

Minutes of April 14, 2009 of the Help America Vote Act (HAVA) Task Force

A meeting of the Help America Vote Act (HAVA) Task Force on the Amendment of the State Implementation Plan was held on April 14, 2009 at 10:30 am at the offices of the New York State Board of Elections 40 Steuben Street, Albany, New York 12207. A public comment period was conducted from 10:00 to 10:30 am prior to the start of the meeting and no comments were received during this session. Task Force members present were: Steven Carbo, Margaret Fung, Ronald Hayduk, Russ Haines (for Neal Rosenstein), Tom Ferrarese, June O'Neill, Esmeralda Simmons, and Brad Williams. Members present via conference call were: Marcus Cederqvist, Anita Katz, Christopher Hilderbrant, Helen Kiggins, Sharon Shapiro, Kathleen O'Keefe and David Kogelman (for Senator Joseph Addabbo). Staff present were: Stanley Zalen, Elizabeth Hogan, Anna Svizzero, George Stanton, Paul Collins, Bob Brehm, Patrick Champion and Greg Fiozzo. Guests present were: Joe Paolucci from the Division of Budget and Helen Benlisa from the Catskill Center for Independence.

DISCUSSION TO IDENTIFY ANY GAPS IN IMPLEMENTATION:

Stanley Zalen welcomed everyone. He mentioned the letter he received from the members concerning their ideas for the Task Force and also Brad Williams concerns to be discussed. Due to budget constrictions and time, there will not be a public hearing in New York City.

Aimee Allaud feels it important to have some kind of public comment period after the plan is completed. Stanley Zalen reassured her that there will be clear instructions on the State Boards website informing the public of a comment period before all meetings. Instructions to use the call in number for the phone conference as a tool for the public to comment will be on the web.

Steve Carbo would like to preface the approach to the meetings and HAVA itself. Steve feels this is an important time to address issues that have been seen in elections. Voter education issues need to be discussed and hopefully adopted in amended plan.

Bob Brehm that HAVA has a cap on what New York State can spend for the improvement of the administration of elections until the New York State is in compliance with Title III . After New York is in compliance with Title III, the chief state elections administrator can request that any remaining funds be used to further the administration of Federal Elections. We are in a better position because we don't have to use the money to buy new machines two or three times.

Steve Carbo spoke about the importance of the improving the administration of elections in New York State. Steve went through the 10 bullets in the March 27th letter.

Anna spoke that one trained poll worker per device would not be enough. There should be at least two. Anna doesn't feel it can be mandated and that every poll worker should be trained to handle everything at the polling place.

Tom Ferrarese feels that the plan should be a roadmap as to what to do if there are problems. He feels one person is not enough; two people are needed for oversight. They need to make sure they are well trained and also that bi-partisan representation be maintained.

Aimee Allaud spoke about the issues of the last election with the disability community using the ballot marking devices. Hopefully lessons were learned from Plan B use of the ballot marking devices.

Brad Williams addressed issues related to poll worker training. There needs to be more face to face training, and include representatives from the disability community to participate in local training programs. Within the next couple of years everyone is going to be using the new machines and need to realize that they are not just for the disabled. Training will conquer this issue.

Sharon Shapiro has a concern that everyone should be notified where in the polling place the BMD is located. Communication when you go through the door is essential.

Bob Brehm referred to the end of page 22 where it states the importance of well trained poll workers. Everyone agrees with the importance of having at least one well trained poll worker. It is important that the language be more forceful in the plan to show that everyone should be well trained.

Esmeralda Simmons asked Anna Svizzero if a coordinator needs to be placed at every polling site. Anna replied that it would depend on how large the polling place is. If there are two or more ED's in one polling place a coordinator is needed if not two.

June O'Neill suggested that maybe a coordinator can be a greeter at the door and explain to everyone their options as to the choice of voting machines. Everyone needs to know that these machines are here to stay and everyone will be using them eventually. Education needs to show this. The local boards are the ones that implement the plan and an effective education program needs to be addressed.

Anna Svizzero suggested that it may be difficult to have a conversation with everyone that enters. Maybe signs with large print need to be set up throughout the polling site showing where the BMD's are, etc. The New York City Board has those signs throughout all their polling sites.

Aimee Allaud would like to emphasize improving access for voters with disabilities. The boards should have mandatory training. Kathleen O'Keefe stated that there is a state mandates that the counties must abide by. The state board does provide to each county sample test questions for the poll workers testing. Anna Svizzero stated that all the county board to report to the state in the annual report that they have to complete every year.

Russell Haines commented on the need of the language in the plan to be more specific in wording as far as the issue of training goes.

Stanley Zalen asked Bob Brehm how much more specific we can reasonably be with our training funds in this plan. We could make it clearer that the state law requires annual training, a written test, requires that we cover certain topics. The state and federal law sets the same requirements. Due to staffing issues we are unable to do as many board reviews we would like.

Kathleen O'Keefe asked what level of detail has to be in the plan. How much flexibility do you want to provide. The idea of the statute was to give each individual county the flexibility they need. Each county is so different and it is very important to keep this in mind.

Bob Brehm spoke about the guidelines that were passed out earlier that provide the counties with as much information as possible.

Ron Hayduk spoke about the need for poll workers to have their performance measured. Need to look at how to do that.

Anna Svizzero suggested that the advocacy groups contact their legislature to ask for changes for funding, training, pay to poll workers, etc.

Kathleen O'Keefe asked if each county board has data that shows what they have actually done to meet their obligations under federal and state laws. Do we need to collect the data? Is there a mechanism at each county board to see all this information?

Tom Ferrarese spoke that they do collect this information and review it and if there is a problem will take to the individual inspector. This information comes from a review by the board and also complaints that come to the board. Marcus Cederqvist stated that New York City has a complaint procedure that come from actual complaints on Election Day.

Brad Williams spoke about the importance of surveys for identity purposes of the plan. Surveys could be conducted from poll workers and the disabled. It would be a great way to get feedback on the plan. To see what is working, what is not and to make changes if needed.

Steve Carbo requested that the Task Force members get the plan in Word form. Stanley replied that after the changes that we have so far are completed, then the plan would be sent out to everyone for track changes to be made. The focus for the next meeting could be the language of the plan.

There was a lengthy discussion about DMV match-ups in regards to voter registration data. What guidelines and standards does the state board give to counties – example: Robert & Bob. The data will not come back; the counties have the ability to make the decision in a bi-partisan way to decide to accept or not to accept.

Kathleen O'Keefe spoke that the information on page 13 of the plan that talks about the mailings the counties send out to voters who have not provided ID. The statute states that the counties need to send out two notifications, not one. Identification needs to be provided before a voter can vote on a machine. There are a couple of items on the March 27th letter that the board will not be able to do because they need to be done in statute. The last bullet should be looked at

as a goal – affirming that New York will only use federally and state-certified voting systems to replace lever machines.

Margaret Fung asked Kathleen if the bill on the affidavit ballot which has been passed in the Senate, if it will be passed in the Assembly. Kathleen reassured her that yes it will prior to the end of session. The bill to use the affidavit ballot as a way to register is Senate bill # is 1075. The Assembly is 4015.

Bob Brehm spoke about our business rules and what the statute says which is that we can't change or alter a record at the state level. It can only be done at the county level. There are five matching points the counties look at when registering a voter. The county has the responsibility to make decisions to change record.

Stanley Zalen explained that New York is a bottom's up state and not a top to bottom state. The HAVA statute regulations are left up to the county boards to make a decision. When a match does not occur the HAVA law says the county needs to look to state law. The legislature's position was to look at the state law which says it is up to the two commissioners to make that decision. NYSVoter report that the counties can do does give you the gap in the information given.

Tom Ferrarese explained that counties, when processing the voter registration application do not discard it just because it does not have all the information. They will contact the voter to get the correct information.

Margaret Fung feels that Asian –American names which are not as recognizable have been turned away from voting and that integrating other languages need requirements into other aspects of the plan (for example training, voter registration, etc.) should be a priority. Russell Haines feels that New York has a tougher standard for registering then there is for matching or purging.

There is different process for different issues in matching voters. Duplicate registration looks at everything right down to the signature. Matches are done with other county boards and not just DMV and SSA. The State feels that there are enough procedures to cover duplicate voter issues.

Bob Brehm spoke that in section 5-210 of the Election Law it states that a first time voter voting on a machine needs to have their ID requirement met. This law covers all registrations. Some members of the task force urge the state to make changes to the state law concerning this. If a voter cannot vote on the machine because he/she hasn't met ID requirements, you can vote on affidavit ballot.

The small changes will be done on the plan and will be sent out to all the Task Force members to make the track changes. The list of contact numbers to all members will also be sent. The changes should be sent to us by May 4th. One plan with the tracked changes will be accepted. There isn't a deadline to have this completed by. There is 14 million dollars and some of it is from last year. It is just that some of the counties are running out of money.

Every draft will be on the website along with comments received. The plan will have a 30 day comment period after sent to Washington. After the comment period it will become final. Federal report requires we keep track of all public comments.

The next meeting will be held on May 13th from 10:30 – 2:30 pm. Public comment will be from 10:00 – 10:30 and will be able to dial in to 518-474-9356. Written public comments are also welcome d via e-mail at HAVATF@elections.state.ny.us