



## **ADA Live! EPISODE 6: VOTING ACCESSIBILITY**

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**Presenter: Nancy Duncan, Disability Consultant,  
former Southeast ADA Center Network Administrator - Georgia**

**Host: Sally Weiss, Southeast ADA Center**

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VOICE-OVER ANNOUNCER: Blog Talk Radio. (Music) Welcome to WADA ADA Live! Talk radio. Brought to you by Southeast ADA Center, your leader for information, training and guidance on the Americans with Disabilities Act. And here's your host.

SALLY WEISS: Good afternoon and welcome to WADA, ADA Live. On behalf of the Southeast ADA Center, Burton Blatt Institute at Syracuse University and the ADA National Network, we are pleased to welcome you to the sixth installment of WADA ADA Live. The topic of today's show is voting accessibility. ADA Live listening audience, please note that you are able to submit your questions via our online forum at [ADALive.org](http://ADALive.org).

My name is Sally Weiss, Director of Knowledge Translation for the Southeast ADA Center. I would like to introduce today's speaker, Nancy Duncan, disability consultant and former Southeast ADA Center Network Administrator for the state of Georgia.

In today's program, we will be talking about voting rights and responsibilities under three laws: the Americans with Disabilities Act, the Help America Vote Act, and the National Voter Registration Act of 1993, also known as the Motor Voter Act. Hi, Nancy. Thank you for joining us to talk about voting accessibility.

NANCY DUNCAN: Hi, Sally. I'm very glad to be with you this afternoon.

SALLY WEISS: And we're glad to have you. Here is my first question for you. What are the basic requirements for the voting process under the ADA?

NANCY DUNCAN: Well the ADA has several sections. One of them is related to state and local government. That is called Title II. So that's what we're really going to be talking about when we talk about voting.

And the first item that I want to mention is that state and local governments are required to provide the same programs and services to people without disabilities - people with disabilities - that they do for people without disabilities.

So that means that there's equal opportunity for people with disabilities to participate in every part of the programs and services of a county, a city, a state -- and of course voting is one of those parts. It also requires that people with disabilities be integrated and able to participate along with citizens without disabilities.

A second important piece is providing equally effective communication. And that says, as you can imagine, if you provide information to people without disabilities, such as notices or articles in the paper or signage, then you must make sure that you provide the same or equally effective, it may not be the same, but equally effective material or signage or speech, speeches to people with disabilities. And that would include people who have visual impairments or intellectual disabilities, learning disabilities, people with hearing impairments or deafness.

A third basic requirement is physical access. Now that's what most people think about when they think about the ADA. How wide do the doors have to be? How steep are the ramps? Do we have to have bars in the bathrooms? That's all part of physical access. You can kind of sum it up as the ADA does by calling it an accessible path of travel. And in terms of voting, or the voting place, polling places or place where you register or where you perhaps vote early, these places should have a fully-accessible path from the parking lot, the accessible parking, or all of the parking lot, to the voting place - the poll itself.

Also, they should have an accessible path of travel to the bus, from the bus stop to the polling place so there are no barriers that a person in a wheelchair or using a walker or maybe a cane, there would be no barriers that they would have to cross in order to get to the place where they vote.

And this can be achieved in some other ways if it's absolutely necessary, like curbside voting. Where a polling worker, a poll worker would actually go to the vehicle of a person with a disability and sit in the vehicle and help them vote if that's necessary or at least retrieve the ballot from them. And that's never good, but that's okay again. It might be that a person with a certain kind of disability would rather vote that way because of maybe great difficulty in getting in and out of a vehicle, something like that.

Then let's move on and we'll talk some more about this later, I'm sure. But let's move onto the fourth requirement which I think is so important, but it's usually left out when people are thinking about accessibility and equal services. And that's notice.

It's an administrative requirement for state and local governments to let people with disabilities know what they have to offer. It doesn't do any good if you have the most up-to-date

wonderful voting machine and the best, accessible voting location if people with disabilities don't know it's there.

So you need to make sure that any information a county or state gives out, whether it be a website that needs to be accessible or you don't want to just put things in the newspaper because there's plenty of people who can't read the newspaper.

So be very creative in how do you get the word out to folks as to what the options are for absentee ballots, early voting, registration, et cetera. I think that sums it up.

>> SALLY WEISS: Thank you, Nancy. I think it sums it up pretty well.

>> NANCY DUNCAN: Right.

>> SALLY WEISS: Can you talk a little bit about what we call the Motor Voter Act. What does that do?

>> NANCY DUNCAN: Well, in a very simple statement, it says that if you offer services to people with disabilities, you must make sure in your state or local government, you must make sure that you also allow people to register to vote in your facility sometimes. And that would include libraries, health departments, courthouses, DFACs or DFS offices, that whole gamut. Food stamp offices. Basically, people should be allowed to register to vote where they go most often.

>> SALLY WEISS: Thank you. Now I would like you to talk a little bit about the Help America Vote Act. What does HAVA or the Help America Vote Act do?

>> NANCY DUNCAN: I think this is a really cool law. It was signed into effect in '02 by George W. Bush. It provides, first of all, some good technical assistance and guidance to state and local governments on voting through the Election assistance commission. That's a mouthful. That information can be found at [EAC.gov](http://EAC.gov). And there's guidelines for how to assist people in voting and sort of a checklist of what you should do in your voting place.

And then, it also sets aside money for a state to use to improve access to voting in their states. And then, another thing that it does that I think, too, is very important, is that it says that at least one booth or machine in every polling place should be accessible.

Finally, and this is my favorite part. It requires state and local government to provide integrated, independent voting, and also privacy in voting for people with disabilities.

>> SALLY WEISS: Thank you, Nancy.

ADA Live listening audience, if you have a question about voting accessibility, you can submit at any time at our online forum at [ADALive.org](http://ADALive.org). And now a word from our sponsors.

>> VOICE OVER ANNOUNCER: The ADA National Network provides information, guidance and training on the Americans with Disabilities Act tailored to meet the needs of business, government and individuals at local, regional and national levels. The ADA National Network consists of 10 regional ADA centers in the United States providing local assistance to insure the ADA is implemented wherever possible. The ADA National Network is not an enforcement agency but a helpful resource supporting the ADA's mission, making it possible for everyone with a disability to live a life of freedom and equality.

>> SALLY WEISS: Welcome back to the second part of our ADA live program. We're talking with Nancy Duncan, disability consultant, about access to voting.

Our next question is -- what are the basic rights for people with disabilities in the voting process and the voting place?

>> NANCY DUNCAN: Well, Sally, if you remember before our commercial, I had just said that HAVA points out these three rights very clearly.

Independence in voting, and privacy in voting, and being integrated with the rest of the community as the voting process, all of it, occurs.

And here we're talking about rights from if very beginning as I said earlier. The notice about voting has to be accessible so people with know what's going on.

And all the way through. Early voting, registration, deadlines, all of that. It is part of our right as an American citizen to vote. And we have to, as people with disabilities, be able to have those three rights that I just mentioned.

>> SALLY WEISS: When we were talking earlier, you told me about your experience with voting. Can you share that with our listening audience?

>> NANCY DUNCAN: Sure. I'm totally blind. And I'm 65 years old now. But the first time I voted was 1966. And I have voted every, at least every two years since then and sometimes more often. But in 2004 was the first year that my voting precinct had machines that made voting accessible to me.

I went to my precinct to vote. And at my regular precinct they knew me. I had been voting a while. So they were all very excited to show me the machine. And the headphones and the little key pad that I could use. So I went into the booth and picked up the key pad and put on the headset and I voted for the first time independently and with privacy and next to all the other people who were voting. It took me a little longer, but it was just such a wonderful experience.

When I put my card in the slot and turned around and took off the headset I was crying. And a friend later told me that everybody in the room was crying, because I realized a dream that I had never thought would come true. That I could vote. Sometimes my husband would go with me to vote or a friend. But sometimes I didn't want them to know how I was voting if I knew I was voting differently. So it was my opportunity to be a fully participating American citizen, even though I was born here, I didn't feel like I had ever really had that before.

>> SALLY WEISS: Thank you, Nancy. Can you tell us what responsibilities people with disabilities have when it comes to voting?

>> NANCY DUNCAN: Well, of course, whenever you have rights, you always have responsibilities. And it's our responsibility as people with disabilities to find out all we can about our particular voting situation. Many states and local governments have some different rules. We need to know those things. We need to know the dates. You have to register by when. Or get absentee ballots in by when.

We have to find out everything we can about making the voting process work for us. We need to find out what kind of accessibility issues there may be. What barriers there may be in our precinct. And we need to find this out a good deal ahead of time.

If you wait until the day you go to the polls to vote, there's not much that the poll workers can do then to make your experience accessible.

You have to contact folks ahead of time. I suggest that people use the public library to find out a lot of this information. Since sometimes it's very hard to get through to other government offices. And they have it all there. And as I said earlier, you can register to vote there, too.

And there is also that wonderful website that I mentioned earlier that HAVA supports. And that's EAC.gov. That also has a lot of information about the voting process and it has some information on states it can point you to so you can see what's going on in your state.

You can also contact your Secretary of State's office, the voting division or look at their website and they usually have things about voting there.

>> SALLY WEISS: Nancy, how do the voting officials decide what requests are not required by HAVA or the ADA?

>> NANCY DUNCAN: Well, that process is spelled out pretty clearly in the ADA. And it's a matter of figuring out there's basically two, I call it "unlesses." You have to comply "unless." And the two that apply to voting would be undue burden - if it would cost too much to provide this accessibility feature.

And the Justice Department has been pretty clear that there aren't many things that would be too expensive in terms of providing access for voters. So I can't really think of one.

Second one is fundamentally alter the nature of the program.

So, if your voting request would be we'll say that the election, that the head of elections comes to your house and marks a ballot for you, obviously that could take months if everybody wanted that. And that could fundamentally alter the nature of the program, so they wouldn't have to do that.

So they need to sit down - voting officials at the state and local level need to sit down and figure out what can we do and what can we not do. Of course, they won't think of everything. Because there's 54 million Americans with disabilities. And even among one particular group - I'm blind. I know lots of blind people and almost all of us need something different in terms of print or not print. So, it takes a while. It's not a quick thing to figure out what they have to do and don't have to do.

>> SALLY WEISS: Thank you, Nancy. We've been talking with Nancy Duncan, disability consultant, about access to voting. And now, a word from our sponsors.

>> VOICE OVER ANNOUNCER: The Southeast ADA Center is your leader in providing information, training and guidance on the Americans with Disabilities Act and disability access tailored to the needs of business, government and individuals at local, state, and regional levels. The Southeast ADA Center, located in Atlanta, Georgia, is a member of the ADA National Network and serves eight states in the Southeast region. For answers to your ADA questions, contact the ADA National Network at 1-800-949-4232.

>> SALLY WEISS: Welcome back to ADA Live. In this part of our program, we answer questions from our listeners. Nancy, we have several questions in the queue. The first answer is do you have to provide a sign language interpreter for voters who are Deaf?

>> NANCY DUNCAN: Well, if you were trying to figure out the answer to this question, you'd go back to what I said just before we broke for the commercial. You look at is it an undue burden, does it fundamentally alter the nature of the program? And then you can also look at is it effectively - does it provide effective communication - equally effective communication?

And in the voting process, there's not much communication that goes on that couldn't probably be handled by gestures, pointing, writing notes back and forth, using a laptop computer to write notes back and forth or using a cell phone to text back and forth.

So I can't really think of a situation where a sign language interpreter would be necessary for a person to participate in the voting process.

One possible exception might be a person who is Deaf and blind where a sign language interpreter actually does a lot more than just signing. But, again, you would have to arrange for that ahead of time and your local board would decide whether or not they can provide that accommodation.

>> SALLY WEISS: Thank you, Nancy. The next question we have is similar. Do you have to provide readers for people with visual impairments or learning disabilities or intellectual disabilities?

>> NANCY DUNCAN: Well lots of folks did that for me for 25 years. So yes, you do have to make sure that it's equally effective communication. So if a person cannot read a printed ballot or a print sheet or screen then you have to provide some way for them to access that information. They could bring a person with them. Or they could ask someone who is a poll worker to assist in signing your name, filling out your form or actually voting.

And the individual, you know, can decide. If I feel like I have problems with the voting machine independently then I can ask for a reader, even though the accessible machine is in place.

>> SALLY WEISS: Thank you. We have several questions about the next topic.

My polling place is in a church. I use a wheelchair and I can't get inside to vote. Aren't polling places supposed to be accessible?

>> NANCY DUNCAN: Well if we look again at Title II of the ADA, it says all the programs must be accessible.

So there must be accessible voting, when you look at the entire county. And if you're in a great big metropolitan county, that would mean a lot of places would need to be accessible. Maybe if you're in a very, very small county anyone may vote at just one place.

But it should be accessible, if at all possible. And it should be possible because the ADA has been around for 23 years. You would think that the voting officials could have found a place that was accessible for voting. Schools, most schools that are new are accessible. Most that have been built since 2000 or since '95 have to be accessible. And there's lots of senior centers and all sorts of places that are accessible. It would behoove the local government to make sure that they move the voting place to somewhere that is accessible.

>> SALLY WEISS: Thank you.

>> NANCY DUNCAN: If that can't happen, then there always is that curbside voting as a temporary accommodation.

>> SALLY WEISS: Thank you, Nancy. Do polling places have to have accessible bathrooms?

>> NANCY DUNCAN: Here we go back to the non-discrimination requirement that I mentioned earlier. If you provide bathrooms for people without disabilities, you must provide bathrooms for people with disabilities. It might just be a unisex or family bathroom rather than several bathrooms. But if you don't provide bathrooms for anybody, then you don't have to worry about providing bathrooms for people with disabilities.

>> SALLY WEISS: If I have a disability that makes it hard for me to wait, can I go to the head of the line?

>> NANCY DUNCAN: Some states do say that people with disabilities don't have to wait. They can go to the head of the line. But some states don't have that. So it would be just a request for a reasonable modification -- the policy that everybody waits in line.

Again, you could do this early. Contact your elections board and say, I need this accommodation. Can we work this out? You can't wait until you get there to get this all figured out.

So it is reasonable to ask for a way to rest or a way to move to the front of the line. And it certainly doesn't cost the county any money. It doesn't alter the way that people vote, so there should be no problem.

But, again, that can't be a given. That's something you have to figure out if that's possible where you vote.

>> SALLY WEISS: How can I find out whether my state or county allows for me to go to the front of the line? Suppose I have a breathing difficulty or I have MS and can't stand in line for very long, how can I find out if the state requires that they will let me go to the head of the line or whether I have to ask for a modification?

>> NANCY DUNCAN: Well there is, as I mentioned earlier, the EAC.gov, which has some information on each state. There's also the Secretary of State's office in every state who has somebody who is in charge of voting in that state.

Either one of those would be a good resource. You can certainly call your local election officials, your county officials or city officials, and find out what is done.

But even though the state may say no, we don't have that policy that people can go to the head of the line, which when we're talking about the ADA, it may trump the policy that the state or county has unless there's a very good reason why they have that policy.

>> SALLY WEISS: Thank you, Nancy.

We have a question about transportation. I need transportation to get to where I vote. Do election officials have to provide this if I ask ahead of time?

>> NANCY DUNCAN: That's a good question. I was in a focus group on Sunday and this was one of the main questions that people were talking about, was transportation to the polls.

No, the state and local government do not have to provide transportation for people with disabilities. Why? Because they don't provide transportation for people without disabilities.

Most state and local governments have some kind of public transportation that might be pulled into play. And here you are, you know, you have to find out ahead of time and people have to ask questions. And see where is the transportation. Could it be used? But I can't see because of the undue burden and the fundamentally altering the nature of the program, I can't see polling officials ever doing that.

What I find very effective is contacting candidate's offices. Say - I want to vote for you next week, next Tuesday, but I don't have any transportation. I've done that a number of times, and I've never had any trouble with them. They'll send out two or three people to help me go vote. You can only vote once, but they're always happy to help. Again, you can't do it the day of the election. You have to call ahead.

>> SALLY WEISS: Thank you, Nancy. Do you have any last words on this topic? What would you like listeners to take away from this show?

>> NANCY DUNCAN: I believe wholeheartedly that voting is a responsibility of every American. And it's a responsibility and a right of people with disabilities as well. And we're entitled to vote as independently as possible, to vote with complete privacy and to be in an integrated setting. It is to me, it makes my heart swell just like singing the "Star-Spangled Banner" when I walk into my precinct and I cast my vote. I think it's just the most beautiful thing about being an American. It is that we can get to choose. So I don't want anybody with a disability to miss that beautiful opportunity.

>> SALLY WEISS: Thank you very much. At this time, I would like to thank our guest speaker, Nancy Duncan for joining us today. And to our ADA Live listening audience, the Southeast ADA center is grateful for your support and participation in this series of the WADA ADA live broadcasts. If you have questions about the ADA, please contact your local ADA center at 1-800-949-4232. That's 1-800-949-4232. All calls are free and confidential.

The questions and answers and a resource sheet from today's program will be available on ADAlive.org. The transcript of today's show will also be available at that site.

Join us next month on the first Wednesday, April 2, 2014 where we will be talking about pool lifts.

See you next month on WADA live. (Music)

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