

Remedies if you are denied the right to vote

Anyone denied the right to vote may still cast a provisional ballot (for federal offices (President, U.S. Congress, etc.) only). Make sure to ask for a provisional ballot if this happens. If you have any questions regarding your right to vote, please call the Disabilities Law Program at Community Legal Aid Society, Inc. (302) 575-0690 or 800-292-7980 (toll free). You can also call 1-866-OUR-VOTE regarding Election Day assistance problems.

Or, you can file a complaint with the Office of the State Election Commissioner. The complaint must be:

- in writing,
- signed,
- notarized, and
- sworn by the voter

Send the complaint to:

Commissioner of Elections
905 S. Governors Ave, Suite 170
Dover DE 19904.

DISABILITIES LAW PROGRAM OF COMMUNITY LEGAL AID SOCIETY, INC.

New Castle County

Community Service Building
100 West 10th Street, Suite 801
Wilmington DE 19801
(302) 575-0660
302-575-0696 (TTY/TDD)

Kent County

840 Walker Road
Dover, DE 19904
(302) 674-8500 (TTY/TDD Also)

Sussex County

20151 Office Circle
Georgetown, DE 19947
(302) 856-3742 (TTY/TDD Also)

Online

www.declasi.org

The Disabilities Law Program receives funding to assist in the implementation of the Help America Vote Act and to ensure the full participation of people with disabilities in the electoral (voting) process. The DLP can provide education, training and assistance to people with disabilities to promote their participation in elections, including voter registration, training and advocacy informing the community about their rights on Election Day, including the right to accessible polling places.

Publication current as of August 2014



THE RIGHT TO VOTE IN DELAWARE

Information for Delawareans with Disabilities



Voting Rights

Delaware Voting Rights

In Delaware, adult citizens have a right to vote in elections. This includes persons with disabilities, even those with guardians. Only a judge can remove the right of a person with a disability to vote based on a written order that clearly states that the person's mental disability prevents the person's use of basic voting judgment. *15 Del. C. § 1701.*



This means that a person with a disability's right to vote can only be taken away through a court order under very limited circumstances. Even involuntary commitment orders or guardianship orders have to explicitly state that the individual is prohibited from voting. In addition, a judge may only order such a finding based on a very high standard: there must be clear and convincing evidence that the individual has a "severe cognitive impairment which precludes [the] exercise of basic voting judgment." *15 Del. C. § 1701.*

Federal Voting Rights

Because voting is recognized as such an important right, federal laws protect that right for people with disabilities and prohibit discrimination against individuals with disabilities exercising their right to vote. First, under the Voting Rights Act, any voter who requires assistance because of blindness, disability, or inability to read or write may be given assistance by a person of the voter's choice (the voter cannot use an employer, employer's agent, or union representative, however.) *42 U.S.C. § 1973aa.*

Second, under the Help America Vote Act, all polling places are required to be accessible to individuals with disabilities. **Good to know:** this is also required by state law. *15 Del. C. § 4512(b).* Therefore, election officials need to make reasonable accommodations and modifications to help individuals vote. Reasonable accommodations and modifications also may be required by the Americans with Disabilities Act (ADA). Accommodations include physical changes, such as adding temporary ramps or offering accessible voting machines. Modifications may include allowing the voter extra time, permitting an X or stamp in lieu of a signature, or letting a person come into the voting booth to read the voting questions. *ADA, 28 C.F.R. 35.160(a).*

Why vote?

Voting is a way to make your voice heard, for you to express your opinions, and to influence who is making those important laws and policies. If you do not vote, you are letting others make decisions without you getting a say in what they decide. People with disabilities tend to have more contact with the law than those without disabilities, whether it is because they may need the protections of anti-discrimination laws or public benefits for people with disabilities. This means that people with disabilities have even more reasons to participate in the voting process!

Across the country, however, people with disabilities have often not cast their ballots – because polling places are not accessible, because of discriminatory practices, because they (wrongly) think they cannot vote because of their disability, or because they do not think their vote will make a difference. Thus even in recent elections people with disabilities have voted at a much lower rate. Let's change that! Go to ivote.de.gov to register to vote or check your registration status, find your polling place, request an absentee ballot and more.