



# NYSILC NEWS BRIEFS

The New York State Independent Living Council (NYSILC) is a champion of systemic change promoting opportunities and full participation in all aspects of society for people with disabilities.

## A Vote Should be Easy to Cast

By Brad Williams

*This is the expanded version of the article published on the Opinion Page of the (Albany) Times Union, July 2, 2010*

How often in life do we get a second chance? Governor David Paterson will soon get such an opportunity with polling place access legislation for people with disabilities, which has no fiscal impact for taxpayers.

Last September, the Governor, publically known to have a disability, shocked many when he vetoed a group of disability bills mostly centered on rights provided through the Americans with Disabilities Act (ADA). Even more perplexing to some was the reasoning used in veto message #60 for the polling place access bill.

For starters, the Governor stated “many such places have received waivers from ADA compliance.” This statement is both inaccurate and contrary to federal law. The proposed bill updates state law by eliminating the practice of granting waivers



*Advocates will be looking for Governor Paterson to sign polling place access bills into law.*

and codifying the programs that are currently in place through the State Board of Elections to make sure that access is ensured now and in the future.

As the Governor also makes reference, the bill is more than just a “noble idea.” It is the disability community’s right to have access to its vote and it shall not be compromised by the misdirection of facts or the self-interest of other parties to block it (i.e., City of New York). Based on US Census figures (non-institutionalized), there are approximately 3.3 million voting aged New Yorkers with disabilities. They might require different levels of access (minimal through significant). By 2015, with the aging of the Baby Boomer population, the incidence of disability will increase in this State and country. Language access issues are also relevant to this

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discussion with predicted increases in culturally diverse populations between 2025 and 2050. Thus, the old lever voting machines and inaccessible polling places really won't cut it when it comes to these changing demographics. Elected officials must change their mindsets consistent with elections system practices and the law.

Another erroneous concern was the "practical realities of financial restraints of State and local governments" and the "imposition of onerous time frames." The bill clearly states it has no fiscal impact. This is due to the fact that there are Federal and State funds available to counties to make modifications of inaccessible polling sites. There is a process in place whereby a county submits documentation to seek reimbursement for its costs from the NYS Board of Elections. The Federal monies come from the Health and Human Services (HHS) Voting Access for Individuals with Disabilities (VOTE) minor access improvement fund with a per unit value less than \$5,000 (federal Common Rule applies), while the State reimbursement is provided through the New York State access improvement fund to make permanent improvements to property or to purchase access improvement materials with a per unit value in excess of \$5,000. Further, if a site cannot be made easily accessible, it can be consolidated within a larger location (election district) that is accessible. Therefore, there are no increased costs passed down to the local governments.

In terms of the time frame, it is baseless to talk about how it can't be done within six months when the ADA has been around for two decades! How much more time do they really need? It has been over ten years since the disability network teamed up with 18 assistant attorney generals for a statewide survey of polling places on Election Day 1999. The subsequent lawsuit, based on the Catskill Center for Independence data, against three

upstate counties in Federal District Court upheld the ADA regarding polling place access (2000).

The Governor should make good on his commitment to act on the issue this year by signing A.10946 (Assemblyman Cahill) S.7860 (Senator Addabbo) into law for the benefit of the State and New Yorkers with disabilities. It would be a fitting gesture to do so on the 20<sup>th</sup> anniversary of the ADA – July 26, 2010. He can also sign a complimentary bill A.5707-A (Assemblywoman Weinstein) S.5029-A (Senator Addabbo) into law to help increase the potential pool of accessible polling place locations. The purpose of the bill is to require owners of buildings who obtain tax abatement exemptions or other public benefits to make rooms available for voting and registration which are accessible to people with disabilities. Paterson could add approval for A.7850 (Assemblywoman Paulin) S.8030 (Senator Addabbo), which provides that polling places, whenever practical, should be located directly on a public transportation route to better assist voters including specific populations such as people with disabilities, seniors, and low-income individuals. These bills have no fiscal impact. It is time for New York State, its counties and localities, including New York City to comply and go on record with the public documentation to back it up♦

**Department of Justice and Department of Education Issue Important Letter to Colleges Regarding Use of Electronic Book Readers**  
*By Patty Black*

The Department of Justice (DOJ) and Department of Education (DOE) have issued a joint letter to national colleges and universities expressing their concern regarding the recent use of electronic book readers. They are seeking to ensure that this new technology will be used in the schools in a way that is equal for all students and allowable under federal law. For colleges to use these readers in a classroom setting when they are inaccessible to students with visual disabilities is discriminatory and prohibited under the ADA and Section 504 of the Rehabilitation Act of 1973. These devices can only be required when students with visual disabilities are

provided accommodations that let them receive the benefits of the technology in an equally integrated way.

Recently, the DOJ engaged in settlement agreements with colleges that had used the *inaccessible* electronic book reader Kindle DX as part of a pilot study with Amazon.com, Inc. The settlement involved the colleges agreeing not to require or recommend using the Kindle DX or any electronic book reader unless it is also completely accessible to students who had visual disabilities, or unless the schools allow reasonable modifications so a student can enjoy interactions that are equal to those of a sighted student. These agreements can be seen by going to the DOJ's ADA website, [www.ada.gov](http://www.ada.gov) and looking under the word "Kindle."

These new technologies have been excellent educational resources that have opened new avenues of information and education for students, and securing equal access to them is a bridge to complete integration. Towards that end, the DOJ has a toll-free technical assistance number to call regarding the requirements of federal laws that protect the rights of students with disabilities. Trained specialists can answer questions on accessible electronic book readers. The number is (800) 515-0303 (voice) or (800) 514-0383 (TTY)♦

## **The Year of Community Living: A Scorecard**

*By Joe Adler*

It has now been a year since the President inaugurated "the year of community living." What has been accomplished in Washington?

One of the most gratifying developments for the disability community statewide and nationally has been the greater acceptance of the Money Follows the Person (MFP) concept as a guidepost for transitioning people with disabilities from nursing homes to community living. MFP seeks to eliminate barriers to the use of Medicaid funding for long-term home and

community based settings. Two Cabinet level departments are pooling their resources with the end goals of transitioning more persons from nursing homes to community living, and increasing the number of housing vouchers for homeless persons with disabilities and other non-elderly persons in need of housing. Funding has also been approved for the establishment of a Housing Capacity Building Initiative for Community Living. This initiative will support a collaborative working relationship between housing and human service agencies at the Federal, State and local levels.

Disability advocates will not rest until every person able to live safely in the community is offered that option. While we are a long way from achieving that goal, the winds in Washington seem to be blowing in the right direction. President Obama, taking note of the 20<sup>th</sup> anniversary of the Americans with Disability Act, called for a renewal of our national commitment "to uphold the civil rights of those living with disabilities and to fully include all our people in the life of our nation." Only then will the promise of America be fulfilled. For more information please see [www.whitehouse.gov/the-press-office/anniversary-olmstead-president-obama-highlights-administrations-actions-assist-amer](http://www.whitehouse.gov/the-press-office/anniversary-olmstead-president-obama-highlights-administrations-actions-assist-amer)

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