

*"Voting is the right from which all other rights spring." Thomas Paine*

# HAVA QUARTERLY

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## THE POST-PRIMARY PRE-ELECTION ISSUE



**Reminder: The last day to get your voter registrations to the BOE is October 10, 2008. Get the word out...get registered and get voting!**



## THE PRIMARY AND THE BMDs: THE GOOD, THE BAD AND THE UGLY

Primary Day has come and gone and so on we roll toward one of the biggest presidential elections of our lives. Though primaries do not turn out as many voters as a general election, we were able to get a glimpse at the latest phase of HAVA implementation, namely the statewide deployment of ballot marking devices (BMD), and how the counties and voters fared. The results were mixed.

The BMD manufacturing delays and last minute delivery schedule put a big kink in the works for many counties across the state in terms of getting enough poll workers trained on its operations, so it is understandable that not every poll worker had a handle on BMD functions. Even with this limitation some counties should be applauded for managing to get many of their election inspectors up to speed. Some voters who used a BMD to vote on Primary Day were met with inspectors'



eagerness to employ their newly acquired skill. However, many more poll workers were less prepared.

Stories are pouring in from across the state about Primary Day experiences, particularly some outrageous, though not surprising, “barriers” to using the “accessible” BMDs. One voter reported *seeing* a BMD at the polling site, but was told by the poll worker the machine could not be used. The poll worker declared she “didn’t care if she got in trouble or not” for preventing the voter from using the machine. Some voters were told the BMD “wasn’t hooked up yet” or were directed over to a corner where the accessible machine was located, separated from the lever machines. Some BMDs were set up without a privacy screen and some were still covered!

At least one upstate county went on the record declaring they did not bother with putting BMDs in their polling sites on Primary Day, preferring to wait until the November election. Wasn’t there a court order *requiring* accessible voting in every polling site by the September Primary of this year? An argument about how few voters might use a lever machine would not enter into debate even in a sparsely populated election district. Election administration is, among other things, a public service; therefore that lever machine would be available for the voting public. And why would that not be so for a BMD? People with disabilities are part of the same voting public and have the same right to be served. The method or system of delivery may have to be augmented, but regardless of the number of people who use it today, it must be made available now and in the future because it is the law. It is not a favor, it is not a “feel good” project, and it is not optional. It is the law.



Another area of concern is how many poll workers are still completely misinformed about who can use these accessible devices. The answer to that question is, “Anyone who wants to!” One voter recalled the poll worker was “adamant that I had to be disabled to use the machine”! Why are these poll workers laboring under the impression BMDs can only be used by voters with disabilities? Where did they get this misinformation? Whether poll workers are being explicitly directed to discourage the use of a BMD by any voter or if they are

just in the dark about these procedures altogether matters little; the point is a big one – discrimination.

Recently a local paper ran an editorial encouraging *all* voters to try out the new machines. Unfortunately, the writer was misinformed about the type of machine available, but was nonetheless enthusiastic about it. A few days later a correction, submitted by a county Board of Elections (BOE) official, was printed. This official said nothing about the incorrect machine indicated in the original editorial. However, he did concur that “any voter may use the new machines”, but then went on to say the BMDs will “be set up only for handicapped use.” The BOE official indicated this directive was to prevent or reduce possible delays at the polls. Could it be a dodge to cover up the reality that many poll workers are not adequately trained on the use of the BMD? Even if lines do form at the polls, isn’t that within the realm of normal?

Individuals with disabilities who have gone about the business of exercising their civil liberties, who have been engaged in this never-ending endeavor for independence, social integration and common courtesy, have been waiting years, even lifetimes, to enjoy much of what the temporarily-abled do. What’s another 20 minutes?

The idea of reducing delays by discrimination is appalling. Deciding who may vote using one machine or another is called segregation. Segregation is illegal. How, we must ask, would the screening process look in order to carry out that plan? Will voters be asked to demonstrate that they really can’t walk or see or use their hands? Asking someone to prove their disability is also illegal. Apart from HAVA, Title II of the ADA covers voting and requires state and local governments make reasonable modifications to policies, practices, and procedures where necessary to *avoid* discrimination, not promote it.



In a recent press release from the Civil Rights Division of the Department of Justice, Acting Assistant Attorney General Grace Chung Becker gives notice the Division will “ensure all eligible voters are able to cast their ballot in an environment free of discrimination, suppression or intimidation. The Division has and will use every statute within its purview to provide all voters with a free

and fair electoral process.” Becker continues, “On November 4, 2008, hundreds of federal government employees will be deployed in counties, cities and towns across the country to monitor polling places and to ensure compliance with federal voting statutes.”

New York has had several years to get prepared for this change. BOE commissioners have been responsible for educating poll workers on policy and the legal parameters of their roles in the administration of elections; delivering this information has never been contingent on machine manufacturing schedules or certification procedures. There is no excuse for this ignorance to continue.



To view news articles, legal documents and all things HAVA visit our website [www.ccfi.us](http://www.ccfi.us) - you won't be disappointed!

Do you have questions about accessibility??  
Concerns about poll workers and voters with disabilities??  
Do you have any ideas to share??  
Do you need information about our trainings,  
DVD and other materials??

Contact Project HAVA toll free  
**1.888.NYS.HAVA (1.888.697.4282)**

or

607.432.8000

Helen Benlisa, Project HAVA Coordinator [nyshava@ccfi.us](mailto:nyshava@ccfi.us)  
Don Wyckoff, Architectural Barrier Consultant [ccfi@ccfi.us](mailto:ccfi@ccfi.us)

***“Never doubt that a small group of thoughtful, committed citizens can change the world. Indeed, it is the only thing that ever has.”***

**Margaret Mead**



## **“VOICES FROM AROUND THE STATE”**

“Voices From Around the State” is a guest column featuring advocates from Independent Living Centers reporting on polling site access in their areas. This month the HAVA Quarterly is very pleased to have Michelle Appleby, Systems Advocate at the Northern Regional Center for Independent Living in Watertown, report on the accessibility successes achieved in her region.



## **MAKING AN EFFORT AND MAKING IT WORK IN THE NORTH COUNTRY**

Michelle Appleby  
Statewide Systems Advocate  
Northern Regional Center for Independent Living

This year is an important year for individuals with disabilities! Members of the disability community and disability advocates all over New York State have been working to bring our state into compliance with the Help America Vote Act (HAVA). Advocates here at Northern Regional Center for Independent Living (NRCIL), covering Jefferson County and Lewis County, have been working hard with our local Board of Elections and members of the disability community to ensure compliance with both the Americans with Disabilities Act (ADA) and HAVA.



In 2005-2006, our Independent Living Team created surveys to address accessibility issues pertaining to our voting facilities. They collaborated with consumers and volunteers on selecting targets for determining which facilities needed immediate attention. As a result, 5 facilities in Jefferson County and 1 facility in Lewis County were changed or new facilities were created.

In 2007-2008, we have continued to progress in helping New York State prepare and stay in compliance for this year’s election. In June

2008, we worked with representatives from Sequoia, an Independent Consultant from Access Solutions, consumers with various disabilities and our Board of Elections commissioners to put together a focus group geared towards troubleshooting any problems that might arise with the accessible voting machine in the future. Seven individuals with various disabilities participated and utilized different aspects of the Sequoia voting machine and provided feedback. In July, we coordinated and provided 6 "People First Language" trainings and educated approximately 500 polling workers on People First Language and Disability Etiquette. Throughout the year, we have continued to take feedback from consumers regarding barriers to voting and addressing them with the Board of Elections. Our current commissioners and deputy commissioners have been wonderful in doing their best to address those issues as well as being open to working with NRCIL as we continue to educate and advocate for compliance.

As we approach the November Presidential Elections, I would like to take this opportunity to encourage members of the disability community to exercise their right to vote and continue to make their voices heard. This systematic change has been a long battle that we have won! Let's continue the work of getting New York State into compliance!



### **“CAN YOU TOP THIS?”**

Being an election year the HAVA Quarterly will feature Election Day stories ranging from the humorous to the bizarre and back again. If you have such a story send it along to [nyshava@ccfi.us](mailto:nyshava@ccfi.us) and put “Can You Top This?” in the subject line. You just might see your story in print!



## **FAST FACTS ABOUT...**

### **Accessible formats for sample ballots and other materials posted at polling sites:**

- Materials should be in large print (up to 24-point font) printed in high contrast (black print/white background)
- The centerline of posted material should be at 54" - a level which is viewable from both a standing and a seated position
- Braille versions(hand held) should be available
- Directional signage should contain the international symbol of accessibility



For information on what types of materials should be posted go to:

<http://www.usdoj.gov/crt/voting/misc/poster.12.23.03.html>

For HAVA 2002 (Title III begins on page 40)

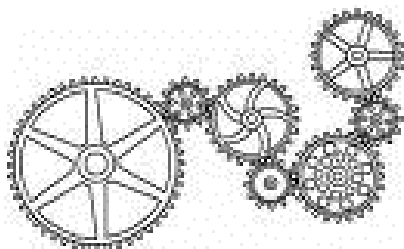
[http://www.usdoj.gov/crt/voting/hava/pl252\\_107.pdf](http://www.usdoj.gov/crt/voting/hava/pl252_107.pdf)



**INJUSTICE ANYWHERE IS A THREAT TO JUSTICE EVERYWHERE.**

**-MARTIN LUTHER KING, JR.**

## **NYS HAVA UPDATE: GRIDLOCK AND ROAD BLOCKS: THIS IS ACCESS?**

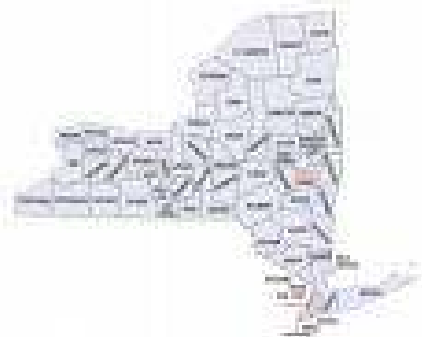


Over the summer the ballot marking devices (BMD) were processed and delivered to their county destinations. As with most of HAVA implementation in our fair state, there were delays and missed deadlines, but ultimately everything got where it was meant to go.

One of the downsides to the drawn-out BMD delivery schedule has been getting poll workers adequately trained on the use and functions of these machines. Regional training events have been held across the state for the last several months, but not all poll workers have had an opportunity for hands-on practice. Some voters in-the-BMD-know reported they showed poll workers at their polling sites how to use them on Primary Day.

Elsewhere, the long-awaited voter education website <http://www.vote-ny.com/> is up and running. Voters can discover which BMD their county is using and watch a video tutorial of how it operates. There is also a way to check voter registration and find other useful information.

One of the bigger hot button issues in recent weeks had to do with the procedures for the counting of ballots generated by BMDs. Members of the State Board of Elections arrived at a gridlock due to differing views on the best and fairest way to proceed. On the one hand, some felt it was more appropriate to keep the BMD ballots separate, bring them back to the county Board of Elections office and count them along with the absentee ballots, citing privacy issues as their main concern. Others argued BMD ballots should be counted at the poll site along with any emergency paper ballots cast during the course of the day. (Emergency ballots, used in the event of a machine breakdown, are counted on the premises at the close of the polls.) Part of the privacy issue was addressed in the procedures by encouraging poll workers to remind voters they have the option to use the BMDs to cast their vote.



Members of the disability community were quick to voice their displeasure at the idea of BMD ballots being counted with absentee ballots. At best, it was counterintuitive; at worst, discriminatory. Finally getting accessible voting machines in every (hopefully) accessible polling place only to have your vote counted as if you voted absentee was felt by many activists and advocates as a blatant injustice. Neither does it say anything positive about the trust election officials have in the integrity of the poll workers who are sworn to uphold privacy and secrecy in election administration.

The procedures that were finalized and ratified at the beginning of September indicate BMD ballots will be counted along with emergency ballots at the polling site when the polls close. Whether these procedures are adhered to by every county remains to be seen. Some commissioners have gone on the record saying they will only allow voters with disabilities to use the BMDs and others say they will keep the ballots separate and count them with absentee ballots regardless of what the official procedures mandate.

And yet again, those individuals who advocate and activate for voting rights along with those ordinary folks just trying to exercise their civil rights, will have to police the actions of election administrators around the state. Discrimination is not only ugly, it is illegal.

Somebody say, "Amen!"



**“The ultimate rulers of our democracy are not a President and senators and congressmen and government officials, but the voters of this country.”**

**Franklin D. Roosevelt**

## Dear Access Abbie!!

Anytime you have a question about polling site accessibility call Don Wyckoff or Helen Benlisa at 607-432-8000 or 888-697-4282

You can also write to us: [ccfi@ccfi.us](mailto:ccfi@ccfi.us) (Don)

or [nyshava@ccfi.us](mailto:nyshava@ccfi.us) (Helen)

Just put Access Abbie in the subject line!

Remember: The only dumb question is the question that goes unasked!

Dear Access Abbie:

We have concerns about the privacy of voters using our new BMDs. We positioned the BMD to face the wall and used the small covering to go over the screen part of the machine, but wondered if this is enough. Any advice would be appreciated.

Out in the Open in Otto

Dear OOO,

You are moving in the right direction. Unlike the lever machines, the BMDs do not come with a built-in curtain or other privacy screen to cover the whole thing leaving voters looking and probably feeling exposed. If your county has little or no funding left to purchase a privacy booth or folding screen, you will have to do something makeshift like using a free-standing chalk board or perhaps open a cardboard box at the seams and fashion into a screen by anchoring to a table with duck tape.

Alternatively, making "bi-partisan screens" might be a good opportunity for a local volunteer group or Eagle Scout project to work on. Just remind them the screens need to have equal amounts of donkeys and elephants on them!

With a privacy screen there will be no need to position the BMD way off in the corner or in another room; that can be seen as a form of segregation. And just as always, ensure there is a 5' x 5' maneuvering space by the machine and a clear 36" path of travel leading up to it.

Best of luck to you in November!

Yours in access,  
Abbie



To check for information in the ADAAG online:

<http://www.access-board.gov/index.htm>

Or review the ADA Polling site accessibility checklist:

<http://www.usdoj.gov/crt/ada/votingck.htm>



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**Remember...**



**“The vote is the most powerful instrument ever devised by man for breaking down injustice and destroying the terrible walls that imprison men because they are different from other men.”**

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*Lyndon B. Johnson*



**We ALL HAVA Right to  
Vote!**

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