



Disability Rights Pennsylvania

Hearing on Election Integrity and Accessibility
Pennsylvania House of Representatives State Government Committee

Provided by:

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Good Afternoon Chairman Grove, Chairwoman Davidson and members of the House State Government Committee.

My name is Peri Jude Radecic. I am the CEO at Disability Rights Pennsylvania. Disability Rights Pennsylvania is the federally mandated protection and advocacy agency designated by the Commonwealth of Pennsylvania. We provide legal and advocacy services to people with disabilities in Pennsylvania. On behalf of Disability Rights Pennsylvania, and our constituents, I would like to thank you for soliciting our views on voting issues in the Commonwealth.

Disability Rights Pennsylvania (DRP) is the federally mandated, state designated Protection and Advocacy (P&A) system for persons with disabilities in Pennsylvania, and it has been providing legal and advocacy services to Pennsylvanians with disabilities for over 40 years. DRP receives federal funding under the Help America Vote Act (HAVA) “to ensure full participation in the electoral process for individuals with disabilities, including registering to vote, casting a vote and accessing polling places.”¹ We use this funding to educate voters with disabilities

¹ 52 U.S.C. § 21061(a).

about their rights, provide assistance to voters with disabilities who encounter difficulty registering to vote and face barriers to voting on election day such as inaccessible polling places or accessible voting machines that are not functional on election day. On election day, voters with disabilities who encounter trouble at the polls can call us to receive advice and assistance. Last year we assisted voters during the primary and general elections, and we conducted voter outreach to make sure that voters with disabilities know their rights when voting. This is a crucial part of our work.

HAVA does more than fund our voter outreach and education efforts. It also mandates that voting systems—including machines, ballots, and instructions—be accessible to voters with disabilities. Voters with disabilities must be able to vote privately and independently. Every polling place must have at least one accessible voting machine. The Americans with Disabilities Act and Section 504 of the Federal Rehabilitation Act similarly require that municipalities make their polling places accessible to voters with disabilities. Voters with disabilities should be able to vote at their local polling place on election day. County election officials need to make sure that they are aware of these laws and that they keep abreast of future developments for election administration.

DRP has developed and will soon release a white paper highlighting issues and needed changes to ensure that people with disabilities can exercise their right to vote and that elections are fully accessible. Today, I will highlight accessibility issues that people with disabilities face when voting.

Voting by Mail and Paper Ballot Inaccessibility

Act 77 of 2019 and Act 12 of 2020 are historic pieces of legislation that made it easier for Pennsylvanians, including Pennsylvanians with disabilities to vote. For voters with disabilities who may encounter numerous barriers to voting in person, voting by mail is an option. Importantly, unlike with absentee ballots, voters using mail-in ballots do not have to provide a reason for their choice. This means that voters with disabilities will not have to disclose their disability in order to vote. However, there remain many accessibility issues with paper ballots for the disability community.

No paper ballot voting system today, ready for widespread use, is fully accessible. Even BMDs require voters with disabilities to verify and a cast a paper-based ballot, which does not ensure a private and independent vote. A fully accessible voting system by Federal law must ensure the voter can receive, mark, verify, and cast the ballot without having to directly visually inspect or handle paper. Most, if not all, market-ready voting systems cannot do this.

In 2020, DOS implemented a remote accessible vote by mail system for voters with disabilities, Democracy Live's OmniBallot. The OmniBallot enables a voter who cannot mark a paper ballot to mark the ballot online privately and independently with the use of screen reading technology. While the OmniBallot has a variety of accessible features and is clearly a strong step in the right direction, there is more that must be done to ensure that all voters with disabilities have equal access to voting by mail.

Voters that used the OmniBallot experienced problems with both the ballot application and return processes, particularly the requirement that they print out the ballot. In addition, the accessible ballot was not widely publicized, and information about the option of accessible voting by mail was buried on DOS's website, making it difficult to locate. The county boards of election also appeared to lack effective guidance about how they were to carry out their role in implementing the OmniBallot voting system. Multiple reforms of the OmniBallot application and return process are needed, as well as better guidance for counties, and a robust publicity campaign from DOS.

In addition, there must be better procedures and communication regarding voting by mail. Both voters with disabilities and election officials were confused about how to accommodate certain needs, and some of the procedures established in the Election Code or by DOS. For example, the Code's procedure for how to show you had assistance in voting made it harder for people with disabilities to vote through the mail. These issues need to be addressed.

Inaccessible Polling Places:

Recent voting reforms in Pennsylvania made it easier for people with disabilities to participate in the elections. But mail-in voting is not a panacea. Voters with disabilities must be able to vote in-person at their

local polling places using accessible voting machines if they choose. Even though federal law requires polling places to be accessible, voters with disabilities still encounter barriers to voting. For example, voters with mobility disabilities may encounter polling places that are not wheelchair accessible. Voters with visual disabilities may encounter voting machines that they cannot use without assistance. For many voters with disabilities, it can be a challenge just to get to a polling place due to a lack of transportation. Pennsylvanians with disabilities encounter transportation difficulties every day. These difficulties include things like a lack of access to wheelchair accessible vehicles, trips that must be planned far in advance, sidewalks that lack curb cuts and numerous other barriers. These transportation difficulties do not disappear on election day.

Polling places must be accessible, but simply choosing a building that is a ADA compliant is not enough. There are other considerations when setting up a polling place in order to ensure accessibility. This includes the placement of voting machines, signage and poll worker training on accommodating voters with disabilities. The Commonwealth needs to do more to educate county election officials and poll workers about how to create a fully accessible polling place. Our sister organization, Disability Rights Iowa has created a simple accessibility checklist that can be easily replicated in Pennsylvania for voting officials.² As the Commonwealth continues to improve election administration, both programmatic and physical accessibility is key to full inclusion of the disability community in voting.

Voters with disabilities may also encounter accessible voting machines not functioning properly or poll workers who are untrained on accessible features. Voters with visual disabilities may encounter voting machines that do not make an audible sound when a ballot is cast, and other localities use paper provisional ballots which are inaccessible for voters who are blind or low vision. For some voters with disabilities, mail-in voting will solve these problems. Again, however, mail-in voting cannot be the only option for voters with disabilities. Any voter who wants to vote at their local polling place should be able to do so.

Inaccessible polling places continue to be a problem in certain areas of Pennsylvania. In addition, this year, with the introduction of a no excuse mail-in voting program, inaccessible drop boxes and election offices were

² <https://drivoting.org/wp/wp-content/uploads/2020/10/Quick-Check-FINAL-Print.pdf>

also an issue for some voters. Election officials must ensure that *all* locations voters use to either vote at the polls or to apply for, pick up, and return a mail ballot are accessible.

While many voters with disabilities may choose to take advantage of mail-in voting, mail-in voting cannot not be used as an excuse to avoid choosing an accessible location as a polling place or finding a way to make a polling place accessible. At the same time, we stand in solidarity with other civil rights activists. Local governments must not use accessibility concerns as a way to disenfranchise voters of color by consolidating polling places in minority neighborhoods.

Again, I would like to commend the legislature for passing Act 77 of 2019 and Act 12 of 2020. Through our work helping voters with disabilities during the 2020 Primary and General Elections, DRP identified barriers to people with disabilities successfully casting a ballot. All of these hurdles are fixable, but it will take collaboration between the Commonwealth, the counties, and people with disabilities. DRP stands ready to offer our assistance in this effort. In order to have elections that are fully accessible to all, the Commonwealth must implement policies that are mindful of the challenges people with disabilities encounter when trying to vote and create training materials that educate election and poll workers about accessibility.

About Disability Rights Pennsylvania

Disability Rights Pennsylvania has been the federally mandated protection and advocacy system in our state for over forty (40) years. Our mission is to protect and advocate for the rights of persons with disabilities so they may live the lives they choose, free from abuse, neglect, discrimination, and segregation. Our vision is a Commonwealth where people of all abilities are equal and free.