

THE RIGHT TO VOTE IN DELAWARE

DELAWARE VOTING RIGHTS

In Delaware every individual with disabilities has the right to vote, *except* when a judge has ruled the individual is mentally incompetent to do so.¹ This means that a person with disability's right to vote can only be eliminated 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 clear and convincing evidence that the individual has a "severe cognitive impairment which precludes [the] exercise of basic voting judgment."²

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.³ (This excludes an employer, agent, or union representative, however.) Second, under the Help America Vote Act, all polling places are required to be accessible to individuals with disabilities. Therefore, election officials need to make reasonable accommodations and modifications to help individuals vote. Accommodations include physical changes, such as adding ramps, large print, or accessible voting booths. Modifications may include allowing the voter extra time⁴, permitting an X or stamp in lieu of a signature, or letting a person come into the voting booth to read the voting questions.

REMEDIES IF YOU ARE DENIED THE RIGHT TO VOTE

Anyone denied the right to vote may still cast a *provisional ballot*. Make sure to ask for a provisional ballot if this happens. If you have any

¹ 15 Del. C. § 1701.

² 15 Del. C. § 1701.

³ 42 U.S.C. § 1973aa.

⁴ Americans with Disabilities Act, 28 C.F.R. 35.160(a).

questions regarding your right to vote, please call the Disabilities Law Program at Community Legal Aid Society, Inc. (302) 575-0660. You can also call 1-866-OUR-VOTE regarding Election Day assistance problems. Alternatively, you can file a complaint with the Delaware Department of Elections. The complaint must be in writing, signed, notarized, and sworn by the voter. Send the complaint to the Commissioner of Elections, 111 S. West Street, Suite 10, Dover DE 19904.

Prepared by:
Disabilities Law Program
Community Legal Aid Society, Inc.
100 W. 10th Street Suite 801
Wilmington, DE 19801
(302) 575-0660
(302) 575-0696 (TTY)