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Statement from Disability Rights Wisconsin on US DOJ Joining in Voting Lawsuit

Disability Rights Wisconsin welcomes the August 18th [Statement of Interest from the U.S. Department of Justice](#), joining a lawsuit filed by four Wisconsin residents with disabilities asking the federal court to ensure their rights to assistance turning in their ballots. The lawsuit, filed by Law Forward, is needed to assert federal protections because of a recent state Supreme Court ruling that left Wisconsin absentee voting procedures in question.

The DOJ makes it clear that the federal Voting Rights Act and the Americans with Disabilities Act (ADA) guarantee voters with disabilities the right to ballot return assistance to avoid discrimination, as well as reasonable modifications when necessary. Federal law clearly protects ballot return assistance for voters with disabilities.

DRW has heard from voters who are angry, confused, and disenfranchised because Wisconsin courts and election officials have not honored the protections in federal law for voters with disabilities. DRW has provided information to election officials and voters about these federal protections; however, those rights have not been uniformly recognized and some voters continued to experience barriers.

The DOJ Statement of Interest notes that:

- The Voting Rights Act guarantees assistance to voters with disabilities who need assistance delivering their absentee ballots.
- State law cannot replace voters' federally guaranteed right under section 208 of the Voting Rights Act.
- Providing ballot return assistance to voters with disabilities is a reasonable modification under the ADA.
- Federal laws preempt Wisconsin law governing the administration of elections to the extent Wisconsin law interferes with defendants' ability to comply with the Voting Rights Act and the ADA.

The DOJ concludes:

“Section 208 of the Voting Rights Act guarantees voters with disabilities a right to receive ballot return assistance. Title II of the ADA requires that voters with disabilities receive equal opportunity to participate in absentee voting programs, and that they be provided reasonable modifications when necessary to avoid discrimination. These rights are guaranteed by Section 208 and Title II, regardless of whether state laws otherwise limit such assistance and notwithstanding the existence of a state law provision for reasonable accommodation requests.”

Resources

- United States Department of Justice Statement of Interest – Cary v. Wisconsin Election Commission:
<https://www.justice.gov/crt/case-document/statement-interest-carey-v-wisconsin-election-commission>
 - Download the statement: <https://www.justice.gov/crt/case-document/file/1527406/download>
- Wisconsin Voters speak out in “Our Voices, Our Votes: Disabled Voters Speak Out on Voting Rights and Ballot Return Assistance”:
<https://disabilityrightswi.org/wp-content/uploads/2022/04/Our-Voices-Our-Votes-4-2022.pdf>
- DRW communication to Wisconsin Clerks from DRW:
<https://disabilityrightswi.org/press-release/communication-to-wisconsin-clerks-from-disability-rights-wisconsin/>
- Voters with voting questions or concerns may contact the Disability Rights Wisconsin Voter Hotline: 844-347-8683 or info@disabilityvote.org.

Disability Rights Wisconsin is the federally mandated Protection and Advocacy system for the State of Wisconsin, charged with protecting the rights of individuals with disabilities and keeping them free from abuse and neglect. DRW is charged with protecting the voting rights of people with disabilities and mandated to help ensure full participation in the electoral process for individuals with disabilities. DRW staffs a Voter Hotline and assists voters with disabilities, older adults, family members, service providers, and others.

DRW Voter Hotline: 844-347-8683 / 844-DIS-VOTE