



STATE OF DELAWARE  
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MEMORANDUM

DATE: January 30, 2014

TO: All Members of the Delaware State Senate  
and House of Representatives

FROM: Ms. Daniese McMullin-Powell, Chairperson  
State Council for Persons with Disabilities

RE: H.B. 205 [Primary Elections: Public School In-Service Days]

The State Council for Persons with Disabilities (SCPD) has reviewed H.B. 205 which would require that school districts schedule an in-service day for the day of any primary election in which district schools will be used as polling places. This bill also provides that the department of elections for each county may use public school buildings for primaries. . SCPD strongly endorses the proposed legislation and has the following observations.

As background, H.B. 196, enacted in 2012, requires public agencies to make facilities available as polling sites as long as such use is not incompatible with the primary function of the agency:

(e) Whenever the department has designated as polling places facilities owned or leased by:

(1) Agencies or subdivisions of this State; or

(2) Recipients of state funding in excess of \$10,000 in the 2 years preceding such designation, it shall be the duty of the officials of such agencies or subdivisions or said recipients of state funding to make these facilities available and to provide a suitable and acceptable location, heat, lighting and other services necessary for the conduct of the election, so long as such use is not incompatible with the primary function of the agency or subdivision or said recipient of state funding.

Title 15 Del.C. §4512(e)

Despite this law, a school district advised the New Castle County Election Commissioner in March, 2013 that it would no longer allow use of 71% (10/14) of its schools as polling sites for

non-federal elections based on perceived safety concerns.<sup>1</sup> In response, the New Castle County Election Commissioner advised the district that 47% of buildings used as polling sites in the county are public schools and “(f)inding sufficient available and suitable public and private buildings to replace public schools would not be possible.” The Election Commissioner recommended that the district schedule an in-service day on primary election dates which would occur 1 day per school year in 3 out of every 4 school years.

State law already authorizes county elections commissioners to direct the closing of public schools as a last resort if necessary to conduct a primary election:

Each county department of election may require any individual polling place, that is located in a ...public school...to be closed to persons other than the voters voting on the day of the primary election if it finds that the polling place cannot or will not provide sufficient access and facilities for the purposes of the primary election without such closure. No county department shall exercise its authority to close a ...public school...without prior consultation with the authorized representative of such facility and such consultation shall include all reasonable efforts to resolve any access issues that may exist without the need to close such facility.

Title 15 Del.C. §3127

Moreover, the Education Code already encourages public schools to schedule in-service days on dates of school elections. See Title 14 Del.C. §1072(e).

As referenced previously, H.B. 205 amends the Education Code to promote the availability of public schools as polling sites during primary elections. The bill has two components: 1) schools would be required to honor the request of a county election commissioner to use buildings for primary elections; and 2) districts would schedule an in-service day if schools are to be used for polling sites during primary elections.

The SCPD strongly endorses this legislation. The legislation is consistent with other provisions in both the Election Code and Education Code. Since 47% of polling sites are public schools, it is unreasonable to expect Election Commissioners to find alternate sites. Finally, the burden on public schools is relatively minor, i.e., affecting 1 day annually in 3 of every 4 years. In addition, the bill would increase the accessibility of schools during elections for voters with disabilities. Requiring districts to schedule an in-service day on dates of public school elections would allow the appropriate and therefore accessible location of the school to be used. At present, when schools remain open during elections, they may have accessible entrances or parking; however, they may move the designated accessible polling place (e.g. gym, lobby or auditorium) to another area of the building which may not be accessible.

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<sup>1</sup>Consistent with the attached January 5, 2014 News Journal article, the Delaware school district’s position is part of a national trend.

Thank you for your consideration and please contact SCPD if you have any questions regarding our position or observations on the proposed legislation.

cc: Ms. Elaine Manlove  
Mr. Anthony J. Albence  
Ms. Doris J. Young  
Mr. Kenneth L. McDowell  
Mr. Brian Hartman, Esq.  
Governor's Advisory Council for Exceptional Citizens  
Developmental Disabilities Council

hb 205 primary elections 1-28-14

# Some schools want to stop serving as area's voting sites

By Nedra Pickler  
Associated Press

GLEN RIDGE, N.J. — Some schools want to end their traditional role as polling places because of security concerns since the 2012 massacre at Sandy Hook Elementary School in Connecticut, leaving their communities without easy alternatives for voting sites.

A presidential commission has been hearing from election officials across the country worried about schools trying to move balloting out of their buildings. Among them is the Glen Ridge School District, a prosperous community less than 20 miles from Manhattan where the Linden Avenue and Forest Avenue elementary schools are now closed to balloting.

The picturesque two-story schoolhouses in quiet neighborhoods had long welcomed residents on Election Day. Now, red signs posted at entrances instruct visitors they must ring the bell and show photo ID to cameras above the doors before they can be buzzed in.

The district strengthened access control last year after administrators, police and an outside security consultant conducted a review in the wake of the December 2012 shooting in Newtown, Conn., and the locked doors also were closed to voters. A gunman had shot his way into the locked Sandy Hook and killed 20 first-graders and six adults in a matter of minutes, so leaving schools open to voters suddenly seemed too risky in Glen Ridge.

"After the Newtown tragedy, as you can imagine, we had many, many, many parents who were concerned about security on Election Day," said Elisabeth Ginsburg, president of the Glen Ridge Public Schools Board of Education.

The district's two elementary schools house children in prekindergarten through second grade, while the middle and high schools weren't used as polling places. "Particularly the parents of very young children, you can imagine how Newtown resonated with them," she said.

Similar moves have been made elsewhere, and that's caught the attention of the Presidential Commission on Election Administration. The commission plans to make recommendations this month to President Barack Obama about ways to improve access to the polls, and hopes to encourage schools to stay open for voting.

"Schools are in many ways a perfect polling place because of accessibility concerns, they usually have adequate parking, they're large facilities, large rooms, they've historically been used as polling places, and they're ubiquitous," the commission's senior research director, Nathaniel Persily, told commissioners as he summarized months of research at their final public meeting Dec. 3. "The closing of schools poses a real problem for finding adequate facilities for polling places."