



**STATE OF DELAWARE**  
**STATE COUNCIL FOR PERSONS WITH DISABILITIES**  
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**The Honorable John Carney**  
Governor

**John McNeal**  
SCPD Director

**MEMORANDUM**

**DATE:** March 31, 2020

**TO:** Mr. Anthony J. Albence, State Election Commissioner  
Department of Elections

**FROM:** J. Todd Webb – Chairperson  
State Council for Persons with Disabilities

**RE:** 23 DE Reg. 727 [Department of Elections Proposed Regulation Regarding  
Procedures for Addressing Post-Election Voting Machine Audit  
Discrepancies (March 1, 2020)]

The State Council for Persons with Disabilities (SCPD) has reviewed the Department of Elections' proposal to enact a new regulation which outlines the procedures to be followed by the Department in the case of a discrepancy discovered during a post-election voting machine audit. The proposed regulation was published as 23 DE Reg. 727 in the March 1, 2020 issue of the Register of Regulations. SCPD has the following observations.

As background, Delaware spent \$13 million in 2018 on new voting machines that cast a digital vote along with a paper printout for hand recounts. See Amy Cherry, Delawareans to get 1st look at new voting machines in upcoming school board elections WDEL 101.7FM (2019), [https://www.wdel.com/news/video-delawareans-to-get-st-look-at-new-voting-machines/article\\_7d625346-6ddd-11e9-a2c7-4f6dfafa74af.html](https://www.wdel.com/news/video-delawareans-to-get-st-look-at-new-voting-machines/article_7d625346-6ddd-11e9-a2c7-4f6dfafa74af.html) (last visited Mar 9, 2020). The new machines were used for the first time in May 2019 for school board elections and will be used for 2020's primary and general elections. As a result of the purchase of the new voting machines, an Act to amend Title 15 of the Delaware Code was passed in July 2019, which established auditing requirements for the machines. The Act requires the Department to adopt regulations to govern the procedure to be used if an

audit reveals a discrepancy. The proposed regulation outlines the “Threshold for Specific Action, Specific Actions to be Taken Once Threshold is Triggered, and Corrective Actions by Department to Avoid Discrepancy in the Future.”

If a post-election audit process is in place, “it can inform election officials of any bugs or errors in the system and can act as a deterrent against fraud” and “a robust post-election audit can increase confidence in the results of an election.” Post-Election Audits (2019), <https://www.ncsl.org/research/elections-and-campaigns/post-election-audits-635926066.aspx> (last visited Mar 9, 2020). As President Abraham Lincoln said, “Elections belong to the people” and being able to vote is crucial to our democratic form of government. SCPD supports this proposed regulation.

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

cc: Ms. Laura Waterland, Esq.  
Governor’s Advisory Council for Exceptional Citizens  
Developmental Disabilities Council

23reg 727-Elections – procedures for addressing post-election voting discrepancies 3-31-20