official from that polling place assisted or interacted with the complainant.

## II. Conclusions of Law

Under Title II of the ADA, individuals with disabilities shall not be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by a public entity, on the basis of disability, 42 U.S.C. § 12132, 28 C.F.R. § 35.130(a). The Title II regulation, set out at 28 C.F.R. part 35, reflects and implements the statute's broad nondiscrimination mandate. 42 U.S.C. § 12134 (directing the Attorney General to promulgate regulations). Under Title II and its implementing regulation, a public entity, in providing any aid, benefit, or service, may not afford qualified individuals with a disability an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded to others, nor can the entity otherwise limit such individuals in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving the aid, benefit, or service. *See* 28 C.F.R. § 35.130(b)(1).

A public entity's obligations with respect to selection of sites or facilities in which to provide programs, services, or activities is explicitly addressed in the Title II regulation at 28 C.F.R. § 35.130(b)(4), which provides, in part:

A public entity may not, in determining the site or location of a facility, make selections-

- (i) That have the effect of excluding individuals with disabilities from, denying them the benefits of, or otherwise subjecting them to discrimination; or
- (ii) That have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the service, program, or activity with respect to individuals with disabilities.

*Id.* Title II also requires the County to administer its services, programs, and activities in the most integrated setting appropriate to the needs of persons with disabilities. 28 C.F.R. § 35.130(d). When individuals with disabilities are excluded from facilities used for voting, they are precluded from interacting with persons without disabilities to the fullest extent possible throughout the voting experience. *Id.* pt. 35, app. B (analysis of § 35.130).

Additionally, under Title II, no qualified individual with a disability shall, because a public entity's facilities are inaccessible to or unusable by individuals with disabilities, be excluded from participation in, or be denied the benefits of the services, programs, or activities

of a public entity, or be subjected to discrimination by any public entity. 28 C.F.R. §§ 35.149. For existing facilities, a public entity must operate each service, program, or activity so that the service, program, or activity, when viewed in its entirety, is readily accessible to and usable by individuals with disabilities. 28 C.F.R. § 35.150(a). A public entity may comply with this requirement by “such means as redesign or acquisition of equipment, reassignment of services to accessible buildings, assignment of aides to beneficiaries, . . . alteration of existing facilities and construction of new facilities, . . . or any other methods that result in making its services, programs, or activities readily accessible to and usable by individuals with disabilities.” 28 C.F.R. § 35.150(b)(1). In determining whether a facility or site includes physical barriers to access for individuals with disabilities, whether under program access or the site selection regulation, we look to the design and construction standards provided in the 1991 and 2010 ADA Standards as applicable, and the requirements provided in 28 C.F.R. § 35.151.

With respect to the County’s curbside voting program, the County must take appropriate steps to ensure that the program provides voters with disabilities an equal opportunity to vote, *see* 28 C.F.R. § 35.130(b)(ii), and does not include barriers preventing voters with disabilities from being able to effectively use the curbside system, *see* 28 C.F.R. § 35.130(b)(iii).

Applying the above, we conclude that the County, by reason of disability, excluded voters with disabilities from participation in and denied them the benefits of the County’s voting services, programs, or activities, or subjected such individuals to discrimination, in violation of Title II of the ADA and its implementing regulation. 42 U.S.C. § 12132; 28 C.F.R. pt. 35. The County has selected vote centers that have the effect of excluding individuals with disabilities from, denying them the benefits of, or otherwise subjecting them to discrimination. Further, the County’s site selection process has the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the program—to select facilities that are accessible to and usable by individuals with disabilities. As detailed above and in Attachments A, B, and C, each vote center surveyed had features and elements that do not comply with applicable ADA Standards. And several vote centers had a ballot drop box that did not comply with the applicable ADA Standards and Title II Regulations. The County’s selection of inaccessible sites does not provide individuals with disabilities the opportunity to vote in the most integrated setting or with the same ease and convenience offered to non-disabled voters.

The County’s curbside voting program also denies voters with disabilities an equal opportunity to vote. As detailed above, the County’s failures to provide adequate signage and an appropriate method for contacting election officials are barriers preventing voters with disabilities from being able to effectively use the curbside system, *see* 28 C.F.R. § 35.130(b)(iii), and do not provide voters with disabilities an equal opportunity to vote curbside, *see* 28 C.F.R. § 35.130(b)(ii). We thus conclude that the County has violated Title II by failing to provide an accessible curbside voting system.

To remedy the deficiencies discussed above and protect the civil rights of qualified individuals with disabilities who seek to participate in the County’s voting programs, services, and activities, the County must, at a minimum, implement remedial measures to bring the County’s voting programs into compliance with Title II of the ADA. As summarized above,

Ms. Eva Chu  
RE: Title II Investigation  
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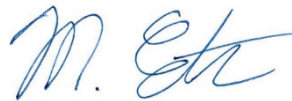
Attachments A, B, and C to this letter specify the physical accessibility deficiencies found at each vote center surveyed, which the County could remedy with temporary measures or by relocating its voting programs from the deficient vote center to an alternate, accessible facility. In addition, the County must assess the remaining County vote centers not surveyed by the Department and determine whether temporary measures or relocation to alternative accessible sites is necessary to bring all of the County's vote centers into compliance with Title II of the ADA. The County must also provide its curbside voting program in an accessible manner, to include appropriate signage and a way for a voter without a cell phone to alert election officials that the voter is curbside.

### III. Conclusion

In the interest of resolving this matter, we have concurrently enclosed a proposed Agreement which contains the terms and conditions upon which the County can comply with Title II with respect to its voting programs, services, and activities. As soon as practicable, but no later than May 23, 2023 reach out to the Chief of the Civil Rights Section, Assistant U.S. Attorney Richard Park at [Richard.Park@usdoj.gov](mailto:Richard.Park@usdoj.gov) regarding your position on a voluntary resolution.

In the event that we are unable to reach a resolution, the Attorney General may initiate a lawsuit pursuant to the ADA. *See* 42 U.S.C. § 12133-34; 42 U.S.C § 2000d-1.

Sincerely,



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E. MARTIN ESTRADA  
United States Attorney

Enclosures