

New York State Board of Elections  
Neil Kelleher, Commissioner  
Helena Moses Donahue, Commissioner  
Douglas Kellner, Commissioner  
Evelyn Aquila, Commissioner  
Peter Kosinski, Co-Executive Director  
Stanly Zalen, Co-Executive Director

40 Steuben Street  
Albany NY 12207

September 18, 2007

Dear Commissioners and Co-Executive Directors,

At the August 28, 2007 meeting of the New York State Board of Elections and county election commissioners, Board staff discussed options for how New York State could comply with requirements for full polling place accessibility in 2008.

We strongly support implementing accessible voting in all New York polling places in 2008. However, based on the provided agenda and statements made by Board staff at that meeting, we have grave concerns about the proposal to allow DREs to be used as ballot marking devices in 2008 by disabling the device's vote counting functions and allowing the VVPAT to function as the ballot.

Co-Executive Director Kosinski stated that in order to use DREs for this purpose the machines would be subjected to a "truncated certification process." The details of the certification process that the Board intends to apply for the ballot marking function have not been established. In addition to the difficulties inherent in attempting to certify a system when no standards have been established, it is important to understand that DREs are not designed for this purpose, DREs do not satisfy minimum standards for usability, and they do not have proven field experience. Most importantly, voters with visual impairments would be unable to verify their ballots — thus defeating the entire purpose of using them to serve voters with disabilities.

We are strongly opposed to any plan that assumes that DREs can be used as accessible ballot markers. Allow us to indicate briefly some of our reasons:

1. The VVPAT is not accessible. Unlike ballot markers designed for accessibility which allow marked ballots to be reinserted and read back to the voter via an audio interface, a DRE VVPAT cannot be read back or verified by the voter in any way other than direct visual observation; a DRE VVPAT therefore fails to satisfy the requirement of voter verifiability for voters with visual impairments.
2. The VVPAT is not a reliable ballot – the documented failures of VVPATs in California, New Jersey, Washington, Utah, Ohio, Illinois, Arkansas and North Carolina demonstrate that the VVPAT should not be considered for this use.

3. The primary function of a DRE is to count votes; no DRE has ever been tested or used in an election with the vote tabulation function rendered inoperable. Since disabling the primary function of the DRE could easily introduce problems that may not be detected except under actual election conditions, it is not possible for the Board to guarantee voters that the devices will operate correctly during an actual election. *It is never a good idea to use a technology for purposes for which it is not designed.* The fact that 2008 is also an important Presidential election makes such experimental use even more imprudent.

We urge the New York State Board of Elections to permit only the use of true ballot marking devices which allow all voters to verify their ballots. To help ensure public confidence in the selection of these new systems, the certification process must not be truncated and the board should commit itself to open procedures that fully test systems for their accessibility, usability, security, and accuracy.

Sincerely,

American Council of the Blind of New York  
Mike Godino, President

Citizen Action New York  
Jessica Wisneski, Campaigns Director

Citizens Union/Citizens Union Foundation  
Dick Dadey, Executive Director

Independent Living Center  
of the Hudson Valley, Inc.  
Clifton Perez, M.S.W., Systems Advocate

League of Women Voters of New York State  
Aimee Allaud, Elections Specialist

MidHudson Verified Voting  
Margaret Yonco-Haines, Executive Director

New York Public Interest Research Group  
Neal Rosenstein, Government Reform  
Coordinator

New York StateWide Senior Action Council  
Pearl Reeves, Board Member

New Yorkers for Verified Voting  
Bo Lipari, Executive Director

Puerto Rican Legal Defense & Education Fund  
Jackson Chin, Associate Counsel

Task Force on Election Integrity of  
Community Church of New York  
Teresa Hommel, Chairwoman