



Disability Rights

RHODE ISLAND

Voting from Facilities and Voting Rights for People
with Disabilities in RI

+ Disclaimer

- This presentation contains general information about the law. The information is not legal advice and should not be treated as such.
- I am “A” lawyer not “Your Lawyer” 😊



About Disability Rights RI

- Disability Rights RI is part of the national network of agencies called Protection and Advocacy (P&A) agencies. We are created by Congress and exist in every state and territory to help secure and advance the rights of people with disabilities. There are a total of 57 P&As in each of the United States, U.S. territories, and District of Columbia.

+ About Disability Rights RI

- We are a federally funded non-profit. Our mission is to assist Rhode Islanders with differing abilities in their efforts to achieve full inclusion in society and to exercise their civil and human rights. We do this through the provision of legal advocacy and education.

+ Disability Rights RI - Issues

Systems Issues we are working on in 2022-2023 include:

- improving behavioral healthcare for prisoners with mental illness in order to eliminate the use of solitary confinement;
- reducing unnecessarily prolonged hospitalization or other institutionalization for people with disabilities.

+ Disability Rights RI - Issues

Systems Issues we are working on in 2022-2023 include:

- educating the community about a new alternative to guardianship called Supported Decision Making for people with disabilities so that their rights to make decisions can be retained;
- ensuring that people with disabilities are able to fully participate in voting.

+ Voting Services

- We work to make sure that people with disabilities can participate in voting;
- We help people learn their voting rights, register to be voters, know how and where to vote and more;
- People are invited to call DRRI with voting questions year-round (401) 831-3150.

+ Americans with Disabilities Act (“ADA”)

- Title II of ADA requires state and local governments to ensure that people with disabilities have a full and equal opportunity to vote.
- Title III of the ADA applies to places of public accommodation, including nursing homes, and contains a non-discrimination provision.

+ The ADA Protections

- The ADA prohibits facilities and the state from categorically disqualifying all individuals who have intellectual or mental health disabilities from registering to vote or from voting due to disability.
- This means a person's right to register and vote cannot be denied due solely to disability, dementia diagnosis or guardianship status.

+ RI Guardianship

- Pursuant to RI Law § 33-15-4, guardianships shall be limited unless the individual is totally incapacitated.
- An individual for whom a limited guardian is appointed shall retain all legal and civil rights except those which have been specifically suspended by the order.

+ Registration Affirmation

- “I have not been lawfully judged ‘mentally incompetent’ **to vote** by a court of law: no court has evaluated the voter’s mental ability to vote and made an order taking away their right to vote.
- A person **MAY** vote if there is no court order specifically stating the person lacks capacity to vote.

+ Capacity to Vote

- “The right to vote is one of the most sacred privileges in a representative democracy and it should be available to all citizens, whether they are cognitively impaired or unimpaired. Evaluating a person’s capacity to vote ... is inappropriate and should not be done except by a court authorized to do so.” American Bar Association Vote Guide

+ Desire to Vote

- Consensus among experts is that a person should retain the right to vote if the person can communicate (with or without reasonable accommodations) a desire to participate in the voting process.
- American Bar Association, Uniform Law Commission

+ Right to Assistance

- If a voter needs help to vote because of disability or inability to read or write, the voter may receive help from a bipartisan pair of poll workers or the person of their choice.
- With facilities voting, a bipartisan pair of supervisors from the Board of Elections oversees and assists. RI Gen. Law §17-20-14.

+ Right to Assistance

- A voter may receive help with marking the ballot but the voter must be able to make their choices and communicate how they want the ballot to be marked.
- https://www.americanbar.org/content/dam/aba/administrative/law_aging/2020-voting-guide.pdf

+ Accommodations

- Voters with disabilities have a **RIGHT** to a reasonable accommodation (other kinds of help) in voting such as;
- large print, Braille or Tactile Ballots.

+ Right to file a Complaint

- If a voter has problems accessing the polling place or casting a ballot, the voter may file an administrative complaint with the Board of Elections.
- The deadline is 90 days.
- Contact DRRI.

+ Sample Ballots

- A sample ballot shows the voter what will be on their ballot.
- Sample ballots are available for review 30 days before the election.
- Reviewing the sample ballot is a great way to prepare for voting.

+ Sample Ballots

- A sample ballot can be obtained from the local board of canvassers; or
- from the Voter Information Center
<https://vote.sos.ri.gov/>
- Section “find a polling place view a sample ballot.”

+ DRRI Hotline 401-831-3150

- Call with questions about:
- voting rights;
- voter registration;
- voting problems;
- voter ID assistance; and
- voting from hospitals and facilities.

+ Resource Voting Laws

- Department of Justice’s “Americans with Disabilities Act and Other Federal Laws Protecting the Rights of Voters with Disabilities” (See page 6, mentions P&A).
- https://www.ada.gov/ada_voting/ada_voting_ta.pdf

+ National Resources

- National Disability Rights Network

<https://www.ndrn.org/voting/>

- Bazelon Center for Mental Health Law

<http://www.bazelon.org/wp-content/uploads/2020/10/Bazelon-2020-Voter-Guide-Full.pdf>

+ National Resources

- American Bar Association Voting & Cognitive Impairments

https://www.americanbar.org/groups/law_a_ging/resources/voting_cognitive_impairments/

+ Local Resources

- Disability Rights RI (401) 831-3150
<https://drri.org/publications/>
- Secretary of State's Office (401) 222-2340
<https://vote.sos.ri.gov/>
- Board of Elections (401) 222-2345
<https://elections.ri.gov/>

+ Thank you!

- Questions?
- Join our mailing list!
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- Please provide feedback on this presentation at
<https://drri.org/training-and-presentation-evaluation-form/>