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May 21, 2020

Kathryn Boockvar
Secretary
Pennsylvania Department of State
302 North Office Building
Harrisburg, Pennsylvania 17120

*** HAND DELIVERED ***

Dear Secretary Boockvar:

We are writing as a follow up to our conversation Tuesday concerning the Pennsylvania Department of State's conveniently undated letter of approval to Allegheny County's recent application to the Department to drastically consolidate in-person voting locations for the upcoming Primary Election. Written by Deputy Secretary of Elections and Commissions Jonathan Marks, the undated letter was written to "Allegheny County Officials", not to legislators. The letter does not seem to have been published in a public forum.

It is apparent, based on our conversation, that the Department of State has not done its diligence in discharging its statutory responsibilities as outlined Article XVIII-B, specifically, § 1802-B(A)(3):

(3) Two or more polling places may be consolidated, except that the consolidation of polling places may not result in more than a 60% reduction of polling place locations in the county, except for necessitous circumstances and as approved by the Department of State. Two or more polling places may be located in the same building.

Allegheny County has 1,218,000 citizens who live in 130 municipalities. According to a letter dated April 27, 2020 (on which no legislator is copied), written by Jerry Tyskiewicz, Director, Department of Administrative Services of Allegheny County, to Secretary Boockvar, the County presently has "1,323 polling places." In that letter, Tyskiewicz seeks to reduce the "polling place locations to no fewer than 138 polling place locations" for the June 2, 2020 primary election. On May 15, 2020 Allegheny County's Amie Downs issued a press release setting forth a reduced list which, given our count, included 147 "polling place locations." In the undated letter written by Jonathan Marks, the Deputy Secretary of Elections and Commissions, Allegheny County was authorized to reduce the number to "211 polling places" for the June 2, 2020 primary.

We do not believe that it was necessary to reduce any number of polling places for this primary election on June 2, 2020, for the reasons enumerated later in this letter and would ask that all polling places be restored.

Using Director Tyskiewicz's number of "1,323 polling places," we recognize that the Allegheny County Board of Elections had the statutory authority, for this primary election only, to reduce polling places down to 530 without seeking Department of State approval. Even such a decision, however, would have been unwise and unnecessary. Clearly, the authorization to reduce them to 211 requires Department of State approval because it is beneath the 530 statutory limit, but that can only be done for "necessitous circumstances." This standard was clearly not met and the statute has been violated for the reasons set forth below.

While the necessity to reduce polling places was contemplated in permitting these changes, it was weighed against the value of allowing as much open access to voters as possible and avoiding large-scale gathering of people, which is entirely consistent with the Pennsylvania Department of Health's and the Centers for Disease Control and Prevention's guidelines to assist in reducing the spread of COVID-19. In this instance:

- 1) No material evidence was provided to justify the reduction in polls below 530 polling places. Therefore, not only were "necessitous circumstances" not demonstrated, there were not even any "circumstances" demonstrated.
- 2) There was no notice provided prior to Allegheny County's "here's the plan" press release on the afternoon of May 15. No legislators from Allegheny County were copied on the April 27 Tyskiewicz letter nor was the letter made public. The undated letter of approval to reduce polls to "211 polling places" signed by Deputy Secretary Marks was to Allegheny County Officials. It was not a public document.
- 3) Finally, the Department of State's decision in the undated letter is untimely.

Further, not only is the decision violative of the statute as set forth above, the decision to reduce the number of polling locations on the primary date is an affront to good faith decision making in a democracy and to rational and fair public policy. Secretary Boockvar, your approval of Allegheny County's ill-conceived plan was not just unjustified, it threatens the public health, promotes voter disenfranchisement, and will result in severe voter confusion that undermines the core of our Republic – free and fair elections. This is problematic for the following reasons:

- 1) It effectively disenfranchises voters who will go to their regular polling place, which will not be there, and they will simply go home frustrated.
- 2) It disenfranchises voters who will see longer lines and less social distancing and will leave without voting.
- 3) There was no public notice of these changes until they were announced on Friday, May 15th by a press release. This was 18 days before election day.
- 4) There is no evidence that a significant number of poll workers were contacted to determine whether they could adequately staff their polls on election day.
- 5) There was no input sought from legislators with respect to this proposal.
- 6) There is no data that was presented to support reducing polling locations or to suggest that it would be safer. In fact, the data is to the contrary. By way of example, Allegheny County has 1,218,000 citizens. Sadly, as of May 18, 2020, we have suffered the loss of 143 of our county's

fellow citizens attributable to COVID-19. Of those 143 citizens, 112 were residents of nursing homes, personal care homes or assisted living facilities. That means that 78 percent of those whose death was attributable to COVID-19 in Allegheny County lived in a senior setting. The risk to the general population is significantly lower and did not necessitate any change.

- 7) The approved consolidation plan, however, increases that risk as it artificially concentrates voters into consolidated polling places. It is less safe to funnel more voters into fewer locations and is completely at odds with the recommendation of social distancing.

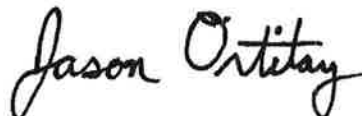
In our conversation, the Department offered no coherent or legal reason why it approved Allegheny County's request to dramatically limit access to in-person voting. The reason is clear – there truly is not and never was a “necessitous circumstance” as required by the law. Instead, the Department merely accepted Allegheny County's deficient application rather than investigate and make independent determinations about the necessity of the proposed changes. That failure, coupled with the approval the Department has issued, raises serious questions regarding the Department's commitment to the statutory obligations under Act 12 of 2020.

Given these facts, we insist that the Department revise its approval of Allegheny County's application and immediately require the County to return to the standard “1,323 polling places.” At a minimum, the County must be required to allow for at least 530 polling locations in 530 separate buildings based on an equitable pro rata basis.

Sincerely,



Mike Turzai
Speaker, Pennsylvania House of Representatives
Member, 28th Legislative District



Jason Ortity
Member, 46th Legislative District



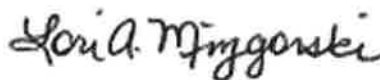
Bob Brooks
Member, 54th Legislative District



Michael Puskaric
Member, 39th Legislative District



Natalie Mihalek
Member, 40th Legislative District



Lori Mizgorski
30th Legislative District

Cc: Honorable Tom Wolf, Governor of Pennsylvania
Other Allegheny County State Senators and State Representatives