EXHIBIT I
May 13, 2020

Via First-Class Mail and
E-mail (kboockvar@pa.gov)

The Honorable Kathleen Boockvar
Secretary of the
   Commonwealth of Pennsylvania
302 North Office Building, 401 North Street
Harrisburg, PA 17120

Re: Solution Allowing Blind and Low-Vision Voters
   Equal Voting Rights During the June 2, 2020 Primary Election

Dear Secretary Boockvar:

   I write on behalf of the National Federation of the Blind (“NFB”), which is the oldest and
   largest national organization of blind people. The NFB is widely recognized as the collective and
   representative voice of blind Americans and their families.

   As you know, on March 27, 2020, Governor Tom Wolf signed Act 12. That Bill
rescheduled the April 28, 2020 primary election to June 2, 2020 because of the coronavirus
pandemic. Recent legislation, including Act 12, allows Pennsylvanians to vote by mail-in ballot,
rather than vote at their polling place, for the newly scheduled election day.1 As Governor Wolf
explained, “Delaying this year’s primary election as several other states have done is in the best
interests of voters…”2 To date, Pennsylvania has 58,698 cases of the coronavirus and 3,943 deaths
from the virus.3

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1 See Governor Tom Wolf Press Release of March 27, 2020, (May 12, 2020),
   system-workers-and-education-and-reschedule-the-primary-election/ (hereinafter “Governor’s
   Press Release”).

2 See Governor’s Press Release.

3 See COVID-19 Data for Pennsylvania, (May 13, 2020),
On April 1, 2020, Governor Wolf amended his Executive Stay-At-Home Order in response to the pandemic. That Order now requires most Pennsylvanians to stay at home until June 4, 2020 or two days after the primary election. In order to stay at home during the upcoming primary election, more than 215,000 registered voters have already signed up for either an absentee or mail-in ballot, with nearly 78 percent using the Commonwealth’s new online application. As you know, the Pennsylvania Department of State recommends, in response to the pandemic, that “the county board of elections should encourage voters to submit online applications for absentee and mail-in ballots, rather than paper applications.”

When Governor Wolf signed Act 12, he remarked, “The Department of State will continue to work with local election officials to ensure Pennsylvania has a fair and accessible election.” Unfortunately for blind and low-vision Pennsylvanians, Pennsylvania’s absentee and mail-in ballot process is unfair and inaccessible. A Pennsylvanian who is blind or who has low-vision cannot independently and privately fill out an absentee or mail-in ballot. As a result, the current Pennsylvania absentee and mail-in ballot process discriminates against voters with disabilities in violation of Title II of the Americans with Disabilities Act (“ADA”), Section 504 of the Rehabilitation Act, and the Supremacy Clause of the U.S. Constitution.

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4 See Amendment to Order of the Governor of the Commonwealth of Pennsylvania for Individuals to Stay at Home, (May 12, 2020), www.pa.gov/guides/responding-to-covid-19/#StayatHomeOrder.

5 Governor’s Press Release.


7 Governor’s Press Release (emphasis added).

8 Last Friday, May 9, 2020, you indicated that, “For the first time, Pennsylvanians have the option of voting by convenient and secure mail-in ballot without having to provide an excuse. . .” Secretary of State Kathleen Boockvar Press Release of May 9, 2010, (May 12, 2020), www.media.pa.gov/Pages/State-details.aspx?newsid=382; see also Secretary of State Kathleen Boockvar Press Release of March 12, 2020, (May 12, 2020), www.media.pa.gov/Pages/StateDetails.aspx?newsid=374 (stating “If voters wish to avoid going to the polls, they can still easily vote in the privacy of their own home.”). As stated, Pennsylvanians with disabilities do not have the same convenience as other Pennsylvanians under the current absentee and mail-in ballot process because the actual ballots are inaccessible to blind and low-sight voters.
In anticipation of the upcoming 2020 elections and before the current coronavirus pandemic, NFB President Mark Riccobono sent you a Letter about absentee voting for blind and low-vision voters. In that Letter, President Riccobono explained two prescient points. First, both the ADA and the Rehabilitation Act require that Pennsylvanians with disabilities are offered an opportunity to vote by absentee ballot that is equal to the opportunity offered to Pennsylvanians without disabilities. Second, the U.S. Constitution’s Supremacy Clause requires Pennsylvania to make “reasonable modifications” to ensure its absentee and mail-in ballot process is non-discriminatory and complies with federal law. Pennsylvania cannot idly stand by—or wait until its legislature acts—when it could immediately modify its absentee and mail-in ballot process to prevent it from discriminating against voters with disabilities in the June 2, 2020 primary election.

A temporary, quick, and easy solution to Pennsylvania’s absentee ballot system is making its military absentee ballot (i.e., the Uniformed and Overseas Citizens Absentee Voting Act (“UOCAVA”) absentee ballot) accessible and available to blind and low vision Pennsylvanians. Our law firm represented the NFB of Michigan in a lawsuit against the State of Michigan where this approach solved an absentee ballot problem like the one now facing Pennsylvania.

This approach has, at least, three advantages. First, it is quick. The Michigan federal judge entered the Order on May 1, 2020 for a May 5, 2020 election. Second, it is easy. The voter simply declares in an accessible application, made available via Pennsylvania’s voting website, that they cannot independently complete a paper absentee ballot due to their disability. To help ensure authenticity, the voter makes this declaration under the penalty of perjury and submits a Pennsylvania identification document or the last four digits of the voter’s social security number. The voter then returns the declaration to the correct Pennsylvania voting official. That official verifies the voter’s registration and then sends the voter an accessible UOCAVA absentee ballot. The voter fills out the UOCAVA ballot electronically, and either prints, signs, and mails the ballot, or e-mails the ballot back by a certain date and time. Pennsylvania can make both the UOCAVA application and ballot accessible by applying the Web Content Accessibility Guidelines 2.1. Adobe

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9 See Ex. 1, Letter from M. Riccobono, NFB Pres. to Sec’y. K. Boockvar (Sept. 27, 2019).

10 See Ex. 1 at 1 (citing Nat’l. Fed’n. of the Blind v. Lamone, 813 F.3d 494 (4th Cir. 2016)).

11 See Ex. 1 at 2 (citing Lamone, 813 F.3d at 508; Hindel v. Husted, 875 F.3d 344, 349 (6th Cir. 2017)).

12 See Ex. 2, Stipulated and Consent Order Resolving Plaintiffs’ Motion for Temporary Restraining Order in Powell et al. v. Benson et al., Civ. No. 20-cv-11023 (E.D. MI May 1, 2020).

makes such compliance simple, either when converting a document from another format to PDF or when remediating an existing PDF. **Third**, this approach is cost effective. It does not require Pennsylvania to immediately hire a third-party vendor, such as Democracy Live, Five Cedars, or Dominion Voting in the short term. While this approach is an interim solution that would need to be made more seamless in the long term, this approach is implementable using Pennsylvania’s existing staff, technology, and procedures.

The NFB is committed to ensuring that all blind voters can cast their ballots privately and independently. To resolve the absentee ballot issue in Pennsylvania, we propose entering into immediate negotiations instead of litigation. The negotiations would be aimed at crafting a reasonable and efficient means of resolving the current Pennsylvania absentee and mail-in ballot process for the June 2, 2020 primary election. The negotiations would allow us to continue working with your colleagues to share information and develop a workable solution without the expense of litigation.

As of May 12, 2020 at approximately 5:30 p.m., we understand that you would not like to enter into immediate negotiations to implement this solution. Given that, we have no choice but to proceed with litigation, so that Pennsylvanians with disabilities will have the same access to the ballot as Pennsylvanians without disabilities on June 2, 2020.

Thank you for your public service. Please contact us immediately if you change your position on negotiations.

Sincerely,

Sharon Krevor-Weisbaum  
Kobie A. Flowers

SKW/KAF/jh

Enclosures

cc:  Mark Riccobono, NFB President (*via e-mail only*)  
Kelly Darr, Legal Director, Disability Rights Pennsylvania (*via e-mail only*)  
Tim Gates, Chief Counsel, Pennsylvania Department of State (*via e-mail only*)