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**IN THE SUPREME COURT OF PENNSYLVANIA**

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DISABILITY RIGHTS PENNSYLVANIA;  
SENIORLAW CENTER; SOUTHEAST ASIAN  
MUTUAL ASSISTANCE ASSOCIATIONS  
COALITION, INC. (SEAMAAC); SUZANNE ERB;  
THE BARRISTERS' ASSOCIATION OF  
PHILADELPHIA,

Petitioners,

v.

KATHY BOOCKVAR, IN HER CAPACITY AS  
SECRETARY OF THE COMMONWEALTH OF  
PENNSYLVANIA; AND JESSICA MATHIS, IN HER  
CAPACITY AS DIRECTOR OF THE BUREAU OF  
ELECTION SERVICES AND NOTARIES OF THE  
PENNSYLVANIA DEPARTMENT OF STATE,

Respondents.

No. 83 MM 2020

**MEMORANDUM IN SUPPORT OF PETITIONERS' APPLICATION FOR  
SPECIAL RELIEF IN THE NATURE OF A PRELIMINARY INJUNCTION**

**TABLE OF CONTENTS**

	Page
TABLE OF AUTHORITIES .....	iii
INTRODUCTION .....	1
BACKGROUND .....	4
A.    The COVID-19 Pandemic .....	4
B.    Pennsylvania’s System of Absentee and Mail-In Voting .....	6
C.    Voting By Mail During the COVID-19 Pandemic .....	9
D.    Petitioners’ Injuries .....	15
ARGUMENT .....	16
I.    The Received-By Deadline Violates the Free and Equal Election Clause in the Context of the COVID-19 Pandemic .....	17
A.    The Free and Equal Election Clause Broadly Protects Against Barriers to Voting and Differential Treatment Among Voters .....	17
B.    Pennsylvania’s June 2 Primary Will Not Be Free If the Received-by Deadline Remains in Effect .....	19
C.    Pennsylvania’s June 2 Primary Will Not Be Equal If the Received-by Deadline Remains in Effect .....	25
D.    Counting Ballots Sent by Election Day Will Remedy the Violation..	27
II.   The Received-By Deadline Violates the Free Expression and Association Clauses in the Context of the COVID-19 Pandemic .....	28
III.  The Received-By Deadline Violates Equal Protection in the Context of the COVID-19 Pandemic.....	31
IV.   The Received-By Deadline Violates the Absentee Ballot Clause in the Context of the COVID-19 Pandemic .....	33

V. Petitioners Meet All Other Requirements for Preliminary Relief .....34

    A. An Injunction Is Needed to Prevent Immediate Irreparable Harm .....35

    B. Greater Injury Would Result From Refusing an Injunction .....37

    C. An Injunction Will Not Adversely Affect the Public Interest .....38

    D. An Injunction Will Restore Voters to the Pre-COVID Status Quo ....38

    E. The Injunction Is Tailored to Abate the Constitutional Violations.....39

VI. The Received-By Deadline Is Severable From the Remainder of Act 77 ....41

    A. Act 77 Easily Stands Alone Without the Received-By Deadline .....41

    B. Act 77’s Non-Severability Provision Is Unenforceable and  
        Unconstitutional in the Context of this Case .....43

CONCLUSION .....46

**TABLE OF AUTHORITIES**

<b>Cases</b>	<b>Page(s)</b>
<i>Applewhite v. Commonwealth</i> , No. 330 M.D.2012, 2014 WL 184988 (Pa. Commw. Ct. Jan. 17, 2014) .....	<i>passim</i>
<i>Banfield v. Cortés</i> , 110 A.3d 155 (Pa. 2015) .....	33, 34
<i>Bd. of Cty. Comm’rs, Wabaunsee Cty., Kan. v. Umbehr</i> , 518 U.S. 668 (1996) .....	32
<i>Beaver Cty. ex rel. Beaver Cty. Bd. of Comm’rs v. David</i> , 83 A.3d 1111 (Pa. Commw. Ct. 2014) .....	42
<i>Bergdoll v. Kane</i> , 731 A.2d 1261 (Pa. 1999) .....	19, 37
<i>Commonwealth v. Bethea</i> , 379 A.2d 102 (Pa. 1977) .....	33
<i>Commonwealth v. Cobbs</i> , 305 A.2d 25 (Pa. 1973) .....	30
<i>Commonwealth v. Littlejohn</i> , 250 A.2d 811 (Pa. 1969) .....	32
<i>Commonwealth ex rel. Corbett v. Snyder</i> , 977 A.2d 28 (Pa. Commw. Ct. 2009) .....	41
<i>Democratic Nat’l Comm. v. Bostelmann</i> , No. 20-CV-249-WMC, 2020 WL 1638374 (W.D. Wis. Apr. 2, 2020) .....	15
<i>DePaul v. Commonwealth</i> , 969 A.2d 536 (Pa. 2009) .....	30
<i>DeWalt v. Bartley</i> , 24 A. 185 (1892) .....	20

<i>Fischer v. Dep’t of Pub. Welfare</i> , 439 A.2d 1172 (Pa. 1982).....	17, 38
<i>Friends of DeVito v. Wolf</i> , No. 68 MM 2020, 2020 WL 1847100 (Pa. Apr. 13, 2020) .....	5, 6, 10, 32
<i>Hill v. Dep’t of Corr.</i> , 64 A.3d 1159 (Pa. Commw. Ct. 2013) .....	5
<i>James v. SEPTA</i> , 477 A.2d 1302 (Pa. 1984).....	34
<i>League of Women Voters of Pa. v. Commonwealth</i> , 178 A.3d 737 (Pa. 2018).....	<i>passim</i>
<i>Norwood Election Contest Case</i> , 116 A.2d 552 (Pa. 1955).....	19, 25
<i>Pap’s A.M. v. City of Erie</i> , 812 A.2d 591 (Pa. 2002).....	30, 31
<i>Republican Nat’l Comm. v. Democratic Nat’l Comm.</i> , 140 S. Ct. 1205 (2020).....	15, 39
<i>Rothermel v. Meyerle</i> , 20 A. 583 (1890).....	44
<i>SEIU Healthcare Pa. v. Commonwealth</i> , 104 A.3d 495 (Pa. 2014).....	17, 37, 40, 42
<i>Stilp v. Commonwealth</i> , 905 A.2d 918 (Pa. 2006).....	<i>passim</i>
<i>The York Grp., Inc. v. Yorktowne Caskets, Inc.</i> , 924 A.2d 1234 (Pa. Super. 2007) .....	41
<i>U.S. Student Ass’n Found. v. Land</i> , 546 F.3d 373 (6th Cir. 2008) .....	26
<i>William Penn Sch. Dist. v. Pa. Dep’t of Educ.</i> , 170 A.3d 414 (Pa. 2017).....	33

<i>Winston v. Moore</i> , 91 A. 520 (1914).....	20, 24, 25, 38
--	----------------

**Constitutional Provisions**

Pa. Const. Art. I, § 1.....	33
Pa. Const. Art. I, § 5.....	21, 24
Pa. Const. Art. I, § 26.....	33, 34
Pa. Const. Art. VII, § 14(a).....	35

**Statutes**

**25 P.S.**

§ 3146.1.....	8
§ 3146.1(j).....	9
§ 3146.1(l).....	9
§ 3146.2a(a).....	8
§ 3146.2a(a.3)(3).....	9
§ 3146.6(a).....	9
§ 3146.6(b)(3).....	25
§ 3146.6(c).....	9, 49
§ 3146.8(g)(1)(ii).....	9, 49
§ 3150.11.....	8
§ 3150.12a(a).....	8
§ 3150.12b.....	8
§ 3150.12b(a).....	9
§ 3150.12b(a)(1).....	9
§ 3150.16(a).....	9
§ 3150.16(b)(3).....	25
§ 3150.16(c).....	9, 49

**25 Pa. C.S.**

§ 3511.....	8, 31
Act 77 § 1306(b)(2).....	9, 25
Act 77 § 1306-D(b)(2).....	9, 10, 25
Act of Mar. 27, 2020, P.L. 41, No. 12 § 17(3).....	10, 25

Act of Mar. 27, 2020, P.L. 41, No. 12 § 1306(b)(3).....	10
Act of Mar. 27, 2020, P.L. 41, No. 12 § 1306-D(b)(3) .....	10
Act of Oct. 31, 2019, P.L. 552, No. 77 .....	7
Alaska Stat. § 15.20.081(e).....	40
Cal. Elec. Code § 302.....	40
Iowa Code Ann. § 53.17(2), (3).....	40
Maryland Code Regs. § 33.11.03.08(B) .....	40
N.C. Gen. Stat. Ann. § 163A-1310(b)(2)(b).....	40
N.D. Cent. Code Ann. § 16.1-07-09 .....	40
N.Y. Elec. Law § 8-412(1).....	40
Stat. Construc. Act § 1925 .....	44, 45
Tex. Elec. Code § 86.007(a)(2).....	40
Utah Code § 20A-3-306 (2)(b) .....	40
W. Va. Code § 3-3-5(g) .....	40, 42
Wash. Rev. Code § 29A.40.091(4).....	40
Wis. Stat. Ann. § 6.86(b) .....	15

**Other Authorities**

Videotaped Testimony, Public Hr’g on Primary Election Issues Related to the Ongoing COVID-19 Restrictions (Apr. 30, 2020), <a href="https://tinyurl.com/yaneelqk">https://tinyurl.com/yaneelqk</a> .....	1, 10, 20
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## **INTRODUCTION**

Because of the grave risks that COVID-19 poses to people's health and lives, public health officials continue to advise Americans to engage in social distancing and avoid public gatherings. Heeding such guidance, voters across the country are turning in unprecedented numbers to voting by mail, to avoid risking their lives voting in person at a polling place. Already in Pennsylvania, election officials are sounding the alarm about skyrocketing numbers of applications to vote by mail in the upcoming June 2 primary. As of April 30, with still four weeks left until the May 26 application deadline, the number of applications to vote by mail statewide was already "more than eight times more than the number of voters who have ever voted absentee in a presidential primary before."<sup>1</sup> As several county election officials recently testified at a Pennsylvania Senate hearing, counties "went from expecting perhaps a 15 to 20 percent uptick in applications to seeing currently a 400 to 500 percent increase and growing." Ex. A at 2 (written testimony of election officials from Mercer, Lehigh, and Lawrence Counties).

But the rules for voting by mail in Pennsylvania—and in particular, the deadline by which county boards of elections must receive completed absentee and mail-in ballots—were written for a pre-pandemic world. The deadline for

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<sup>1</sup> Videotaped Testimony, Public Hr'g on Primary Election Issues Related to the Ongoing COVID-19 Restrictions at 33:45-34:02 (Apr. 30, 2020), <https://tinyurl.com/yaneelqk> (hereinafter Secretary Boockvar Senate Testimony).



Pennsylvania voters to *apply* for an absentee or mail-in ballot is just one week before election day. For the many voters who apply for a ballot on or near this deadline, a number of things need to happen in the short span of a week for these voters to have their votes counted. First, the county board of elections must process the application, review and approve it, and send the voter a ballot via the U.S. Postal Service (USPS). County election officials have testified that this manual review process has already created a “bottleneck” because counties are just “not built” to handle the unprecedented number of applications. *Id.* at 1. Counties “are falling behind daily,” and given the “exponential explosions of applications” expected “in the weeks leading up to” the June 2 primary, officials have warned that “we ain’t seen nothing yet.” *Id.* at 2. And once a county board of elections processes and approves a voter’s application, USPS must deliver the ballot to the voter, and USPS is experiencing its own delays due to the pandemic.

As a result of these delays, tens or even hundreds of thousands of Pennsylvanians who timely request an absentee or mail-in ballot will receive the ballot only days (or less) before the June 2 primary. At that point, the voter cannot be sure that if she mails the ballot it will be received by the board of elections by election day. These voters will then face a choice: either mail the absentee or mail-in ballot and risk that it will arrive too late and will not be counted, or vote in person and risk their lives and the lives of their families and neighbors.

Making matters worse, for the upcoming June 2 primary, anyone who requested an absentee or mail-in ballot but instead wishes to vote in person will only be able to cast a provisional ballot. Thus, absent judicial intervention, the requirement that absentee and mail-in ballots must be received by the county boards of elections by the June 2 primary date will deny thousands of Pennsylvanians the ability to cast a regular ballot, will force many Pennsylvanians to risk their lives just to cast a provisional ballot, and will result in the disenfranchisement of enormous numbers of Pennsylvanians who place their ballot in the mail close to or on June 2 and end up missing the deadline.

In these extraordinary, once-in-a-century circumstances, enforcement of the received-by-election-day deadline for absentee and mail-in ballots violates the Pennsylvania Constitution. The deadline violates Pennsylvania's Free and Equal Elections Clause. Elections are not "free" when voters must risk their health and lives to ensure their votes will be counted. And elections are not "equal" when similarly situated citizens who timely request absentee and mail-in ballots may or may not have their votes counted based on factors outside their control, such as variation in mail-delivery schedules across the Commonwealth or application-processing speeds at different county elections boards. The deadline for receipt of absentee and mail-in ballots violates Pennsylvania's Equal Protection Clause for similar reasons. The deadline also violates Pennsylvania's Free Expression and

Association Clauses by burdening or outright preventing voters from casting a ballot, a form of core political expression for which the Pennsylvania Constitution provides broader protection than its federal counterpart. And the deadline violates Pennsylvania’s Absentee Voting Clause, which requires the legislature to provide voters who cannot appear in person on election day a full opportunity to vote by absentee ballot.

This Court should prevent these constitutional harms by preliminarily enjoining enforcement of the received-by-election-day deadline for the primary, and ordering that any absentee or mail-in ballot must be counted so long as the voter sends it by election day (June 2) and the county board of elections receives it within seven days of election day (June 9). All the factors for preliminary relief are satisfied. Petitioners are overwhelmingly likely to succeed on the merits of their claims, and preliminary relief is needed to avoid irreparable harm to Petitioners and thousands of other Pennsylvania voters in the June primary.

## **BACKGROUND**<sup>2</sup>

### **A. The COVID-19 Pandemic**

On March 6, 2020, Governor Wolf proclaimed a “Disaster Emergency,” declaring that “COVID-19 constitutes a threat of imminent disaster to the health of

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<sup>2</sup> Petitioners draw these facts primarily from their Verified Petition for Review, along with the verified declaration of Paul Rozzi. The remaining facts in this memorandum are appropriate for judicial notice under 225 Pa. Code Rule 201

the citizens of the Commonwealth.” Ex. B. On March 11, the World Health Organization declared COVID-19 a global pandemic. Ex. C. President Trump declared a national emergency two days later, on March 13. Ex. D. Since then, Governor Wolf has issued and extended a statewide stay-at-home order “to ensure that the maximum number of people self-isolate in their places of residence to the maximum extent feasible.” Ex. E; *see also* Exs. F, G, H.

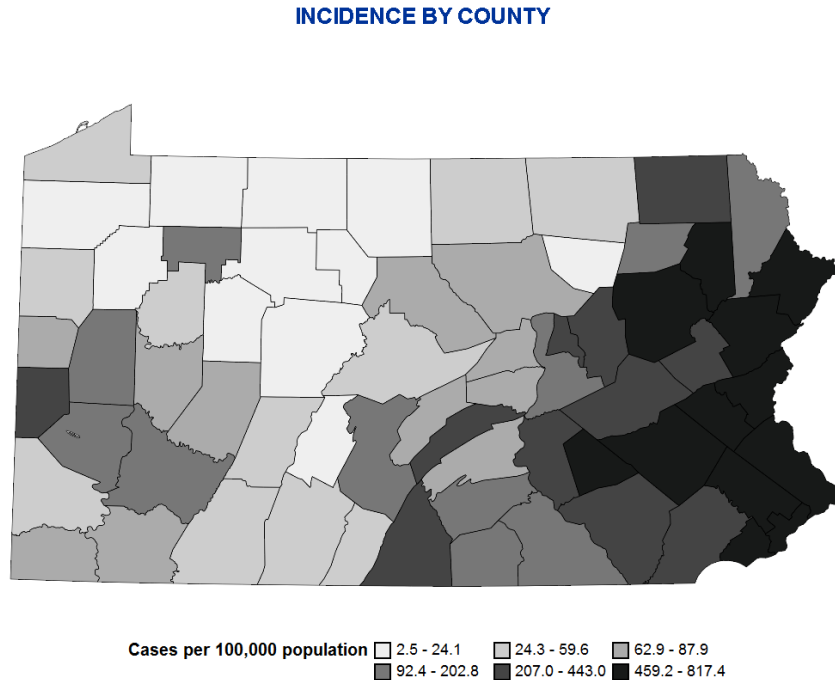
As of May 4, 2020, the Pennsylvania Department of Health had reported 50,092 confirmed cases of COVID-19 in Pennsylvania and 2,458 deaths. Ex. I. Nationwide, the Centers for Disease Control and Prevention (CDC) had reported 1,122,486 confirmed cases and 65,735 deaths. Ex. J. The number of confirmed cases and fatalities grows daily. This Court has recognized COVID-19’s “staggering death toll.” *Friends of DeVito v. Wolf*, No. 68 MM 2020, 2020 WL 1847100, at \*13 (Pa. Apr. 13, 2020).

COVID-19 has disproportionately afflicted and killed minorities, people with disabilities, and people over age 60. In Pennsylvania, African Americans comprise 12% of the population, but 31% of those who have contracted COVID-19

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because (1) they are generally known within the Commonwealth, (2) they are not reasonably in dispute, or (3) they come from reliable sources such as government websites and reputable news sources. *See Friends of DeVito v. Wolf*, No. 68 MM 2020, 2020 WL 1847100, at \*13 (Pa. Apr. 13, 2020) (relying on government websites and reputable news sources for statistics related to coronavirus); *see also Hill v. Dep’t of Corr.*, 64 A.3d 1159, 1165 n.3 (Pa. Commw. Ct. 2013) (taking judicial notice of information on government agency website).

(for whom race is reported). Ex. I. The virus also has produced significant regional disparities. The following map published by the Pennsylvania Department of Health shows that counties in eastern Pennsylvania have by far the highest number of cases per capita:



Ex. I.

**B. Pennsylvania’s System of Absentee and Mail-In Voting**

On October 31, 2019, months before COVID-19 emerged, the General Assembly enacted legislation to modify and expand voting by mail in Pennsylvania. *See* Act of Oct. 31, 2019, P.L. 552, No. 77 (“Act 77”). Pursuant to Act 77, two categories of Pennsylvania voters may vote by mail: (1) absentee voters, who must provide one of several specified reasons for voting by mail,

25 P.S. § 3146.1<sup>3</sup>; and (2) mail-in voters, who need not offer a justification, 25 P.S. §§ 3150.11–3150.12b.<sup>4</sup> As relevant to this case, the same deadlines for requesting and submitting ballots apply to both absentee voters and mail-in voters.

For both absentee and mail ballots, voting is a multi-step process. First, the voter must apply for an absentee or mail-in ballot by “five o’clock P.M. [on] the first Tuesday prior to the day of any primary or election.” 25 P.S. §§ 3146.2a(a), 3150.12a(a). A voter with a driver’s license or non-driver photo ID from the Pennsylvania Department of Transportation (PennDOT) may apply online.<sup>5</sup> If, like many Pennsylvanians, the voter lacks a PennDOT identification, she may download and print an absentee or mail-in ballot application, complete it on paper, and mail it to her county board of elections. Otherwise, the voter must email, call, or write a letter to the Department of State or county board of elections to request

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<sup>3</sup> Although not the subject of this lawsuit, Disability Rights asserts that the absentee-ballot process improperly imposes additional burdens and potential penalties on people with disabilities, and instead supports the availability of a vote-by-mail option for all voters with and without disabilities. Verified Pet. ¶ 77.

<sup>4</sup> Military and overseas voters may also vote by absentee ballot. The deadline for such voters to return their ballots is different from all other absentee voters, *see* 25 Pa. C.S. § 3511 (deadline for military and overseas voters), and Petitioners do not challenge the deadline for military and overseas voters in this case. All references to absentee and mail-in voters throughout this brief and in Petitioners’ application and proposed order for a preliminary injunction refer to non-military and overseas voters, who currently must return their ballots by election day.

<sup>5</sup> The websites are: [VotesPA.com/ApplyMailBallot](https://www.votespa.com/ApplyMailBallot); [VotesPA.com/ApplyAbsentee](https://www.votespa.com/ApplyAbsentee).

an application, and then wait for the application to be mailed and delivered to her.<sup>6</sup>

Second, after receiving the voter's application, the county elections board must manually review and process it, and then mail the ballot to qualifying voters. 25 P.S. §§ 3146.2a(a.3)(3), 3150.12b(a), (a)(1).

Third, after receiving the ballot, the voter must complete it and send it back to the county board of elections. To be counted, the ballot must be received by the board "on or before eight o'clock P.M. the day of the primary or election." 25 P.S. §§ 3146.6(c), 3146.8(g)(1)(ii), 3150.16(c). This "received-by" deadline applies irrespective of when a voter applied for her absentee or mail-in ballot, when the county elections board approved the application and sent the ballot to the voter, when the voter received the ballot, or when the voter mailed the completed ballot.<sup>7</sup>

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<sup>6</sup> Ordinarily, voters can also go in person and pick up a ballot application at their county board of elections, but many of the relevant offices are not currently open to public walk-ins, and even if offices are open, many voters cannot safely travel to them during the pandemic, particularly voters who rely on public transportation. Allegheny County is mailing ballot applications to all registered voters in the county who are eligible to vote in the June 2 primary. Ex. W.

<sup>7</sup> Ordinarily, voters can hand deliver their completed absentee or mail-in ballots to their county board of elections by 8:00 p.m. on election day, 25 P.S. §§ 3146.6(a), 3150.16(a), but as noted, *supra* n.6, those offices are currently not open for public walk-ins, and even if offices are open, many voters cannot safely travel to them during the pandemic, particularly voters who rely on public transportation. In addition, requiring voters to all flock to their county board of elections on election day to drop off their ballots or risk disenfranchisement raises the same health concerns as voting in person. Moreover, hand-delivering a ballot in person is not an option for absentee voters who are far from their county of residence or have an illness (including an active case of COVID-19) that prevents them from traveling to their county elections board. 25 P.S. §§ 3146.1(j), (l).

Voters who request an absentee or mail-in ballot for the June 2 primary cannot vote by regular ballot at a polling place, even if the voter has not cast the absentee or mail-in ballot. *See* Act 77 §§ 1306(b)(2), 1306-D(b)(2). Such voters may only cast a provisional ballot at a polling place. *Id.* While a subsequent amendment to Act 77 allows persons who request an absentee or mail-in ballot to vote by regular ballot at the polling place if they bring their absentee or mail-in ballot with them, spoil it there, and sign a declaration, *see* Act of Mar. 27, 2020, P.L. 41, No. 12 (“Act 12”) §§ 1306(b)(3), 1306-D(b)(3), that option will not become available until the November 2020 general election, *id.* § 17(3). In other words, for the June 2 primary, voting by provisional ballot will be the only option for voters who cannot timely return their absentee or mail-in ballot to the county board of elections.

### **C. Voting By Mail During the COVID-19 Pandemic**

Polling places are the type of crowded environments that, according to public-health officials, promote transmission of COVID-19. The CDC has encouraged the adoption of “voting methods that minimize direct contact with other people and reduce crowd size,” including voting by mail and early voting. Ex. K (CDC’s recommendations for election polling locations). And this Court has recognized that “[a]ny location ... where two or more people can congregate is within [the COVID-19] disaster area,” *Friends of DeVito*, 2020 WL 1847100, at



\*13—a description that obviously applies to polling places and county election offices. “The enforcement of social distancing to suppress transmission of the disease is currently the only mitigation tool.” *Id.*

Given the risks posed by in-person voting during the COVID-19 pandemic, applications to vote by mail for the June 2 primary have skyrocketed. Secretary Boockvar recently testified that 880,000 applications for mail-in or absentee ballots had already been submitted as of the morning of April 30, noting: “Just to give you context, that’s 880,000 that have already applied when we still have four weeks to go before the deadline. That’s more than eight times more than the number of voters who have ever voted absentee in a presidential primary before.”<sup>8</sup> Philadelphia alone has received over 70,000 applications. Ex. L (written Senate testimony from Lisa Deeley, Chairwoman of the Philadelphia Board of Elections).

Election officials expect that the number of absentee and mail-in ballot applications will only increase as the June 2 primary draws nearer, as experience shows that large numbers of voters submit their vote-by-mail applications close to the relevant deadline. As election officials from Mercer, Leigh, and Lawrence Counties noted in recent testimony, “[o]ther states have seen exponential explosions of applications in the weeks leading up to their primaries so ‘we ain’t seen nothing yet.’ Wisconsin’s numbers multiplied 10 times during the three

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<sup>8</sup> Secretary Boockvar Senate Testimony at 33:45-34:02.

weeks prior to their primary.” Ex. A. In the recent Wisconsin primary election, more than 283,000 voters submitted absentee ballot requests in the last four days before the April 3 application deadline. *Compare* Ex. M (Wisconsin Election Commission’s March 31 statistics) *with* Ex. O (April 4 statistics). More than 136,000 voters submitted their requests in the final two days before the deadline. *Compare* Ex. N (April 2 statistics) *with* Ex. O (April 4 statistics).

Once a voter submits an application, the voter’s ability to timely cast a ballot depends in multiple respects on the actions of third parties—namely, county elections boards who must process applications and the USPS, which must deliver the application, deliver the blank ballot to the voter, and deliver the completed ballot back to the county elections board by 8 p.m. on election day.

The COVID-19 pandemic will invariably lead to delays in processing and transmitting applications by county boards of elections and USPS. County boards face the dual problem of having to process an unprecedented number of requests while facing staff shortages and logistical challenges in light of office closures and social-distancing requirements. The chairwoman of the Philadelphia City Commissioners testified on April 30 that the current system is simply “not designed to handle” the number of absentee and mail-in ballot requests being made due to the pandemic. Ex. L at 2. Election officials from Mercer, Lehigh, and Lawrence Counties echoed this concern, stating:

Pennsylvania and many other states might have miscalculated the fallout from massive scaling up of mail voting because there was one bottle neck we couldn't avoid – processing applications. Counties were not built for this either administratively or through human capital. There aren't enough people and hours in the day in many places to overcome that bottleneck because PA has been built to handle a minimal number of mail applications over decades.

While we expected difficulties and some hiccups related to the roll out of Act 77, we went from expecting perhaps a 15 to 20 percent uptick in applications to seeing currently a 400 to 500 percent increase and growing. Put another way, counties were expecting about 30 inches of snow. What we're getting is the equivalent of 10 feet and it's going to get worse.

Ex. A at 1-2.<sup>9</sup>

Unsurprisingly, and through no fault of their own, counties have already developed backlogs in processing applications. As of April 23, Allegheny County had processed only 30,000 of the nearly 90,000 absentee and mail-in ballot applications it had already received, and mailed only between 17,000 and 20,000.

Ex. W. These backlogs will only grow as the primary draws nearer. In the words of the Mercer, Lehigh, and Lawrence County officials, counties “are falling behind daily.” Ex. A at 2.

Meanwhile, USPS is experiencing its own delays due to the pandemic. In ordinary times, USPS predicts that First Class Mail delivery will take one to three

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<sup>9</sup> Other groups of citizens voiced related concerns about voting during the COVID-19 pandemic. *See* Ex. S (written testimony from County Commissioners Association of Pennsylvania); Ex. T (written testimony from Common Cause Pennsylvania); Ex. U (written testimony from Keystone Votes).

business days, Verified Pet. ¶ 32, but the pandemic has caused delays in mail delivery. For instance, on April 17, 2020, USPS extended its service commitments for certain types of mail due to COVID-19. Ex. R (USPS industry alert for expected delivery changes).

The delays in processing applications and in delivering mail will mean that tens of thousands of Pennsylvanians, if not more, who timely request an absentee or mail-in ballot for the June 2 primary will not receive the ballot until just days or less before the primary, at which point it will likely be too late to mail the ballot back and have it arrive by election day. Consider a Pennsylvania voter who submits her application on May 25, the day before the deadline. If the county board of elections takes three days to process the application and send the voter a ballot, and USPS takes another two days to deliver the ballot to the voter's residence, the voter will not receive the ballot until May 30, the Saturday before the election. Even if the voter completes the ballot and placed it in the mail that same day, the voter has no assurance that the county board of elections will receive it by 8:00 p.m. on election day, two business days later. If the voter's ballot is not received by the deadline, it will not be counted. This timeline does not even consider the additional time required for disabled voters such as Petitioner Suzanne Erb, who may need assistance requesting, receiving, filling out, and submitting their absentee or mail-in ballots. *See* Verified Pet. ¶¶ 68-74.

Recent experience in Wisconsin bears out these concerns and suggests that retaining the received-by deadline could disenfranchise tens or even hundreds of thousands of voters. Like Act 77, Wisconsin law usually imposes a received-by-election-day deadline for absentee ballots. *See Wis. Stat. Ann. § 6.86(b)*. As in Pennsylvania, the COVID-19 pandemic caused a dramatic uptick in requests for absentee ballots for Wisconsin's primary election, which led to processing delays. *Democratic Nat'l Comm. v. Bostelmann*, No. 20-CV-249-WMC, 2020 WL 1638374, at \*5 (W.D. Wis. Apr. 2, 2020). After a lawsuit by Wisconsin residents, the U.S. Supreme Court approved a modified injunction changing the received-by-election-day deadline for absentee ballots to a sent-by-election-day deadline. *Republican Nat'l Comm. v. Democratic Nat'l Comm.*, 140 S. Ct. 1205, 1208 (2020) (per curiam). This change permitted more than 100,000 people to vote by mail whose absentee ballots otherwise would have been received too late or who would have been forced to risk their lives by voting in person.<sup>10</sup> And Pennsylvania's population is more than double Wisconsin's.

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<sup>10</sup> According to data released by the Wisconsin Election Commission, nearly 114,000 absentee ballots were recorded as received after election date, but before the new April 13 deadline for receipt of ballots. *See Ex. P* (Wisconsin Election Commission statistics from April 8, 2020); *Ex. Q* (Wisconsin Election Commission statistics from April 14, 2020).

#### **D. Petitioners' Injuries**

Petitioners are four organizations and one individual Pennsylvania voter who will face irreparable injury if the received-by-election-day deadline is enforced for the June 2 primary. Petitioner Suzanne Erb is a 65-year-old church organist and singer, who is also blind. Verified Pet. ¶ 8. Ms. Erb plans to vote in the June 2 primary by mail due to the challenges that the pandemic would present for her for voting in person, *id.* ¶ 69, but voting by mail will be burdensome and time-consuming for Ms. Erb for multiple reasons, *id.* ¶¶ 70-71. Moreover, Ms. Erb often makes up her mind about down-ballot races on or very near election day, and is still undecided on the contested Democratic primary for Pennsylvania Auditor General, but will have to decide who to support earlier than she would otherwise because of the received-by deadline. *Id.* ¶¶ 73-74.

Petitioners Disability Rights Pennsylvania (Disability Rights), SeniorLAW Center, Southeast Asian Mutual Assistance Associations Coalition (SEAMAAC), and the Barristers' Association of Philadelphia are organizations that educate and assist individuals about voting rules and procedures. Three of these organizations will have to divert resources if the received-by deadline remains in effect for the June 2 primary. *See* Verified Pet. ¶¶ 7, 9-11, 75-78, 88, 89-101. All of these organizations also have members who will be injured by the received-by deadlines, either because their members' ballots will be discarded because they arrive too late

or because their members will be forced to risk their health by voting in person to ensure that their vote is counted. *See id.* ¶¶ 79-83, 84-87, 89-101, 102-04.

### **ARGUMENT**

To warrant a preliminary injunction, a party need not “establish his or her claim absolutely,” but rather must show only that “substantial legal questions must be resolved to determine the rights of the respective parties.” *Fischer v. Dep’t of Pub. Welfare*, 439 A.2d 1172, 1174 (Pa. 1982). Where a party shows that substantial legal questions must be resolved, a preliminary injunction is warranted if there is a “threat of immediate and irreparable harm,” “the injunction does no more than restore the status quo,” and “greater injury would result by refusing the requested injunction than granting it.” *Id.*; *see also, e.g., SEIU Healthcare Pa. v. Commonwealth*, 104 A.3d 495, 590-91 (Pa. 2014).

Petitioners’ claims not only “raise important questions that are deserving of serious consideration and resolution,” *Fischer*, 439 A.2d at 1174, they are overwhelmingly likely to succeed on the merits. In the context of the COVID-19 pandemic, enforcing the received-by deadline during the June 2 primary plainly violates Pennsylvania’s Free and Equal Elections Clause, free expression and association guarantees, equal protection guarantee, and Absentee Voting Clause.

The other factors are satisfied as well. Petitioners and thousands of other Pennsylvania voters face irreparable harm: they (or their members) face the risk of disenfranchisement and/or of contracting a deadly disease.

**I. The Received-By Deadline Violates the Free and Equal Election Clause in the Context of the COVID-19 Pandemic**

**A. The Free and Equal Election Clause Broadly Protects Against Barriers to Voting and Differential Treatment Among Voters**

Article I, Section 5 of the Pennsylvania Constitution provides: “Elections shall be free and equal; and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.” This provision “mandates clearly and unambiguously, and in the broadest possible terms, that all elections conducted in this Commonwealth must be ‘free and equal.’” *League of Women Voters of Pa. v. Commonwealth*, 178 A.3d 737, 804 (Pa. 2018). As this Court has emphasized, “the Free and Equal Elections Clause has no federal counterpart” and thus “acts as a wholly independent protector of the rights of the citizens of our Commonwealth” with respect to elections. *Id.* at 802.

The Free and Equal Elections Clause protects the right to vote, which “[t]he Commonwealth recognizes ... as ‘fundamental’ and pervasive of other basic civil and political rights.” *Applewhite v. Commonwealth*, No. 330 M.D.2012, 2014 WL 184988, at \*18 (Pa. Commw. Ct. Jan. 17, 2014) (quoting *Bergdoll v. Kane*, 731 A.2d 1261, 1269 (Pa. 1999)). “[T]he right of suffrage is the most treasured



prerogative of citizenship” and “may not be impaired or infringed upon in any way except through the fault of the voter himself.” *Norwood Election Contest Case*, 116 A.2d 552, 553 (Pa. 1955).

In light of the fundamental imperative of safeguarding the right to vote, the “plain and expansive sweep of the words ‘free and equal,’” and the history of the provision, this Court held in *League of Women Voters* that the Free and Equal Elections Clause “should be given the broadest interpretation, one which governs all aspects of the electoral process.” 178 A.3d at 815. Specifically, the Clause requires that “all aspects of the electoral process, to the greatest degree possible, be kept open and unrestricted to the voters of our Commonwealth, and, also, conducted in a manner which guarantees, to the greatest degree possible, a voter’s right to equal participation in the electoral process for the selection of his or her representatives in government.” *Id.* at 804. It “guarantees [Pennsylvania] citizens an equal right, on par with every other citizen, to elect their representatives.” *Id.*

This Court has held that elections “are free and equal within the meaning of the Constitution when they are public and open to all qualified electors alike; when every voter has the same right as every other voter; *when each voter under the law has the right to cast his ballot and have it honestly counted*; when the regulation of the right to exercise the franchise does not deny the franchise itself, *or make it so difficult as to amount to a denial*; and when no constitutional right of the qualified

elector is subverted or denied him.” *League of Women Voters*, 178 A.3d at 810 (emphases added) (quoting *Winston v. Moore*, 91 A. 520, 523 (1914)); *see also DeWalt v. Bartley*, 24 A. 185, 186 (1892) (“The test is whether legislation denies the franchise, or renders its exercise so difficult and inconvenient as to amount to a denial.”).

Consistent with the Free and Equal Elections Clause’s broad text and purpose, this Court has expressly held that the Clause “does not require a showing” that the General Assembly acted with illicit “intent[.]” in passing the relevant law. *League of Women Voters*, 178 A.3d at 807. The “legislature ... is prohibited by this clause from interfering with the exercise of” the right to vote on equal terms, “even if the interference occurs by inadvertence.” *Id.* at 810.

Here, in the context of the COVID-19 pandemic, enforcing the deadline that absentee and mail-in ballots must be received by election day will interfere with the right to vote for an enormous number of Pennsylvania voters, and will result in differential treatment for similarly situated citizens across the Commonwealth. The deadline therefore violates both aspects of the Free and Equal Elections Clause: the primary will neither be “free” nor “equal” if the deadline is enforced.

**B. Pennsylvania’s June 2 Primary Will Not Be Free If the Received-by Deadline Remains in Effect**

Pennsylvania’s June 2 primary will not be “free” within the meaning of Article I, § 5 if absentee and mail-in ballots that are sent by election day, but are

received after election day, are not counted. This conclusion is inescapable from the facts on the ground.

It is undisputed that requests for absentee and mail-in ballots have increased to unprecedented levels for the June 2 primary. As of April 30, 2020, more than 880,000 people have already applied for absentee or mail-in ballots, which is more than eight times the number of requests that were made in total for the 2016 primary. *See* Secretary Boockvar Senate Testimony at 33:45-34:02. And experience from other jurisdictions shows that the number of applications will continue to grow as the May 26 deadline for absentee and mail-in ballot applications draws near. As mentioned, in the recent Wisconsin primary, more than 283,000 voters submitted absentee ballot requests in the last four days before the April 3 application deadline, and more than 136,000 voters submitted their request in just the last two days before the deadline. *See* Ex. M; Ex. N. Thus, tens or hundreds of thousands of Pennsylvanians will submit applications for absentee and mail-in ballots in the days immediately preceding the May 26 deadline. In the words of election officials from Mercer, Leigh, and Lawrence Counties: “counties were expecting about 30 inches of snow. What we’re getting is the equivalent of 10 feet and it’s going to get worse.” Ex. A at 2.

It is also undisputed that the record number of mail ballot requests has created a backlog in processing applications, and this backlog plainly will persist

and grow as the application deadline approaches and the number of requests increases, even as the dedicated staff of county boards of elections work overtime. As election officials from Mercer, Lehigh, and Lawrence Counties explained, the processing of applications by county boards of elections will create a “bottleneck” because “[c]ounties were not built for this” level of applications “either administratively or through human capital.” Ex. A at 1. “There aren’t enough people and hours in the day in many places to overcome that bottleneck.” *Id.* The chairwoman of the Philadelphia City Commissioners concurred, noting that “the rules were not designed to handle” the number of requests being made due to the pandemic. Ex. L at 2. Counties already have a backlog in processing applications, *see, e.g.*, Ex. W, and that backlog will grow as the election approaches. Counties “are falling behind daily.” Ex. A at 2.

Even once the county board of elections processes and approves a voter’s absentee or mail-in ballot application, the blank ballot must still be delivered to the voter via USPS. And mail has slowed due to COVID-19. *See, e.g.*, Ex. R.

The net result of these factors will be that many thousands of voters who timely submitted an application will not receive their ballot until days or less before the June 2 primary. This is inevitable given the May 26 application deadline, the unprecedented number of requests being submitted, and the logistical

and administrative challenges presented by COVID-19 for county boards of elections and USPS.

Many voters who receive their absentee or mail-in ballot close to June 2 will conclude that there is not enough time to mail the ballot back and have it arrive by election day, or at least that there is a risk it will not arrive by election day. These voters will conclude that the only way to ensure their votes are counted is to vote in person, and therefore will face a stark choice. They can either risk losing their right to vote by mailing the ballot, or they can endanger their health and lives by voting in person (where they will only be able to cast a provisional ballot).<sup>11</sup> Putting voters to that choice violates the Free and Equal Elections Clause.

Elections cannot be “free” when voters must risk their lives to vote. The received-by-election-day deadline for absentee and mail-in ballots will make voting “so difficult as to amount to a denial” of the right to vote for many Pennsylvanians. *League of Women Voters*, 178 A.3d at 810 (quoting *Winston*, 91 A. at 523); *accord Applewhite*, 2014 WL 184988, at \*19 (permanently enjoining Voter ID law under Article I, § 5 because “the Voter ID Law renders Pennsylvania’s fundamental right to vote so difficult to exercise”).

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<sup>11</sup> According to a June 2018 report of the U.S. Election Assistance Commission, only 69 percent of provisional ballots were counted nationwide in presidential election years. See <https://tinyurl.com/srfyy5y>.

The June 2 primary also will not be free given the sheer number of voters who will be disenfranchised because they received their ballots within a week of election day, mailed them back before election day, but missed the received-by deadline. As noted, in the recent Wisconsin primary, more than 100,000 absentee ballots were apparently received in the week after election day, Ex. P; Ex. Q, and Pennsylvania's population is more than double Wisconsin's. The received-by deadline will disenfranchise tens or hundreds of thousands of Pennsylvanians who complied with the application deadline but whose completed ballot did not arrive in time for reasons outside of the voter's control, such as delays in processing the application or in mail-delivery times.

Elections are not "free" when legions of voters who followed the rules are disenfranchised due to the consequences of a global pandemic. "Disenfranchising voters 'through no fault of the voter himself' is plainly unconstitutional."

*Applewhite*, 2014 WL 184988, at \*23 (quoting *Norwood*, 116 A.2d at 553) (alteration omitted). The received-by deadline will deny these voters their right under the Free and Equal Elections Clause "to cast [their] ballot and have it honestly counted." *League of Women Voters*, 178 A.3d at 810 (quoting *Winston*, 91 A. at 523).

These effects will be substantially compounded for the June 2 primary because, for the primary, anyone who *requests* an absentee or mail-in ballot can

vote in person only by provisional ballot. *See* Act 77 §§ 1306(b)(2), 1306-D(b)(2).<sup>12</sup> As a consequence of this restriction, more voters will take the chance and send their ballot through the mail, rather than vote by provisional ballot in person, increasing the numbers of persons who are disenfranchised because their ballot arrives too late. And even those who go to vote in person by provisional ballot will face additional burdens, as they will have to navigate the separate process for provisional ballots and face uncertainty whether their vote will be counted. *See, e.g., U.S. Student Ass’n Found. v. Land*, 546 F.3d 373, 388 (6th Cir. 2008) (“the availability of provisional ballots may not protect” voters unable to cast a regular ballot “from substantial harm”).

In short, in the context of the COVID-19 crisis, Pennsylvania’s current received-by deadline violates the Free and Equal Elections Clause’s guarantee that “all aspects of the electoral process, to the greatest degree possible, be kept open and unrestricted to the voters of our Commonwealth.” *Id.* at 804.

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<sup>12</sup> As mentioned, the General Assembly has recently added an option that persons can vote by regular ballot at a polling place if they bring their absentee or mail-in ballot to the polling place, spoil it there, and sign a declaration. 25 P.S. §§ 3146.6(b)(3), 3150.16(b)(3). But this option will not be effective until the November 2020 general election. 2020 Act 12, § 17(3).

**C. Pennsylvania’s June 2 Primary Will Not Be Equal If the Received-by Deadline Remains in Effect**

Pennsylvania’s June 2 primary also will not be “equal” if the received-by deadline remains in force. The deadline will deny “citizens an equal right, on par with every other citizen,” to have their ballots counted in the election. *League of Women Voters*, 178 A.3d at 804.

Two similarly situated individuals could timely request mail-in ballots on the same day, and yet variation in mail-delivery schedules or application-processing speeds means one individual’s vote will count while the other’s will not. Indeed, two citizens could mail back their completed ballots at the exact same time on the same day, but one ballot will arrive at the relevant county board of elections by the deadline and the other will not because of differing speeds at which USPS is delivering mail in the relevant areas. While the received-by deadline inherently creates some potential for differential treatment among voters even in normal times, the pandemic magnifies the differential treatment exponentially.

Of particular relevance to the Free and Equal Elections Clause, the received-by-election-day deadline will disproportionately impact voters in eastern Pennsylvania who live in the counties that been hit hardest by COVID-19, such as Berks, Bucks, Chester, Delaware, Lancaster, Lehigh, Luzerne, Montgomery, Northampton, and Philadelphia Counties and Allegheny County in western



Pennsylvania. *See* Ex. I. Voting in person would pose especially grave health risks for voters in these counties. And these counties likely will experience longer delays in processing absentee and mail-in ballot applications by their boards of elections. The framers of the Free and Equal Elections Clause specifically sought to prevent interferences with the franchise “based on considerations of the region of the state in which [voters] live[.]” *League of Women Voters*, 178 A.3d at 807-08. The received-by deadline for absentee and mail-in ballots invariably will result in disparate treatment of voters based on their location within the Commonwealth, the precise harm that the Free and Equal Elections Clause sought to prevent. *Id.*

The received-by deadline will also result in disparities in access to the franchise along axes like age, race, disability status, and English proficiency level. Of two voters who timely requested mail-in ballots but fear their vote will not be counted if they vote by mail, a younger and healthier voter will be better positioned to vote in person. The risks of going to a polling place will be greater for seniors, disabled persons, and members of racial and ethnic groups that have experienced higher mortality rates from the virus. The received-by deadline disparately impacts such voters.

The framers of the Free and Equal Election Clause sought to eradicate “laws that discriminated against a voter based on his social or economic status, geography of his residence, or his religious and political beliefs.” *League of*

*Women Voters*, 178 A.3d at 808. It is unfathomable that the framers would have countenanced disfavoring a voter based on her ability to withstand—or risk exposure to—a deadly virus. It is equally unfathomable that they would have tolerated placing special burdens on access to the franchise for those who have the misfortune of living in regions of Pennsylvania hit hardest by the pandemic. The bottom line is that enforcing the received-by deadline during the COVID-19 pandemic guarantees that the election will treat similarly situated voters unequally, violating the Pennsylvania Constitution’s guarantee that “every voter has the same right as every other voter.” *League of Women Voters*, 178 A.3d at 810.

**D. Counting Ballots Sent by Election Day Will Remedy the Violation**

Enjoining the received-by deadline so as to allow the counting of ballots that are sent by election day will remedy the Free and Equal Elections Clause violations described above. Voters who timely request an absentee or mail-in ballot by the May 26 deadline and receive the ballot on or before June 2 will no longer be forced to choose between disenfranchisement and risking their lives. A mailed-by deadline will preserve the right to vote for tens or hundreds of thousands of Pennsylvanians whose ballots would have been discarded if the received-by deadline remained in effect. For these same reasons, counting absentee and mail-in ballots sent by election day will alleviate the disparate treatment resulting from the received-by deadline based on geography, age, disability, and race. It will

“guarantee[] [Pennsylvania] citizens an equal right, on par with every other citizen,” to have their votes counted in the June 2 primary, just as the Free and Equal Elections Clause demands. *League of Women Voters*, 178 A.3d at 804

## **II. The Received-By Deadline Violates the Free Expression and Association Clauses in the Context of the COVID-19 Pandemic**

Applying the received-by deadline to an election held in the midst of a global pandemic would also violate the Pennsylvania Constitution’s free expression and association guarantees. Art. I, §§ 7, 20.

Pennsylvania’s Constitution “provides protection for freedom of expression that is broader than the federal constitutional guarantee.” *Pap’s A.M. v. City of Erie*, 812 A.2d 591, 605 (Pa. 2002). And this “broader protection[] of expression than the related First Amendment guarantee” applies “in a number of different contexts,” including “political” contexts. *DePaul v. Commonwealth*, 969 A.2d 536, 546 (Pa. 2009) (citation omitted).

Voting constitutes core, constitutionally protected expression. *Commonwealth v. Cobbs*, 305 A.2d 25, 27 (Pa. 1973) (describing the “act of voting” as an act of “personal expression”). Indeed, like other forms of political expression, voting merits special constitutional solicitude. *DePaul*, 969 A.2d at 548. Laws that burden protected political expression are subject to strict scrutiny under the Pennsylvania Constitution. *DePaul*, 969 A.2d at 547-48.

For the reasons explained above, in the context of the COVID-19 pandemic, Pennsylvania's received-by deadline will prevent numerous voters from successfully casting a mail-in ballot, through no fault of their own, because many voters will receive their ballot close to June 2 and miss the received-by deadline when they mail it back. *Supra* at 10-15. The received-by deadline will prevent these voters from engaging in core political expression through the casting of a ballot.

Because the received-by deadline stifles protected speech, it is subject to strict scrutiny. There is no compelling government interest that could justify this outright denial of the right to vote. Nor is the received-by deadline narrowly tailored to any hypothetical government interest in this context, given the option of a sent-by-election-day deadline. That is especially true because Pennsylvania will already be counting ballots received after the June 2 primary date from military and overseas voters. *See* 25 Pa.C.S. § 3511.

The uncertainty created by the interaction of the received-by deadline with mail slowdowns caused by COVID-19, which leaves Pennsylvanians unable to be sure that a ballot cast on any particular day will arrive by June 2, creates its own unconstitutional burden on the right to vote. As this Court has observed in another context, "Pennsylvania citizens should not have the contours of their fundamental rights under our charter rendered uncertain, unknowable, or changeable." *Pap's*

*A.M.*, 571 Pa. at 408-09. Here too, this Court should not allow a pandemic to render compliance with voting deadlines uncertain or unknowable.

As explained, the option of in-person voting does not save the received-by deadline because, in the context of COVID-19, a person who is unable to cast a mail ballot early enough to ensure that it is counted cannot simply go to the polls. Even putting aside that only provisional voting is possible for the June 2 primary, “[i]t is beyond dispute that the COVID-19 pandemic” puts Pennsylvanians at risk of “possible loss of life.” *Friends of DeVito*, 2020 WL 1847100, at \*11 (internal quotation marks omitted).

Forcing Pennsylvanians to choose being losing the right to vote and risking their health and life at a location where they cannot effectively social distance—and will need to contact commonly touched surfaces like voting machines and pens for sign-in books—places an unconstitutional condition on the franchise and thus an unconstitutional condition on Pennsylvania’s guarantees of freedom of expression and association. This Court has held, for example, that “it is clear that the risk of the death penalty is an unconstitutional condition to the right of appeal” and that the Commonwealth cannot impose such a risk on the “exercise [of a] constitutional right.” *Commonwealth v. Littlejohn*, 250 A.2d 811, 814 (Pa. 1969). The choice between losing the right to vote and risking death at the polls is an equally unlawful condition on exercising a constitutional right. *See also, e.g., Bd.*

*of Cty. Comm'rs, Wabaunsee Cty., Kan. v. Umbehr*, 518 U.S. 668, 674 (1996) (“the government may not deny a benefit to a person on a basis that infringes his constitutionally protected . . . freedom of speech”); *Commonwealth v. Bethea*, 379 A.2d 102, 105 (Pa. 1977) (it is “constitutionally impermissible” to punish a defendant for exercising the right to a jury trial).

### **III. The Received-By Deadline Violates Equal Protection in the Context of the COVID-19 Pandemic**

Applying the received-by deadline to an election held in the midst of a global pandemic would also violate the Pennsylvania Constitution’s equal protection guarantees. Art. I, §§ 1, 26.

Strict scrutiny applies when a state law provides for differential treatment of citizens in their exercise of “a fundamental right,” *William Penn Sch. Dist.*, 170 A.3d at 458, and the “right to vote” is a “fundamental” right, *Banfield v. Cortés*, 110 A.3d 155, 176 (Pa. 2015). The received-by deadline will necessarily result in differential treatment of similarly situated voters—some disenfranchised and some not—based on unpredictable variation due to the pandemic in application-processing and mail-delivery times. *Supra* at 10-15.

And enforcement of the deadline amid the COVID-19 pandemic necessarily will give rise to another, more pernicious form of differential treatment: The ability of citizens to cast their votes will depend on their capacity and willingness to risk their health and safety by voting in person as an alternative to sending a

mail ballot that may arrive too late. The deadline thus disfavors particular groups, including the elderly, the disabled, and those with health issues that place them at greater risk from COVID-19. This is a prototypical “den[ial] [of] the enjoyment of a[] civil right,” as well as “discriminat[ion] ... in the exercise of a[] civil right,” in violation of Article I, § 26.

Although the state may enact “reasonable, non-discriminatory restrictions” on voting “to ensure honest and fair elections that proceed in an orderly and efficient manner,” *Banfield*, 110 A.3d at 176-77, the received-by deadline is neither reasonable in this context nor non-discriminatory. And, as explained, the government has no compelling interest in imposing a received-by deadline rather than a sent-by deadline.

Even if the received-by deadline were subject to some lesser standard of review, it would fail. No “important” government interest justifies the deadline in the midst of the COVID-19 outbreak. *James v. SEPTA*, 477 A.2d 1302, 1307 (Pa. 1984). The deadline makes elections less “fair” and less “orderly,” *Banfield*, 110 A.3d at 176-77, especially in a context where polling places around the state are closing, *see* Ex. W (noting that Allegheny County plans to close 1,100 polling places for the primary), and where voters who timely request mail ballots have no way of ensuring that they can cast their votes at all. Nor is a received-by deadline even rational where it will arbitrarily disenfranchise voters through no fault of their

own because county elections boards are not equipped to handle the surge in mail-in ballot requests and cannot process those requests in time to allow compliance with the received-by deadline.

#### **IV. The Received-By Deadline Violates the Absentee Ballot Clause in the Context of the COVID-19 Pandemic**

Applying the received-by deadline to an election held in the midst of a global pandemic would also violate the Pennsylvania Constitution's absentee ballot guarantees. Art. VII, § 14.

Article VII, § 14(a) of the Pennsylvania Constitution provides:

*“The Legislature shall, by general law, provide a manner in which, and the time and place at which, qualified electors who may, on the occurrence of any election, be absent from the municipality of their residence, because their duties, occupation or business require them to be elsewhere or who, on the occurrence of any election, are unable to attend at their proper polling places because of illness or physical disability or who will not attend a polling place because of the observance of a religious holiday or who cannot vote because of election day duties, in the case of a county employee, may vote, and for the return and canvass of their votes in the election district in which they respectively reside.”* (emphasis added).

This sets a constitutional floor, requiring that the Election Code extend the right to vote by absentee ballot to, at a minimum, the categories of voters named in the provision.

At least as to voters in those categories, the Legislature has not carried out the mandate of Article VII, § 14(a) for the June 2 primary. Even if enforcement of the received-by deadline is constitutionally permissible in regular election



environments, the deadline's arbitrary, differential effects are certainly unconstitutional when enforced in the midst of a severe public-health pandemic like the COVID-19 crisis. For example, counties that have been hit particularly hard by the COVID-19 crisis may experience greater delays in processing applications for absentee ballots, and certain areas of the Commonwealth may experience disproportionately long delays in mail delivery.

In sum, enforcement of Act 77's received-by deadline during the COVID-19 pandemic will ensure that many voters who timely request absentee ballots in compliance with the Election Code, and who place their ballots into the mail on or before Election Day will, by no fault of their own, have their votes discarded. Act 77 will result in disenfranchisement of citizens who are constitutionally guaranteed not only the right to receive an absentee ballot, but the right to cast that ballot and have it counted.

#### **V. Petitioners Meet All Other Requirements for Preliminary Relief**

Petitioners have shown a likelihood of success on the merits for the reasons explained above, and they amply meet all of the other requirements for preliminary relief for the June 2 primary. It is clear that (1) an injunction is necessary to prevent immediate and irreparable harm; (2) greater injury would result from refusing the injunction than from granting it, and granting it will not substantially harm other interested parties; (3) the injunction will not adversely affect the public

interest; (4) the injunction will properly restore the parties to the status quo; and (5) the injunction is reasonably suited to abate the offending activity. *SEIU Healthcare Pa. v. Commonwealth*, 104 A.3d 495, 501-02 (Pa. 2014).

**A. An Injunction Is Needed to Prevent Immediate Irreparable Harm**

Enforcement of the received-by deadline for the June 2 primary election will impose acute, irreparable injury in four ways.

*First*, as explained, the received-by deadline threatens to disenfranchise a large number of Pennsylvanians—tens or even hundreds of thousands—including Petitioners and their members. The right to vote in Pennsylvania is fundamental: it “is pervasive of other basic civil and political, rights, and is the bedrock of our free political system.” *Bergdoll v. Kane*, 731 A.2d 1261, 1268-69 (Pa. 1999) (citation omitted). For that reason, Pennsylvania courts hold that threatened infringement of the right to vote is a paradigmatic irreparable injury. “The right to vote, fundamental in Pennsylvania, is irreplaceable, necessitating its protection before any deprivation occurs.” *Applewhite*, 2014 WL 184988, at \*26. “Deprivation of the franchise is neither compensable nor reparable by after-the-fact legal remedies, necessitating injunctive and declaratory relief.” *Id.* The received-by deadline will irreparably harm every person whose vote is discarded because it arrived too late.

*Second*, the received-by deadline will cause irreparable harm to voters who choose to vote in person rather than risk that their mail ballot will arrive too late.

Forcing voters to “endanger[] their health” by going to the polls in person is an injury that unquestionably “supplie[s] the irreparable harm requirement,” *Fischer*, 439 A.2d at 1174. If even a single person contracts COVID-19 because they voted in person due to the received-by deadline, that is a grave harm that this Court should take all measures to avoid.

*Third*, the received-by deadline will force many voters to cast their votes significantly earlier than they otherwise would, without having made a fully informed decision. That is a fundamental constitutional injury of its own. *Supra* at 30-33; *see Applewhite*, 2014 WL 184988, at \*19 (quoting *Winston*, 91 A. at 523) (enjoining Voter ID law that burdened, rather than fully denied, the right to vote).

*Finally*, because of all the ways in which the received-by deadline will harm individual voters, the deadline will cause irreparable harm to the organizational Petitioners who will divert resources because of the deadline—resources they could use for other purposes, including other election-related purposes, if the deadline were enjoined. The organizational Petitioners are devoted to educating their constituents about Act 77 and its mail-in voting procedures, and diverting resources to focus on compliance with the arbitrary received-by deadline will prevent them from using their resources to assist voters and encourage voting in other respects. *See Verified Pet.* ¶¶ 88, 96, 101.

## **B. Greater Injury Would Result From Refusing an Injunction**

Absent an injunction, Petitioners, their members, and many others will be disenfranchised for reasons beyond their control. Others will be forced to risk their health to ensure that their vote may be cast. These grave injuries dramatically outweigh any injury the Commonwealth might claim from having to consider ballots timely if sent on or before the day of the primary.

Petitioners seek a reasonable and easily administrable remedy. Indeed, the U.S. Supreme Court approved similar relief in recent litigation involving voting by mail in Wisconsin, modifying the lower court's injunction to allow for the counting of absentee ballots that were postmarked by election day. *See Republican Nat'l Comm.*, 140 S. Ct. at 1208. This injunction allowed more than 100,000 people whose absentee ballots arrived in the week after the election to vote safely by mail, and it reduced administrative burdens by lessening the number of persons who voted in person on election day. *Supra* at 11-12, 15; *see Applewhite*, 2014 WL 184988, at \*26 (finding balance of equities was in challengers' favor where absence of injunction would "add to the chaos" surrounding voting procedures). And courts in the Commonwealth have previously extended the deadline for receipt of absentee ballots in counties that were experiencing emergencies and were unable to process absentee ballot requests in time to allow voters to meet the

mailed-by deadline. *See* Ex. V (November 3, 2016 Montgomery County court order).

Moreover, at least eleven states that allow voting by mail consider mailed ballots timely if postmarked on election day or the day prior, showing that such sent-by-election-day rules are manageable and impose no significant administrative burden.<sup>13</sup>

The balance of the injuries overwhelmingly favors an injunction.

**C. An Injunction Will Not Adversely Affect the Public Interest**

Courts have repeatedly recognized that the public has an overwhelming interest in enjoining unconstitutional government action, particularly when that action infringes on voting rights. *See Applewhite*, 2014 WL 184988, at \*19.

Independently, this Court has recognized that injunctions protecting public health serve the public interest. *See SEIU*, 104 A.3d at 509. Accordingly, an injunction here “will protect, rather than harm the public.” *Id.*

**D. An Injunction Will Restore Voters to the Pre-COVID Status Quo**

Enjoining enforcement of the received-by deadline “will properly restore the parties to their status as it existed prior to the alleged wrongful conduct.”

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<sup>13</sup> Alaska Stat. § 15.20.081(e); Cal. Elec. Code § 302; Iowa Code Ann. § 53.17(2), (3); Maryland Code Regs. § 33.11.03.08(B); New York Elec. Law § 8-412(1); North Carolina Gen. Stat. Ann. § 163A-1310(b)(2)(b); North Dakota Cent. Code Ann. § 16.1-07-09; Texas Elec. Code § 86.007(a)(2); Utah Code § 20A-3-306 (2)(b); Washington Rev. Code § 29A.40.091(4); West Virginia Code § 3-3-5(g).

*Commonwealth ex rel. Corbett v. Snyder*, 977 A.2d 28, 43 (Pa. Commw. Ct. 2009). “The status quo to be maintained by a preliminary injunction is the *legal status* that preceded the pending controversy.” *The York Grp., Inc. v. Yorktowne Caskets, Inc.*, 924 A.2d 1234, 1244 (Pa. Super. 2007) (emphasis added). The legal status that preceded the controversy here was that elections in Pennsylvania (in the pre-pandemic world) guaranteed the right to vote for all Pennsylvania citizens in accordance with the Pennsylvania Constitution. Before COVID-19, voters did not need to risk their lives to ensure their votes would be counted. That is no longer true with the onset of COVID-19 and its interaction with the received-by deadline. COVID-19 has altered the legal status such that the June 2 primary will not guarantee the constitutional rights of Pennsylvania voters if the received-by deadline is enforced. A preliminary injunction that enjoins the received-by deadline is necessary to restore the ability of Pennsylvania voters to safely cast their ballots in an election that protects their constitutional rights.

**E. The Injunction Is Tailored to Abate the Constitutional Violations**

Petitioners seek a narrow injunction preventing enforcement of the received-by deadline during the upcoming primary election given the COVID-19 pandemic. Specifically, Petitioners request that this Court order the counting of absentee and mail-in ballots: (1) if the ballot is received by the county board of elections through any means by 8 p.m. on election day (which is the current requirement); (2) if the

ballot is postmarked by election day and received within a week of the election; or (3) if the ballot has no postmark, a postmark with no date, or an illegible postmark, the ballot is received via USPS no later than June 3, the day after election day, since any ballots received via USPS on June 3 necessarily were sent by the voters by June 2 at 8 p.m. or earlier, *see* Decl. of Paul Rozzi.

This injunction will ensure that fewer Pennsylvanians are disenfranchised and do not need to risk their health at the polls to guarantee that their votes are counted. But the relief Petitioners seek is not unlimited—under the proposed injunction, ballots must still be sent by election day to be counted. Moreover, the proposed criteria can be administered without difficulty; indeed, West Virginia applies the same criteria for counting absentee ballots. West Virginia counts absentee ballots if they are postmarked by election day or if they are received via mail by the day after election day. *See* West Virginia Code § 3-3-5(g).

The proposed injunction hews closely to “the offending activity” and, at minimum, is “reasonably tailored” to that activity, which is all that is necessary to support an injunction. *SEIU*, 104 A.3d at 509; *accord, e.g., Beaver Cty. ex rel. Beaver Cty. Bd. of Comm’rs v. David*, 83 A.3d 1111, 1119 (Pa. Commw. Ct. 2014).

## **VI. The Received-By Deadline Is Severable From the Remainder of Act 77**

Under ordinary principles of severability, the received-by deadline is severable from the remainder of Act 77, which can undoubtedly stand on its own. While Act 77 has a boilerplate non-severability provision, that provision is not controlling under this Court’s precedent, and applying the provision here would be unconstitutional because it would result in wholly eliminating no-excuse mail-in voting during a deadly pandemic, exacerbating the very constitutional violations Petitioners seek to remedy.

### **A. Act 77 Easily Stands Alone Without the Received-By Deadline**

Pennsylvania law “establishes a presumption of severability.” *Stilp v. Commonwealth*, 905 A.2d 918, 970 (Pa. 2006). Under § 1925 of the Statutory Construction Act, “[t]he provisions of every statute shall be severable,” and

[i]f any provision of any statute or the application thereof to any person or circumstance is held invalid, the remainder of the statute, and the application of such provision to other persons or circumstances, shall not be affected thereby, unless the court finds that the valid provisions of the statute are so essentially and inseparably connected with, and so depend upon, the void provision or application, that it cannot be presumed the General Assembly would have enacted the remaining valid provisions without the void one; or unless the court finds that the remaining valid provisions, standing alone, are incomplete and are incapable of being executed in accordance with the legislative intent.

1 Pa.C.S. § 1925.

Section 1925’s “specific, cogent standard ... both emphasizes the logical and essential interrelationship of the void and valid provisions, and also recognizes the



essential role of the Judiciary in undertaking the required analysis.” *Stilp*, 905 A.2d at 970. In short, § 1925 “mandate[s] severance ... where a statute can stand alone absent the invalid provision.” *Id.*

Severing an invalid provision, and allowing the remainder of a statute to stand, was the norm in Pennsylvania long before enactment of § 1925, under well-settled common law that had “its origins in principles of jurisprudential restraint.” *Id.* (citations omitted). Thus, over a century ago, this Court held that statutes are presumptively severable, and that the presumption can be overcome only “if the part which is void is vital to the whole, or the other provisions are so dependent upon it, and so connected with it, that it may be presumed the legislature would not have passed one without the other, the whole statute is void.” *Id.* (quoting *Rothermel v. Meyerle*, 20 A. 583 (1890)).

Applying these baseline principles of severability here, the received-by deadline for absentee and mail-in ballots is plainly severable from the remainder of Act 77. In Act 77, the General Assembly enacted numerous changes to Pennsylvania election laws, including the adoption of a comprehensive new system for no-excuse mail-in voting available to all Pennsylvania voters. Regardless of the received-by deadline, that system is “easily capable of being executed in accordance with the General Assembly’s manifest intention” to make mail-in voting available to all Pennsylvania voters, without requiring an excuse as was

needed under the prior regime. *Id.* at 973. Nothing in Act 77 “depends upon” the received-by deadline. *Id.* (quoting 1 Pa.C.S. § 1925). In other words, every other provision of Act 77 can continue to operate without change if the received-by deadline is enjoined in the manner that Petitioners request. The remainder of Act 77, including its comprehensive system for universally available mail-in voting, is “easily capable of being executed” with a deadline requiring voters to send their ballots by election day. *Id.*

**B. Act 77’s Non-Severability Provision Is Unenforceable and Unconstitutional in the Context of this Case**

Act 77 contains a non-severability provision that purports to require the invalidation of all of its provisions, including by purporting to withdraw the availability of no-excuse mail-in voting across the entire Commonwealth, if any portion of the Act is held unconstitutional. That provision, which was enacted before the emergence of COVID-19, provides in full: “Sections 1, 2, 3, 3.2, 4, 5, 5.1, 6, 7, 8, 9 and 12 of this act are nonseverable. If any provision of this act or its application to any person or circumstance is held invalid, the remaining provisions or applications of this act are void.” *See* Act 77 § 11. But “this Court has never deemed nonseverability clauses to be controlling in all circumstances.” *Stilp*, 905 A.2d at 978. Act 77’s non-severability provision does not bind the Court and is unenforceable and unconstitutional in the context of this case.

Even in the absence of COVID-19, Act 77’s non-severability provision would not be an “inexorable command” that binds this Court. *Stilp*, 905 A.2d at 972-74. In *Stilp*, this Court declined to apply an *identically worded* non-severability provision, *id.* at 973, refusing to allow the General Assembly to “dictate the effect of a judicial finding that a provision in an act is ‘invalid.’” *Id.* at 976. Here, as in *Stilp*, Act 77’s “boilerplate” non-severability provision “sets forth no standard for measuring nonseverability, but instead simply purports to dictate to the courts how they must decide severability.” *Id.* at 973; *see also id.* at 974 (non-severability provision improperly “dictate[s] to the Judiciary the effect of a finding of unconstitutionality as to any individual provision in” a statute). The General Assembly cannot “dictate the effect of a judicial finding that a provision in an act is ‘invalid,’” *id.* at 977, as Act 77’s non-severability provision purports to do. And as in *Stilp*, enforcement of Act 77’s non-severability provision would “intrude upon the independence of the judiciary and impair the judicial function,” because the provision’s effect would be to prevent judicial review and coerce this Court to permit an unconstitutional condition (the received-by deadline) being imposed on the exercise of the franchise. *Id.* at 980.

Moreover, in the context of the COVID-19 pandemic, applying the non-severability provision to void Act 77 in its entirety would itself be unconstitutional. Invalidating Act 77’s no-excuse mail-in voting scheme and its expanded absentee

voting provisions in the middle of the pandemic would disenfranchise a massive number of Pennsylvanians, and would disproportionately burden voters of certain ages, African-American voters, and voters with disabilities. It would force nearly every eligible voter in Pennsylvania—millions of citizens—to choose between voting and risking their lives, including the hundreds of thousands of Pennsylvania voters who have already submitted mail-in ballot applications for the June primary, and the growing numbers of voters who have already received, marked, and returned their mail-in or absentee ballots. Invalidating all of Act 77’s provisions therefore would violate Pennsylvania’s Free and Equal Elections Clause, Free Expression and Association Clauses, Equal Protection Clause, and Absentee Voting Clause in its own right.

Put differently, if Petitioners are correct that the received-by deadline for absentee and mail-in ballots violates the Pennsylvania Constitution by abridging Pennsylvanians’ ability to vote during the pandemic, then eliminating all no-excuse mail voting in a pandemic necessarily would violate the Pennsylvania Constitution as well. A non-severability clause cannot be applied to produce an unconstitutional result, particularly one that compounds the unconstitutionality of the substantive provision that was challenged in the first place.

As this Court explained in *Stilp*, non-severability clauses are ordinarily “superfluous” anyway. *Id.* at 978. The General Assembly, “once confronted with

a judicial ruling that a provision of a statute is unconstitutional, may always revisit the subject anew.” *Id.* Severing the invalid provision, while leaving the remainder of the statute intact, “leaves it to the legislative body to assess whether the statute, as affected by the judicial interpretation, is acceptable.” *Id.* If the General Assembly wished to eliminate all no-excuse mail-in voting in Pennsylvania amidst a pandemic (which we doubt), it could attempt to enact a new statute doing so.

This Court can and should hold that Act 77’s received-by deadline for absentee and mail-in ballots is unconstitutional in the context of the COVID-19 pandemic and sever the provision from the remainder of the Act as applied in these circumstances.<sup>14</sup>

### **CONCLUSION**

For the reasons stated above, Petitioners request that the Court enter a preliminary injunction barring enforcement of the received-by deadline for absentee and mail-in ballots in 25 P.S. §§ 3146.6(c), 3146.8(g)(1)(ii), 3150.16(c) for the June 2, 2020 primary, and requiring the counting of non-military and overseas absentee or mail-in ballots if: (1) the ballot is received by the county board of elections through any means by 8 p.m. on election day; (2) the ballot is postmarked by election day and received by June 9, 2020; or (3) for ballots with no

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<sup>14</sup> To be clear, Petitioners do not seek any ruling or relief that would trigger Act 77’s non-severability provision, and Petitioners would withdraw this motion and dismiss this action if the non-severability provision were going to apply.

postmark, a postmark with no date, or an illegible postmark, the ballot is received via USPS no later than June 3, 2020. A proposed order is attached.

Dated: May 4, 2020

Respectfully submitted,

/s/ Benjamin D. Geffen

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Counsel for Petitioners

**CERTIFICATION OF WORD COUNT**

Pursuant to Rule 2135 of the Pennsylvania Rules of Appellate Procedure, I certify that this Brief contains 11,903 words, exclusive of the supplementary matter as defined by Pa.R.A.P. 2135(b).

Dated: May 4, 2020

By: /s/ Benjamin D. Geffen  
Benjamin D. Geffen

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**IN THE SUPREME COURT OF PENNSYLVANIA**

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DISABILITY RIGHTS PENNSYLVANIA;  
SENIORLAW CENTER; SOUTHEAST ASIAN  
MUTUAL ASSISTANCE ASSOCIATIONS  
COALITION, INC. (SEAMAAC); SUZANNE ERB;  
THE BARRISTERS' ASSOCIATION OF  
PHILADELPHIA,

Petitioners,

v.

KATHY BOOCKVAR, IN HER CAPACITY AS  
SECRETARY OF THE COMMONWEALTH OF  
PENNSYLVANIA; AND JESSICA MATHIS, IN HER  
CAPACITY AS DIRECTOR OF THE BUREAU OF  
ELECTION SERVICES AND NOTARIES OF THE  
PENNSYLVANIA DEPARTMENT OF STATE,

Respondents.

No. 83 MM 2020

**DECLARATION OF PAUL ROZZI**

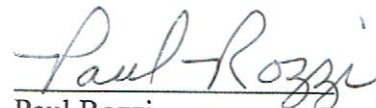
I, Paul Rozzi, hereby declare based on my personal knowledge the following:

1. I am the president of the Pennsylvania State Association of Letter Carriers, a position I have held since Sept. 23, 2016.
2. I served as a letter carrier with the U.S. Postal Service in Pennsylvania for over 32 years, until Dec. 31, 2016.
3. When a Pennsylvania voter puts his or her completed ballot in the mail, the ballot will go first to a U.S. Postal Service processing plant, where it will get processed, and then the ballot will be sent to its destination.



4. This process is an overnight process at minimum. If a ballot arrives at its destination by the day after Election Day, it necessarily was placed in the mail by the voter by 8 p.m. on Election Day.
5. All statements in this Declaration are true and correct to the best of my knowledge, information and belief. I understand that my statements are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

Date: May 3, 2020

  
Paul Rozzi  
North Huntingdon, Pa.

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**IN THE SUPREME COURT OF PENNSYLVANIA**

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DISABILITY RIGHTS PENNSYLVANIA;  
SENIORLAW CENTER; SOUTHEAST ASIAN  
MUTUAL ASSISTANCE ASSOCIATIONS  
COALITION, INC. (SEAMAAC); SUZANNE ERB;  
THE BARRISTERS' ASSOCIATION OF  
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KATHY BOOCKVAR, IN HER CAPACITY AS  
SECRETARY OF THE COMMONWEALTH OF  
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CAPACITY AS DIRECTOR OF THE BUREAU OF  
ELECTION SERVICES AND NOTARIES OF THE  
PENNSYLVANIA DEPARTMENT OF STATE,

Respondents.

No. 83 MM 2020

**DECLARATION OF KOLYA D. GLICK IN SUPPORT OF  
PETITIONERS' APPLICATION FOR SPECIAL RELIEF  
IN THE NATURE OF A PRELIMINARY INJUNCTION**

I, Kolya D. Glick, declare and say as follows:

1. I am over the age of eighteen (18) and competent to testify as to the matters set forth herein.
2. I am an associate at the law firm Arnold & Porter Kaye Scholer LLP, located at 601 Massachusetts Avenue, NW Washington, D.C. 20001.
3. I submit this affidavit in support of Petitioners' Application for Special Relief in the Nature of a Preliminary Injunction.
4. Attached as Exhibit A is a true and correct copy of the County Election Official Notes for the April 30, 2020 Pennsylvania Senate Hearing from Ed Allison (Lawrence County), Tim Benyo (Lehigh County), and Jeff Greenburg (Mercer County), available at <https://stategovernment.pasenategop.com/wp-content/uploads/sites/30/2020/04/tioga-county.pdf>.
5. Attached as Exhibit B is a true and correct copy of Pennsylvania Governor Tom Wolf's March 6, 2020 "Proclamation of Disaster Emergency," available at <https://www.governor.pa.gov/wp-content/uploads/2020/03/20200306-COVID19-Digital-Proclamation.pdf>.
6. Attached as Exhibit C is a true and correct copy of the World Health Organization Director-General's opening remarks at the March 11, 2020 media briefing on COVID-19, available at <https://www.who.int/dg/speeches/detail/who->

[director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020.](#)

7. Attached as Exhibit D is a true and correct copy of President Donald Trump's March 13, 2020 Emergency Declaration, available at <https://www.whitehouse.gov/presidential-actions/proclamation-declaring-national-emergency-concerning-novel-coronavirus-disease-covid-19-outbreak/>.

8. Attached as Exhibit E is a true and correct copy of Pennsylvania Governor Tom Wolf's April 1, 2020 Statewide Stay-at-Home Guidance, available at <https://www.governor.pa.gov/wp-content/uploads/2020/04/03.23.20-Stay-At-Home-Order-Guidance.pdf>.

9. Attached as Exhibit F is a true and correct copy of Pennsylvania Governor Tom Wolf's March 23, 2020 Stay-at-Home Order for certain counties, available at <https://www.governor.pa.gov/wp-content/uploads/2020/03/03.23.20-TWW-COVID-19-Stay-at-Home-Order.pdf>.

10. Attached as Exhibit G is a true and correct copy of Pennsylvania Governor Tom Wolf's April 1, 2020 Statewide Stay-at-Home Order, available at <https://www.governor.pa.gov/wp-content/uploads/2020/04/20200401-GOV-Statewide-Stay-at-Home-Order.pdf>.

11. Attached as Exhibit H is a true and correct copy of Pennsylvania Governor Tom Wolf's April 20, 2020 extension of Statewide Stay-at-Home Order,

available at <https://www.governor.pa.gov/wp-content/uploads/2020/04/20200420-GOV-Stay-at-Home-Order-Amendment.pdf>.

12. Attached as Exhibit I is a true and correct copy of the Pennsylvania Department of Health’s official COVID-19 data as of May 4, 2020, available at <https://www.health.pa.gov/topics/disease/coronavirus/Pages/Cases.aspx>.

13. Attached as Exhibit J is a true and correct copy of the Centers for Disease Control and Prevention’s “Coronavirus Disease 2019 (COVID-19)” national data as of May 3, 2020, available at <https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/cases-in-us.html>.

14. Attached as Exhibit K is a true and correct copy of the Centers for Disease Control and Prevention’s March 27, 2020 “Recommendations for Election Polling Locations,” available at <https://www.cdc.gov/coronavirus/2019-ncov/community/election-polling-locations.html>.

15. Attached as Exhibit L is a true and correct copy of written remarks from Lisa Deeley, Chairwoman of the Philadelphia Board of Elections, on “COVID-19, the Pennsylvania Primary Election and the focus on Philadelphia,” submitted for the April 30, 2020 Pennsylvania Senate Hearing, available at <https://stategovernment.pasenategop.com/wp-content/uploads/sites/30/2020/04/commissoner-deely.pdf>.

16. Attached as Exhibit M is a true and correct copy of the Wisconsin Election Commission's Absentee Voting Statistics as of March 31, 2020, available at <https://elections.wi.gov/node/6794>.

17. Attached as Exhibit N is a true and correct copy of the Wisconsin Election Commission's Absentee Voting Statistics as of April 2, 2020, available at <https://elections.wi.gov/node/6806>.

18. Attached as Exhibit O is a true and correct copy of the Wisconsin Election Commission's Absentee Voting Statistics as of April 4, 2020, available at <https://elections.wi.gov/node/6814>.

19. Attached as Exhibit P is a true and correct copy of the Wisconsin Election Commission's Absentee Voting Statistics as of April 8, 2020, available at <https://elections.wi.gov/node/6833>.

20. Attached as Exhibit Q is a true and correct copy of the Wisconsin Election Commission's Absentee Voting Statistics as of April 14, 2020, available at <https://elections.wi.gov/node/6862>.

21. Attached as Exhibit R is a true and correct copy of the United States Postal Service's April 17, 2020 Industry Alert concerning "Expected Delivery Changes for Priority Mail and First-Class Package Services," available at <https://about.usps.com/newsroom/service-alerts/pdf/expected-delivery-changes-april-17.pdf>.

22. Attached as Exhibit S is a true and correct copy of the written testimony of the County Commissioners Association of Pennsylvania on “Changes to PA Elections Amid 2020 Coronavirus Pandemic” for the April 30, 2020 Senate Hearing, available at <https://stategovernment.pasenategop.com/wp-content/uploads/sites/30/2020/04/ccap.pdf>.

23. Attached as Exhibit T is a true and correct copy of the written testimony of Common Cause for the April 30, 2020 Pennsylvania Senate Hearing related to mail-in voting and COVID-19, available at <https://stategovernment.pasenategop.com/wp-content/uploads/sites/30/2020/04/common-cause.pdf>.

24. Attached as Exhibit U is a true and correct copy of the written testimony of Keystone Votes for the April 30, 2020 Senate hearing related to Pennsylvania’s June 2 Primary Election and the State’s Ongoing Response to COVID-19, available at <https://stategovernment.pasenategop.com/wp-content/uploads/sites/30/2020/04/keystone-votes.pdf>.

25. Attached as Exhibit V is a true and correct copy of the November 3, 2016 court order in *In re Extension of Time for Absentee Ballots to be Received and Counted in the 2016 General Election*, Civil Action No. 2016-26326 in the Court of Common Pleas of Montgomery County, Pennsylvania.

26. Attached as Exhibit W is a true and correct copy of a news article by Lucy Perkins titled “Allegheny County To Drastically Cut In-Person Voting To Limit Spread Of Coronavirus,” published on April 23, 2020 on Pittsburgh’s NPR News Station website, available at <https://www.wesa.fm/post/allegheny-county-drastically-cut-person-voting-limit-spread-coronavirus#stream/0>.

I declare under penalty of perjury that the foregoing is true and correct. I understand that false statements herein are subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Respectfully submitted this the 4th day of May, 2020.

/s/ Kolya D. Glick  
Kolya D. Glick



# **Exhibit A**

**County Election Official Notes for Senate Hearing  
April 30, 2020**

**Jeff Greenburg, Mercer County  
Tim Benyo, Lehigh County  
Ed Allison, Lawrence County**

- It appears 1000s of Wisconsin and Ohio voters in their recent primaries never got a ballot. If Pennsylvania is okay with that, then we should do nothing. If we're not okay with it, then let's fix it now for the primary and November.
- To be clear there is no fault here. We are all trying our best under unprecedented circumstances to figure out the best way to deliver elections while keeping voters and poll workers safe. We hear and see "disenfranchisement" needing to be the nation's No. 1 priority in discussions about options for voters. We would argue Covid-19 has disenfranchised the world at the moment and our number one priority must be safety.
- The best option to avoid what's happening in other states might have been to simply mail all registered voters a ballot. That's the only way to avoid a situation where counties will not be able to process all applications.
- Because we are required to provide accommodations for voters with accessibility needs and we recognize some voters do not update their records, we would also suggest some form of in-person voting locations, perhaps, at local public high school gyms, which are accessible and provide plenty of parking and space to ensure social distancing.
- Pennsylvania and many other states might have miscalculated the fallout from massive scaling up of mail voting because there was one bottle neck we couldn't avoid – processing applications. Counties were not built for this either administratively or through human capital. There aren't enough people and hours in the day in many places to overcome that bottleneck because PA has been built to handle a minimal number of mail applications over decades.

- While we expected difficulties and some hiccups related to the roll out of Act 77, we went from expecting perhaps a 15 to 20 percent uptick in applications to seeing currently a 400 to 500 percent increase and growing. Put another way, counties were expecting about 30 inches of snow. What we're getting is the equivalent of 10 feet and it's going to get worse.
- We're at 800,000 applications now and are falling behind daily. Other states have seen exponential explosions of applications in the weeks leading up to their primaries so "we ain't seen nothing yet." Wisconsin's numbers multiplied 10 times during the three weeks prior to their primary. I don't think we'll get that high, but even if we triple or quadruple what we've done, many counties will be in trouble.
- If no changes are coming for the primary, one request: We are asking the Governor to issue a public directive immediately asking all polling locations to be open for voters on June 2. There seems to be plenty of confusion from locations as to what they're permitted and not permitted to do when it comes to opening and a message from the Governor would go a long way to helping counties secure at least public buildings. We understand private facilities might not be covered.
- Last note: With the overwhelming majority of ballots cast coming by mail, PA should full expect that it will be several days before complete results are reported. Any in-person results will be reported under normal timelines on June 2, but mail ballots will likely take days to process. Should address pre-canvass options for November.

# **Exhibit B**



COMMONWEALTH OF PENNSYLVANIA  
OFFICE OF THE GOVERNOR

## ***PROCLAMATION OF DISASTER EMERGENCY***

***March 6, 2020***

***WHEREAS, a novel coronavirus (now known as “COVID-19”) emerged in Wuhan, China, began infecting humans in December 2019, and has since spread to 89 countries, including the United States; and***

***WHEREAS, the World Health Organization and the Centers for Disease Control and Prevention (“CDC”) have declared COVID-19 a “public health emergency of international concern,” and the U.S. Department of Health and Human Services (“HHS”) Secretary has declared that COVID-19 creates a public health emergency; and***

***WHEREAS, the Commonwealth of Pennsylvania (“Commonwealth”) has been working in collaboration with the CDC, HHS, and local health agencies since December 2019 to monitor and plan for the containment and subsequent mitigation of COVID-19; and***

***WHEREAS, on February 1, 2020, the Commonwealth’s Department of Health activated its Department Operations Center at the Pennsylvania Emergency Management Agency’s headquarters to conduct public health and medical coordination for COVID-19 throughout the Commonwealth; and***

***WHEREAS, on March 4, 2020, the Director of the Pennsylvania Emergency Management Agency ordered the activation of its Commonwealth Response Coordination Center in support of the Department of Health’s Department Operations Center, to maintain situational awareness and coordinate the response to any potential COVID-19 impacts across the Commonwealth; and***

***WHEREAS, as of March 6, 2020, there are 233 confirmed and/or presumed positive cases of COVID-19 in the United States, including 2 presumed positive cases in the Commonwealth; and***

***WHEREAS, while it is anticipated that a high percentage of those affected by COVID-19 will experience mild influenza-like symptoms, COVID-19 is a disease capable of causing severe symptoms or loss of life, particularly to older populations and those individuals with pre-existing conditions; and***

***WHEREAS, it is critical to prepare for and respond to suspected or confirmed cases in the Commonwealth and to implement measures to mitigate the spread of COVID-19; and***

***WHEREAS, with 2 presumed positive cases in the Commonwealth as of March 6, 2020, the possible increased threat from COVID-19 constitutes a threat of imminent disaster to the health of the citizens of the Commonwealth; and***

***WHEREAS, this threat of imminent disaster and emergency has the potential to cause significant adverse impacts upon the population throughout the Commonwealth; and***

***WHEREAS, this threat of imminent disaster and emergency has already caused schools to close, and will likely prompt additional local measures, including affected county and municipal governments to declare local disaster emergencies because of COVID-19; and***

*WHEREAS, this threat of imminent disaster and emergency situation throughout the Commonwealth is of such magnitude and severity as to render essential the Commonwealth's supplementation of emergency resources and mutual aid to the county and municipal governments of this Commonwealth and to require the activation of all applicable state, county, and municipal emergency response plans.*

*NOW THEREFORE, pursuant to the provisions of Subsection 7301(c) of the Emergency Management Services Code, 35 Pa. C.S. § 7101, et seq., I do hereby proclaim the existence of a disaster emergency throughout the Commonwealth.*

*FURTHER, I hereby authorize the Pennsylvania Emergency Management Agency Director or his designee, to assume command and control of all statewide emergency operations and authorize and direct that all Commonwealth departments and agencies utilize all available resources and personnel as is deemed necessary to cope with this emergency situation.*

*FURTHER, I hereby transfer up to \$5,000,000 in unused appropriated funds to the Pennsylvania Emergency Management Agency for Emergency Management Assistance Compact expenses related to this emergency, to be decreased as conditions require, pursuant to the provisions of section 7604(a) of the Emergency Management Services Code, 35 Pa. C.S. § 7604(a). In addition, I hereby transfer up to \$20,000,000 in unused appropriated funds, to be decreased as conditions require, to the Pennsylvania Emergency Management Agency pursuant to section 1508 of the Act of April 9, 1929 (P.L.343, No. 176) (the Fiscal Code), 72 P.S. § 1508. The aforementioned funds shall be used for expenses authorized and incurred related to this emergency. These funds shall be credited to a special account established by the Office of the Budget. I hereby direct that any funds transferred herein that remain unused after all costs related to this emergency have been satisfied shall be returned to the General Fund.*

*FURTHER, All Commonwealth agencies purchasing supplies or services in response to this emergency are authorized to utilize emergency procurement procedures set forth in Section 516 of the Commonwealth Procurement Code, 62 Pa. C.S. § 516. This Proclamation shall serve as the written determination of the basis for the emergency under Section 516.*

*FURTHER, I hereby suspend the provisions of any regulatory statute prescribing the procedures for conduct of Commonwealth business, or the orders, rules or regulations of any Commonwealth agency, if strict compliance with the provisions of any statute, order, rule or regulation would in any way prevent, hinder, or delay necessary action in coping with this emergency. Commonwealth agencies may implement emergency assignments without regard to procedures required by other laws, except mandatory constitutional requirements, pertaining to performance of public work, entering into contracts, incurring of obligations, employment of temporary workers, rental of equipment, purchase of supplies and materials, and expenditures of public funds.*

*FURTHER, pursuant to the powers vested in me by the Constitution and laws of the Commonwealth pursuant to 51 Pa. C.S. § 508, I hereby authorize the Adjutant General of Pennsylvania to place on state active duty for the duration of the emergency disaster proclamation, such individuals and units of the Pennsylvania National Guard, for missions designated by the Pennsylvania Emergency Management Agency, as are needed to address the consequences of the aforementioned emergency.*

*FURTHER, I authorize the Commissioner of the Pennsylvania State Police to use all available resources and personnel in whatever manner he deems necessary during this emergency to assist the actions of the Pennsylvania Emergency Management Agency in addressing the consequences of the emergency.*

*FURTHER, I hereby authorize the Secretary of the Pennsylvania Department of Health, in her sole discretion, to suspend or waive any provision of law or regulation which the Pennsylvania Department of Health is authorized by law to administer or enforce, for such length of time as may be necessary to respond to this emergency.*

*FURTHER, I hereby authorize the Secretary of the Pennsylvania Department of Education, in his sole discretion, to suspend or waive any provision of law or regulation which the Pennsylvania Department of Education is authorized by law to administer or enforce, for such length of time as may be necessary to respond to this emergency.*

*FURTHER, if investigations made on my behalf determine that the Commonwealth needs greater flexibility in the application of state and federal motor carrier regulations to accommodate truck drivers involved in emergency activities during this emergency, I hereby direct the Commonwealth Department of Transportation to waive or suspend any laws or federal or state regulations related to the drivers of commercial vehicles.*

*FURTHER, I hereby direct that the applicable emergency response and recovery plans of the Commonwealth, counties, municipalities and other entities be activated as necessary and that actions taken to implement those plans be coordinated through the Pennsylvania Emergency Management Agency.*

*STILL FURTHER, I hereby urge the governing bodies and executive officers of all political subdivisions affected by this emergency to act as necessary to meet the current exigencies as legally authorized under this Proclamation, namely, by the employment of temporary workers, by the rental of equipment, and by entering into such contracts and agreements as may be required to meet the emergency, all without regard to those time consuming procedures and formalities normally prescribed by law, mandatory constitutional requirement excepted.*



*GIVEN under my hand and the Seal of the Governor, at the City of Harrisburg, this sixth day of March in the year of our Lord two thousand twenty, and of the Commonwealth the two hundred and forty fourth.*

*Tom Wolf*  
**TOM WOLF**  
Governor

# **Exhibit C**





# WHO Director-General's opening remarks at the media briefing on COVID-19 - 11 March 2020

11 March 2020

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Good afternoon.

In the past two weeks, the number of cases of COVID-19 outside China has increased 13-fold, and the number of affected countries has tripled.

There are now more than 118,000 cases in 114 countries, and 4,291 people have lost their lives.

Thousands more are fighting for their lives in hospitals.

In the days and weeks ahead, we expect to see the number of cases, the number of deaths, and the number of affected countries climb even higher.

WHO has been assessing this outbreak around the clock and we are deeply concerned both by the alarming levels of spread and severity, and by the alarming levels of inaction.

We have therefore made the assessment that COVID-19 can be characterized as a pandemic.

Pandemic is not a word to use lightly or carelessly. It is a word that, if misused, can cause unreasonable fear, or unjustified acceptance that the fight is over, leading to unnecessary suffering and death.

Describing the situation as a pandemic does not change WHO's assessment of the threat posed by this virus. It doesn't change what WHO is doing, and it doesn't change what countries should do.

We have never before seen a pandemic sparked by a coronavirus. This is the first pandemic caused by a coronavirus.

And we have never before seen a pandemic that can be controlled, at the same time.

WHO has been in full response mode since we were notified of the first cases.

And we have called every day for countries to take urgent and aggressive action.

We have rung the alarm bell loud and clear.

===

As I said on Monday, just looking at the number of cases and the number of countries affected does not tell the full story.

Of the 118,000 cases reported globally in 114 countries, more than 90 percent of cases are in just four countries, and two of those – China and the Republic of Korea - have significantly declining epidemics.

81 countries have not reported any cases, and 57 countries have reported 10 cases or less.

We cannot say this loudly enough, or clearly enough, or often enough: all countries can still change the course of this pandemic.

If countries detect, test, treat, isolate, trace, and mobilize their people in the response, those with a handful of cases can prevent those cases becoming clusters, and those clusters becoming community transmission.

Even those countries with community transmission or large clusters can turn the tide on this virus.

Several countries have demonstrated that this virus can be suppressed and controlled.

The challenge for many countries who are now dealing with large clusters or community transmission is not whether they can do the same – it's whether they will.

Some countries are struggling with a lack of capacity.

Some countries are struggling with a lack of resources.

Some countries are struggling with a lack of resolve.

We are grateful for the measures being taken in Iran, Italy and the Republic of Korea to slow the virus and control their epidemics.

We know that these measures are taking a heavy toll on societies and economies, just as they did in China.

All countries must strike a fine balance between protecting health, minimizing economic and social disruption, and respecting human rights.

WHO's mandate is public health. But we're working with many partners across all sectors to mitigate the social and economic consequences of this pandemic.

This is not just a public health crisis, it is a crisis that will touch every sector – so every sector and every individual must be involved in the fight.

I have said from the beginning that countries must take a whole-of-government, whole-of-society approach, built around a comprehensive strategy to prevent infections, save lives and minimize impact.

Let me summarize it in four key areas.

First, prepare and be ready.

Second, detect, protect and treat.

Third, reduce transmission.

Fourth, innovate and learn.

I remind all countries that we are calling on you to activate and scale up your emergency response mechanisms;

Communicate with your people about the risks and how they can protect themselves – this is everybody's business;

Find, isolate, test and treat every case and trace every contact;

Ready your hospitals;

Protect and train your health workers.

And let's all look out for each other, because we need each other.

===

There's been so much attention on one word.

Let me give you some other words that matter much more, and that are much more actionable.

Prevention.

Preparedness.

Public health.

Political leadership.

And most of all, people.

We're in this together, to do the right things with calm and protect the citizens of the world. It's doable.

I thank you.

**Subscribe to the WHO newsletter →**

# **Exhibit D**



PROCLAMATIONS

# Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak

Issued on: March 13, 2020



In December 2019, a novel (new) coronavirus known as SARS-CoV-2 (“the virus”) was first detected in Wuhan, Hubei Province, People’s Republic of China, causing outbreaks of the coronavirus disease COVID-19 that has now spread globally. The Secretary of Health and Human Services (HHS) declared a public health emergency on January 31, 2020, under section 319 of the Public Health Service Act (42 U.S.C. 247d), in response to COVID-19. I have taken sweeping action to control the spread of the virus in the United States, including by suspending entry of foreign nationals seeking entry who had been physically present within the prior 14 days in certain jurisdictions where COVID-19 outbreaks have occurred, including the People’s Republic of China, the Islamic Republic of Iran, and the Schengen Area of Europe. The Federal Government, along with State and local governments, has taken preventive and proactive measures to slow the spread of the virus and treat those affected, including by instituting Federal quarantines for individuals evacuated from foreign nations, issuing a declaration pursuant to section 319F-3 of the Public Health Service Act (42 U.S.C. 247d-6d), and releasing policies to accelerate the acquisition of personal protective equipment and streamline bringing new diagnostic capabilities to laboratories. On March 11, 2020, the World Health Organization announced that the COVID-19 outbreak can be characterized as a pandemic, as the rates of infection continue to rise in many locations around the world and across the United States.

The spread of COVID-19 within our Nation’s communities threatens to strain our Nation’s healthcare systems. As of March 12, 2020, 1,645 people from 47 States have been infected with the virus that

causes COVID-19. It is incumbent on hospitals and medical facilities throughout the country to assess their preparedness posture and be prepared to surge capacity and capability. Additional measures, however, are needed to successfully contain and combat the virus in the United States.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States, by the authority vested in me by the Constitution and the laws of the United States of America, including sections 201 and 301 of the National Emergencies Act (50 U.S.C. 1601 *et seq.*) and consistent with section 1135 of the Social Security Act (SSA), as amended (42 U.S.C. 1320b-5), do hereby find and proclaim that the COVID-19 outbreak in the United States constitutes a national emergency, beginning March 1, 2020. Pursuant to this declaration, I direct as follows:

Section 1. Emergency Authority. The Secretary of HHS may exercise the authority under section 1135 of the SSA to temporarily waive or modify certain requirements of the Medicare, Medicaid, and State Children's Health Insurance programs and of the Health Insurance Portability and Accountability Act Privacy Rule throughout the duration of the public health emergency declared in response to the COVID-19 outbreak.

Sec. 2. Certification and Notice. In exercising this authority, the Secretary of HHS shall provide certification and advance written notice to the Congress as required by section 1135(d) of the SSA (42 U.S.C. 1320b-5(d)).

Sec. 3. General Provisions. (a) Nothing in this proclamation shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This proclamation shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This proclamation is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

IN WITNESS WHEREOF, I have hereunto set my hand this thirteenth day of March, in the year of our Lord two thousand twenty, and of the Independence of the United States of America the two hundred and forty-fourth.

DONALD J. TRUMP



**Exhibit E**

# STAY AT HOME ORDER GUIDANCE

## INTENT

The virus that causes Coronavirus 2019 Disease (“COVID-19”) is easily transmitted, especially in group settings, and it is essential that the spread of the virus be slowed to protect the ability of public and private health care providers to handle the influx of new patients and safeguard public health and safety. The intent of this STAY AT HOME policy is to ensure that the maximum number of people self-isolate in their places of residence to the maximum extent feasible, while continuing access to life-sustaining good and services.

## COUNTIES SUBJECT TO THIS POLICY

As of April 1, 2020, all counties in Pennsylvania are subject to the Governor’s and the Secretary of Health’s Orders to STAY AT HOME.

## POLICY

### STAY AT HOME

All individuals residing in Pennsylvania must STAY AT HOME except for certain essential activities and work to provide life-sustaining business and government services.

**Individuals may leave their residence ONLY to perform any of the following allowable individual activities and allowable essential travel:**

### ALLOWABLE INDIVIDUAL ACTIVITIES

- Tasks essential to maintain health and safety, or the health and safety of their family or household members (including, but not limited to, pets), such as obtaining medicine or medical supplies, visiting a health care professional, or obtaining supplies they need to work from home.
- Getting necessary services or supplies for themselves or their family or household members, or to deliver those services or supplies to others, such as getting food and household consumer products, pet food, and supplies necessary to maintain the safety, sanitation, and essential operation of residences. This includes volunteer efforts to distribute meals and other life-sustaining services to those in need.
- Engaging in outdoor activity, such as walking, hiking or running if they maintain social distancing.
- To perform work providing essential products and services at a life-sustaining business (see below for details about life-sustaining business activities).
- To care for a family member or pet in another household.

### ALLOWABLE ESSENTIAL TRAVEL

- Any travel related to the provision of or access to the above-mentioned individual activities or life-sustaining business activities (see below for details about life-sustaining business activities).
- Travel to care for elderly, minors, dependents, persons with disabilities, or other vulnerable persons.
- Travel to or from educational institutions for purposes of receiving materials for distance learning, for receiving meals, and any other related services.

- Travel to return to a place of residence from an outside jurisdiction.
- Travel required by law enforcement or court order.
- Travel required for non-residents to return to their place of residence outside the commonwealth.

## EXEMPTIONS

### LIFE-SUSTAINING BUSINESS ACTIVITIES

Life-sustaining business activities are exempt from this policy. On March 19, Governor Wolf ordered the closure of the physical locations of businesses that are not critical to sustaining life in a pandemic. Businesses can determine whether they are considered a life-sustaining business, and are therefore allowed to continue in-person, physical operations, by first referring to the [Governor's Order](#) and the list of life-sustaining business which is [available here](#). This list was updated to conform with guidance on [Essential Critical Infrastructure](#) (version 1.1) issued by the Department of Homeland Security Cybersecurity and Infrastructure Security Agency advisory on March 23, 2020.

If the answer remains unclear, businesses may email the Department of Community and Economic Development (DCED) for further assistance at the following email account: [ra-dcedcs@pa.gov](mailto:ra-dcedcs@pa.gov). Inquiries will be answered as promptly as possible.

Businesses that were ordered closed but believed they could help mitigate this crisis by providing a life-sustaining service were able to apply for an exemption from the closure orders until April 3, 2020 at 5PM.

*All exemptions are subject to continuance of and compliance with the social distancing and other mitigation measures to protect employees and the public, including virtual and telework operations (e.g. work from home) as the primary option when available.*

### STATE AND LOCAL GOVERNMENTS

Governments should use best judgment in exercising their authorities and issuing implementation directives and guidance. All such decisions should appropriately balance public health and safety while ensuring the continued delivery of critical services and functions. Government employees and contractors should continue to operate under the direction of their supervisors.

### INDIVIDUALS EXPERIENCING HOMELESSNESS

Individuals experiencing homelessness are not subject to this policy but are strongly urged to find shelter and government agencies are urged to take steps needed to provide shelter for those individuals.

### DISPLACED STUDENTS

International students, foster youth, and any other students who would otherwise experience displacement or homelessness as a result of campus closures are exempt from this policy and may remain in campus housing.

Additionally, nothing in this policy shall be construed to affect the operations of:

- Health care or medical service providers.

- Access to life-sustaining services for low-income residents, including, but not limited to, food banks.
- Access to child care services for employees of life-sustaining businesses that remain open as follows: child care facilities operating under the Department of Human Services, Office of Child Development and Early Learning waiver process; group and family child care operating in a residence; and part-day school age programs operating under an exemption from the March 19, 2020 business closure Orders.
- The news media.
- Law enforcement.
- The federal government.
- Religious institutions. However, religious leaders are encouraged to find alternatives to in-person gatherings and to avoid endangering their congregants. Individuals should not gather in religious buildings or homes for services or celebrations until the stay at home order is lifted.

## **ENFORCEMENT PERIOD**

Enforcement of the statewide STAY AT HOME Orders began at 8:00 PM on Monday, April 1, 2020, and will continue through April 30, 2020.

Law enforcement officers should refer to Business Closure Order Enforcement Guidance available online [here](#).

## **REMINDER: SOCIAL DISTANCING REQUIREMENTS**

When people need to leave their places of residence in conjunction with allowable individual activities, allowable essential travel, or by virtue of exemption from this policy, the Pennsylvania Department of Health strongly encourages individuals to abide by the following social distancing requirements to greatest extent reasonably possible:

- Maintain at least six feet from other individuals.
- Wash hands with soap and water for at least 20 seconds as frequently as possible, or use hand sanitizer.
- Cover coughs or sneezes with a sleeve or elbow, not hands.
- Do not shake hands.
- Regularly clean high-contact surface areas.

## **ADDITIONAL INFORMATION**

For the most up-to-date, reliable information, please continue to refer to the Commonwealth of Pennsylvania's website for Responding to COVID-19 in Pennsylvania: <https://www.pa.gov/guides/responding-to-covid-19/>.

# **Exhibit F**



COMMONWEALTH OF PENNSYLVANIA

OFFICE OF THE GOVERNOR

## **ORDER OF**

### **THE GOVERNOR OF THE COMMONWEALTH OF PENNSYLVANIA**

#### **FOR INDIVIDUALS TO STAY AT HOME**

*WHEREAS, the World Health Organization and the Centers for Disease Control and Prevention (“CDC”) have declared a novel coronavirus (“COVID-19”) a “public health emergency of international concern,” and the U.S. Department of Health and Human Services (“HHS”) Secretary has declared that COVID-19 creates a public health emergency; and*

*WHEREAS, as of March 6, 2020, I proclaimed the existence of a disaster emergency throughout the Commonwealth pursuant to 35 Pa. C.S. § 7301(c); and*

*WHEREAS, I am charged with the responsibility to address dangers facing the Commonwealth of Pennsylvania that result from disasters. 35 Pa. C.S. § 7301(a); and*

*WHEREAS, in addition to general powers, during a disaster emergency I am authorized specifically to control ingress and egress to and from a disaster area and the movement of persons within it and the occupancy of premises therein. 35 Pa. C.S. § 7301(f); and*

*WHEREAS, in executing the extraordinary powers outlined above, I am further authorized during a disaster emergency to issue, amend and rescind executive orders, proclamations and regulations and those directives shall have the force and effect of law. 35 Pa. C.S. § 7301(b); and*

*WHEREAS, in addition to my authority, my Secretary of Health has the authority to determine and employ the most efficient and practical means for the prevention and suppression of disease. 71 P.S. § 532(a), 71 P.S. 1403(a); and*

*WHEREAS, these means include isolation, quarantine, and any other control measure needed. 35 P.S. § 521.5.*

*NOW THEREFORE, pursuant to the authority vested in me and my Administration by the laws of the Commonwealth of Pennsylvania, I do hereby ORDER and PROCLAIM as follows:*

#### *Section 1: Order to Stay at Home*

*All individuals residing in Allegheny County, Bucks County, Chester County, Delaware County, Monroe County, Montgomery County, and Philadelphia County are ordered to stay at home except as needed to access, support, or provide life sustaining business, emergency, or government services. For employees of life sustaining businesses that remain open, the following child care services may remain open: group and family child care providers in a residence; child care facilities operating under a waiver granted by the Department of Human Services Office of Child Development and Early Learning; and, part-day school age programs operating under an exemption from the March 19, 2020 business closure Orders.*

*A list of life sustaining businesses that remain open is attached to and incorporated into this Order. In addition, businesses that are permitted to remain open include those granted exemptions prior to or following the issuance of this Order.*

*Individuals leaving their home or place of residence to access, support, or provide life sustaining services for themselves, another person, or a pet must employ social distancing practices as defined by the Centers for Disease Control and Prevention. Individuals are permitted to engage in outdoor activities; however, gatherings of individuals outside of the home are generally prohibited except as may be required to access, support or provide life sustaining services as outlined above.*

*Enforcement of this Order will commence at 8:00 PM on Monday, March 23, 2020.*

*Section 2: Effective Date and Duration*

*This order is effective immediately and will remain in effect for a period of two weeks, specifically until April 6, 2020.*



*GIVEN under my hand and the Seal of the Governor, at the city of Harrisburg, on this twenty-third day of March two thousand twenty, the year of the commonwealth the two hundred and forty-fourth.*

*Tom Wolf*  
TOM WOLF  
Governor

# **Exhibit G**





COMMONWEALTH OF PENNSYLVANIA

OFFICE OF THE GOVERNOR

**ORDER OF**  
**THE GOVERNOR OF THE COMMONWEALTH OF PENNSYLVANIA**  
**FOR INDIVIDUALS TO STAY AT HOME**

*WHEREAS, the World Health Organization and the Centers for Disease Control and Prevention (“CDC”) have declared a novel coronavirus (“COVID-19”) a “public health emergency of international concern,” and the U.S. Department of Health and Human Services (“HHS”) Secretary has declared that COVID-19 creates a public health emergency; and*

*WHEREAS, as of March 6, 2020, I proclaimed the existence of a disaster emergency throughout the Commonwealth pursuant to 35 Pa. C.S. § 7301(c); and*

*WHEREAS, I am charged with the responsibility to address dangers facing the Commonwealth of Pennsylvania that result from disasters. 35 Pa. C.S. § 7301(a); and*

*WHEREAS, in addition to general powers, during a disaster emergency I am authorized specifically to control ingress and egress to and from a disaster area and the movement of persons within it and the occupancy of premises therein. 35 Pa. C.S. § 7301(f); and*

*WHEREAS, in executing the extraordinary powers outlined above, I am further authorized during a disaster emergency to issue, amend, and rescind executive orders, proclamations, and regulations and those directives shall have the force and effect of law. 35 Pa. C.S. § 7301(b); and*

*WHEREAS, in addition to my authority, my Secretary of Health has the authority to determine and employ the most efficient and practical means for the prevention and suppression of disease. 71 P.S. § 532(a), 71 P.S. 1403(a); and*

*WHEREAS, these means include isolation, quarantine, and any other control measure needed. 35 P.S. § 521.5; and*

*WHEREAS, I previously issued an Order limited to specified counties directing “Individuals to Stay at Home” on March 23, 2020, and amended March 24, March 25, March 27, March 28, March 30, and March 31, 2020; and*

*WHEREAS, as of April 1, 2020, the Commonwealth of Pennsylvania has 5,805 positive cases of COVID-19 in sixty counties and reports 74 deaths from the virus.*

*NOW THEREFORE, pursuant to the authority vested in me and my Administration by the laws of the Commonwealth of Pennsylvania, I do hereby ORDER and PROCLAIM as follows:*

*Section 1: Order to Stay at Home*

*All individuals residing in the Commonwealth are ordered to stay at home except as needed to access, support, or provide life-sustaining business, emergency, or government services. For employees of life-sustaining businesses that remain open, the following child care services may remain open: group and family child care providers in a residence; child care facilities operating under a waiver granted by the Department of Human Services Office of Child Development and Early Learning; and, part-day school age programs operating under an exemption from the March 19, 2020, business closure Orders.*

*A list of life-sustaining businesses that remain open is attached to and incorporated into this Order. In addition, businesses that are permitted to remain open include those granted exemptions prior to or following the issuance of this Order.*

*Individuals leaving their home or place of residence to access, support, or provide life-sustaining services for themselves, another person, or a pet must employ social distancing practices as defined by the Centers for Disease Control and Prevention. Individuals are permitted to engage in outdoor activities; however, gatherings of individuals outside of the home are generally prohibited except as may be required to access, support, or provide life-sustaining services as outlined above.*

*Enforcement of this Order will commence immediately for all counties covered under my prior Order directing “Individuals to Stay at Home” first issued March 23, 2020, as amended. Enforcement of this Order will commence at 8:00 PM Wednesday, April 1, 2020, for all other counties.*

*Section 2: Effective Date and Duration*

*This order is effective immediately and will remain in effect until April 30, 2020. This Order supersedes all previous Orders directing “Individuals to Stay at Home.”*



*GIVEN under my hand and the Seal of the Governor, at the city of Harrisburg, on this first day of April two thousand twenty, the year of the commonwealth the two hundred and forty-fourth.*

*Tom Wolf*  
**TOM WOLF**  
Governor

# **Exhibit H**



COMMONWEALTH OF PENNSYLVANIA

OFFICE OF THE GOVERNOR

***AMENDMENT TO THE ORDER OF  
THE GOVERNOR OF THE COMMONWEALTH OF PENNSYLVANIA  
FOR INDIVIDUALS TO STAY AT HOME***

*I hereby amend my Order directing "Individuals to Stay at Home" dated April 1, 2020.*

*The first sentence of Section 2 is amended to read as follows:*

*This Order is effective immediately and will remain in effect until May 8, 2020, at 12:01 a.m.*

*The Order remains unchanged in every other respect.*



*GIVEN under my hand and the Seal of the Governor, at the city of Harrisburg, on this twentieth day of April two thousand twenty, the year of the commonwealth the two hundred and forty-fourth.*

*Tom Wolf*  
**TOM WOLF**  
Governor

# **Exhibit I**

# COVID-19 Data for Pennsylvania\*

\* Map, tables, case counts and deaths last updated at 12:00 p.m. on 5/4/2020



Source: Pennsylvania National Electronic Disease Surveillance System (PA-NEDSS) as of 12:00 a.m. on 5/4/2020

## Case Counts, Deaths, and Negatives

Total Cases*	Deaths	Negative
50,092	2,458	195,498

\* Total case counts include confirmed and probable cases.

## Hospital Data

- [View hospital data](https://www.arcgis.com/apps/opsdashboard/index.html#/85054b06472e4208b02285b8557f24cf)  (https://www.arcgis.com/apps/opsdashboard/index.html#/85054b06472e4208b02285b8557f24cf)  
(desktop version)
- [View hospital data](https://www.arcgis.com/apps/opsdashboard/index.html#/00bd7d163117479c84da5405f25e2cdb)  (https://www.arcgis.com/apps/opsdashboard/index.html#/00bd7d163117479c84da5405f25e2cdb) (mobile version)

## Trajectory Animations

- [COVID-19 Trajectory Animations](https://www.arcgis.com/apps/opsdashboard/index.html#/00bd7d163117479c84da5405f25e2cdb)  
(/topics/disease/coronavirus/Pages/Data-Animations.aspx)

## Positive Cases by Age Range to Date

Age Range	Percent of Cases*
0-4	< 1%
5-12	< 1%
13-18	1%
19-24	6%
25-49	38%
50-64	27%

65+	27%
-----	-----

*\* Percentages may not total 100% due to rounding*

## Hospitalization Rates by Age Range to Date

Age Range	Percent of Cases
0-29	2%
30-49	5%
50-64	10%
65-79	19%
80+	19%

## County Case Counts to Date

County	Total Cases	Negatives	Deaths
Adams	148	1662	4
Allegheny	1365	17284	102
Armstrong	52	724	2
Beaver	458	2161	68
Bedford	24	241	1
Berks	2948	6091	118
Blair	25	1131	0
Bradford	35	716	2
Bucks	3356	9323	240
Butler	180	2461	6
Cambria	34	1402	1
Cameron	1	62	0

Carbon	185	1141	15
Centre	105	1051	1
Chester	1560	5883	118
Clarion	23	502	1
Clearfield	21	492	0
Clinton	33	281	0
Columbia	296	701	13
Crawford	19	711	0
Cumberlan d	375	1744	18
Dauphin	652	3997	28
Delaware	4198	9973	258
Elk	4	181	0
Erie	91	2133	2
Fayette	83	1957	4
Forest	7	30	0
Franklin	377	3186	8
Fulton	6	96	0
Greene	27	451	1
Huntingdon	57	330	0
Indiana	70	773	4
Jefferson	6	340	0
Juniata	86	173	1
Lackawann a	1017	2825	87
Lancaster	1991	8579	113
Lawrence	65	789	6
Lebanon	756	2849	10



Lehigh	2963	7726	83
Luzerne	2255	5528	101
Lycoming	86	1233	3
McKean	6	187	0
Mercer	66	801	1
Mifflin	39	740	0
Monroe	1173	2940	55
Montgomery	4645	18464	382
Montour	50	2967	0
Northampton	2240	6763	94
Northumberland	100	653	0
Perry	34	266	1
Philadelphia	13316	30855	424
Pike	408	1337	17
Potter	4	87	0
Schuylkill	398	2235	7
Snyder	33	228	1
Somerset	30	660	1
Sullivan	1	38	0
Susquehanna	86	327	9
Tioga	16	264	1
Union	38	592	0
Venango	7	265	0
Warren	1	186	0

Washington	120	2300	2
Wayne	109	576	5
Westmoreland	403	4979	26
Wyoming	27	192	2
York	702	7683	11

## **[View as a clickable county or zip code level map](https://experience.arcgis.com/experience/bc92e33cfd5d417795f7a7a1a5cb3b1d/)**

(<https://experience.arcgis.com/experience/bc92e33cfd5d417795f7a7a1a5cb3b1d/>)

## **Incidence by County**

*Incidence is calculated by dividing the current number of confirmed and probable COVID-19 cases reported to the Department by the 2018 county population data available from the Bureau of Health Statistics. The counties are divided into 6 relatively equally-sized groups based on their incidence rate (i.e. sestiles). Cases are determined using a national COVID-19 case definition. There currently is no way to estimate the true number of infected persons. Incidence rates are based on the number of known cases, not the number of true infected persons.*

## **Case Counts and Deaths by Sex to Date**

<b>Sex</b>	<b>Positive Cases</b>	<b>Percent of Cases*</b>	<b>Deaths</b>
Female	27,245	54%	1180
Male	22,231	44%	1267
Neither	3	0%	0
Not reported	613	1%	11

*\* Percentages may not total 100% due to rounding*

## Case Counts and Deaths by Race to Date\*

Race	Positive Cases	Percent of Cases	Deaths
African American/Black	5394	11%	242
Asian	577	1%	28
White	11,098	22%	915
Other	240	<1%	8
Not reported	32,783	65%	1265

\* 65% of race is not reported. Little data is available on ethnicity.

\*\* Percentages may not total 100% due to rounding

## Case Counts by Region to Date

Region	Positive	Negative	Inconclusive
Northcentral	762	8811	12
Northeast	10373	29355	97
Northwest	285	6679	11
Southcentral	3206	24098	43
Southeast	32001	91403	591
Southwest	2720	35152	25

## EpiCurve by Region

Case counts are displayed by the date that the cases were first reported to the PA-NEDSS surveillance system. Case counts by date of report can vary significantly from day to day for a variety of reasons. In addition to changes due to actual changes in disease incidence, trends are strongly influenced by testing patterns (who gets tested and why), testing availability, lab analysis backlogs, lab reporting delays, new labs joining our electronic laboratory reporting system, mass screenings, etc. Trends need to be sustained for at least 2-3 weeks before any conclusions can be made regarding the progress of the pandemic.

## COVID-19 Cases Associated with Nursing Homes and Personal Care Homes to Date

Facility County	Number of Facilities with Cases	Number of Cases Among Residents	Number of Cases Among Employees	Number of Deaths
ADAMS	1	19	4	4
ALLEGHENY	35	302	93	79
ARMSTRONG	1	4	4	0
BEAVER	3	302	23	61
BERKS	20	522	68	75
BUCKS	48	834	161	178
BUTLER	5	12	10	2
CAMBRIA	1	1	.	0
CARBON	2	47	5	12
CENTRE	3	4	3	0
CHESTER	31	471	52	105
CLARION	1	1	1	0
CLEARFIELD	2	2	.	0
COLUMBIA	2	82	26	17
CUMBERLAND	4	175	44	16

DAUPHIN	3	110	26	21
DELAWARE	43	978	132	195
ERIE	4	3	2	0
FAYETTE	1	3	.	1
FRANKLIN	5	41	5	2
INDIANA	3	13	1	4
LACKAWANNA	14	407	58	70
LANCASTER	27	434	109	90
LAWRENCE	2	0	2	0
LEBANON	5	54	7	5
LEHIGH	25	426	85	57
LUZERNE	16	301	42	67
LYCOMING	2	26	6	2
MERCER	1	1	.	0
MIFFLIN	2	1	1	0
MONROE	8	125	28	22
MONTGOMERY	80	1492	48	303
NORTHAMPTON	13	516	112	55
NORTHUMBERLAND	1	6	2	0
PHILADELPHIA	52	1388	6	164
PIKE	2	28	4	5
SCHUYLKILL	6	27	6	0
SUSQUEHANNA	3	44	12	9
UNION	1	0	1	0
WASHINGTON	3	6	2	1
WAYNE	1	0	1	0

WESTMORELAN D	8	129	30	23
YORK	4	8	2	1
PENNSYLVANIA	494	9345	1224	1646

# **Exhibit J**



# Coronavirus Disease 2019 (COVID-19)

## Cases in the U.S.

Last updated on May 3, 2020

TOTAL CASES  
**1,122,486**  
29,671 New Cases\*

TOTAL DEATHS  
**65,735**  
1,452 New Deaths\*

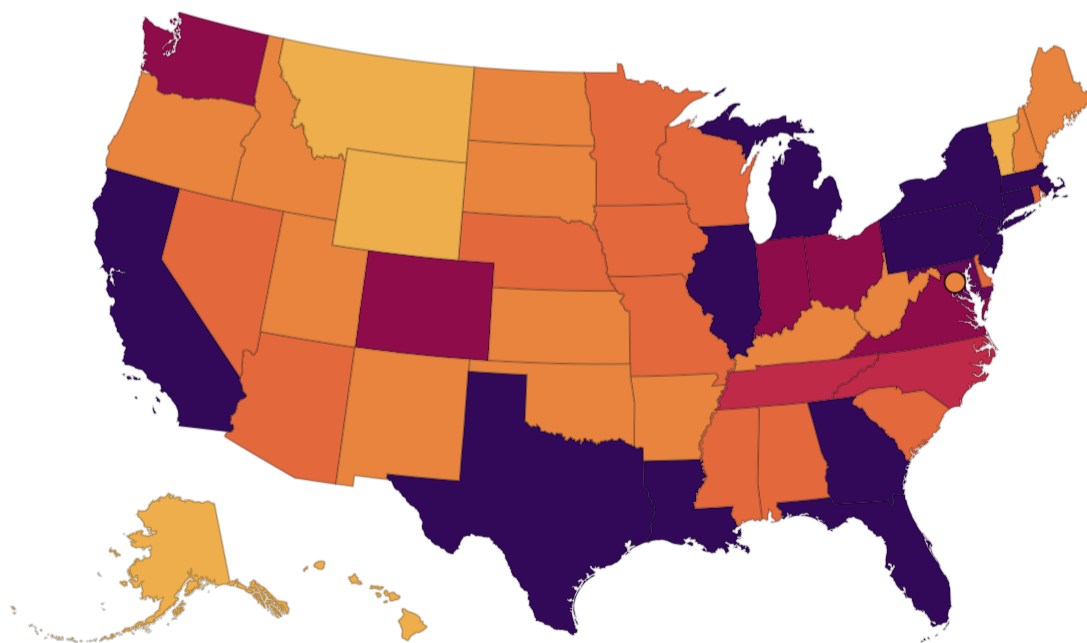


Want More Data?  
CDC COVID Data Tracker

### Cases & Deaths by State

This map shows COVID-19 cases and deaths reported by U.S. states, the District of Columbia, and other U.S.-affiliated jurisdictions. Each [jurisdiction's health department](#) reports how much the virus has spread in their community.

20 states report more than 10,000 cases of COVID-19.



#### Reported Cases

- 0 to 100
- 101 to 1,000
- 1,001 to 5,000
- 5,001 to 10,000
- 10,001 to 15,000
- 15,001 to 20,000
- 20,001 to 25,000
- 25,001 or more

AS GU MH FM MP PW PR VI



### Cases & Deaths by County

Select a state to view the number of cases and deaths by county. This data is courtesy of [USAFACTS.org](#)

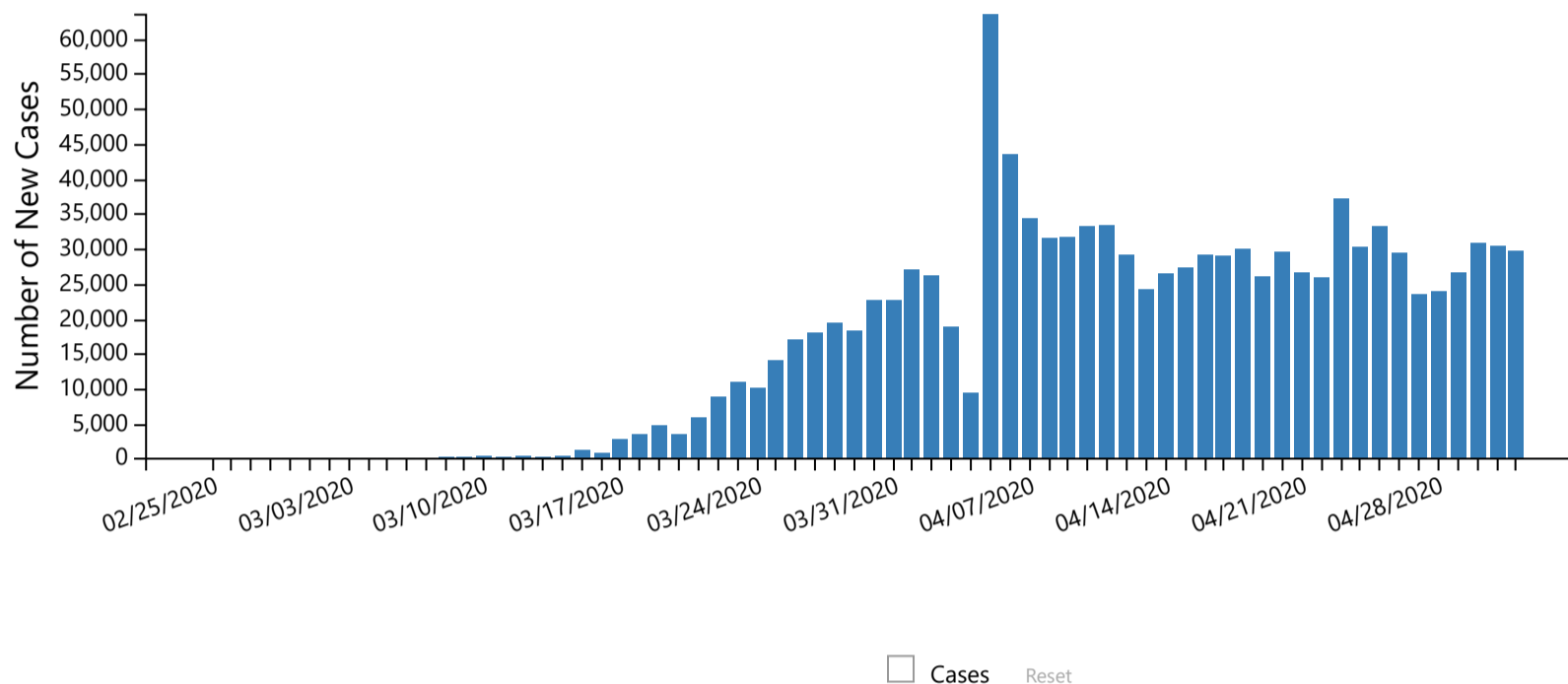


Select a State

View County Data

## New Cases by Day

The following chart shows the number of new cases of COVID-19 reported by day in the U.S. since the beginning of the outbreak.



Cases [Reset](#)

### View Data by Date

	02/25/2020	02/26/2020	02/27/2020	02/28/2020	02/29/2020	03/01/2020	03/02/2020	03/03/2020	03/04/2020	03
Cases	0	0	1	0	8	6	23	25	20	

Scroll for additional info

## Demographic characteristics of COVID-19 cases in the U.S.

Age group (years)	No. of cases (% of total)						Total
	< 18	18-44	45-64	65-74	75+	Unknown	
<b>Totals</b>	18,722	300,445	293,466	91,403	104,879	54,439	863,354
<b>Race missing/unspecified</b>	12,431 (66.4%)	186,923 (62.2%)	170,758 (58.2%)	44,159 (48.3%)	42,718 (40.7%)	18,065 (33.2%)	475,054 (55.0%)
<b>Race specified</b>	6,291 (33.6%)	113,522 (37.8%)	122,708 (41.8%)	47,244 (51.7%)	62,161 (59.3%)	36,374 (66.8%)	388,300 (45.0%)
<b>Among those with race specified</b>							
<b>American Indian or Alaska Native</b>	140 (2.2%)	1,200 (1.1%)	1,003 (0.8%)	269 (0.6%)	184 (0.3%)	140 (0.4%)	2,936 (0.8%)
<b>Asian</b>	291 (4.6%)	5,923 (5.2%)	6,437 (5.2%)	2,143 (4.5%)	2,284 (3.7%)	1,737 (4.8%)	18,815 (4.8%)
<b>Black or African American</b>	1,458 (23.2%)	31,169 (27.5%)	37,939 (30.9%)	14,974 (31.7%)	13,343 (21.5%)	11,730 (32.2%)	110,613 (28.5%)

Age group (years)	No. of cases (% of total)						
	< 18	18-44	45-64	65-74	75+	Unknown	Total
Native Hawaiian or other Pacific Islander	40 (0.6%)	465 (0.4%)	349 (0.3%)	108 (0.2%)	69 (0.1%)	78 (0.2%)	1,109 (0.3%)
White	3,124 (49.7%)	56,399 (49.7%)	60,415 (49.2%)	25,112 (53.2%)	41,592 (66.9%)	15,943 (43.8%)	202,585 (52.2%)
Multiple/other	1,238 (19.7%)	18,366 (16.2%)	16,565 (13.5%)	4,638 (9.8%)	4,689 (7.5%)	6,746 (18.5%)	52,242 (13.5%)
Ethnicity missing/unspecified	12,260 (65.5%)	194,525 (64.7%)	182,413 (62.2%)	50,709 (55.5%)	53,879 (51.4%)	21,528 (39.5%)	515,314 (59.7%)
Ethnicity specified	6,462 (34.5%)	105,920 (35.3%)	111,053 (37.8%)	40,694 (44.5%)	51,000 (48.6%)	32,911 (60.5%)	348,040 (40.3%)
<b>Among those with ethnicity specified</b>							
Hispanic/Latino	2,611 (40.4%)	33,719 (31.8%)	28,157 (25.4%)	7,206 (17.7%)	6,464 (12.7%)	10,394 (31.6%)	88,551 (25.4%)
Non-Hispanic/Latino	3,851 (59.6%)	72,201 (68.2%)	82,896 (74.6%)	33,488 (82.3%)	44,536 (87.3%)	22,517 (68.4%)	259,489 (74.6%)

## Previous U.S. COVID-19 Case Data

+

CDC has moved the following information to the [Previous U.S. COVID-19 Case Data](#)

- When did people in the U.S. get sick from COVID-19,
- How did people in the U.S. get COVID-19, and
- Cases of COVID-19 from Wuhan, China and the Diamond Princess cruise.

## About the Data

+

### Updated Daily



This page is updated daily based on data confirmed at 4:00pm ET the day before.

Numbers reported on Saturdays and Sundays are preliminary and not yet confirmed by state and territorial health departments. These numbers may be modified when numbers are updated on Mondays.

### Number of Jurisdictions

There are currently 55 U.S.-affiliated jurisdictions reporting cases of COVID-19. This includes 50 states, District of Columbia, Guam, the Northern Mariana Islands, Puerto Rico, and the U.S Virgin Islands.

### Confirmed & Probable Cases

As of April 14, 2020, CDC case counts and death counts include both confirmed and probable cases and deaths. This change was made to reflect an [interim COVID-19 position statement](#)   issued by the Council for State and Territorial Epidemiologists on April 5, 2020. The position statement included a case definition and made COVID-19 a nationally notifiable disease.

A confirmed case or death is defined by meeting confirmatory laboratory evidence for COVID-19.

A probable case or death is defined by one of the following:

- Meeting clinical criteria AND epidemiologic evidence with no confirmatory laboratory testing performed for COVID-19
- Meeting presumptive laboratory evidence AND either clinical criteria OR epidemiologic evidence
- Meeting vital records criteria with no confirmatory laboratory testing performed for COVID19

## Community Transmission

State health departments report the level of community transmission (spread) of COVID-19 as one of the following:

- “Yes, widespread” – defined as widespread community transmission across several geographical areas
- “Yes, defined area(s)” – defined as distinct clusters of cases in a, or a few, defined geographical area(s)
- “Undetermined” – defined as 1 or more cases but not classified as “Yes” to community transmission
- “N/A” – defined as no cases

## Case Notifications

Case notifications were received by CDC from U.S. public health jurisdictions and the [National Notifiable Diseases Surveillance System](#) (NNDSS).

## Accuracy of Data

CDC does not know the exact number of COVID-19 illnesses, hospitalizations, and deaths for a variety of reasons. COVID-19 can cause mild illness, symptoms might not appear immediately, there are delays in reporting and testing, not everyone who is infected gets tested or seeks medical care, and there may be differences in how states and territories confirm numbers in their jurisdictions.

State and local public health departments are now testing and publicly reporting their cases. In the event of a discrepancy between CDC cases and cases reported by state and local public health officials, data reported by states should be considered the most up to date.

## More Information

[COVIDView – A Weekly Surveillance Summary of U.S. COVID-19 Activity](#)

[Previous U.S. COVID-19 Case Data](#)

[FAQ: COVID-19 Data and Surveillance](#)

[Testing in the U.S.](#)

[World Map](#)

[Health Departments](#)



# **Exhibit K**



# Coronavirus Disease 2019 (COVID-19)

## Recommendations for Election Polling Locations

Interim guidance to prevent spread of coronavirus disease 2019 (COVID-19)

Updated March 27, 2020

### Summary of changes:

- Encourage moving election polling locations away from long term care facilities and facilities housing older persons to minimize COVID-19 exposure among older individuals and those with chronic medical conditions.
- Updated EPA COVID Disinfectant link.

## Background

There is much to learn about the novel coronavirus (SARS-CoV-2) that causes [coronavirus disease 2019 \(COVID-19\)](#). Based on what is currently known about SARS-CoV-2 and about similar coronaviruses, spread from person-to-person happens most frequently among close contacts (within about 6 feet). This type of transmission occurs via respiratory droplets. Transmission of SARS-CoV-2 to persons from surfaces contaminated with the virus has not been documented. Transmission of coronavirus in general occurs much more commonly through respiratory droplets than through contact with contaminated surfaces. Current evidence suggests that SARS-CoV-2 may remain viable for hours to days on surfaces made from a variety of materials. Cleaning of visibly dirty surfaces followed by disinfection is a best practice measure for prevention of COVID-19 and other viral respiratory illnesses in election polling locations.

## Purpose

This guidance provides recommendations on the routine cleaning and disinfection of polling location areas and associated voting equipment (e.g., pens, voting machines, computers). It suggests actions that polling station workers can take to reduce the risk of exposure to COVID-19 by limiting the survival of the virus in the environment. This guidance will be updated if additional information becomes available.

### Definitions:

- *Community settings* (e.g. polling locations, households, schools, daycares, businesses) encompass most non-healthcare settings and are visited by the general public.
- *Cleaning* refers to the removal of dirt and impurities including germs from surfaces. Cleaning alone does not kill germs. But by removing them, it decreases the number of germs and therefore any risk of spreading infection.
- *Disinfecting* kills germs on surfaces. Disinfecting works by using chemicals to kill germs on surfaces. This process does not necessarily clean dirty surfaces or remove germs. But killing germs remaining on a surface after cleaning further reduce any risk of spreading infection.


### Actions for elections officials in advance of election day

- **Encourage voters to use voting methods that minimize direct contact with other people and reduce crowd size at polling stations.**
  - Encourage mail-in methods of voting if allowed in the jurisdiction.
  - Encourage early voting, where voter crowds may be smaller throughout the day. This minimizes the number of individuals a voter may come in contact with.
  - Encourage drive-up voting for eligible voters if allowed in the jurisdiction.
  - Encourage voters planning to vote in-person on election day to arrive at off-peak times. For example, if voter crowds are lighter mid-morning, advertise that in advance to the community.

crowds are lighter mid-morning, advertise that in advance to the community.

- Encourage relocating polling places from nursing homes, long-term care facilities, and senior living residences, to minimize COVID-19 exposure among older individuals and those with chronic medical conditions.
- Consider additional social distancing and other measures to protect these individuals during voting.

## Preventive actions polling workers can take

- **Stay at home if you have fever, respiratory symptoms, or believe you are sick**
- **Practice hand hygiene frequently:** wash hands often with soap and water for at least 20 seconds. If soap and water are not readily available, use an alcohol-based hand sanitizer that contains at least 60% alcohol.
- **Practice routine cleaning of frequently touched surfaces:** including tables, doorknobs, light switches, handles, desks, toilets, faucets, sinks, etc.
- **Disinfect surfaces that may be contaminated with germs after cleaning:** A list of products [with EPA-approved emerging viral pathogens claims](#)  is available. Products with EPA-approved emerging viral pathogens claims are expected to be effective against the virus that causes COVID-19 based on data for harder to kill viruses. Follow the manufacturer's instructions for all cleaning and disinfection products (e.g., concentration, application method and contact time, use of personal protective equipment).
- **Clean and disinfect voting-associated equipment (e.g., voting machines, laptops, tablets, keyboards) routinely.** Follow the manufacturer's instructions for all cleaning and disinfection products.
  - Consult with the voting machine manufacturer for guidance on appropriate disinfection products for voting machines and associated electronics.
  - Consider use of wipeable covers for electronics.
  - If no manufacturer guidance is available, consider the use of alcohol-based wipes or spray containing at least 70% alcohol to clean voting machine buttons and touch screens. Dry surfaces thoroughly to avoid pooling of liquids.

## Preventive action polling stations workers can take for themselves and the general public

Based on available data, the most important measures to prevent transmission of viruses in crowded public areas include careful and consistent cleaning of one's hands. Therefore:

- **Ensure bathrooms at the polling station are supplied adequately with soap, water, and drying materials so visitors and staff can wash their hands..**
- **Provide an alcohol-based hand sanitizer with at least 60% alcohol** for use before or after using the voting machine or the final step in the voting process. Consider placing the alcohol-based hand sanitizer in visible, frequently used locations such as registration desks and exits.
- **Incorporate social distancing strategies, as feasible.** Social distancing strategies increase the space between individuals and decrease the frequency of contact among individuals to reduce the risk of spreading a disease. Keeping individuals at least 6 feet apart is ideal based on what is known about COVID-19. If this is not feasible, efforts should be made to keep individuals as far apart as is practical. Feasibility of strategies will depend on the space available in the polling station and the number of voters who arrive at one time. Polling station workers can:
  - Increase distance between voting booths.
  - Limit nonessential visitors. For example, poll workers should be encouraged not to bring children, grandchildren, etc. with them as they work the polls.
  - Remind voters upon arrival to try to leave space between themselves and others. Encourage voters to stay 6 feet apart if feasible. Polling places may provide signs to help voters and workers remember this.
  - Discourage voters and workers from greeting others with physical contact (e.g., handshakes). Include this reminder on signs about social distancing.

## Recommendations for processing mail-in ballots

- Workers handling mail in ballots should practice hand hygiene frequently

- No additional precautions are recommended for storage of ballots

## References

- [Community Mitigation Guidance for COVID-19 Response in the United States: Nonpharmaceutical Interventions for Community Preparedness and Outbreak Response](#)
- [Handwashing: Clean Hands Save Lives](#)
- [Protect Yourself & Your Family](#)

Page last reviewed: March 10, 2020



# **Exhibit L**

**COVID-19, the Pennsylvania Primary Election and the focus on Philadelphia**  
**Remarks by Commissioner Deeley, Chairwoman, Philadelphia Board of Elections**

Philadelphia is doing all that we can to prepare for a June 2<sup>nd</sup> Election Day, while being faced with a multitude of difficult and challenging realities. A lot of the time we are faced with decisions where there is no good option, and the best option is often times just the least bad.

Previously, I joined with elected officials from other southeastern counties and asked for Primary Day to be delayed to June 23<sup>rd</sup>, which certainly would have allowed us the most time to prepare. Although the date of June 23<sup>rd</sup> was not what was settled on, let me take this opportunity to thank you for the delay to June 2<sup>nd</sup> date. The election would not have been able to go on April 28<sup>th</sup> and the additional time has given us the ability to put together a comprehensive plan to hold an in-person election and to communicate to voters their ability to vote safely from their homes.

In recent weeks, my fellow Commissioners and I have been working in tandem with the Pennsylvania Department of State, Governor Tom Wolf, and following public health procedures to the best of our ability. COVID-19 caused the cancellation of all our Election Board training classes, an unprecedented move that was done out of the safety of our Election Board workers, our training host sites, and our staff. We are receiving calls and emails from Election Board workers and polling places saying that they are not available for the June 2<sup>nd</sup> Primary. The passage of ACT 12 allows for the consolidation of polling sites. We are currently working on our Election Day plan with these consolidated polling places. This election, a greater percentage of Philadelphia voters will cast their votes through the mail than ever before. These ballots will be counted after Election Day, it is likely that it will be a few days before the close races are able to be called. Even without a pandemic, we do not have the available staff to begin counting the absentee and mail-in ballots on Election Day.

Recently, a huge effort to highlight the option of mail-in ballots has been undertaken. The Department of State mailed every Democrat and Republican voter a postcard with the URL to the online application and they are beginning a media and social media campaign. In Philadelphia, the Commissioners are on the radio asking voters to apply. All the department's social media accounts are urging Philadelphia voters to apply for a mail-in ballot on a daily basis. We are looking into email and texting options in order to drive voters to the online form and are also exploring providing information and paper applications with the city's food distribution program. I recently passed a motion that the Board of Elections will prepay the return postage of the ballots so that voters do not have to leave their homes to buy a stamp. We have seen a significant uptick in applications, more so than we ever would have imagined. Staff of the Philadelphia Board of Elections are being reassigned and a greater number of staff are being brought back to work to process the increased number of absentee and mail-in ballot applications. As of today, Philadelphia has received over 70,000 applications. For comparison purposes, the Board received 16,101 applications for the 2012 General, 15,887 for the 2016 General, and 5,742 for the 2016 Primary.

While the large number of applications are important, they are misleading. The poor and working-class neighborhoods of the city are not keeping pace with the more affluent parts. More steps must be done to advocate voters to vote by mail. Governor Tom Wolf holds press

conferences daily, and one of his pieces of information to Pennsylvanians' should be to apply for a mail-in ballot from their local county election office. Additionally, thousands of Pennsylvania citizens are utilizing online services to apply for unemployment claims, as well as other services such as ordering alcohol from the Pennsylvania Liquor Control Board. Information should be displayed on these websites so these thousands of citizens are aware that they can – and should – vote by mail for this election. Applications and information should be put in the bags of wine and spirits that citizens are buying through curbside pickup.

Just last week, I called on the Governor and the State Legislature to act and extend the deadline to return voted ballots to the Board of Elections. Currently, voted ballots must be received by the Board of Election by 8pm on Election Day, June 2<sup>nd</sup>. I asked that, due to the unprecedented circumstances of the COVID-19 Pandemic and the resulting increase in the number of applications from voters requesting to vote from home, the deadline for County Boards of Elections to receive voted ballots be extended to June 9<sup>th</sup> and that all voted ballots received by that date and postmarked by June 2<sup>nd</sup> be accepted. June 9<sup>th</sup> is the current deadline for military and overseas absentee ballots and the postmark requirement is the same as what the courts granted to the voters of Wisconsin.

The state should act well ahead of the lawsuits that were seen in Wisconsin and Ohio, which confused voters with ever-changing information and are already starting to be filed here. The Courts have been clear, they would prefer Governors and Legislatures act to prevent these matters from coming before them, this is a bipartisan issue. Both the Democratic and Republican parties have been encouraging their voters to apply for the new, no-excuse mail-in ballots. Our staff and elections' staffs all around the state are working hard every day to process the mountain of applications we are receiving. But, the rules were not designed to handle ten times the number of applications that we typically see in a presidential general election. I'm calling on you to do the responsible thing and update the rules for this Primary to reflect the new reality. We do not want to be Wisconsin and we do not want the courts to have to step in.

Finally, I would like to address the financial crisis that the Philadelphia City Commissioners' Office is facing. The implementation of, the Governor's voting machine replacement mandate, Act 77, and now Act 12, requires funding. This funding to implement these monumental changes and meet lawmakers and voters' expectations - even prior to this pandemic – was in desperate need. For example, our new voting system has a voter verifiable paper ballot, we must now spend about \$95,000 on paper ballots per citywide election. This comes out to \$190,000 a year in new expenses on just the ballots. We just received notice that we will be receiving 878,000 in a federal Election Security grant that we could use towards Act 77 expenses. That amount does not even cover one year's base salaries of all the new clerks we have to hire to enter the voter registration forms in time to make the supplemental poll books. To this day, the Philadelphia City Commissioners have yet to receive any state grants, from the Commonwealth, to implement Act 77 or to communicate the changes to the voters, despite repeated promises. Before the COVID-19 crisis, the City of Philadelphia stepped in, seeing that the changes brought upon by Act 77 needed to be adequately addressed and increased our budget by \$10 million. Since the financial impacts of COVID-19, the administration has since rescinded that funding. Our ability to run an election under the new reality of Act 77 is in jeopardy.

To recap, we are faced with enforcing some of the greatest changes to voting in the Commonwealth in decades, yet the Commonwealth has given ZERO funding to do so, right in the middle of a pandemic.

In closing, I want to thank the staff of the Philadelphia City Commissioners Office, who have been nothing but dedicated and committed to the cause. I would also like to thank election staff workers throughout the Commonwealth who have been dealing with a crisis while performing their duties, often in an ever-changing environment. This is all being done to ensure Pennsylvanian's have their right to a free, fair election and can have their voices heard on June 2<sup>nd</sup>.

Thank you for this opportunity to provide this testimony.

# **Exhibit M**



# WISCONSIN ELECTIONS COMMISSION

Administering Wisconsin's Election Laws

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## Absentee Ballot Report - April 7, 2020 Spring Election and Presidential Preference Primary

**Date:** Tue, 03/31/2020 - 07:30

### Absentee Ballot Counts by County - 2020 Spring Election and Presidential Preference Vote

County Name	Absentee Application Count	Absentee Ballots Sent Count	Absentee Ballots Returned Count
ADAMS COUNTY	2269	2101	836
ASHLAND COUNTY	1820	1726	655
BARRON COUNTY	4732	4477	1679
BAYFIELD COUNTY	2787	2561	972
BROWN COUNTY	39108	37472	10579
BUFFALO COUNTY	1387	1311	512
BURNETT COUNTY	1305	1197	291
CALUMET COUNTY	8093	7783	1292
CHIPPEWA COUNTY	8598	8364	3573
CLARK COUNTY	1706	1489	515
COLUMBIA COUNTY	9942	9692	4308
CRAWFORD COUNTY	1687	1522	607
DANE COUNTY	148219	145954	48394
DODGE COUNTY	12560	12013	5292
DOOR COUNTY	5680	5069	1815
DOUGLAS COUNTY	5172	4825	1602
DUNN COUNTY	5211	5101	1624
EAU CLAIRE COUNTY	17215	16988	6744
FLORENCE COUNTY	540	471	203
FOND DU LAC COUNTY	14120	13577	5475
FOREST COUNTY	1000	961	356
GRANT COUNTY	5466	5198	1633
GREEN COUNTY	5269	4086	1917
GREEN LAKE COUNTY	2318	2257	1111
IOWA COUNTY	4203	4005	1361
IRON COUNTY	1403	1387	481

JACKSON COUNTY	1511	1436	378
JEFFERSON COUNTY	13173	12642	4934
JUNEAU COUNTY	1906	1741	375
KENOSHA COUNTY	22442	21948	7162
KEWAUNEE COUNTY	2462	2332	860
LA CROSSE COUNTY	19582	19474	7901
LAFAYETTE COUNTY	1801	1737	677
LANGLADE COUNTY	1588	1521	649
LINCOLN COUNTY	3117	2950	985
MANITOWOC COUNTY	11579	11341	5125
MARATHON COUNTY	17188	16555	6662
MARINETTE COUNTY	5378	5044	2177
MARQUETTE COUNTY	1402	1313	497
MENOMINEE COUNTY	92	68	51
MILWAUKEE COUNTY	155298	152091	40505
MONROE COUNTY	3805	3359	1169
OCONTO COUNTY	4110	3842	1325
ONEIDA COUNTY	5561	5367	1270
OUTAGAMIE COUNTY	30665	29654	8870
OZAUKEE COUNTY	22677	22407	10270
PEPIN COUNTY	771	712	100
PIERCE COUNTY	4047	3849	993
POLK COUNTY	3768	3124	845
PORTAGE COUNTY	10343	9991	4148
PRICE COUNTY	1588	1474	286
RACINE COUNTY	32457	30951	13060
RICHLAND COUNTY	1711	1502	475
ROCK COUNTY	22960	22255	6826
RUSK COUNTY	1131	1056	237
ST. CROIX COUNTY	10475	10180	2593
SAUK COUNTY	11280	10984	4636
SAWYER COUNTY	1936	1764	461
SHAWANO COUNTY	4292	4166	1774
SHEBOYGAN COUNTY	19656	18744	8016
TAYLOR COUNTY	1676	1598	663
TREMPEALEAU COUNTY	2186	1887	664
VERNON COUNTY	2328	2000	475
VILAS COUNTY	3727	3590	1632
WALWORTH COUNTY	16610	16282	7085
WASHBURN COUNTY	1747	1672	499
WASHINGTON COUNTY	30933	30345	14600
WAUKESHA COUNTY	99253	96898	44708
WAUPACA COUNTY	6493	6241	2167
WAUSHARA COUNTY	2638	2381	894
WINNEBAGO COUNTY	30326	29742	9468
WOOD COUNTY	10753	10553	4589

Total	972232	942350	337563
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Wisconsin Elections Commission | 212 East Washington Avenue, Third Floor P.O. Box 7984 | Madison,  
Wisconsin 53707-7984

*tele* (608) 266-8005 | *fax* (608) 267-0500 | *tty* 1-800-947-3529 | *e-mail* [elections@wi.gov](mailto:elections@wi.gov)

Toll-Free Voter Help Line: 1-866-VOTE-WIS



# **Exhibit N**



# WISCONSIN ELECTIONS COMMISSION

Administering Wisconsin's Election Laws

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## Absentee Ballot Report - April 7, 2020 Spring Election and Presidential Preference Primary

**Date:** Thu, 04/02/2020 - 07:30

### Absentee Ballot Counts by County - 2020 Spring Election and Presidential Preference Vote

County Name	Absentee Application Count	Absentee Ballots Sent Count	Absentee Ballots Returned Count
ADAMS COUNTY	2637	2423	1160
ASHLAND COUNTY	2102	2021	860
BARRON COUNTY	5605	5385	2228
BAYFIELD COUNTY	3251	3054	1463
BROWN COUNTY	44737	43292	15454
BUFFALO COUNTY	1700	1623	746
BURNETT COUNTY	1590	1522	504
CALUMET COUNTY	9481	9163	2510
CHIPPEWA COUNTY	10005	9872	4670
CLARK COUNTY	1948	1721	665
COLUMBIA COUNTY	11187	10819	5533
CRAWFORD COUNTY	1944	1773	803
DANE COUNTY	162819	162200	65078
DODGE COUNTY	14769	14482	7035
DOOR COUNTY	6517	6177	2965
DOUGLAS COUNTY	5711	5481	2133
DUNN COUNTY	6010	5973	2110
EAU CLAIRE COUNTY	19751	19659	9463
FLORENCE COUNTY	642	562	296
FOND DU LAC COUNTY	16556	16198	7443
FOREST COUNTY	1325	1304	594
GRANT COUNTY	6459	6323	2729
GREEN COUNTY	6132	4791	2769
GREEN LAKE COUNTY	2734	2671	1500
IOWA COUNTY	4912	4803	2170
IRON COUNTY	1643	1625	707

JACKSON COUNTY	1971	1937	629
JEFFERSON COUNTY	15901	15380	7027
JUNEAU COUNTY	2250	2110	569
KENOSHA COUNTY	26501	26305	9606
KEWAUNEE COUNTY	3054	2954	1246
LA CROSSE COUNTY	21946	21914	10589
LAFAYETTE COUNTY	2294	2266	1058
LANGLADE COUNTY	2203	2133	952
LINCOLN COUNTY	3564	3527	1318
MANITOWOC COUNTY	13399	13232	6952
MARATHON COUNTY	20958	20466	8829
MARINETTE COUNTY	6686	6310	3054
MARQUETTE COUNTY	1774	1704	772
MENOMINEE COUNTY	107	74	57
MILWAUKEE COUNTY	178090	175784	61051
MONROE COUNTY	4191	3848	1824
OCONTO COUNTY	5071	4767	1985
ONEIDA COUNTY	6852	6720	2015
OUTAGAMIE COUNTY	35140	34196	13158
OZAUKEE COUNTY	25922	25586	13901
PEPIN COUNTY	850	786	159
PIERCE COUNTY	5051	4948	1756
POLK COUNTY	4629	3882	1400
PORTAGE COUNTY	12250	11942	5718
PRICE COUNTY	1839	1717	496
RACINE COUNTY	38672	38047	18003
RICHLAND COUNTY	2183	2060	733
ROCK COUNTY	25948	25574	11393
RUSK COUNTY	1467	1402	463
ST. CROIX COUNTY	12385	12188	3756
SAUK COUNTY	12691	12448	6144
SAWYER COUNTY	2416	2313	866
SHAWANO COUNTY	5119	4966	2572
SHEBOYGAN COUNTY	22962	22505	11051
TAYLOR COUNTY	2065	2005	986
TREMPEALEAU COUNTY	2607	2326	977
VERNON COUNTY	2586	2253	617
VILAS COUNTY	4634	4538	2203
WALWORTH COUNTY	19181	18983	9591
WASHBURN COUNTY	2203	2154	769
WASHINGTON COUNTY	35544	35180	18823
WAUKESHA COUNTY	113833	112094	59215
WAUPACA COUNTY	7868	7753	3309
WAUSHARA COUNTY	3141	2953	1364
WINNEBAGO COUNTY	34725	34279	14529
WOOD COUNTY	12549	12423	6344

Total	1119439	1097849	473417
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# **Exhibit Q**



# WISCONSIN ELECTIONS COMMISSION

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## Absentee Ballot Report - April 7, 2020 Spring Election and Presidential Preference Primary

**Date:** Sat, 04/04/2020 - 07:30

### Absentee Ballot Counts by County - 2020 Spring Election and Presidential Preference Vote

County Name	Absentee Application Count	Absentee Ballots Sent Count	Absentee Ballots Returned Count
ADAMS COUNTY	3138	2926	1531
ASHLAND COUNTY	2393	2321	1250
BARRON COUNTY	6397	6195	3234
BAYFIELD COUNTY	3696	3510	1995
BROWN COUNTY	50577	49424	21733
BUFFALO COUNTY	1976	1909	1038
BURNETT COUNTY	1935	1864	858
CALUMET COUNTY	10873	10685	3917
CHIPPEWA COUNTY	11503	11411	6441
CLARK COUNTY	2352	2122	888
COLUMBIA COUNTY	12544	12296	7589
CRAWFORD COUNTY	2192	2009	1107
DANE COUNTY	177139	176619	90348
DODGE COUNTY	16488	16249	9564
DOOR COUNTY	7290	6982	3710
DOUGLAS COUNTY	6396	6287	3586
DUNN COUNTY	6789	6752	3456
EAU CLAIRE COUNTY	22558	22492	13175
FLORENCE COUNTY	764	662	417
FOND DU LAC COUNTY	18692	18404	10246
FOREST COUNTY	1475	1448	793
GRANT COUNTY	7511	7409	3958
GREEN COUNTY	6850	5370	3745
GREEN LAKE COUNTY	3084	3025	2023
IOWA COUNTY	5471	5334	3192
IRON COUNTY	1847	1840	1005

JACKSON COUNTY	2281	2250	880
JEFFERSON COUNTY	17996	17715	9593
JUNEAU COUNTY	2430	2270	778
KENOSHA COUNTY	29851	29352	14283
KEWAUNEE COUNTY	3717	3645	1892
LA CROSSE COUNTY	24681	24634	14349
LAFAYETTE COUNTY	2643	2620	1628
LANGLADE COUNTY	2630	2559	1281
LINCOLN COUNTY	3926	3843	1765
MANITOWOC COUNTY	14975	14842	8866
MARATHON COUNTY	23920	23460	12322
MARINETTE COUNTY	7692	7511	4404
MARQUETTE COUNTY	2120	2047	1107
MENOMINEE COUNTY	112	74	57
MILWAUKEE COUNTY	199255	198748	84197
MONROE COUNTY	4705	4336	2280
OCONTO COUNTY	5842	5619	2829
ONEIDA COUNTY	7712	7633	3291
OUTAGAMIE COUNTY	40033	39550	18157
OZAUKEE COUNTY	28896	28612	17830
PEPIN COUNTY	924	852	224
PIERCE COUNTY	5920	5844	2436
POLK COUNTY	5384	4563	2239
PORTAGE COUNTY	14295	14000	7913
PRICE COUNTY	2240	2117	781
RACINE COUNTY	42846	42356	24063
RICHLAND COUNTY	2514	2418	1108
ROCK COUNTY	28853	28353	16437
RUSK COUNTY	1644	1572	687
ST. CROIX COUNTY	14426	14190	5754
SAUK COUNTY	14155	13884	8318
SAWYER COUNTY	2896	2820	1245
SHAWANO COUNTY	5918	5771	3507
SHEBOYGAN COUNTY	25520	25480	14537
TAYLOR COUNTY	2357	2315	1358
TREMPEALEAU COUNTY	3249	2822	1682
VERNON COUNTY	3289	2984	1065
VILAS COUNTY	5270	5228	3155
WALWORTH COUNTY	21674	21567	12833
WASHBURN COUNTY	2479	2422	1074
WASHINGTON COUNTY	39504	39252	25711
WAUKESHA COUNTY	127542	127019	78345
WAUPACA COUNTY	8904	8815	4751
WAUSHARA COUNTY	3428	3235	1804
WINNEBAGO COUNTY	38599	38531	20918
WOOD COUNTY	14280	14202	9332

Total	1255457	1239477	653865
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# **Exhibit P**



# WISCONSIN ELECTIONS COMMISSION

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## Absentee Ballot Report - April 7, 2020 Spring Election and Presidential Preference Primary

**Date:** Wed, 04/08/2020 - 07:30

### Absentee Ballot Counts by County - 2020 Spring Election and Presidential Preference Vote

County Name	Absentee Application Count	Absentee Ballots Sent Count	Absentee Ballots Returned Count
ADAMS COUNTY	3305	3240	2457
ASHLAND COUNTY	2489	2410	1940
BARRON COUNTY	6694	6603	5152
BAYFIELD COUNTY	3841	3670	3161
BROWN COUNTY	53443	52318	41695
BUFFALO COUNTY	2201	2139	1480
BURNETT COUNTY	2083	2037	1450
CALUMET COUNTY	11278	11232	7497
CHIPPEWA COUNTY	12046	11946	8903
CLARK COUNTY	2788	2601	1432
COLUMBIA COUNTY	12857	12779	10881
CRAWFORD COUNTY	2333	2162	1522
DANE COUNTY	178859	178498	142265
DODGE COUNTY	16803	16757	14388
DOOR COUNTY	7728	7474	4293
DOUGLAS COUNTY	6885	6841	5184
DUNN COUNTY	6973	6944	4951
EAU CLAIRE COUNTY	22781	22683	17228
FLORENCE COUNTY	847	700	581
FOND DU LAC COUNTY	19405	19247	14844
FOREST COUNTY	1527	1503	1231
GRANT COUNTY	7899	7843	5856
GREEN COUNTY	7306	6345	4909
GREEN LAKE COUNTY	3116	3063	2625
IOWA COUNTY	5639	5554	4703
IRON COUNTY	1884	1878	1651

JACKSON COUNTY	2534	2525	1276
JEFFERSON COUNTY	18410	18225	14124
JUNEAU COUNTY	2695	2563	1567
KENOSHA COUNTY	30063	29777	23588
KEWAUNEE COUNTY	4002	3970	2890
LA CROSSE COUNTY	24963	24837	20105
LAFAYETTE COUNTY	2799	2776	2304
LANGLADE COUNTY	2757	2715	2121
LINCOLN COUNTY	4222	4174	2443
MANITOWOC COUNTY	15271	15143	13310
MARATHON COUNTY	24804	24339	19223
MARINETTE COUNTY	7805	7718	6606
MARQUETTE COUNTY	2340	2296	1456
MENOMINEE COUNTY	112	74	57
MILWAUKEE COUNTY	203899	203288	151781
MONROE COUNTY	5199	4873	3454
OCONTO COUNTY	6266	6022	4890
ONEIDA COUNTY	8108	8050	5979
OUTAGAMIE COUNTY	40593	40344	30361
OZAUKEE COUNTY	29353	29060	23691
PEPIN COUNTY	936	868	329
PIERCE COUNTY	6215	6157	4058
POLK COUNTY	5657	4835	3894
PORTAGE COUNTY	14838	14738	12151
PRICE COUNTY	2624	2586	1484
RACINE COUNTY	44181	43933	33407
RICHLAND COUNTY	2673	2603	1637
ROCK COUNTY	29776	29545	24353
RUSK COUNTY	1750	1697	887
ST. CROIX COUNTY	14862	14784	10443
SAUK COUNTY	14761	14660	11374
SAWYER COUNTY	3048	3016	2054
SHAWANO COUNTY	6279	6175	4865
SHEBOYGAN COUNTY	25779	25684	22070
TAYLOR COUNTY	2597	2567	2009
TREMPEALEAU COUNTY	3415	2990	2383
VERNON COUNTY	4037	3828	1743
VILAS COUNTY	5414	5355	4608
WALWORTH COUNTY	22215	22104	18750
WASHBURN COUNTY	2714	2681	1667
WASHINGTON COUNTY	39979	39814	34779
WAUKESHA COUNTY	128598	127686	109411
WAUPACA COUNTY	9420	9338	7483
WAUSHARA COUNTY	3606	3412	2600
WINNEBAGO COUNTY	38841	38538	29159
WOOD COUNTY	14407	14287	12319

Total	1287827	1275117	1003422
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# **Exhibit Q**



# WISCONSIN ELECTIONS COMMISSION

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## Absentee Ballot Report - April 7, 2020 Spring Election and Presidential Preference Primary

**Date:** Tue, 04/14/2020 - 07:30

### Absentee Ballot Counts by County - 2020 Spring Election and Presidential Preference Vote

County Name	Absentee Applications Reported	Absentee Ballots Reported Sent	Absentee Ballots Reported Returned
ADAMS COUNTY	3407	3370	3011
ASHLAND COUNTY	2493	2418	2091
BARRON COUNTY	6688	6554	5839
BAYFIELD COUNTY	3868	3687	3461
BROWN COUNTY	53634	52159	44913
BUFFALO COUNTY	2265	2221	1971
BURNETT COUNTY	2090	2042	1752
CALUMET COUNTY	11352	11234	9035
CHIPPEWA COUNTY	12081	11911	10729
CLARK COUNTY	3154	3002	1899
COLUMBIA COUNTY	12865	12722	12047
CRAWFORD COUNTY	2335	2165	1748
DANE COUNTY	179014	178498	155195
DODGE COUNTY	16803	16744	15380
DOOR COUNTY	9343	9322	5282
DOUGLAS COUNTY	6971	6926	5737
DUNN COUNTY	6976	6950	5402
EAU CLAIRE COUNTY	22846	22762	19028
FLORENCE COUNTY	917	711	674
FOND DU LAC COUNTY	19709	19599	17946
FOREST COUNTY	1528	1503	1300
GRANT COUNTY	8045	7972	6950
GREEN COUNTY	7986	7912	5713
GREEN LAKE COUNTY	3325	3303	3081
IOWA COUNTY	5648	5512	5145
IRON COUNTY	1888	1882	1741

JACKSON COUNTY	2562	2554	1900
JEFFERSON COUNTY	18453	18235	15555
JUNEAU COUNTY	2952	2849	1894
KENOSHA COUNTY	30067	29641	25882
KEWAUNEE COUNTY	4026	3983	3498
LA CROSSE COUNTY	24985	24831	21680
LAFAYETTE COUNTY	2811	2785	2634
LANGLADE COUNTY	2799	2785	2372
LINCOLN COUNTY	4495	4480	3445
MANITOWOC COUNTY	15290	15204	14217
MARATHON COUNTY	25350	25172	21757
MARINETTE COUNTY	7806	7716	7033
MARQUETTE COUNTY	2402	2361	1885
MENOMINEE COUNTY	112	74	57
MILWAUKEE COUNTY	203884	202919	168882
MONROE COUNTY	5639	5514	4410
OCONTO COUNTY	6457	6207	5438
ONEIDA COUNTY	8291	8237	7225
OUTAGAMIE COUNTY	40465	40276	35291
OZAUKEE COUNTY	29351	28968	26113
PEPIN COUNTY	936	865	359
PIERCE COUNTY	6269	6220	5505
POLK COUNTY	5679	5435	4884
PORTAGE COUNTY	14794	14731	13129
PRICE COUNTY	2624	2586	1512
RACINE COUNTY	44236	43968	38180
RICHLAND COUNTY	2802	2748	1793
ROCK COUNTY	29870	29532	26263
RUSK COUNTY	1854	1814	1143
ST. CROIX COUNTY	14566	14786	12218
SAUK COUNTY	15020	14860	13378
SAWYER COUNTY	3091	3038	2730
SHAWANO COUNTY	6318	6214	5745
SHEBOYGAN COUNTY	25783	25544	23601
TAYLOR COUNTY	2722	2702	2310
TREMPEALEAU COUNTY	3710	3425	2947
VERNON COUNTY	4349	4190	2385
VILAS COUNTY	5419	5355	4972
WALWORTH COUNTY	22220	22058	19894
WASHBURN COUNTY	2813	2773	2246
WASHINGTON COUNTY	39966	39727	37737
WAUKESHA COUNTY	129969	128846	118620
WAUPACA COUNTY	9490	9400	8443
WAUSHARA COUNTY	3856	3778	3384
WINNEBAGO COUNTY	38051	38363	32561
WOOD COUNTY	14408	14279	13151

Total	1296243	1285109	1117328
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# **Exhibit R**

United States Postal Service®

# INDUSTRY ALERT

April 17, 2020

## COVID-19 CONTINUITY OF OPERATIONS UPDATE Expected Delivery Changes for Priority Mail and First-Class Package Services

U.S. Postal Service Priority Mail products and First-Class packages may require more time to be delivered due to limited transportation availability as a result of the ongoing Coronavirus Disease (COVID-19) impacts to the United States.

Effective April 17, 2020:

The Postal Service's flagship **Priority Mail Express** service, which guarantees overnight service, will not change.

Service commitments for local 1-day **Priority Mail** will not change.

**Priority Mail's** two and three day service commitments now will be extended to three and four days respectively. Customers will continue to receive end-to-end visibility and improved product tracking, as well as up to \$50 in free insurance.

With the extra day extension, customers should expect delivery using **Priority Mail Open and Distribute (PMOD)** to range from two to four days nationwide.

**First-Class Package Service (FCPS)** two and three day service commitments will also be extended to three and four days respectively.

Global Express Guaranteed Services also have been altered. For a full list of international and domestic updates, refer to *usps.com*.

The Postal Service's goal continues to be to move packages as expeditiously as possible. The Postal Service continually reviews its network capacity to provide the American public reliable, efficient, and fast-delivery service. We will continue to keep you abreast of improvements in transportation availability and when we will be able to return to normal service levels.

# **Exhibit S**



**TESTIMONY ON  
CHANGES TO PA ELECTIONS AMID 2020 CORONAVIRUS PANDEMIC**

Presented to the Senate State Government Committee

By  
Lisa Schaefer  
Executive Director

April 30, 2020

The County Commissioners Association of Pennsylvania (CCAP) is a non-profit, non-partisan association providing legislative, educational, insurance, research, technology, and similar services on behalf of all of the Commonwealth's 67 counties.

We appreciate the opportunity offer our remarks regarding how to move forward with Pennsylvania's primary election, which has been moved from April 28 to June 2 pursuant to Act 12 of 2020 in consideration of the current COVID-19 pandemic. Counties have a significant responsibility in assuring elections remain fair, secure and accessible at every step of the process. This year, the task is complicated greatly, as elections directors, county commissioners and other county officials also hold the unprecedented responsibility of considering risk to public health in holding an election during a global pandemic.

First, we appreciate the General Assembly's efforts to make necessary changes to the primary election in light of the pandemic. The emergency provisions in Act 12 offered counties additional time to monitor the situation and evaluate appropriate steps to mitigate disruptions cause by these significant public health concerns.

However, we have now reached the end of April and still we gain new knowledge almost daily about COVID-19, how it spreads through communities and its widespread impacts. The questions counties continue to wrestle with five weeks until the primary election are focused on how to safely conduct the primary election with public health in mind. Certainly, one of the options that has been discussed is whether the primary should be conducted by all mail-in ballot, after Act 77 of 2019 gave Pennsylvania voters the option of voting by mail-in ballot for the first time in this upcoming election. While CCAP as an Association has not taken a position on whether or not the commonwealth should move in this direction, we want to offer the committee today the wide variety of considerations before counties, noting that, of course, each county is unique in how these considerations play out.

### **Polling place availability**

CCAP has heard from a number of counties that are seeing a decline in the availability of facilities that are willing to be used as polling places. For instance, churches and other community buildings have been used for polling places, but are now closed to the public. Counties often use nursing homes or other long-term care facilities, which are convenient to their residents, but these buildings are no longer an option due to the health risk this brings to the already-vulnerable residents and workers in such facilities. Other places previously used for polling are also becoming unavailable, causing a challenging situation for elections directors. Certainly, the provisions of Act 12, which allows counties to consolidate a certain number of polling places, can be helpful in some areas, but still the logistics of finding the necessary number of polling locations and making the proper notifications to the public are proving challenging. In addition, counties must consider the impact of consolidating polling places and how the increased traffic it might bring to a particular facility will affect the ability to maintain social distancing and other public health measures.

We appreciate that the Department of State is acquiring precinct protection kits containing masks, gloves, sanitizers, wipes, floor tape and other supplies to provide to the counties. We understand those kits will be available to about 60% of the state's current precincts, and may go farther depending on county decisions to consolidate polling places. Counties are also purchasing their own equipment and exploring options such as face shields to offer added protections.

### **Poll workers and training**

Even where physical buildings are available to serve as polling places, counties are struggling to recruit and maintain enough poll workers to execute all of the work that goes into holding an election. The demographic of Pennsylvania's poll workers tends to be senior citizens, which is also the demographic most at risk to experience severe impacts as a result of contracting COVID-19. CCAP has heard from counties where 30% or more of the regular poll workers have declined to serve for this primary election.

Many counties, though, were unable to, or had not planned to, complete their regular training for poll workers before the pandemic took hold in Pennsylvania. Even where counties are able to identify a sufficient crew of poll workers to meet their needs, they must also figure out how to hold training on election day procedures, new voting machines, and now, public health procedures at the polls – which typically involves bringing large groups of people together in a single place as well – in a safe manner.

### **Deploying new voting machines**

On top of everything else that is new and extraordinary about the 2020 primary election, about a third of our counties must also deploy new voting equipment for the first time to be in compliance with the requirements of the Stein settlement agreement, which required all counties to implement new voter-verifiable voting equipment no later than the 2020 primary election. This is just one more factor complicating this already-complex election environment.

### **County and vendor capacity for mail-in ballots**

Included in Act 77 of 2019, all Pennsylvania voters have the option, for the first time at this primary election, of voting by no excuse mail-in ballot. It has been fortuitous that this option is available to voters given the current situation, and both the commonwealth and many counties are promoting it to voters as an important alternative to coming to the polls. While counties were already expecting an influx of applications, they are now seeing application numbers well beyond what anyone could have estimated when Act 77 was signed into law last fall. Counties must adjust again their plans to address potential challenges with the resources, both staff and physical space, needed to process the increased number of mail-in ballots.

Resources and capacity would become an even greater consideration if the state were to move in the direction of a completely mail-in primary election now is capacity – for both counties and their vendors. Some counties have indicated that moving to an all mail-in ballot would not only significantly exceed the estimated costs of adding mail-in voting for 2020, and that their

printers, mail houses, other vendors and the county itself would struggle even more to meet the demand.

We also note that because of the anticipated volume of mail-in ballots, counties were already preparing for a lengthy canvassing process. Act 12 granted some relief by allowing counties to begin pre-canvassing 7 a.m. on election day rather than waiting until 8 p.m. But with such a large number of mail-in ballots now expected, it is likely it will take counties longer to be able to report results. However, counties' first and foremost responsibility when it comes to running our elections is to get it right and make sure every vote is legitimate and accurately counted. We know our residents do not want us to sacrifice that responsibility in the name of speed and so hope that everyone will adjust their expectations accordingly.

### **Timing and procedural questions**

With the significant change in direction that would come from moving to an all mail-in primary, we must note again that we are now less than five weeks from the June 2 primary, and it would still take time to get legislation to the governor's desk authorizing an all mail-in election. In addition, certain procedural questions have not begun to be addressed as to how an all mail election would work – would voters still need to apply for a ballot? Would the county be required to mail a ballot to all registered voters regardless of application? It is not clear that there is sufficient turnaround time at this date to convey yet another set of changes to voters, and to successfully implement an all mail-in election.

### **Resources**

We have already noted the resource challenges facing counties in terms of staffing and physical space to process ballots, increased postage demands and so forth, but need to also note that at least two-thirds of our counties have already furloughed staff as a result of the COVID-19 pandemic. In many cases, this includes staff in election offices, adding further stress to counties.

Under the federal CARES Act, Pennsylvania received about \$14 million for COVID-related election modifications, with another 20% state match, and counties have been informed that the commonwealth will be providing about \$6 million of that in subgrants to the counties. We understand that the federal Election Assistance Commission has advised this funding can be used to address a wide variety of county needs related to the primary election; another \$7 million in subgrants will be available from \$15 million in federal dollars, although that is focused primarily on election security and technology.

Ultimately, our goal is to support counties' needs in conducting this primary election during this unprecedented situation. This includes providing the safest possible environment for voters, poll workers and county officials while also assuring the integrity and accuracy of every vote in every race.

Thank you for your consideration of these comments. We would be pleased to answer any questions you may have.

# **Exhibit T**



## COMMON CAUSE PENNSYLVANIA TESTIMONY

### Senate State Government Committee

April 30, 2020

Thank you for the opportunity to submit testimony here today. We appreciate the bipartisan spirit in which the General Assembly has approached how best to ensure that every eligible voter can vote in the upcoming primary and general elections. While Common Cause Pennsylvania recognizes that we are currently facing unprecedented challenges to our public health and safety and our economy, it is critical that our democracy is upheld, even, or especially, during times of crisis.

Common Cause Pennsylvania is a nonpartisan good government organization dedicated to holding power accountable to the people. On behalf of our 44,000 members across Pennsylvania, we encourage our election officials and lawmakers to consider adopting measures to not only protect the public health of every Pennsylvanian, but also their right to vote in the upcoming Primary and General Elections.

We understand that election administration is a highly technical field where competing priorities often bump up against a general need for additional resources. We want to share our sincere respect and admiration for the professionals who do this incredibly difficult task. Thank you to all the county election officials, and especially to the intrepid and dedicated staff at the Department of State under the leadership of Secretary Boockvar.

Regardless of the challenges inherent to holding an election in the midst of a pandemic and implementing historic voting reforms all at the same time, it is essential point that every eligible voter must be able to cast a ballot, regardless of zip code, proximity to public transportation, disability, or language access needs.

### Expanding Vote-By-Mail

For the first time in this upcoming election, all Pennsylvania voters will have the option to vote by mail. This new option has proved to be an incredible resource to hundreds of thousands of Pennsylvanians during this uncertain time. While we applaud the General Assembly for making this change, further improvements can be made to ensure that all voters who want to can access vote-by-mail. Specifically, we recommend the following:

- **Extending vote-by-mail deadlines.** Currently, a voter's ballot must be submitted to the county by 8:00p.m. on election night. While this is an improvement from the previous absentee ballot deadline, this still does not go far enough to ensure each mail ballot is counted. The timing of each county's mail service is not created equal. Asking voters to anticipate when their ballot will arrive at their county's election office is unrealistic. Pennsylvania should expand the deadline and allow ballots to be counted 7 days after Election Day. This will allow for more voter participation and will relieve counties of having to count several thousand ballots at one time.
- **Prepaying postage for both the application and the ballot.** Voters should have equal access to vote by mail, regardless of whether they have a book of stamps laying around. As paying bills and communication has moved increasingly online, many people no longer regularly buy and use stamps.

Additionally, given the current stay at home orders/recommendations, it may be more difficult for people to procure stamps, even assuming they have the financial means to do so. While we commend the counties that are voluntarily paying for postage for applications and/or ballots, not all counties have the resources available to do that. To create equal footing for all voters and increase access, the General Assembly should provide funds to prepay postage for both the application and the absentee or mail-in-ballot.

- Voters who require language assistance must 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. The General Assembly should appropriate additional funding to ensure that DOS has the resources to do this work quickly.
- The General Assembly should appropriate funds for and require that each and every registered Pennsylvania voter, who has not already signed up, be mailed a vote-by-mail application. This would ensure that every registered voter would have the opportunity to sign up and participate in their election, without having the burden placed on them to find the application. .
- We also recommend increasing the amount of time each county has to canvas vote-by-mail and absentee ballots. Currently, the county can only start canvassing these ballots at 7:00a.m. on election day. This means each county has to count several thousand ballots in one sitting. Increasing the canvassing time will allow for counties to spread out the counting of ballots and decrease the number of workers or machines need to count these ballots.

### Reduction of Polling Places

Although we understand the challenges many county election officials have in retaining poll workers and poll sites, consolidating polling places must be done with care to avoid disenfranchising voters. Specifically, consolidation could make it more difficult for voters to cast a ballot, especially for lower income voters, people with disabilities, and those who lack reliable access to transportation. Our elections must be administered so that every voter can cast a ballot, regardless of their personal circumstances.

We urge the General Assembly and DOS to further specify what factors must be considered when consolidating polling locations and clarify and expand the requirements for counties to communicate with affected voters.

- Counties should be required to only 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. Where possible, counties should be encouraged to request public input into the consolidation process.
- 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.

### **Protection of Poll Workers**

Poll workers are on the front lines of elections. Ensuring that they are protected must be a priority. While we appreciate that DOS will be providing 6000 PPE kits during the primary, the General Assembly should appropriate additional funds to assist counties and DOS in procuring PPE prior to June 2.

### **Additional Elections Funding**

We all know that elections are the cornerstone of our democracy. It is essential that we provide our counties and Department of State with sufficient funds to effectively administer elections, particularly in these uncertain and chaotic times. Additional funds from the General Assembly would help election directors purchase new technology such as high speed scanners, to handle the influx of vote by mail ballots, increase their staff, provide poll workers with increased pay, including pay for training on new voting machines, supplement the purchase of PPE for poll workers and polling places, and more. This General Assembly should provide additional funds for counties and the Department of State to carry out their mission.

Thank you for the opportunity to submit this testimony today.



# **Exhibit U**



**Testimony of Keystone Votes before the Senate State Government  
Committee Related to Pennsylvania’s June 2 Primary Election and the  
State’s Ongoing Response to COVID-19**

10 a.m. Thursday, April 30, 2020

\* \* \* \* \*

Majority Chairman DiSanto, Minority Chairman Williams and members of the Committee: Thank you for providing an opportunity to Keystone Votes to testify about the ongoing bipartisan efforts to ensure a safe, secure, fully accessible election process as the state continues to confront the new realities related to our collective COVID-19 response.

All of us remain cautiously optimistic that the beginning of May will mark a transition period for our commonwealth. Although Gov. Tom Wolf’s phased-in “Plan for PA” is slated to begin after the stay at home order ends May 8, none of us truly expects a return to complete normalcy anytime soon. That is why your intent to convene this hearing to continue discussions related to administration of our Primary Election on June 2 is so important.

Keystone Votes is a nonpartisan coalition comprising 43 civil rights, civil liberties, and good government groups, as well as large civic engagement organizations with members in all 67 counties. For years, our coalition has been working to update Pennsylvania’s election laws to make voting more convenient, secure and equally accessible for all who are eligible.

The bipartisan work of this legislature to secure passage of Act 77 of 2019 ushered in the single most sweeping election reforms in Pennsylvania in 80 years. Your recent decision to move Pennsylvania’s Primary Election from April 28 to June 2 was yet another display of elected leaders reaching across the aisle to do the right thing. Act 12 of 2020 helps to ensure residents’ health and safety while protecting the integrity of our elections.

We commend you for these actions and appreciate the chance to help guide our next steps. At the same time, as much as this hearing focuses on issues with implementation and the challenges our election directors face, the voice of advocates who represent voters' interests should be weighed equally. These elections are about making sure every eligible has a say in how they are represented, so they should be at the table when these issues are being discussed.

Given these unprecedented times, and with elections looming, our coalition has been hard at work with elected leaders like you and the Department of State and elected leaders to ensure the implementation of these provisions is seamless. Our focus remains on making sure a free and fair election is available to all eligible residents, especially voters of color, low-income Pennsylvanians, people with disabilities, and all of those who are most directly suffering as a result of this global pandemic.

Much of the responsibility with implementation rests with the counties, and they have an obligation to fulfill their mission. Administering elections is never easy, and the pandemic certainly has made things much more difficult, but our counties, in partnership with the Department of State and voting rights groups, have an obligation to ensure a free and fair election. We believe that mission is fully attainable.

We don't know what the coming months may bring --- and that can be unsettling. But our democracy depends on active participants. **As you look to the administration of the state's elections to ensure robust participation and equal access, we believe several key policy issues need to be addressed or considered.** Among them:

- As we continue to flatten the curve and mitigate the effects of the COVID-19 pandemic, we must not forget that the health and safety of Pennsylvanians remains paramount. To that end, **registered voters should be encouraged to vote by mail for both the June 2 Primary Election and Nov. 3 General Election.** As we cautiously move toward a recovery phase, protecting our collective wellbeing should remain a priority, with voters being encouraged to capitalize on the state's new vote-by-mail option. Voting by mail is a secure system with safeguards against fraud, and it provides certainty in uncertain times.
- To facilitate the vote-by-mail option, **the Pennsylvania Department of State must take the lead and engage all stakeholders** in state and county government, as well as community organizations and institutions throughout the state, about the changed Primary Election date and the associated changes to the voter registration and ballot application deadlines. Some work to the effect is already under way, even as many of you also have been working to ensure your constituents know about this option. The state has already received more than half a million applications.
- The increased access to a mail-in ballots is beneficial for a large portion of Pennsylvania's registered voters. However, **there are some populations that face challenges with being able to request a mail-in or absentee ballot.** For example, in order to submit an application, at a minimum a voter must be able to access the Internet, if not also a printer. There is a

considerable digital divide in Pennsylvania, and that is only magnified by the fact that many public spaces remain closed and may not be fully reopened in time for elections.

- Even with increased mail-in voting, **we must ensure there are in-person voting opportunities in each county**, as mail-in and absentee ballots will not be an option for every eligible voter. We must ensure our diverse populations have the ability to vote on Election Day, including individuals with disabilities and those with limited English proficiency who must have access to a polling location with adequate resources to help them cast their votes. It is essential that voters who require language assistance have full access to all the information and assistance provided to English-only speakers, and it is imperative that voters with disabilities be provided with alternative access to ballots that can be read with screen readers and marked independently.
- County election directors have expressed concern about the loss of poll workers and being able to staff polling places adequately, especially in the Primary Election. Indeed, Act 12 of 2020 allows counties to consolidate up to 60 percent of polling places no later than 20 days prior to the Primary Election, with approvals. These are very real challenges. To help ensure eligible voters have ways to cast their ballots safely and securely, **allowing county boards of elections to create vote centers or introduce curbside drop-off of ballots is a good idea**. These location would replace precincts that close. Secure and convenient opportunities to vote are important, especially during these unprecedented times.
- Safety is also paramount. Let's be honest: Asking tens of thousands of poll workers --- many of whom are over the age of 60 and considered at risk for this coronavirus --- to open up polling stations and assist hundreds of thousands voters in small spaces is too risky and dangerous to public health and safety, and runs counter to most state and federal guidelines designed to reduce the spread of coronavirus (COVID-19). Established polling places must be large enough for social distancing and **poll workers must have the proper personal protective equipment (PPE) to keep them safe** and to sanitize the polling places to protect voters as well.
- 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. With the significant number of mail-in ballot applications requested throughout the state, voters and counties alike would benefit from the ability to know where a ballot request stands in the process. **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.
- COVID-19 has thrust a new set of circumstances upon our country, such as following social distancing guidelines and health and safety precautions. Following these protocols could increase costs for counties that administer elections. These unanticipated issues may place significant financial burdens on counties. **The General Assembly must ensure funding is**

**available and that all costs related to election administration changes as a result of the COVID-19 pandemic are covered by the state** rather than by the counties or through the Pennsylvania Department of State.

- Continued bipartisan leadership is crucial to navigating through the unfamiliar circumstances created by COVID-19. **Additional legislative action may be required from the General Assembly and administration, depending on how the situation evolves over the coming weeks and months.** Should the COVID-19 pandemic persist, short-term action may be required to ensure our elections are safely carried out. The state can take steps to mail ballots to registered voters and consolidate voting precincts if the situation warrants. The General Assembly also should consider:
  - Printing ballots for registered voters and including prepaid postage at a cost of approximately \$2 million to \$3 million.
  - Sending a mail-in ballot to all registered voters at a cost of approximately \$15 million.
  - Allowing counties to establish vote centers at which any voter in a county can cast a ballot, regardless of precinct. But please keep in mind with selecting a location that consolidating polling places may present challenges for voters relying on public transportation. Nevertheless, providing voters with the ability to cast a vote at any vote center, regardless of precinct, can help increase access to in-person voting on Election Day.

Especially during this crisis, the rule of law and the sanctity of our democracy must be guaranteed. A free and fair election must be available to all eligible commonwealth residents. We appreciate your continued bipartisan work in addressing these issues.

###



# **Exhibit V**

IN THE COURT OF COMMON PLEAS OF MONTGOMERY COUNTY,  
PENNSYLVANIA

IN RE:  
EXTENSION OF TIME FOR  
ABSENTEE BALLOTS TO BE  
RECEIVED AND COUNTED IN  
THE 2016 GENERAL ELECTION

:  
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:

Civil Action  
Docket No. 2016-26326

**ORDER**

AND NOW, this 3RD day of November, 2016, upon consideration of the Emergency Petition of the Montgomery County Board of Elections for an Extension of Time for the Voted Absentee Ballots of the Qualified Registered Electors of Montgomery County to be Counted for all Offices Up for Election in the 2016 General Election, and any opposition thereto, it is hereby **ORDERED** and **DECREED**, that said Petition is **GRANTED** as follows:

The Montgomery County Board of Elections shall accept all completed absentee ballots received by the Montgomery County Board of Elections any time ~~before~~ after 5:00PM on Friday, November 4, 2016 and <sup>UNTIL</sup> Tuesday, November 8, 2016, at 8:00 PM. Those absentee ballots shall be kept separate from the absentee ballots received before 5:00PM on November 4, 2016;

It is further **ORDERED** and **DECREED** that The Montgomery County Board of Elections shall accept for tabulation during the official tabulations, all civilian absentee ballots received at the Montgomery County Board of Elections between 5:00PM on Friday, November 4, 2016 and Tuesday, November 8, 2016, at 8:00 PM for all offices on the absentee ballots.

All Absentee ballots received after Friday, November 4, 2016, at 5:00 PM shall be retained, unopened, by the Montgomery County Board of Elections and shall not be sent to the appropriate polling place;



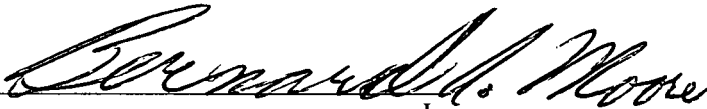
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Order

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Mark Levy - MontCo Prothonotary

Rather, said absentee ballots retained by the Montgomery County Board of Elections shall be subject to challenge pursuant to the Pennsylvania Election Code and set aside accordingly, or if not so challenged, shall be so tabulated during the Official Tabulations of the General Election commencing Monday, November 14, 2016.

BY THE COURT:

  
\_\_\_\_\_ J.

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Copies: ✓ mailed ~~hand delivers~~  
NICOLE FORZANO, ESQ.

Shannon, Ct Admin  
Clerk: L. Nowicki

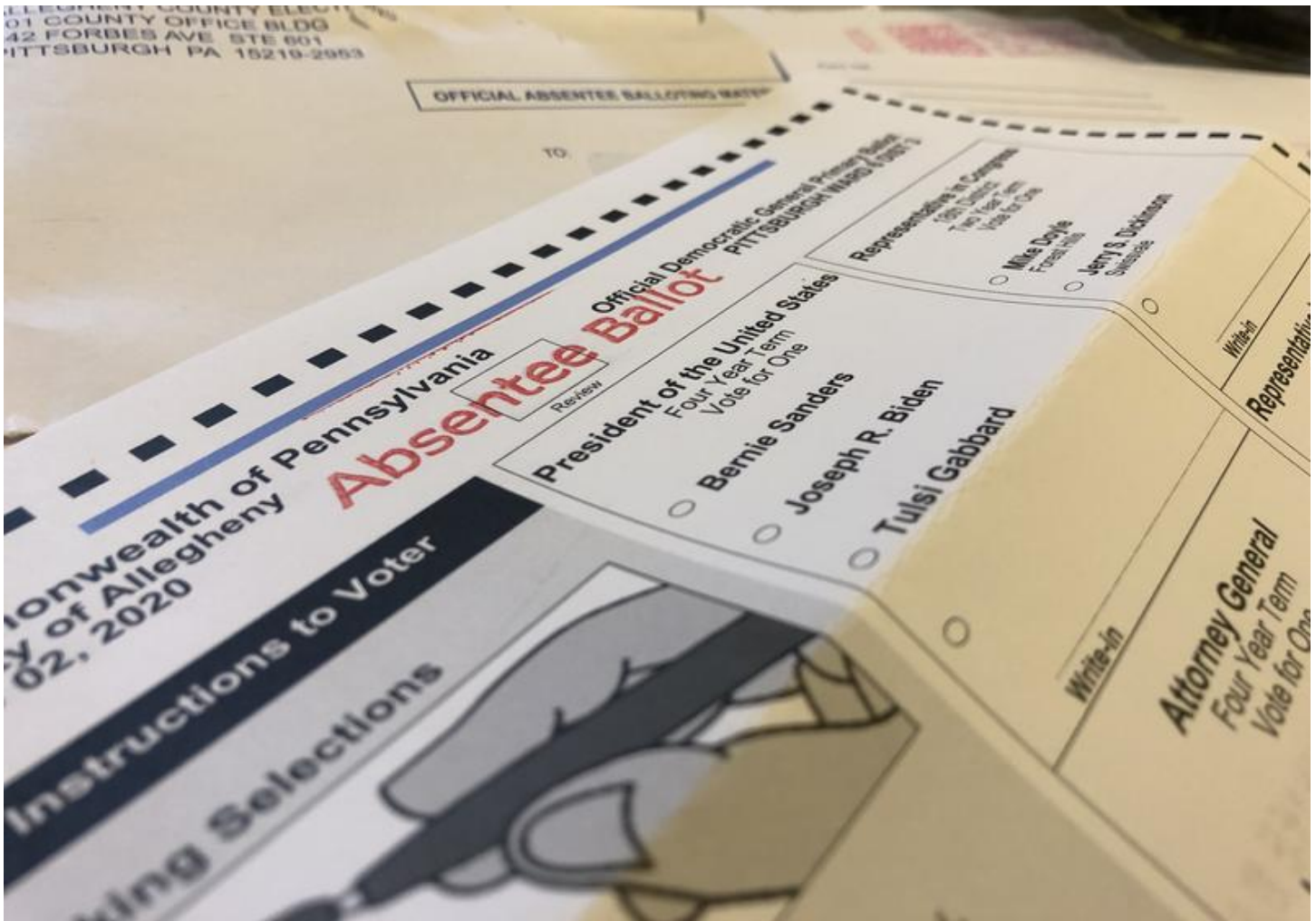
# **Exhibit W**

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# Allegheny County To Drastically Cut In-Person Voting To Limit Spread Of Coronavirus

By [LUCY PERKINS](#) (/PEOPLE/LUCY-PERKINS) • APR 23, 2020f [Share \(http://facebook.com/sharer.php?](http://facebook.com/sharer.php?u=http%3A%2F%2Ftinyurl.com%2Fyd2wywzr&t=Allegheny%20County%20To%20Drastically%20Cut%20In-Person%20Voting%20To%20Limit%20Spread%20Of%20Coronavirus)[u=http%3A%2F%2Ftinyurl.com%2Fyd2wywzr&t=Allegheny%20County%20To%20Drastically%20Cut%20In-Person%20Voting%20To%20Limit%20Spread%20Of%20Coronavirus\)](http://facebook.com/sharer.php?u=http%3A%2F%2Ftinyurl.com%2Fyd2wywzr&t=Allegheny%20County%20To%20Drastically%20Cut%20In-Person%20Voting%20To%20Limit%20Spread%20Of%20Coronavirus)t [Tweet \(http://tv](http://twitter.com)[url=http%3A%2F%2Ftinyurl.com%2Fyd2wywzr&t=Allegheny%20County%20To%20Drastically%20Cut%20In-Person%20Voting%20To%20Limit%20Spread%20Of%20Coronavirus\)](http://twitter.com)

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LUCY PERKINS / 90.5 WESA

Thanks to the coronavirus, voting in Allegheny County will look very different this June. The Board of Elections voted Thursday to reduce the number of polling places from more than 1,300 to less than 200, to try and limit the spread of the coronavirus by encouraging residents to vote by mail, rather than in person.

“Obviously we’re in very difficult times right now,” said County Executive Rich Fitzgerald at an afternoon meeting of the three-person board. “So the intent is to try to limit the amount of folks who have to show up on election day and vote in person and are able to vote by mail.”

The county's election department began sending pre-stamped mail-in ballot applications out to registered voters in the county on Monday, an effort to encourage residents to vote by mail. Nearly 90,000 people in Allegheny County have already applied for a mail-in ballot. Officials said that's about half of the number of voters who typically turnout in presidential election year with a noncompetitive primary. Officials hope those numbers will signify very low walk-up turnout at polling places.

The elections department has processed approximately 30,000 applications and mailed between 17,000 and 20,000 ballots to voters this week.

“We’re all hands on deck over here to process them,” said Dave Voye, manager of elections for Allegheny County. Voye said his office is adding shifts to process the high volume of applications, and employees will be working in staggered shifts from 7 a.m. to 11 p.m.

The division has been processing around 5,000 applications a day, and Voye said he’s bringing in more employees from other departments in order to double the output of ballots starting on Monday.

The board’s plan is to limit polling places to one location per municipality and one in each of Pittsburgh's nine City Council districts. Municipal polling places will likely be at local government offices, though the plan provides for the option of adding polling places in some areas if there are enough poll workers. Board members said larger municipalities -- like Bethel Park, Mt. Lebanon and McCandless -- would likely require additional locations.

The plan passed 2-1 with Fitzgerald and County Councilor Sam DeMarco, a Republican, voting for it. Democratic County Councilor Bethany Hallam voted no, after expressing misgivings about putting a single polling place in municipalites of different sizes.

Fitzgerald said there was an urgent need to act.

“We saw what happened in [the Wisconsin primary] where many people already have come down with the coronavirus, both poll workers and voters,” Fitzgerald said. “So we certainly want to limit that. We also know that the demographic of our poll workers tend to be seniors who are retired who are obviously much more vulnerable to this disease.”

There are usually about 6,500 poll workers at precincts on election day, and officials are unsure what the work force will look like during the pandemic.

“If we try to have more polling places and we don't have enough workers, then we will have long lines,” Fitzgerald said.

At polling places, workers will have masks, gloves, sanitizer and other equipment. The county has already placed orders for personal protective equipment, and the state has promised additional supplies.

Fitzgerald said officials may have to staff polling places with county employees from other departments if there aren't enough poll workers. As an alternative, he suggested the county could reach out to young people, who typically have less to fear from the virus.

“One of the things we might want to do is reach out to maybe our colleges and universities,” he said. “It's a good way for young people to get involved and may feel a little more secure about being willing to do something like that.”

The proposal must be submitted to state officials, but the board members said the state has been receptive.

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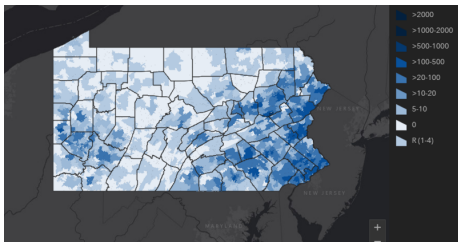
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