



October 30, 2019

VIA MAIL, EMAIL, and FAX

Commissioner Lisa M. Deeley
City Hall, Room 130
Lisa.Deeley@phila.gov

Commissioner Al Schmidt
City Hall, Room 134
Al.Schmidt@phila.gov

Commissioner Anthony Clark
City Hall, Room 132
Philadelphia City Commissioners
Philadelphia, PA 19107
Fax: 215-686-3947, 215-686-3472

Dear Honorable Members of the Philadelphia City Commissioners:

On behalf of All Voting is Local, the Lawyers' Committee for Civil Rights Under Law, the American Civil Liberties Union of Pennsylvania, the Pennsylvania Immigration and Citizenship Coalition, Campaign Legal Center, and Pennsylvania Voice we are writing to voice our concerns regarding the mass relocation of polling places on the eve of the November 5, 2019 election. The Philadelphia Inquirer reported on these changes on September 28, 2019,¹ and we applaud the city for taking steps to modernize our elections by introducing new voting machines, and by making our polling places accessible to all voters, including those with disabilities. However, it is incumbent upon the city to make these changes in the least disruptive manner and take meaningful steps to communicate these changes to impacted communities, so that no eligible voter is wrongfully disenfranchised.

We understand that Pennsylvania law grants broad authority to local jurisdictions to change polling places when necessary. *See* P.S. § 2726(a). Importantly, § 2726 provides that counties must give five days' notice of the change by posting a notice, and must publish a list of polling places at least twenty days prior to an election. The public has an opportunity to reject

¹ <https://www.inquirer.com/politics/election/philly-polling-place-accessibility-voters-disabilities-20190928.html>

a proposed change if a majority of the precinct's voters sign a petition under state law, but that opportunity for public input is frustrated when numerous polling place changes are made around Philadelphia within twenty days of an election. *See* P.S. § 2726(b).

Changing polling places close to an election increases the risk of confusion and of voters casting provisional ballots at the wrong polling place, which may result in disenfranchisement. Already, Philadelphia voters face a substantial likelihood of being asked to cast a provisional ballot, which should only be given as a last resort. Indeed, in 2018, voters in Philadelphia County (41% Black) were more than five times as likely as voters in Allegheny County (12.7% Black) or Berks County (4% Black) to be given a provisional ballot.²

Polling place changes must comply with Article VII, Section 1 of the Pennsylvania Constitution, the First and Fourteenth Amendments to the United States Constitution, and Section 2 of the Voting Rights Act of 1965. Pa. Const. art. VII, § 1 (stating that “[e]lections shall be free and equal” and prohibiting any “interfere[ance] to prevent the free exercise of the right of suffrage”); *see also Applewhite v. Commonwealth*, 2014 WL 184988, at *18-19 (Pa. Commw. Ct. Jan. 17, 2014). Similarly, in *Reynolds v. Sims*, 377 U.S. 533, 555 (1964), the United States Supreme Court recognized the “sacred nature of the right to vote” and that the “franchise is fundamental to our American way of life.”

The Supreme Court confirmed in *Perkins v. Matthews*, 400 U.S. 379, 387 (1971), that the location and accessibility of polling places can have a direct impact upon a voter's ability to exercise their fundamental right to vote. In *Brown v. Dean*, 555 F. Supp. 502, 504-506 (D.R.I. 1982), a class action lawsuit brought by African American voters under Section 2 of the Voting Rights Act challenging a polling location change in Providence, Rhode Island, the court enjoined the change because it would have undermined efforts in the African American community to increase voter turnout. The court in *Brown* enjoined the change even though the court did not find that Providence officials acted with bias or improper motivation since the plaintiffs are not required to prove discriminatory intent to prevail on a Section 2 claim. *Id.* at 506.

We are closely scrutinizing the polling place changes that your office continues to make for the November 2019 election, but that has been made difficult due to the fact that polling locations are still being finalized at this late date. When our coalition partner called your office on October 29, 2019, just six days before the election, they were informed the polling location list was not yet final and that your office could not provide a list of precincts that have changed since the last election.

We urge your office to (1) immediately publish a final list of all polling locations for the November 2019 election, including so that we and other organizations can properly educate

² All Voting is Local, analysis of Pennsylvania provisional ballot rates, October 2019.

voters about where to vote; (2) take affirmative steps to reach every voter impacted by these polling place changes before November 5, 2019 (including by phone, text, email, and mailed correspondence); and (3) commit to publicizing a final list of polling locations through public service announcements on local radio and news.

We further ask that your office provide us a final list of November 2019 polling places, as well as a list of all changes, by precinct and by polling location name. We would request that these lists be provided in one of the following formats: .csv, .txt, or Excel. You may send these documents by email to the undersigned and to documents@allvotingislocal.org.

Thank you for your attention and anticipated cooperation,

Aerion Abney
Pennsylvania State Director, All Voting is Local
The Leadership Conference Education Fund
606 Liberty Avenue, Suite 217
Pittsburgh, PA 15222
aerion@allvotingislocal.org
(267) 809-3717

Sundrop Carter
Executive Director
Pennsylvania Immigration & Citizenship Coalition
2100 Arch Street, 4th Floor | Philadelphia, PA 19103
6101 Penn Ave. Suite 201 | Pittsburgh, PA 15206
(Office) 215-832-0616 | (Cell) 610-217-8222
sundropcarter@paimmigrant.org

Danielle Lang
Co-Director, Voting Rights & Redistricting
Campaign Legal Center
1101 14th St. NW Suite 400
Washington, DC 20005
dlang@campaignlegalcenter.org
(202) 856-7911

Sara Mullen
Associate Director/Advocacy and Policy Director
ACLU of Pennsylvania
P.O. Box 60173
Philadelphia, PA 19102
smullen@aclupa.org
(215) 592-1513

Ray Murphy
Deputy Director
Pennsylvania Voice
123 South Broad Street, Suite 630
Philadelphia PA 19109
rmurphy@pavoice.org
(215) 847-2503

John Powers
Counsel
Lawyers' Committee for Civil Rights Under Law
1500 K Street NW, Suite 900
Washington, DC 20005
Telephone: (202) 662-8389
General Fax: (202) 783-0857
jpowers@lawyerscommittee.org