



VIA EMAIL

April 29, 2021

Ms. Elizabeth Hopkins
Director of Elections
Lackawanna County Government Center
123 Wyoming Avenue, 2nd Floor
Scranton, PA 18503

RE: Concerns Regarding the Use of Designated Agents in the Upcoming Primary and General Elections

Dear Ms. Hopkins:

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 write with concerns regarding the lack of information about designated agents available on your election website. We understand that widespread use of designated agents is relatively new, given recent changes to the Election Code and the COVID-19 pandemic’s impact on people’s voting behaviors. However, we believe it is imperative that voters with disabilities are provided with accurate information that makes clear their right to use a designated agent to return a mail-in or absentee ballot.

¹ 52 U.S.C. § 21061(a).

In the 2020 General Election, we fielded many calls to our intake line regarding designated agents. Voters were confused about how to use them, or were completely unaware they had the right to do so. Many agents also ran into problems when trying to return someone else's ballot because some county election officials did not appear to understand that voters with disabilities were entitled to have someone else return the ballot on their behalf. **Therefore, we request that you ensure everyone working in your office is familiar with the concept of designated agents and the rules surrounding them, and that the following information be added to your election information website:**

- **Clear language explaining what a designated agent is, and who is entitled to use them.** Voters with disabilities who need assistance applying for, picking up, or returning a mail-in or absentee ballot may use a “designated agent” to help them do so. A designated agent is someone who goes to the county election office on the voter’s behalf to effectuate the process of applying for, picking up, or returning the ballot. The agent may also return a ballot through the mail. Anyone with a disability, as defined by the Americans with Disabilities Act, that prevents him or her from applying for, obtaining, or returning a mail-in or absentee ballot is entitled to use a designated agent.
- If your website currently states the general rule, that voters must return their own ballots, and does not provide for an exception in the case of disability, we would encourage you to state the exception outright, and not merely relegate information about designated agents to a separate “accessibility” section of the website. At a minimum, a reference to designated agents should be included in any information you provide about applying for, picking up, or returning mail-in or absentee ballots. More detailed information about designated agents could then be linked from there.
- **Instructions explaining what agents/voters should do with the completed form, as well as an explanation of the limitations placed on designated agents.** Voters, and the agents who may assist them, need to know where to place the designated agent form when returning it to the county. The Department of State (DOS) has not provided specific guidance about how designated agent forms should be returned (e.g. in the outer envelope of a ballot, separate from the ballot altogether). Therefore, if you have a preference for

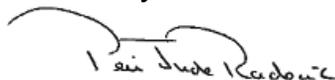
where the forms should go, it needs to be made explicit on your website. A failure to provide this information means that you must be prepared to accept ballots with forms placed in the outer envelope, as well as those returned with the form separate from the balloting materials.

- Your website should make clear that an agent can only assist ONE voter with a disability. However, if multiple voters with disabilities live in the same household, the same designated agent may help those voters. Otherwise, a designated agent may only assist one voter per election cycle.
- **A direct link to DOS's Form Authorizing the Use of a Designated Agent.** We believe voters with disabilities should be able to easily access the form that authorizes them to use the help of a designated agent. One way to make the form easier to find is for the county to directly link to it from its election website, rather than requiring voters to search for it separately on DOS's website. The form can be found at <https://www.votespa.com/Resources/Documents/Authorize-Designated-Agent-for-Mail-in-or-Absentee-Ballot.pdf>. We would also encourage you to have hard copies of the form available in your office, should voters or their agents not have access to a printer.

We believe that proper training of election office staff, coupled with providing accurate and detailed information about designated agents on your website, will help ensure that *all* voters in the county who wish to vote through the mail are able to do so. We know that you share our goal of robust participation in the upcoming elections.

We thank you for consideration of our concerns. Please contact Alexandra Hermann, Policy Attorney at 215-238-8070 ext. 233 or ahermann@disabilityrightspa.org with questions.

Sincerely,



Peri Jude Radecic
Chief Executive Officer