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September 5, 2018

Thomas Connolly
Director of Elections Operations
New York State Board of Elections
40 North Pearl Street, Suite 5
Albany, New York 12207

RE: Certification of the Dominion ICE

Dear Mr. Connolly:

The New York Association on Independent Living (NYAIL) is a state-wide, not-for-profit membership association created by and composed of Independent Living Centers (ILCs) across New York State. NYAIL leads statewide ILCs' efforts to eliminate physical, communications, attitudinal, and other barriers to all aspects of life. NYAIL has an Election Reform Committee composed of Independent Living advocates and other stakeholders in the disability community, working together to ensure elections are fully accessible to all. We are writing regarding the Dominion ImageCast Evolution (ICE) pending certification.

First, NYAIL wants to thank the State for its efforts to move forward to certify new models of BMDs. The current machines are over ten years old and in need of replacement. However, the State needs to do a much better job in reaching out to disability-led organizations and involving people with disabilities in the process of determining which machines to certify.

Based on information from our colleagues, Disability Rights New York (DRNY), the State Board of Elections (SBOE) held a public demonstration of the ICE device on July 2, 2018. DRNY also informed us that only certain advocates that serve people with disabilities were present. Since NYAIL and ILCs were not invited to participate, the broader voice of people with disabilities was denied. Failure to allow input from a broader audience of organizations that serve people with disabilities is yet another form of excluding the disability community from providing crucial input on accessibility and usability of the ICE device.

Unfortunately, the current Dominion ImageCast has a reputation within the disability community for being slow and unreliable. It often breaks down while a voter is attempting to vote. This means that many people who attempt to use the current Dominion BMD are unable to complete the voting process privately and independently. This also acts as a deterrent for people who would/could use the BMD and encourages them to opt out of using it. Indirectly, but leading to the same consequence, the inability to use the BMD results in people losing their right of privacy and independence, by having a loved one or friend assist them in voting. Should they want to maintain their privacy and independence they would then use absentee ballots, for which reasons SBOE is already aware, is not acceptable.

NYAIL is writing to share its concern that the placement of the scanner poses significant access and privacy concerns. People who need to use the BMD to cast their ballot should not have to deal with a line of voters waiting to scan their ballots. People who don't need to use the BMD

don't have to wait in an additional line to cast their votes. DRNY, which attended the public demonstration, clearly lays out their reasons for the concern in its letter to the SBOE. They were:

1. The ICE device cannot simultaneously serve as a Ballot Marking Device (BMD) that provides a voter with a private and independent vote and as scan hand-marked ballots.
2. The ICE device does not guarantee a private voting experience during an accessible session.
3. Poll inspectors will discourage voters from using the ICE device as a BMD.

We urge the State to take this concern seriously by not certifying the Dominion ICE in its current form.

SBOE needs to create opportunities for broader input on the certification of the proposed machines. Rushing to certify a machine that does not provide independence and privacy to voters with disabilities is a serious and potentially costly mistake. It is in fact a violation of our rights.

The SBOE must delay certification until NYAIL and statewide ILC representatives have the opportunity to participate in a public demonstration and to comment on the appropriateness of Dominion ICE.

Sincerely,

Meghan Parker
Director of Advocacy
New York Association on Independent Living

Monica Bartley
NYAIL Election Reform Committee Co-Chair and Community Outreach Coordinator
Center for Independence of the Disabled, NY

Brad Williams
Executive Director
New York State Independent Living Council

Susan Cohen
Voting Access Solutions

CC:

- Peter S. Kosinski / Co-Chair
- Douglas A. Kellner / Co-Chair
- Andrew J. Spano / Commissioner
- Gregory P. Peterson / Commissioner