

League of Women Voters Lawsuit Settlement Agreement

The LWV/TLC was chosen recently by the City of Toledo to receive a plaque honoring Anna Mott (1835-1902), an early pioneer in Toledo who was active in the national and local suffrage movements. We were chosen because of our continuing efforts to secure the voting rights of citizens in Lucas County. This was the issue that Anna Mott fought so hard for, so many years ago.

Since that time, the members of the LWV/TLC have worked to provide voter services to the citizens of Lucas County. We have seen, time and time again, our own local Board of Elections trying to do a good job for Lucas County citizens, but being hampered by the failure of the State to provide adequate funding and resources. Because we believed Ohio needed a better voting system, we joined with the LWV Ohio and twelve Ohio individuals four years ago (July 28, 2005), filing a lawsuit against the office of the Secretary of State and Governor of Ohio for their failure to effectively administer the Ohio electoral system. This failure resulted in countless eligible voters being disenfranchised in each electoral year.

Background of Lawsuit

The lawsuit asked that the State of Ohio be required to uphold its constitutional obligation by adequately responding to the electoral needs of its voters. The complaint chronicled widespread problems with election planning, voter registration, absentee and provisional ballot processes, training of poll workers, organization of polling places and precincts, allocation of voting equipment and resources, disability access, and voting technology and security.

Our goals were to promote pre-election planning so as to minimize errors and overcome past problems concerning (1) inadequate equipment and resources at polling places, (2) processing of provisional and absentee ballots, (3) disability access, (4) and voting technology. We also sought to have better recruitment and training of election officials and pollworkers and institute consistent data collection and monitoring of key aspects of election administration.

The Settlement

The settlement agreement was filed June 16, 2009 at the United States District Court in Toledo, OH. The terms of the Agreement will remain in effect until January 11, 2015, and any claims arising out of the Agreement will be heard by Chief Judge James G. Carr of the United States District Court for the Northern District of Ohio. The Settlement's major elements are:

Pollworker Training and Recruitment

- All Board of Elections (BOE) Members, Directors and Deputy Directors will receive training from Secretary of State (SOS) personnel.
- The SOS will seek to support pollworker recruitment through outreach to high school seniors, partnerships with businesses, and development of college and university outreach.
- All BOEs will be required to use the uniform pollworker training materials and manual developed by the SOS, with particular attention to proper use and processing of provisional ballots and proper administration of voter identification requirements.

Provisional Ballots and Absentee Ballots

The SOS will study and report on why provisional ballots were not counted in the 2008 general election and make best efforts to reduce uncounted provisional ballots, will require pre-election reports from BOEs on absentee ballot processing, and will study and report on drop-offs between ballot applications submitted and ballots returned.

Voter Registration

Field staff from SOS's office will at least annually make visits to each BOE for personal observation of the processing of registration applications to confirm that applications are being processed in a timely, reliable, accurate, efficient, and professional manner.

Disability Access

The SOS will maintain a variety of improvements to ensure access for voters with disabilities, including

- Requiring BOEs to provide signed certifications of compliance with statutory access requirements, and rigorously scrutinizing requests for exemption
- Assigning staff to work with BOEs on ADA compliance and polling place accessibility
- Maintaining an advisory committee for voters with disabilities.

Voting Technology and Security

Improvements to be maintained in the area of voting technology and security include procedures for post-election audits of ballots; procedures requiring paper ballots in event of DRE machine breakdown; statewide standards for Logic and Accuracy testing of tabulating machines, statewide standards for VVPAT quality and handling; security procedures for components of voting systems; and statewide standards on physical security of voting equipment.

Pre-Election Planning

- In advance of the election, each county BOE will issue a Pre-Election Administration Plan explaining how the BOE will address critical matters such as: Resource Allocation, Security, Election Day Communication, and Election Day Contingencies. The SOS is responsible for reviewing these plans to determine whether election planning meets SOS planning requirements.
- BOEs will be required to distribute paper ballots in the event of long lines at polling places, and the SOS will study the feasibility of establishing a maximum wait time for voters, with a report to be issued by August 30, 2009.
- The SOS will issue recommended Best Practices to BOEs on layout and operation of polling locations that include more than one precinct, and will annually notify BOEs when precinct size exceeds the statutory maximum.

Post-Election Reporting

To allow for better election planning, the Agreement requires a variety of data collection and assessment efforts, including:

- Continued submission of post-election data *at the precinct level* by Cuyahoga, Franklin, Hamilton, Montgomery, Lucas, Stark, Mahoning, and Summit Counties, addressing the same reporting requirements currently part of the federally-funded November 2008 data collection program
- Post-election data from each BOE on voter registration, ballots cast, ballots counted, provisional ballots, absentee ballots, military and overseas ballots, and voting equipment problems and malfunctions
- Monitoring and assessment of pollworker performance by the BOEs.

Voter Registration Database

The settlement does not resolve plaintiffs' claims relating to implementation of Ohio's Statewide voter registration database. The SOS's office is currently examining and refining the processes by which voter information contained in the statewide voter registration database is compared with information contained in Bureau of Motor Vehicle and Social Security Administration databases. The Agreement requires the SOS to provide an initial report on the status of voter registration database issues by December 31, 2009, and requires plaintiffs to wait until January 15, 2010 before recommencing any litigation of their database claims.