

DE 80-40 - December 31, 1980

**Access To The Polls For The Blind And Handicapped
Section 101.715, F.S.**

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Prepared by: Division of Elections

This is a formal opinion pursuant to Section 106.23(2), F.S. (1979) on the following questions:

What is the intent of Section 101.715, F.S. (1979), and what responsibilities does it place upon the local Supervisor of Elections?

Have there been any previous interpretations of this statute by the Division of Elections?

Section 101.715, F.S. (1979), was enacted on July 4, 1976 (see attached statute.) There are five major aspects to this section: (1) Mandatory accessibility standards for the elderly and handicapped; (2) an exemption from these standards for temporary polling sites; (3) an exemption from these standards if there are no accessible sites in a particular precinct or loading area or if the site will be brought into compliance with accessibility standards in the foreseeable future; (4) a requirement that the supervisor of elections notify the board of county commissioners as to every site which fails to, but can be made to comply with, the accessibility standards set by law; and (5) a requirement that each county commission take affirmative action to bring selected polling sites into compliance with the law. Clearly, the statute places the responsibility upon the local supervisor and the local board of county commissioners to find polling sites that do not meet accessibility standards and bring such sites into compliance with the law. The statute creates mandatory standards, but leaves implementation to the initiative and resources of local government.

My research reveals neither Division of Elections opinion nor Attorney Generals' opinion on the subject of accessibility for the elderly and handicapped at the polls. However, Section 101.715, F.S., does make reference to Section 255.21, F.S., which addresses special facilities for the physically handicapped. Section 255.21(2), F.S., states in pertinent part:

"The Department of General Services shall provide by regulation such standards for the design, construction, and alteration of such (state) buildings as may be necessary to insure that physically handicapped persons will have ready access to, and use of, such buildings."

The above-cited section of law clearly applies to any building owned or operated by the State or any political subdivision.

The effect of Section 101.715, F.S., is to require that all doors, entrances, exits, public restrooms and stairs (to the extent stairs enter the polling place) must be made accessible to physically handicapped

individuals and meet minimum standards. These standards apply whether or not the polling site is a state building. Doors entrances and exits to be used to gain access to or egress from the polling place shall have a minimum width of 29 inches. Any curb cuts, temporary ramps, or stairs necessary to use at the polling place shall have a temporary handrail and ramp.

Section 255.21, F.S., sets construction standards for buildings owned, operated or leased by the state or its political subdivisions which will insure access to the physically handicapped.

Section 255.21(4), F.S., also provides that each State agency may conduct surveys and investigations which it deems necessary to insure compliance with this section. It is unclear whether the Department of State has authority to conduct a survey of the supervisors of elections to determine whether all polling places meet construction standards of accessibility.

Polling sites are located in a wide variety of state buildings operated by different state agencies. The Department of State has little physical control over the polling sites. As yet, no such survey has ever been conducted by the Department of State as to whether polling sites are meeting the requirements of Section 101.715, F.S. (1979).