

# Keystone Votes

THE COALITION FOR MODERN ELECTIONS

Honorable Kathy Boockvar  
302 North Office Building, 401 North Street  
Harrisburg, PA 17120

April 7, 2020

Dear Secretary Boockvar:

We are writing to you on behalf of the Keystone Votes Coalition, a nonpartisan coalition comprising of 43 advocacy and community organizations working to update Pennsylvania's election system. Keystone Votes works to make voting more accessible and secure, and to ensure equal opportunity for all Pennsylvania voters to cast ballots.

Our coalition was relieved to see the successful, bipartisan effort of Governor Tom Wolf and the General Assembly to move the state's primary election to June 2 in response to the COVID-19 crisis. The coalition was also pleased by the improvements to Act 77 of 2019. Especially, given the large number of Pennsylvanians who will be seeking guidance and new methods to safely vote during the health crisis. Using new procedures and the proper and fair implementation of new voting laws will be essential. There remain, however, some unresolved issues and questions.

We know that you are committed to ensuring that elections in Pennsylvania are free, secure, and accessible to all Pennsylvania voters. However, this is an extraordinary time, and all of us are struggling to balance each of the demands made on our time.

To that end, please find below: ideas for your consideration, some questions, and specific recommendations we urge you to enact. We have included only our most urgent concerns in this letter. Please feel free to send your written response to this inquiry to Ray Murphy, [rmurphy@pavoice.org](mailto:rmurphy@pavoice.org), and he will distribute it to the entire coalition.

That said, we also have many nuanced follow-up questions. We'll reach out to you at a later date with additional questions about implementation of new rules.

Sincerely,

All Voting is Local  
ACLU-PA  
Business for America  
CASA  
Committee of 70  
Common Cause PA  
Disability Rights PA  
Fair Elections Center  
For Our Future

Lawyers' Committee for Civil Rights Under Law  
Make the Road PA  
One Pennsylvania  
Pennsylvania Budget and Policy Center  
Pennsylvania Immigration and Citizen Coalition  
Pennsylvania Voice  
Public Interest Law Center of PA  
SEIU PA State Council  
Senior Law Center of PA

**Attachment**

## **Act 77 and Act 12 urgent implementation considerations:**

The most important concern of pro-voter advocates during this unprecedented time is maintaining the rule of law and preserving the sacred right of citizens to register and cast ballots in election.

In order to guarantee as much access to the ballot as possible during the pandemic, here are the most important items our coalition suggests that the Department of State prioritize:

- Because there is a good possibility that voters will not be casting ballots in person at their polling place on June 2, we strongly urge the Department of State to **mail all voters—active as well as inactive—an application for mail/absentee ballots**. Although the mail-option is a welcome expansion of voting options, it is still a multi-step process that will be new to all voters. It is important the Department of State do everything it can to streamline and simplify the process, including technological solutions like bar and QR codes.
- Experience in other states makes it clear that many mail voters will want to know when their ballot is coming to them in the mail, and when the voted ballot they send back is received. **Implementing ballot tracking software** or some other means to make it simple for voters to obtain this information without overburdening county election offices is imperative.
- It is important that **voters with disabilities have full access to the mail ballot** process, and that primarily means making sure that voters with limited or no vision be provided with alternative access to ballots that can be read with screen readers and marked independently.
- It is essential that **voters who require language assistance have full access to all the information and assistance provided to English-only speakers**. The Department of State and county elections officials must provide translations of all critical information including at a minimum: incorporating English and Spanish into all of the new voting options made possible by Acts 12 and 77, and into new voting systems recently procured by counties; translating mail-in ballot applications, ballots, and other associated materials, and incorporating language access into the broad spectrum of voter education efforts.

- There a number of **specific written guidances we think are urgent for DOS to provide to county election leaders:**
  - **Polling Place Changes:** Require zealous attempts to notify voters of any change, including by mail and email if available. Require signage at all polling locations that have been moved, alerting voters of the change and informing them of the new voting location.
  - **Ballot Application Rejections:** The only reasons a mail ballot application should be rejected are if an individual is not registered to vote, or if the application is demonstrably fraudulent.
  - **Replacement/Cure Process for Receiving Ballots:** The Postal Service will lose some voters' ballots and DOS must name a process for voters to obtain new ballots and strict criteria for throwing out a voted ballot.
  - **Polling Place Health Protocols:** Name health and safety protocols at polling places and county election offices for the Primary and General elections.

**Detailed explanations and rationale for the four urgent guidances we request DOS issue:**

**1. Unfair Rejections**

The volume of requests for mail/absentee ballots is likely to be dramatically higher than originally expected in both the 2020 Primary and General elections due to the COVID-19 virus. Considering the number of first-time applicants, it is important that those whose applications are rejected, clearly understand their rights.

Pennsylvania law mandates that the only reasons a mail ballot application may be rejected is if an individual is not registered to vote. DOS needs to issue guidance to the counties on this topic inclusive of at least the following:

- Clearly define the criteria to approve mail-in ballot or absentee ballot applications. No eligible voter should be penalized—especially during an unprecedented public health crisis—for making minor mistakes on their ballot application form or immaterial deficiencies in the cover envelope. Similarly, county election officials are not handwriting experts and should not be using a voter's signature as criteria in determining eligibility.
- Under Section 1302.1-D(c), if a county rejects a mail-in ballot application, the county is required to immediately notify the voter with a statement of reasons for the rejection, as well as a timeline for a voter to appeal or remedy any deficiency. Counties need to be prepared to handle such appeals by voters.
- Define best practices for notification of voters, which minimally includes outreach by phone, but also by email, text, and mail. To make this process easier for counties, we recommend the purchase of commercial data to append additional contact information to voters' records.

## **2. Replacement/Cure Process for Mail and Absentee Ballots**

Under current procedure in the SURE system, counties have the ability to issue replacement absentee ballots. DOS needs to codify this in a guidance to the counties. Upon request from a voter who has not received the first mail-in/absentee ballot, the county should send a second ballot. A provisional ballot should not be the remedy for this circumstance. Likewise, if a voter returns a ballot and the county says it does not receive it, the county must provide another identical ballot.

Similarly, guidance is required to clearly define the instances in which a county can throw out and not count a voted, returned ballot. Election law requires a signed declaration, not an exact signature match. While some states' laws explicitly require a signature match, Pennsylvania election law, including Act 77 and Act 12, do not require a signature match to issue a mail ballot; the law requires only that the proof of identification match the registration record and that the applicant is a qualified, registered voter.

## **3. Polling Place Changes**

Act 12 will allow County Boards of Election to move a polling place anywhere else within the county, regardless of whether the election district borders the district where the polling place initially was located. Although we understand the challenges many county election officials may have in retaining poll workers and poll sites, this could lead to voter suppression, especially for older voters, people with disabilities, and those who lack reliable access to transportation.

We urge DOS to issue guidance that recommends best practices for polling place re-siting/combinations. Where possible, counties should use normal procedures for identifying polling place locations and communicate with voters about any polling place changes. This should include requiring counties to select polling places that are easily accessible via multiple modes of transportation and for voters with disabilities or other limitations that make it difficult to travel long distances. Further, counties must zealously educate voters about any polling place changes and any new voting procedures, including providing voter education materials in multiple languages, posting signage on Primary Election day, mailing updated voter registration ID cards, and multi-layered communication (US Mail, phone, email, and text) to each affected voter.

## **4. Public Health Protocols**

The Department of State and county election officials must prioritize protecting the health of voters, poll workers and the general public during in-person voting on Election Day. To that end, we recommend that the Department of State issue guidance that incorporates the most recent CDC and Pennsylvania Department of Health recommendations regarding new health and safety protocols at polling places and county election offices for the Primary and General Elections. In issuing the

guidance, DOS should solicit suggestions from county election officials and voting rights advocates to ensure that the guidance is practical and does not disenfranchise voters. This guidance should at least include these provisions:

- Instructions to poll workers to stay home if experiencing symptoms of COVID-19
- Establishing procedures for cleaning and disinfecting voting machines after each use
- Socially distant queuing and voter look-up procedures
- Specific recommendations for judges of elections while administering provisional ballots or any other close contact with a voter
- Rules for poll-watchers, police, and any other individuals who may be inside a polling place on Election Day

In addition to guidance, the state must take the lead on a public communications campaign to let all interested parties—especially voters and election board workers—know what to expect at their polling place on Election Day.