



Access Ready Strategic

Summary of Problems Created by EAC Overreach July 2024

Access Ready Strategic disability rights and technology consultants have a combined fifty plus years' experience in judging the accessibility of systems and how they safeguard the rights of people with disabilities.

VOTEC Corporation has 45 years in the elections technology field with 31 years delivering Voter Registration and Election Management software, 27 years delivering computer assisted voter check-in.

That suggests strong competence with these functions.

These are the reasons that Access Ready Strategic chose to collaborate with them to expand accessible election technology into electronic poll books.

We have been engaged with the EAC since May 2023 when we learned of an EAC initiative to write "Requirements" for Electronic Poll Books. Requirements is in quotes to emphasize that as far as we can tell the EAC is not authorized to create "Requirements." It is only authorized to produce "Guidelines."

We were introduced to the initiative to write and publish and engage with testing laboratories for electronic poll books when VOTEC was asked to participate in an examination of their VoteSafe and Welcome Voter Kiosk products.

VOTEC, with Access Ready Strategic following along, participated in the trial examination of e-poll books from several vendors and several counties.

The EAC had already published Draft Requirements with the title "Voluntary E-Poll Book Certification Requirements Version 0.9" five months earlier in January 2023.

Access Ready Strategic's Douglas Towne and John Medcalf, VOTEC founder and CEO, reviewed the 0.9 version carefully.

Access Ready Strategic raised serious accessibility concerns with the EAC in writing and through direct verbal communications with EAC staff. We were assured that our accessibility concerns would be addressed. They were not so addressed in the newly published version of the Voluntary Electronic Poll Book Certification Requirements v1.0 508.



VOTEC submitted comments on the Requirements in Version 0.9 to the EAC per their commenting protocol.

This included a five-page cover letter giving VOTEC's overview of the impropriety of the initiative.

Regarding the initiative to produce "Requirements" and have computer check-in products examined by the companies known as "Voting System" Test Laboratories (VSTL), the conclusions are:

The initiative is completely unjustifiable. It is a make work project for one or several EAC staff.

Voting Systems need examination to enhance voter trust. Voters can't see inside machines.

Voters have not been allowed to review source code either at the machine level or at the management level.

The EAC was created by the Help America Vote Act (HAVA 2002) and chartered to continue "Guidelines" updating previously done by other government organizations since 1991.

Voting System Guidelines have been updated several times and are viewed as engineering documents.

For reasons unknown, after 19 years without a peep about writing "Requirements" for election supporting technology such as Electronic Poll Books, Voter Registration, and Election Night Reporting, someone at the EAC inferred, with no basis in fact, that since these systems used computers and they were used for election and voter management, they should be managed like Voting Systems.

This is terrible logic. Voting Systems need trusted organizations to provide assurance. They need to be compact and constrained and off the internet and dependent on as little third-party software as possible in order to be examined thoroughly.

Even as constrained as voting systems are, examination is often a five-million-dollar endeavor.

Election supporting systems are not for the purpose of capturing secrets - they are information storage and communication systems. They depend on tens of millions of



lines of commercial code which no testing lab would ever vouch for if there was a penalty for getting it wrong.

Although market forces do not guarantee that a company will deliver a reliable and secure information system, they certainly focus the minds at VOTEC. Any significant flaw could likely shut down a line of business if not the whole company.

In the approximately three decades VOTEC has delivered Voter Registration and Electronic Poll Books, they have concentrated on testing both prior to shipping and at each customer's site and on their data.

This has worked remarkably well - as it is supposed to.

The EAC could have determined this much earlier in the process except for the fact that they insulate themselves from vendors. They act as if the most knowledgeable players, the vendors, will taint the process. This mistake means the EAC is about a decade behind the knowledge available in the market.

THE RESULT - VOLUNTARY ELECTRONIC POLL BOOK REQUIREMENTS 1.0 HARDLY CHANGED FROM 0.9

Access Ready Strategic and VOTEC have told the EAC that the above document is the worst accessibility and engineering document we collectively have ever seen.

From Access Ready Strategics' accessibility point of view.

The Election Assistance Commission (EAC) quietly released their final Voluntary Electronic Poll Book Certification Requirements v1.0 508 document on April 8, 2024.

We should take note that unlike the Voluntary Voting System Guidelines (VVSG) they have in this case dropped the term "guidelines" in favor of the much stronger word "requirements" which may in some people's view override the word voluntary.

While they mention section 508, WCAG, and the ADA, they chose to totally ignore the most recent DOJ Final Rule on Strengthening Web and Mobile App Access for People with Disabilities.

Of course, the new DOJ rule will apply even if they didn't include compliance with it in their requirements.



We also must point out that the certification of off-the-shelf technology like Android and IOS tablets is implied without dealing with the fact that the software for such systems are updated regularly. These updates may make the system's certification void because of the change in software.

Such changes, if made just before an election may also render the poll book software inoperable. An unintended consequence. Apple for example has stated in the past that their products should not be used in mission critical environments.

After consulting with Eve Hill, Access Ready's Civil Rights General Counsel, Access Ready's main concerns from an accessibility point of view is that they make compliance with WCAG/508 "If Applicable," which means the vendor doesn't need to provide documentation of full compliance with WCAG. Pollbooks are not procured or used by federal agencies, so Section 508 will never be "applicable." Challenges may be available because they are used in federal elections. Challenges would also make sense if any jurisdiction were to use funds from a federal grant.

But compliance with WCAG should still be required, because the pollbooks are required to be accessible under the ADA and Section 504 of the Rehabilitation Act. Instead of requiring vendors to document full compliance with WCAG, the EAC has picked and chosen certain specific accessibility requirements to have documented.

Because these are self-contained devices, they need to have screen reader capability built in, right? But this doesn't seem to require that. It requires lots of accessibility features for people with low vision but doesn't seem to require any for fully blind voters. All the "audio" features are "if applicable." Nor do the requirements provide for keyboard navigation. So, e-pollbooks could be deemed accessible even if they require use of a mouse.

In addition, the entire document is aimed at only providing accessibility to voters. It ignores accessibility for poll workers entirely, although poll workers are entitled to effective communication under the ADA and Section 504 (and 508, when applicable). For example, the guidelines require user testing with disabled voters, but not with disabled poll workers. And the documentation of accessibility is only for disabled voters, not poll workers.

In addition, in spite of the fact that the EAC had the opportunity to review advanced technology that would make American Sign Language (ASL) imbedded instruction videos possible that are designed to serve the Deaf community, the EAC has chosen to totally ignore the needs of the Deaf.



Unfortunately, these appear to be final guidelines. E-pollbook vendors are being instructed to submit their products to a Voting System Testing Laboratory to be examined against a test matrix based on the published "Requirements."

Access Ready met in January 2024 with EAC representatives to discuss the language previously put forward and we were told we would be consulted. We were not. We have not been able to discover that there was any process for gathering input from accessibility advocates on the "Requirements."

The EAC is charged with reviewing the guidelines annually. It is Access Ready's position that the disability rights community should put forth a strong position outlining our collective objections to these requirements.

Access Ready also believes that these issues should be raised with the current administration since the EAC is apparently out of step with the Presidents intentions on accessibility.

It's possible that this could be challenged under the Administrative Procedure Act, but because these are "voluntary" we think that's doubtful.

Even full compliance with these "requirements" will not ensure compliance with the ADA. And we have no doubt that poll book providers will pick and choose what they want to comply with. Local and state jurisdictions that rely on vendors who are certified in these requirements will be in legal jeopardy. Worse, the civil rights of voters and poll workers with disabilities is in jeopardy.

Appreciatively,

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