



April 23, 2020

U.S. Department of Justice
950 Pennsylvania Ave, NW
Civil Rights Division
Disability Rights Section
Washington, D.C. 20530

Sent via facsimile to: 202-307-1197

RE: Concerns About Accessible Voting in the Idaho May 19, 2020 Primary Election

Dear Department of Justice Personnel:

By way of introduction, I am Courtney R. Holthus, Advocacy Director and attorney at Disability Rights Idaho, Idaho's Protection and Advocacy System. I am filing this complaint on behalf of individuals with disabilities within the state of Idaho who may be eligible to vote in the May 19, 2020 Idaho Primary election.

On April 1, 2020, Idaho's Governor Brad Little issued a Proclamation regarding Idaho's May 19, 2020 primary election in response to COVID-19. Specifically, the Proclamation requires that the election be conducted solely via mail-in absentee ballot. In the Governor's Proclamation, the Secretary of State and County Clerks are "encouraged to take diligent steps to make all Idaho registered voters aware of these changes and ensure that every eligible Idahoan has ample opportunity to exercise his or her right to vote." DRI's primary concern is that while there has been information provided to the public about the changes taking place as a result of the Proclamation, there appears to be little to no information provided for voters with disabilities, including elderly individuals with disabilities, in regards to accessibility options for the May 2020 primary election.

DRI has expressed its concerns to the Secretary of State's office as demonstrated in the attached emails. The Secretary of State's office has since hosted a press conference via FacebookLive, in which both the Secretary and Deputy Secretary of State expressed their office's commitment to ensuring that the primary election process is accessible to voters with disabilities, encouraging voters with disabilities to reach out to their county clerks to request needed accommodations. They also encouraged each county clerk to reach out to disability organizations in their area in order to help spread the word about this process. To date, only Ada County has reached out to DRI.

While DRI certainly appreciates this effort, DRI remains concerned that voters with

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4477 EMERALD ST., SUITE B-100
BOISE, ID 83706
TEL: 208-336-5353
FAX: 208-336-5396

TOLL FREE: 866-262-3462
WEBSITE: www.disabilityrightsidaho.org
E-MAIL: info@disabilityrightsidaho.org

POCATELLO OFFICE
1246 YELLOWSTONE AVE., STE A-3
POCATELLO, ID 83201
TEL: 208-232-0922
FAX: 208-232-0938

disabilities across the state of Idaho may become disenfranchised by the lack of uniformity and specificity that is being offered when it comes to providing accommodations to voters with disabilities. The position that has been communicated on the subject of accessibility by the Secretary of State's office is that the decision to provide and implement accommodations is left up to each individual county clerk for the forty-four (44) counties in Idaho. As a result, the possibility for inequality in this process between now and the day of the election is high. For example, please see the communications we have received from two (2) counties thus far, Ada and Bannock, attached hereto for your reference. The communication from Ada County indicates that they will be offering individuals with disabilities the ability to vote in-person, by appointment, in order to be able use a voting machine to cast their ballot. Bannock County, on the other hand, is sending voters information via mail that doesn't mention or reference the provision of accommodations at all.

Again, while DRI appreciates that the Secretary of State has communicated its commitment to ensuring the May 2020 primary is accessible to all voters, DRI remains deeply concerned that by leaving this responsibility to each individual county clerk may result in unequal implementation across the state. DRI respectfully requests that the Department of Justice examine how Idaho's May 2020 is currently being handled by both state and local county officials in order to ensure that it is accessible as possible for voters with disabilities, in compliance with federal law.

Please feel free to contact me if you would like to discuss this in more detail. I can be reached via email at courtney@disabilityrightsidaho.org or via cell at 208-204-8093.

Sincerely,

/s/

Courtney R. Holthus, *Esq.*
Advocacy Director

Enc.: April 1, 2020 Proclamation;
Email Correspondence with Idaho Secretary of State's Office;
Ada County May 2020 Primary Information for Voters; and
Bannock County May 2020 Primary Information for Voters



The Office of the Governor

*Executive Department
State of Idaho*

Proclamation

*State Capitol
Boise*

WHEREAS, I issued a proclamation on March 13, 2020, declaring a state of emergency in the State of Idaho pursuant to Chapter 10, Title 46, Idaho Code, due to the occurrence and imminent threat to public health and safety arising from the effects of the 2019 novel coronavirus (COVID-19); and

WHEREAS, President Trump issued a proclamation on March 13, 2020 declaring a national emergency due to the outbreak of COVID-19 in the United States and in order to implement additional measures to successfully contain and combat the virus in the United States; and

WHEREAS, by proclamation dated March 25, 2020, I amended my proclamation dated March 13, 2020 and declared a state of extreme emergency in the State of Idaho pursuant to Chapter 6, Title 46, Idaho Code, due to the increasing occurrence and threat to public health and safety arising from the effects of COVID-19; and

WHEREAS, each of those proclamations remain in effect today; and

WHEREAS, on March 25, 2020, at my direction and in order to slow the spread of COVID-19, the Director of the Idaho Department of Health and Welfare issued a statewide Order directing all residents of Idaho to stay home and all businesses to close, with certain exceptions for Essential Activities, Businesses, and Government Functions; and

WHEREAS, that Order remains effective today; and

WHEREAS, federal, state, and local public health authorities continue to strongly recommend limited interaction between individuals in order to reduce the spread of COVID-19; and

WHEREAS, citizen participation in the act of voting is essential to our republic; and

WHEREAS, the Idaho Secretary of State and Elected Clerks of Idaho's forty-four counties are currently preparing for the upcoming May 19, 2020 Primary and Consolidated Elections; and

WHEREAS, it takes approximately two (2) months to properly prepare for and execute an election; and

WHEREAS, Chapters 3 & 11, Title 34, Idaho Code, set out important requirements ensuring the establishment and conduct of elections via the use of polling places; and

WHEREAS, voting in polling places on May 19, 2020 (referred to hereafter as "Election Day") causes the mixed gathering of thousands of Idaho voters and poll workers, and poses a real and unacceptable risk to the lives of Idaho voters and poll workers and the spread of COVID-19 to other citizens; and

WHEREAS, the recommendations to limit interactions with others during this state of emergency has significantly decreased the availability of possible polling locations and willingness of poll workers to serve on Election Day; and

WHEREAS, according to the official information provided by the Idaho Department of Health and Welfare, as of the date of this proclamation, 525 Idahoans have tested positive for COVID-19 and 9 Idahoans have died due to COVID-19; and

WHEREAS, it is crucial to the health and safety of all Idahoans that the spread of COVID-19 be reduced so that the state's healthcare capacity is not overwhelmed by large number of cases arising simultaneously; and

WHEREAS, cases of COVID-19 have continued to increase in Idaho, necessitating additional measures to contain and combat the virus while protecting the constitutional rights of all Idahoans; and

WHEREAS, the Center for Disease Control and the State of Idaho Department of Health and Welfare have determined that individuals over the age of sixty-five (65) and individuals who are immunocompromised are more vulnerable to serious illness due to COVID-19; and

WHEREAS, I am informed by the Secretary of State that on average approximately 1,000 poll workers help carry out a primary election like this and that over sixty-five percent (65%) of those poll workers were over the age of sixty (60) as of 2019; and

WHEREAS, there is a real risk of virus spread at traditional polling places under normal election circumstances where a single precinct can see over 2,000 voters in a single day; and

WHEREAS, the equipment and supplies necessary to protect poll workers at traditional polling locations from COVID-19—such as face masks, face shields, gowns, hand sanitizer, and disinfectants—are in high demand and are needed in hospitals and health care facilities to keep

Idaho's health care workers safe, healthy and able to continue protecting and treating Idahoans at this time; and

WHEREAS, utilizing the existing statutory procedures for absentee voting by mail allows Idahoans to exercise their constitutional right to vote while keeping the public safe from the threats presented by the presence of COVID-19 in Idaho; and

WHEREAS, in addition to the use of paper application forms, the Secretary of State has already set up a website where Idaho voters can register to vote and request an absentee ballot electronically;

WHEREAS, I have worked with the Secretary of State and the elected County Clerks to ensure Idahoans have every opportunity to exercise their constitutional right to vote safely without risking exposure to COVID-19; and

WHEREAS, for all of the reasons stated herein and many others, I am convinced that the actions set out in this proclamation, including voting by mail, are necessary to protect the liberty, constitutional right to vote, lives and property of Idahoans, and to ensure necessary action to cope with the existing emergency is not prevented, hindered or delayed.

NOW, THEREFORE, I, Brad Little, Governor of the State of Idaho, by virtue of the authority vested in me by the Constitution of the United States, the Constitution of the State of Idaho, and the laws of this State, including Sections 46-601 and 46-1008, Idaho Code, do hereby find and therefore proclaim, declare, and order that:

- 1. The proclamations I issued on March 13, 2020 and March 25, 2020 are hereby amended to incorporate this proclamation.*
- 2. This proclamation is issued in furtherance of and compliance with the Order issued at my direction by the Director of the Department of Health and Welfare on March 25, 2020.*
- 3. The requirements of the following sections of Idaho Code are suspended entirely for the duration of the 2020 Primary and Consolidated Elections:*
 - a. 34-302. DESIGNATION OF PRECINCT POLLING PLACES,*
 - c. 34-1006. COUNTY CLERKS SHALL PROVIDE ONE OR MORE "ABSENT ELECTORS' VOTING PLACE,"*
 - d. 34-1012. ALTERNATIVE PROCEDURES FOR ABSENTEE VOTING – EARLY VOTING,*
 - e. 34-1101. OPENING AND CLOSING OF POLLS*
 - f. 34-1107. MANNER OF VOTING*
- 4. In lieu of the use of polling places on Election Day, the May 19, 2020 Primary Election and Consolidated Elections shall be conducted in accordance with the existing absentee voting by mail process set out in Chapter 10, Title 34, Idaho Code except those provisions of*

Chapter 10 that are suspended as outlined in paragraph two (2) above or as otherwise set out herein.

5. The twenty-four (24) day requirement for the closing of the register of electors in section 34-408(1), Idaho Code, is suspended to provide for continuous registration up to and including Election Day. This is to maintain compliance with Federal election law while allowing voters maximum time to register prior to requesting an absentee ballot under section 34-1002(7), Idaho Code.

6. For the duration of the May 19, 2020 Primary Election and Consolidated Elections, the statutory requirement in section 34-1002(7), Idaho Code, below,

“...The application for a mail-in absentee ballot shall be received by the county clerk not later than 5:00 p.m. on the eleventh day before the election.”

is suspended and amended to read:

“...The application for a mail-in absentee ballot shall be received by the county clerk not later than 8:00 p.m. on election day.”

7. For the duration of the May 19, 2020 Primary and Consolidated Elections, the statutory requirement in section 34-1005, Idaho Code, below,

“...that an absentee ballot must be received by the issuing officer by 8:00 p.m. on the day of election before such ballot may be counted.”

is suspended and amended to read:

“...that an absentee ballot must be received by the issuing officer by 8:00 p.m. on Tues. June 2, 2020 before such ballot may be counted.”

8. The statutory requirement in section 34-1003(3), Idaho Code, requiring that all absentee ballot requests received prior to forty-five (45) days before an election be sent not later than forty-five (45) days prior to the election is suspended for the duration of the May 19, 2020 Primary and Consolidated Elections.

9. If any additional statutory requirements within Title 34, Idaho Code, conflict with orders or directives under the current state of emergency, those statutory requirements may be suspended by a directive of the Secretary of State as Idaho's chief elections officer.

10. All other requirements related to the administration of elections pursuant to Title 34, Idaho Code, and any other titles, remain intact and are not impacted by this action.

11. The Secretary of State and County Clerks are encouraged to take diligent steps to make all Idaho registered voters aware of these changes and ensure that every eligible Idahoan has ample opportunity to exercise his or her right to vote.

12. *For the May 19, 2020 Primary and Consolidated Elections, the Canvass of votes, along with the counting of votes under Title 34, Chapter 12, may be delayed by a period not to exceed two additional weeks after the deadline for an absentee ballot to be received by the county clerk, at the discretion of and by directive of the Secretary of State.*

13. *Accordingly, the following deadlines for the May 19, 2020 Primary and Consolidated Elections apply:*

- a. May 19, 2020, 8 p.m.: Deadline to register to vote.*
- b. May 19, 2020, 8 p.m.: Deadline for county clerk to receive a request for absentee ballot by mail or by in person delivery.*
- c. May 19, 2020 – 8 p.m.: Deadline for requesting an absentee ballot online.*
- e. June 2, 2020 – 8 p.m.: Deadline for absentee ballots to be received by the county clerk.*
- f. June 2, 2020 – 9 p.m. Mountain – Earliest time for results to be posted for May 19 Primary Election.*

14. *These actions are necessary to protect the liberty, constitutional right to vote, health and safety of voters, poll workers, and all citizens from COVID-19 and to ensure the necessary actions being taken to cope with the existing emergency is not prevented, hindered, or delayed and by reducing the sharing of materials and space caused by the conduct of elections in polling places.*



A handwritten signature in black ink, appearing to read "Lawrence Denney".

Lawrence Denney

SECRETARY OF STATE

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this 1st day of April in the year of our Lord two thousand and twenty.

A handwritten signature in blue ink, appearing to read "Brad Little".

Brad Little

GOVERNOR

From: [Courtney Holthus](#)
To: chad.houck@sos.idaho.gov
Bcc: amy@disabilityrightsidaoh.org
Subject: Follow-Up Questions RE: Accessibility Options for May 2020 Primary Election
Date: Monday, April 13, 2020 11:37:23 AM
Importance: High

Hello Mr. Houck:

Thanks again for speaking with me this morning. I had some additional questions that I was hoping you could answer for me:

1. Are voters able to mail in their absentee ballot requests and primary election ballots free of charge?
2. Are all counties offering drop-boxes for those who need to personally drop off their ballots or absentee ballot requests?
3. Are signature requirements being relaxed or alternatives being offered for those who may not be able to meet such requirements?
4. For those voters that need assistance in completing a ballot, (who usually get such assistance from poll workers on election days when voting in-person), what options are being made available for them to get the assistance they need to complete a ballot? Are they able to designate someone to assist them in completing and submitting the ballot?
5. Are voters able to request ballots in alternative formats? (i.e. large print, Braille, etc.)? What is the process for them to do that? Do they need to call their county elections office?
6. If there is an error with someone's absentee ballot, what is the process for ensuring that the voter is given a chance to address the error and make sure their vote is counted?

Thanks, in advance, for your assistance in gathering this information.

In case you are not familiar with DisAbility Rights Idaho, we are Idaho's designated Protection & Advocacy Agency (P&A). As Idaho's P&A, we are mandated by the Help America Vote Act to "ensure the full participation in the electoral process for individuals with disabilities, including registering to vote, casting a vote and accessing polling places." With the changes being implemented as a result of the Governor's April 1, 2020 Proclamation, we want to be able to answer questions voters with disabilities may have in regards to these changes, as accurately as possible. Therefore, any answers you can provide in regards to the above questions would be greatly appreciated.

In the Governor's Proclamation, the Secretary of State and County Clerks are "encouraged to take diligent steps to make all Idaho registered voters aware of these changes and ensure that every eligible Idahoan has ample opportunity to exercise his or her right to vote." While there has been information provided to the public about the changes taking place as a result of the Proclamation, there appears to be no information provided for voters with disabilities in regards to accessibility options for the May 2020 primary election. ***On behalf of voters with disabilities in Idaho, DisAbility Rights Idaho would strongly urge the Secretary of State's office as well as each County Clerk to issue a statement or otherwise provide information to the public as to what accessibility options are being offered for voters with disabilities as well as the process for requesting such options, if needed. This should be provided as soon as possible to educate voters with disabilities, as the***

deadlines for registering to vote, requesting absentee ballots, and submitting such ballots are quickly approaching.

Thank you, again, for returning my call this morning, and for helping to address DisAbility Rights Idaho's questions and concerns about the upcoming election process. My contact information is listed below in case you need to reach me or want to discuss this more in detail. As I am working out of the office at this time, you can also reach me via my cell at 208-204-8093. Thanks.

Sincerely,

Courtney R. Holthus, Esq.

Advocacy Director

DisAbility Rights Idaho

4477 Emerald Street, B-100

Boise, Idaho 83706

(208) 336-5353, Ext. 119

(208) 336-5396 (FAX)

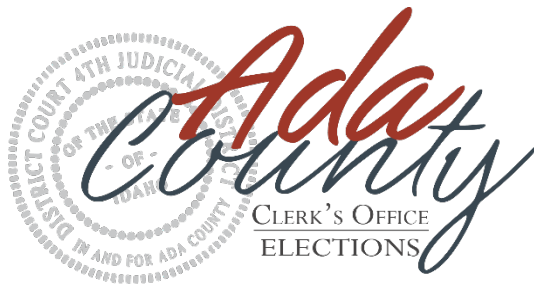
courtney@disabilityrightsidaho.org

Pronouns: she/her/hers

We would like to hear from you. Please tell us where you would like DRI to focus its work by completing the survey found at: <https://www.surveymonkey.com/r/WTQJN7>



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Phil McGrane, JD, MPA
Clerk of the District Court

Trent Tripple
Chief Deputy

400 N Benjamin Ln, Ste 100, Boise, ID 83704

Phone (208) 287-6860

Fax (208) 287-6939

Don't Forget to Vote in the May 19th Primary Election

The coronavirus pandemic is changing the way Idahoans will vote in the May Primary Election. Governor Brad Little and Secretary of State Lawrence Denney announced that the Idaho May 19th Primary Election will be conducted by absentee ballot. This change impacts voters who may need assistance casting a ballot. Ada County Elections is working to ensure every voter has the ability to vote in the May 19th Primary Election.

Voting absentee by mail is a simple way for many voters with disabilities to participate in the Primary Election. Voters may complete their ballot in the comfort and privacy of their home. Here are the three steps you need take to request an absentee ballot:

1. Request Your Ballot

You must request your ballot by May 19, 2020 in order to vote. You can request your ballot online through the Secretary of State's Office at IdahoVotes.gov. You can also contact our office for help by calling 208-287-6860. Registered voters who do not request their ballot by late April, will be mailed a ballot application.

Please note, you will need to be registered to vote to participate in the upcoming election. You can register online at IdahoVotes.gov.

2. Wait for Your Ballot

Once you've requested your ballot, give our team some time to process your request and drop your ballot in the mail. It may take up to 10 days for you to receive your ballot once you've submitted your request.

You can track your ballot, and confirm your ballot request has been received, at IdahoVotes.gov.

3. Vote and Return Your Ballot

As soon as you receive your ballot, vote and use the pre-addressed and pre-paid envelope to mail it back to us. Please be sure to sign the return envelope.

All ballots must be received by 8 p.m. on June 2, 2020 to be counted. Voters are encouraged to send their ballots back to us as soon as possible.

If absentee voting is not an option and further assistance or accommodations are needed to cast a ballot, Ada County Elections will have a voter assistance terminal available at the Elections office on 400 N. Benjamin Lane in Boise. The ADA Compliant voting equipment will be available by appointment only, April 20 through May 19 from 10:00 a.m. to 4:00 p.m., Monday through Friday. Please contact our office at 208-287-6860 to schedule an appointment.

Court
Ph (208) 287-6900
Fax (208) 287-6919

Auditor
Ph (208) 287-6879
Fax (208) 287-6909

Recorder
Ph (208) 287-6840
Fax (208) 287-6849

Elections
Ph (208) 287-6860
Fax (208) 287-6939

Indigent Services
Ph (208) 287-7960
Fax (208) 287-7969



MAY 19, 2020 PRIMARY ELECTION ABSENTEE BALLOT APPLICATION

The deadline to return this form is May 19, 2020

For Official Use Only

Due to the current state of emergency related to the novel coronavirus, the May 19, 2020 Primary Election will be held by absentee ballot ONLY.

- 1. REQUEST:** To receive a ballot for the May 19, 2020 Election, please complete the form below and return it to your county clerk **no later than Tuesday, May 19, 2020**. You may also request an absentee ballot online at Idahovotes.gov.
- 2. WAIT:** It may take **10-14 days from receipt to process and return** your absentee ballot to you by mail.
- 3. VOTE & RETURN:** Your voted ballot must be returned to your local Clerk/Elections office **by June 2, 2020** to be counted.

You must be registered to request an absentee ballot. You may register to vote at Idahovotes.gov or through your county clerk.

Your party affiliation will affect your ballot choice for this primary election. Please see the ballot options for party affiliations and unaffiliated voters below. You may view your party affiliation at Idahovotes.gov.

Residence Address

Last Name	First Name	Middle Name	Suffix (Sr., Jr., etc.)
Residence Address		Phone Number (Optional - which will be public record)	
City	State	Zip Code	Email (Optional - which will be public record)

Mailing Address — Complete this section ONLY if the ballot is to be mailed to an address different than the address in section 1.

Mailing Address			
City	State	Zip Code	Country (Other than USA)

May 19 Primary Ballot Selection

Find your party affiliation and select **ONE** of the ballot options below.

Electors affiliated with a political party may *not* change their party affiliation for the purpose of voting in a primary election following the last day a candidate may file for partisan political office as per I.C. §34-411a(1). This deadline was March 13, 2020 for this primary election. Unaffiliated electors may select their ballot choice using the far right column below. If you need to check your party affiliation, please visit Idahovotes.gov or contact your county clerk.

PLEASE NOTE: Non-Partisan ballots contain only bonds, levies, measures and non-partisan positions like Judges, they DO NOT contain candidates from ALL PARTIES.

I am a member of the
Constitution Party

- ☐ Democratic Ballot
☐ Non-Partisan Ballot

I am a member of the
Democratic Party

- ☐ Democratic Ballot
☐ Non-Partisan Ballot

I am a member of the
Libertarian Party

- ☐ Democratic Ballot
☐ Non-Partisan Ballot

I am a member of the
Republican Party

- ☐ Republican Ballot
☐ Democratic Ballot
☐ Non-Partisan Ballot

I am
Unaffiliated

- ☐ Democratic Ballot
☐ Republican Ballot
(you will become affiliated
with the Republican Party)
☐ Non-Partisan Ballot

Additional Absentee Ballot Selection

- ☐ I am also requesting an absentee ballot for the Election taking place on **August 25, 2020**.
- ☐ I am also requesting an absentee ballot for the General Election taking place on **November 3, 2020**.

Signature (Required)

Signature of Voter	Date
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Jason C. Dixon
Clerk of the District Court
Ex-Officio Auditor - Recorder
Clerk to the Commissioners



Bannock County Elections
141 N. 6th Avenue
P.O. Box 4489
Pocatello, Idaho 83201-4489

April 6, 2020

Dear Voter,

Due to the COVID-19 pandemic and the CDC's social distancing guidelines, The Bannock County Elections Office will need to implement some changes for the State and Local Primary Election on May 19, 2020. Pursuant to the Governor and the Secretary of States' Orders, in conjunction with the Elected Clerks of Idaho, there will be no in-person voting for the May Election. *Every voter will need to request a ballot by mail for the upcoming May election.* Listed here are the most efficient routes through which you can request your ballot:

1. All Bannock County residents can register to vote online *and* request an absentee ballot by visiting idahovotes.gov. This request will be submitted electronically.
2. The request form for a mail-out absentee ballot is included on the back of this letter. Please fill it out and return it to the Bannock County Elections office.

When mailing in your request please address it to:

Bannock County Elections
P.O. Box 4489
Pocatello, ID 83205

The deadlines to remember are as follows:

- On or before **May 19, 2020 at 8:00 p.m.** you must request an absentee ballot by mail from the Elections Office, or request an absentee ballot online.
- **June 2, 2020 at 8:00 p.m.** is the deadline for all ballots to be received by the Elections Office.

The Elections Office encourages you to **start today** and not wait until May 19, 2020 to request your ballot. Once the ballot arrives, you will need to fill it out and mail it back using the pre-addressed envelope.

We appreciate your willingness to keep the public and our election staff safe. We apologize for any inconvenience this may cause.

Sincerely,

Jason Dixon
Bannock County Clerk of the District Court

Julie Hancock
Bannock County Elections Director