



1-844-DIS-VOTE
www.disabilityvote.org

Date: November 30, 2022

Re: Public Comments for November 30 Wisconsin Election Commission meeting

To: Wisconsin Election Commission

From: Wisconsin Disability Vote Coalition

Barbara Beckert, Disability Rights Wisconsin, barbarab@drwi.org

Thank you for the opportunity to provide public comments on behalf of the Wisconsin Disability Vote Coalition (WDVC) and Disability Rights Wisconsin (DRW).

The WDVC is a non-partisan effort to help ensure full participation in the entire electoral process of voters with disabilities. Members include people with disabilities, and over 40 community agencies. The Coalition is coordinated by Disability Rights Wisconsin and Wisconsin Board for People with Developmental Disabilities.

DRW is the federally mandated Protection and Advocacy system for Wisconsin, Disability Rights Wisconsin (DRW) is charged with protecting the voting rights of people with disabilities and mandated to help "ensure the full participation in the electoral process for individuals with disabilities, including registering to vote, casting a vote, and accessing polling places." (Help America Vote Act, 42 U.S.C. § 15461 (2002)).

Thank you to Wisconsin Elections Commissioners, Director Meagan Wolfe and her dedicated team, municipal clerks, and poll workers for your work to make Wisconsin elections accurate, safe and accessible. It was gratifying to see WEC provide two trainings for Municipal Clerks on accessibility topics, in partnership with the WEC Accessibility Committee, and to grow the Polling Place Accessibility Audit Program.

In spite of these efforts, 2022 was a very challenging year for voters with disabilities. The rules regarding ballot return assistance and use of drop boxes were different for each of the 4 elections. As a result, there was confusion, chaos at times, and at times disenfranchisement for some disabled voters.

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*The Wisconsin Disability Vote Coalition is a project of
Wisconsin Board for People with Developmental Disabilities and Disability Rights Wisconsin*

Disability affects many individuals and families – if we live long enough it is likely to affect each of us. We all have a vested interest in ensuring that our elections are accessible and inclusive of people with disabilities as required by federal and state law.

At Disability Rights Wisconsin, we are on the frontline supporting voters with disabilities and also often assist those who may help to support them – family members, service providers, and in some case election workers. Here’s what we heard in the November 2022 election.

DRW Voter Hotline

I assist people who contact the Disability Rights Wisconsin Voter Hotline for assistance. These are some of the concerns we heard for the November election.

- **Transportation.** The number one concern was limited access to transportation, including accessible transportation. In many cases we had disabled people who wanted to vote, but had no way to get to their polling place. We compile a list of transportation providers and try to callers with an option but there are many areas where there are no options. This is not only in rural areas, but in more urban areas including Racine and Waukesha. This reinforces the importance of absentee voting, as so many disabled and older people are nondrivers. In many cases voters asked us about options to vote absentee but it was too late to receive and return an absentee ballot.
- **Indefinitely Confined Voters.** People who were indefinitely confined and wanted an absentee ballot. In some cases, they had received these previously and were confused that they had not received a ballot for the November election. In other cases, they may have moved and needed to re-register, but did not contact us early enough to allow time for them to register to vote, request a ballot, and return it.
- **Ballot Return Assistance Issues.** Confusion about ballot return assistance for voters with disabilities. For example, we were contacted by a voter with a disability who needed assistance to return her absentee ballot. She had called the WEC number for guidance and was told that only the voter could return their ballot. We were able to advise her of her rights and also to inform WEC about the incorrect information given to the caller. But there is no way of knowing if other voters were also given this incorrect information and unable to vote as a result.
- **Proof of residency.** People who are transient or are moved to different locations by their long-term care program may have difficulty providing proof of residency. We also saw this for young people with disabilities. We were able to help some but not all callers to find a solution. For example, a high school teacher who contacted us on behalf of a disabled student - the student was able to use his report card for proof of residency.

- **Care facility residents** who wanted to vote but were not able to do so for a variety of reasons, such as they were not offered an opportunity to register when they moved to the facility, either SVDs did not visit or the resident was not aware of their visit.
- **Issues with guardianship and voting.** In some cases, we were contacted because of uncertainty as to whether the individual had the right to vote. There were also a few callers regarding situations where someone had lost the right to vote and wanted to ask the court to restore this right. In one situation, the person was a nursing home resident and quite disabled. Facility staff were not able or willing to assist him and his family was out of state. A life long voter, he deeply disappointed that he did not have the support needed to ask the court to restore his rights.
- **Curbside voting issues.** We heard about curbside voting not being offered and when the voter asked they were told it was not available. In one case a voter with COVID was told it was only available for those with a permanent disability.
- **Accessible voting equipment concerns.** For example, we heard about some blind voters who wanted to use the accessible voting equipment at their polling place which used the Dominion Ice equipment. The poll workers were unfamiliar with the accessible voting equipment and recommended to the voters that they instead just get sighted assistance to complete their ballot, rather than using the equipment to vote privately and independently.

Polling Place Accessibility Audits

Thanks to WEC staff, and special thanks to Regina Hein who has revitalized the Polling Place Accessibility Audit program. After a pause during the pandemic, close to 500 polling places will be reviewed this year. DRW is a partner in this program. I am in the field conducting these reviews, as are other DRW staff, and this year for the first time, there were staff from Wisconsin Independent Living Centers who have significant expertise in accessibility.

Accessible Voting Equipment

The Help America Vote Act guarantees all voters the right to a private and independent ballot. It requires jurisdictions responsible for conducting federal elections to provide at least one accessible voting system for persons with disabilities at each polling place in federal elections. The accessible voting system must provide the same opportunity for access and participation, including privacy and independence, that other voters receive. The practices at the polling places we reviewed raise serious concerns that Wisconsin is not in compliance.

These sites used the Dominion ICE equipment. The dual nature of the Dominion ImageCast Evolution presents challenges for voters with and without disabilities. The tabulator can be converted into the accessible voting equipment, but that requires that

the machine be temporarily closed for use by voters who wanted to submit their ballots using the tabulator. The dual nature of the machine means it is not identifiable as the accessible voting equipment by voters, or by poll workers with limited training. There is a high probability that voters who need to use the accessible features may not know it is available.

If a voter with a disability wants to vote using the accessibility function, all other voters must wait to complete voting, as the tabulator feature will not be available to them. This is not equitable access for the voter with a disability. In addition, because the equipment is part of the tabulator, it would be difficult if not impossible for the voter to cast a ballot privately.

At the sites we reviewed, this equipment was not set up in a way that would make the accessible voting feature (on the back of the tabulator) available. While they had the headphones and tabulator lying there, it was in the back and not visible. In many cases, the accessible portion of the equipment was against a wall or blocked off by tables – in no way was it accessible. When I asked about the machine, I was told repeatedly no one ever uses it. This is not surprising since it is not visible and is not offered to voters, as recommended by WEC. Most of these polling places had heavy traffic and if a voter did use it, it would hold things up and put the disabled voter in an uncomfortable position as they would be very visible voting using the tabulator while other voters had to wait to submit their ballots. One poll worker told me disabled voters should use the table that is set up for those using a wheelchair or other mobility aids. I pointed out that would not meet the needs of a blind voter and was told they have worked there for years and they have never had a blind person vote there.

As currently implemented, the Dominion ICE equipment does not meet the requirements in federal law for the accessible voting system to provide the same opportunity for access and participation, including privacy and independence, that other voters receive.

- **Recommendation:** We recommend that Commissioners ask the staff to work with the WEC Accessibility Committee to develop alternatives.

Ballot Return Assistance

In one municipality, there was signage on the door that stated only the voter may return their ballot. The signage did not state that federal law allows persons with a disability to have assistance returning their ballot. I discussed this with the clerk who then took the signage down and said she would do so at other polling places as well. However, that signage indicates that clerks and the poll workers they train are not unfirmly aware of the rights of disabled voters to have ballot return assistance. More oversight is needed to protect these rights.

- **Recommendation:** We recommend that information about the rights of disabled voters to ballot return assistance be included in the WEC Uniform Instructions for Absentee Voters.

Other Concerns

Other common problems included poor parking access for disabled voters, no signage for curbside voting or to mark the accessible entrances, and in some case polling place locations that are simply not good choices for accessibility.

Thank you for your consideration of our recommendations, and for your work to ensure our elections are accessible and inclusive of voters with disabilities. We stand ready to work with you to address the accessibility concerns we saw in the 2022 elections.

Federal and State Law Protecting the Rights of Voters with Disabilities

- The Americans with Disabilities Act and Other Federal Laws Protecting the Rights of Voters with Disabilities, U.S. Department of Justice:
<http://www.justice.gov/file/69411/download>
- List of Wisconsin Accessibility Provisions, Disability Vote Coalition:
<http://disabilityvote.org/wp-content/uploads/2021/04/State-Statutes-Related-to-Accessibility-acc.pdf>

About the Wisconsin Disability Vote Coalition

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