DISABILITIES LAW PROGRAM (DLP)
OF COMMUNITY LEGAL AID SOCIETY, INC.

GUARDIANSHIP & VOTING RIGHTS IN DELAWARE

In Delaware, almost all adult U.S. citizens have the right to register and to vote in local, State, and Federal elections. There are a lot of misconceptions about how guardianship affects the right to vote.

When an individual has a guardian appointed by the court, they would only lose the right to vote due to guardianship if the written court order clearly states that the individual's mental disability prevents them from exercising basic voting judgment. This means that a person's right to vote can only be taken away through a Judge's order (except for some limited reasons not related to disability). This requirement is true whether the guardianship is voluntary or involuntary.

Voting is our most important right as citizens. However, people with disabilities often do not exercise this right, either because they have been told they are ineligible or because voting has been made more difficult due to their disability. Making everyone's voice heard is crucial. It is easy to register by mail, online (at ivote.de.gov), or at your county's Department of Elections. To Vote in the 2020 general election, new registration applications must be received by the Department of Elections no later than Saturday, October 10, 2020.

Accessible absentee voting

Delaware law permits electronic delivery and return of absentee ballots to certain voters, including voters who are sick or temporarily or permanently physically disabled. Voters may either complete the absentee ballot application or request that they be mailed an absentee ballot application via the voter portal, ivote.de.gov . A voter can request electronic delivery to receive their ballot in a format that will be compatible with accessibility software that may be used by voters with disabilities.

If you have questions or concerns, either about how guardianship affects voting rights or about other disability-related voting issues, please either contact the Department of Elections for your county or the Disabilities Law Program of Community Legal Aid Society.

Did you know?

Delaware Code Title 15 §1701 details who may, and may not, register to vote. It states that "no person adjudged mentally incompetent" may register, and that *"the term 'adjudged mentally incompetent' refers to a specific finding in a judicial guardianship or equivalent proceeding, based on clear and convincing evidence that the individual has a severe cognitive impairment which precludes exercise of basic voting judgment."*

This means that the court order would need to specifically say that the ward does not have the ability to exercise "basic voting judgment."

If that language is not in the court order, someone with a legal guardian can still vote!

WHERE TO GO FOR HELP

State of Delaware Department of Elections:
New Castle County: (302) 577-3464 * Kent County: (302) 739-4498 * Sussex County: (302) 856-5367

Community Legal Aid Society, Inc.:
New Castle County: (302) 575-0660 * Kent County: (302) 674-8500 * Sussex County: (302) 856-0038
100 W. 10th St., Ste 801, Wilmington * 840 Walker Rd., Dover * 20151 Office Circle, Georgetown
www.declasi.org

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