

**SETTLEMENT AGREEMENT  
BETWEEN THE UNITED STATES OF AMERICA  
AND LUZERNE COUNTY  
REGARDING THE ACCESSIBILITY OF POLLING PLACES**

This settlement agreement (the "Agreement") is entered into between the United States of America and Luzerne County (collectively, the "Parties").

**BACKGROUND**

1. The United States Department of Justice (the "Department") opened an investigation of Luzerne County (the "County") under title II of the Americans with Disabilities Act of 1990, as amended ("ADA"), 42 U.S.C. §§ 12131-12134, and title II's implementing regulation, 28 C.F.R. pt. 35, to determine the physical accessibility of County's polling places to people with mobility and vision disabilities. Title II of the ADA prohibits public entities from excluding individuals with disabilities from participation in or denying them the benefits of the voting program, or subjecting them to discrimination, on the basis of disability. 42 U.S.C. § 12132, 28 C.F.R. §§ 35.130(a), 35.149. Title II also prohibits public entities from selecting facilities to be used as polling places that have the effect of excluding individuals with disabilities from or denying them the benefits of the voting program, or otherwise subjecting them to discrimination. 28 C.F.R. § 35.130(b)(4). Title II requires public entities to administer their services, programs, and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities. 28 C.F.R. § 35.130(d).
2. Luzerne County is a "public entity" within the meaning of the ADA, 42 U.S.C. § 12131(1), and 28 C.F.R. § 35.104, and is, therefore, subject to title II of the ADA, 42 U.S.C. §§ 12131 – 12134, and its implementing regulation, 28 C.F.R. pt. 35.
3. The Department is authorized under the ADA to determine the County's compliance with title II of the ADA and title II's implementing regulation, and to resolve the matter by informal resolution, such as through the terms of this settlement agreement. If informal resolution is not achieved, the Department is authorized to issue findings, and, where appropriate, to negotiate and secure voluntary compliance agreements. 28 C.F.R. pt. 35, Subpart F. The Attorney General is authorized, under 42 U.S.C. § 12133, to bring a civil action to enforce title II of the ADA.
4. The County, through its Bureau of Elections, is responsible for reviewing the accessibility of each polling place and selecting each polling place. The County has 180 voting precincts.
5. In the November 3, 2015 general election, the Department surveyed 52 of the County's 180 polling place locations. The Department found that many of the County's polling places contain barriers to access for persons with disabilities, and thus the County violated title II by failing to select facilities to be used as polling places on Election Day that are accessible to persons with disabilities. The Department's findings are contained in Attachment 1.

## **TERMS OF SETTLEMENT**

### **Consideration**

6. In consideration of the mutual promises contained in this Agreement, good and valuable consideration, the receipt and sufficiency of which is acknowledged, and to avoid the costs, expenses and uncertainty of protracted litigation, the Parties, intending to be legally bound, enter into this Agreement.

### **Definitions**

7. "Accessible on Election Day" means that a polling place is compliant with the 2010 ADA Standards for Accessible Design ("2010 Standards") on Election Day, whether such compliance is achieved through permanent physical modifications or through the use of temporary measures such as those provided for in Paragraph 15 below.
8. "Effective Date" of this Agreement is the date of the last signature below.
9. "Election" or "Election Day" as used in this Agreement shall include both the period of Early Voting and Election Day.
10. "Election Day Surveyors" or "EDSs" are County personnel (or contractors) who will review compliance at polling place locations where temporary measures are to be implemented on Election Day.

### **Obligations of County**

#### **A. Accessible Voting Program**

11. Luzerne County shall not exclude individuals with disabilities from participation in or deny them the benefits of the voting program, or subject them to discrimination, on the basis of disability. 42 U.S.C. § 12132, 28 C.F.R. §§ 35.130(a), and 35.149. The County shall select facilities to be used as polling places that do not exclude individuals with disabilities from or deny them the benefits of the polling place, or otherwise subject them to discrimination. 42 U.S.C. § 13132; 28 C.F.R. § 35.130(b)(4). The County shall administer its voting program in the most integrated setting appropriate to the needs of persons with disabilities. 28 C.F.R. § 35.130(d).
12. For all elections occurring after the Effective Date of this Agreement, the County will implement measures to remediate the violations at polling places identified and as set forth in Attachment 1, to make those polling place locations accessible on Election Day, or will relocate those locations to an alternative accessible location pursuant to the process established in Paragraph 17 of this Agreement. Nothing in this Agreement limits the County from making ADA-compliant, permanent modifications to its polling place locations instead of providing temporary remedial measures or relocating a polling place location. If remediation as listed on Attachment 1 or relocation to an accessible facility is impossible, as agreed to by the United States, then the County agrees to comply with title II's program accessibility requirements.