

Your Rights as a Voter with a Disability - Connecticut's Response

NASED Summer Conference
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Accessible Voting Systems

- ▶ **What?** Invitation to Bid issued for turn-key ballot-marking devices for individuals with disabilities.
- ▶ **Why?** Connecticut was using a Vote-By Phone system recommended by the US Department of Justice in 2006 when Connecticut transitioned to new voting technology. That system does not produce a ballot capable of being read by the optical scan tabulator, thus ballots must be hand counted.
- ▶ In 2015, we received a request for information from US Department of Justice regarding a complaint that alleges that...“use of system that segregates these hand counted ballots from other ballots could deprive voters with disabilities of the same amount privacy and security given to those who use an optical scan ballot.”

Accessible Voting Systems

▶ Issues with current system

- ▶ IVS not set up at 6 am when voters arrive causing people to wait.
- ▶ IVS set up in an inaccessible location.
- ▶ Voters being discouraged from using IVS machine because it would take too long.
- ▶ Expense of maintaining segregated phone lines and fax lines.

Accessible Voting Systems

- ▶ ITB issued 2/29/2016; responses due 3/31/2016.
- ▶ Received responses from four vendors.
- ▶ Award to lowest, responsible qualified bidder July 2016.
- ▶ Looking for a system that would be both user-friendly and operator-friendly. Looking to avoid necessity of special telephone lines and fax machines. System must be delivered, tested and ready for operation; personnel (local election officials) must be trained prior to the general election on November 8, 2016.
- ▶ Warnings; Pitfalls to Avoid.

Curbside Voting

- ▶ Sec. 9-261. Process of voting.
 - ▶ (b) In the event that an elector is present at the polling place but is unable to gain access to the polling place due to a temporary incapacity, the elector may request that the ballot be brought to him or her. The registrars of voters or the assistant registrars of voters, as the case may be, shall take such ballot, along with a privacy sleeve to such elector. The elector shall show identification, in accordance with the provisions of this section. The elector shall forthwith mark the ballot in the presence of the election officials in such manner

Curbside Voting

- ▶ that the election officials shall not know how the ballot is marked. The elector shall place the ballot in the privacy sleeve. The election officials shall mark the elector's name on the official voter list as having voted and deliver such ballot and privacy sleeve to the voting tabulator where such ballot shall be placed into the tabulator, by the election official, for counting. The moderator shall record such activity in the moderator's diary.

Curbside Voting

- ▶ Should not be used just because there are long lines at the polls and someone cannot wait in line (you should provide chairs inside the polling place for that situation).
- ▶ Should not be used for a voter with permanent disabilities as that voter should be able to vote inside the polling place, privately and independently. You should not use Sec. 9-261 (b) to avoid the requirements of providing an accessible polling place.
- ▶ Not available for Election Day Registration as Sec. 9-261 (b) applies to polling places only (and in that case only for last-minute accessibility issues), but officials may provide assistance at the EDR site if requested.

Curbside Voting – Case Studies

Misapplication of Statutory Language: Two Case Studies

1. We are not McDonalds. We are not Dunkin' Donuts.

Town advised all voters with disabilities that Connecticut now had “drive-through voting”; that they could park their cars and ring a bell out in the parking lot to have their ballots brought out to them. No need to have the polling place accessible since voters did not enter the building. Local election officials were reminded that the law refers to a *temporary* incapacity. HAVA requires that all voters be able to cast a ballot privately and independently *in the polling place*.

Curbside voting – Case Studies

- ▶ No Children Allowed.

Local election officials discovered just days before August primary that high school was undergoing asbestos abatement (in an area separate from the polling place). Superintendent of schools notified them that anyone under the age of 18 would not be permitted to enter the building. The election officials did not attempt to move the polling place, but rather decided that they would provide curbside voting to those voters accompanied by minor children. Did not seek the advice of our office as to whether such use was permissible.

Curbside Voting – Case Studies

- ▶ Registered voter arrived with his 3 year-old son and was denied access. Voter offered the opportunity to fill out the ballot in the parking lot, or leave his 3 year-old with a stranger while he entered the building to vote. He proceeded into the polling place with his son. The moderator refused to allow him to be issued a ballot and voter was warned that the police would be called to remove him and his son. He left without voting. He contacted the Election Day Hotline and was urged to return to the polling place. The election officials wheeled the tabulator to the outside door; the voter was allowed to mark and feed his ballot into the tabulator without actually entering the building.

Curbside Voting - Case Studies

- ▶ State Elections Enforcement Commission issued a consent order, finding that the registrars of voters failed to protect the rights of eligible voters to vote independently and privately. They failed to seek legal advice from our office or town counsel. They should have moved the polling place. They should not have offered curbside voting as there was no temporary physical incapacity. Ordered to comply in the future but assessed no civil penalty because of their good faith efforts to accommodate voters who were affected by the restriction on minors.