

That's Inclusive!

Episode 12 Transcript

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Vanessa Blais (VB): Welcome to That's Inclusive! Where we talk about disability and what it means to live a full life, engaging in our communities.

What does that look like? And how can we work together to make our world a more inclusive place?

VB: Today we have a very special guest, James Ziegra (JZ). He is an attorney at the Disability Rights Center New Hampshire, and he is our “go to” for voting rights and voting accessibility. And we also have Chase Eagleson (CE), who is the Policy Assistant at the DD Council and he just finished writing a paper that is a call for an audit for voting accessibility. We're happy to have James here today to talk with us about voting accessibility here in New Hampshire, what we have that is working and what we need to do to make voting more accessible.

JZ: I'm happy to be here.

CE: Let's jump right into it. I think it's important to start by just talking about the history of all of this. So, why don't you tell me a little bit about voting accessibility in the Granite State?

JZ: It dates back to the Rehabilitation Act of the 1970s and then in 1984 the United State Congress passed the Voting Accessibility for Elderly and Handicapped Act and that essentially gave people the right have to have somebody come into the polling place with them, have an assistant. As long is it wasn't a boss or a union representative, they could have anybody that they wanted. Before that, A lot of times they were disenfranchised from voting. The big game changer came after the 2000 election, that was the Help America Vote Act, HABA, that gave people a private and independent right to vote accessibly and it came with a lot of money attached, too. Congress basically said that we want to make sure

that we can reduce as many barriers to accessibility in voting as possible and they passed the Help America Vote Act so all 50 states and Territories got money to help reduce barriers preventing people with disabilities from voting. The neat thing about HAVA is that every state got to spend the money as they wanted to. In New Hampshire, what we did at first was develop the phone fax system where somebody would go into a polling place, they talk on a fax machine and a phone and the ballot would come faxed out to them and they turned that in. There were a lot of problems with that in terms of accessibility because they would have to disclose who they were voting for to the person on the other end of the line that was filling out the ballot for them. But the people at the polling place didn't know how they were voting. So, that got scrapped and in 2016 the State of New Hampshire introduced the One For All system, which is an accessible voting system. It's a ballot marking system which is basically a tablet computer that has a keyboard, headphones, a microphone and a printer. It's designed to eliminate barriers for people who are blind or visually impaired. If you're blind and somebody hands you a paper ballot, it's not going to do you a whole lot of good. You're not able to fill it out by yourself. So, the One For All system, introduced in 2016, when it first came out wasn't that great, there were a lot of problems with the synthetic voice, announcing the names of the candidates correctly. So our office in conjunction with other voting rights advocates worked with the Secretary of State's Office to increase the quality of the synthetic voice, they re-did the programming and they vended out the software to Democracy Live, who programs the ballots and the experience is a lot better than it was before. It's still not perfect because there's no way for people who are blind or who have vision impairments to physically verify their ballot. So, they select their choice using a keyboard, work with hand controls, and when they're done voting, it prints out on the same ballot that everyone uses. The problem is there's no way for them to look at that and verify that the printer selected the right candidate for them. We found that it's pretty accurate most of the time if it's set up correctly. That's a big caveat that I'm sure we'll talk about later. It's come a long way. And then the last piece of accessible voting in New Hampshire happened to coincide with 2020 pandemic. As everybody knows there was a lot of fear about voting in person and gathering in big crowds And so the Secretary of State's Office and the Attorney General waived the requirement for that. Normally, you have to have an excuse to vote absentee in New Hampshire, but in 2020, they said anybody who wants to vote absentee can vote absentee. That's great. It's an absentee ballot that's a piece of paper. And, if you're blind or you have a vision disability or a print

disability and you're not able to mark a piece of paper independently, it doesn't do you much good to be mailed a piece of paper. The Secretary of State's Office implemented a new system that allows people with print disabilities as long as they sign an affidavit that says they have a print disability and they can't complete a ballot on a piece of paper. They can submit that and then they are emailed a ballot and can fill that out digitally on a computer with a screen reader like JAWS or something like that. They have to print out that piece of paper and mail it back in. It's not perfectly accessible because there's no electronic return. A couple of states around the country have that, but the technology's not there in the Secretary of State's office.

CE: The discussions we've had before about this especially the One For All machine, and also discussions Vanessa and I had with polling moderators, we've talked about how the One For All machine isn't fully accessible, which means it's not accessible. And, how a big part of that is the failure to set it up correctly. Can you talk about the lack of training around that and why that becomes such an issue.

JZ: Sure. How much time you got? We found in almost every instance where there are complaints with the One For All, that that coincides with a town or city where the moderator or the election official have not attended the training or they didn't assemble the One For All step-by-step. So the Secretary of State's guide offers a 1-2-3-4-5 process that you follow through and you have to follow it step-by-step individually. It's not like setting up a tv at home. You have to do it in a certain sequence. And if you don't do it in a certain sequence, things can get kind of wonkie. The printer doesn't work right or sometimes you just don't know how to turn it on. But the bottom line is that for folks that don't attend the training and don't pay attention to the manual they have been provided, that's where we see a lot of issues. And, that can cause people some significant delays at the polls. I've heard of people waiting two plus hours to have the machine set up properly to allow them to vote. That's a long time for anybody to wait in line to vote. Certainly longer than anyone in New Hampshire that doesn't have a disability to vote, would be forced to wait to vote.

CE: Getting back to those trainings, we've discussed this in the past in discussions during my research for this paper, these trainings aren't mandatory which a lot of

people don't get. They're not just not mandatory, most people just blow them off. It's just really unfortunate...

JZ: Yah. It's tough because state law doesn't require that polling officials attend this training. Now, to be fair, a lot of Town Clerks do, a lot of Moderators do, but not all of them. And they're not offered all over the state. A lot of the trainings are done in person and it's not necessarily made available through video. Some is made available through video but not all of it. I'm not sure how much accessibility is a component of that training. It's sort of like 'Hey, there's the accessibility voting booth, there's a One For All machine, if you guys want to go and take a look at it, knock yourself out. There's that lack of training all over the state. The other piece, too, is that a lot of people that are working at the polling places on election day are volunteers. So it's tough for a somebody who's volunteering their time to do what they think is right and volunteer at the polling place on election day but they don't have time to go to the training. It's 45 minutes away and it's an all-day training, they can't get time off from work. So, through no fault of their own, some of the people that mean well don't necessarily set up the system correctly and they don't operate it and it causes all kinds of problems on election day.

CE: I think it's important also to point out that in no way is this the Moderator's fault. The state is not mandating this.

JZ: Absolutely. I don't mean to impugn the moderators or the Town Clerks, or anybody who's working at the polling place on election day. They're doing their best. Especially the last couple of election cycles. It's been tough. There's been a lot of threats to election officials throughout the country and New Hampshire and there's been a lot of animosity toward people that are just trying to do the right thing and make sure the election is carried out as smoothly, as transparently and as securely as possible.

VB: Chase had mentioned earlier when he spoke to a lot of people who were ballot inspectors and Moderators and Clerks- they want the training. That was the number one complaint that they had. Was that they weren't given adequate training. What's the resistance that the state has in requiring, if not everyone who is working at the poll that day, but a percentage of them from being trained?

JZ: That's a good question and I don't have a good answer to that question. The Secretary's Office has said in the past that they offer this training throughout the state on a number of different days and in their mind is a lot of opportunity for people to travel to the training and observe it, participate in it. But again, those are for Town Clerks, Town Moderators, people who are really in the loop. It cuts out a lot of people that are just volunteering that day manning the check list. Checking of peoples' names. They may not know what to do when somebody with a disability comes up and tries to vote and gives their name and asks to use the accessible voting system. We've heard of people that are doing the check list – they don't know what it is. It's not their fault. They'd like to do it but I don't know why there is so much resistance to it but it may have to do with New Hampshire being a fiercely independent state. We have a legion of volunteers that do this and it's a citizen legislature and a citizen operation of the elections. The bottom line is that there's not enough of the training and not enough people are going to it.

CE: And that brings us to the second part of the question is that everything we've been talking about really only applies to state and federal elections. Could you talk about, why under statute a lot of accessibility mandates, especially the All for One machine, is not required under current statute for local and municipal elections?

JZ: Yah Chase, that's a really good point. So the Help America Vote Act that I talked about earlier, elections have to be accessible which means people with disabilities cast a private and independent ballot. The Help America Vote Act is silent on local and state elections. The Constitution in Federal law says that states can design elections however they want so states do it a variety of different ways. Here in New Hampshire what we do is the Secretary of State's Office runs the federal elections, or the statewide elections. So if there's somebody for statewide office, like Governor, Senator or members of the US House of Representatives on the ballot, the Secretary of State's Office is gonna run that election, design those ballots, provide the accessible voting equipment for those elections. Now, for other elections, like for city elections, town elections, school board elections, state law says it's up to each municipality to design their own system for voting. It's up to the Town Clerks to develop their own ballots, to set up everything on election day from soup to nuts. And in New Hampshire, we're kind of a funny state because we're so old, some towns don't even have elections

when we're selecting town officials or village officials. They'll have what's called a Town Meeting. Which is sitting around all day long, voting by hand or maybe voting once or twice on a secret ballot. But it's a very different process than what a lot of people who live in larger municipalities would think of when thinking about elections. It's kind of a unique thing in New Hampshire and there's old Yankee pride in there maybe-- love the independence of every town to be able to vote the way they want to vote. To be able to set up elections the way they want to. As a consequence of that though, people with disabilities aren't afforded the same rights to an accessible ballot in those local elections. The One For All machines are available in all the statewide elections, but it's not available in local elections because it's housed in the Secretary of State's Office, it's property of the State government, not each individual town.

CE: That is one of the big problems that we've discussed in the past. We've been talking a lot about the problems with accessibility when it comes to the state. As someone who focuses on disability rights and someone who is a specialist in voting accessibility, what are your overall recommendations for the state of New Hampshire to increase voting accessibility in all elections?

JZ: That's a big question. So I think at the outset I should say that from a physical accessibility view point, most elections are relatively pretty accessible. By that I mean there's adequate accessible parking, a clear path of travel, in older buildings where the elections are held, there is signage to go to the accessible entrance. And once you get inside the polling place, there's usually a clear lane and a clear path of travel set up so the physical infrastructure in each polling place is ok. But again, it's the training I think is a big piece of it and I'll break that into two pieces. One is just the etiquette in how to talk with people with disabilities, how to interact with them. And the second piece is the One For All training. In terms of the etiquette and how to talk to folks, we've heard reports from people who are blind that poll workers will come up and wrap their arms around them and kind of scare them and guide them when they don't necessarily want to be touched. Things like that. Or they'll say, "Ok, you see that accessible booth over there? That's where you go and vote." It's very difficult. Or if somebody is deaf or hard of hearing, they just talk louder. And that's really not going to make a big difference and that's not the way you would do things. So that's a big piece of it. Poll worker training, making sure that they're following the directions of the One For All is absolutely critical. And, like I said earlier, in places where there's more

training or people receive more training, we hear a lot less complaints. The other things that I think would really help increase accessibility in New Hampshire would be to allow for online voter registration and online requesting for absentee ballots. I think that really would eliminate a big burden on a lot of people, especially if they're busy and they try to request an absentee ballot or they think it's too late to request one. Or they don't know how to register to vote. The good thing in New Hampshire is we have same day voter registration but it would be nice if you could register online. You can see if you're registered. You can check your registration status online. Right now you can check your registration status online but you can't do anything else. You can't amend it, you can't interact with a local election official to try to change your party status or things like that.

CE: I know this is something that actually Senator Gray has been working on a lot, SB 70, that got tabled I believe and I believe he's trying to bring it back? We haven't seen it yet – it hasn't come out. But, that is something they've been trying to work on. Unfortunately to no avail yet. All of those are fantastic recommendations. When we had a focus group with voters with disabilities, one of the main problems that was discussed was accessibility led to a lot of people not voting. Studies have found that folks living with disabilities have a lower civic participation rate than non-disabled voters. Can you talk about ways that you think both the state and Granite Staters in general could work or act to increase participation by disabled voters?

JZ: Sure. I'd love to. This is a huge issue because the proportion of voters with disabilities that vote is much lower than the rest of the public that's voting. And that participation rate has a gap of millions of voters. That's enough to swing elections any which way. Helping people understand how that would impact elections – I mean, if you look at the NH State House right now, it's practically split in half, 50-50 democrat, republican. And a lot of those local state reps, those races are decided by just a few votes. There's a lot of really close elections that come down. That decides the whole balance of power. Who sets the budget for the state for the next two years. And the same thing on the federal level – if you look at the US House of Representatives, it's really closely divided House. Some of those elections are really close. There was one in Colorado that was decided by less than 600 votes out of hundreds of thousands of people. That's nothing. That's less than one percent. People need to understand the impact that they can

have when they go out to vote. And by understanding that “Oh, my vote does matter. My vote does count.” It can make a real difference in terms of who the majority leader is, what kind of legislation that gets proposed, and that sort of impact. Educating people about how those law makers can influence your life and not just on the federal level, not just the President, not just on the State House, but in your local town, in your local school board. I mean, you think about who is setting the budget, what kind of priorities do they have. I forgot the town, but last year that saw a local town that the Board stripped like 50-60 percent of the school board budget. Croyden. Just the school budget. Across the board. They basically eliminated public education in the town until the rest of the folks who didn’t show up to vote in the local election, came and they said “we’re not going to do this. We can’t stand for it” and the participation rate in those elections, the local elections, are so low that your voice can be amplified and you can raise issues. You can make your voice heard a lot more than you normally would in some of the larger elections, especially the federal ones.

CE: That is something that I think people miss a lot. These larger elections, in the Senate and the Congress, the President – those are the ones that are more publicized because they’re national. But school boards, planning boards, all those, they have the most direct impact on the individual by far. They decide which highways get funded. They decide if a school gets funded at all. They decide if the police station gets a new car. They decide if you’re allowed to have a certain type of tree in your yard.

JZ: In a state like New Hampshire where we don’t have any sales tax or income tax, a lot of these municipalities decide what the property tax level is going to be and that affects people dramatically.

CE: I think the message here is, get out and vote, especially in the smaller elections. A lot of people think are not that important – they are extremely important more so, at time, than the bigger ones.

JZ: I always talk about and I try to remind people about the importance of the Jaws rule – the movie, Jaws – the man eating shark. They elect the mayor and all the experts go to the mayor and say – we have to close these beaches! We have to close these beaches, they don’t close the beaches and a bunch of people get eaten! The mayor should have lost his job. He should have been voted out in the

next election. Well, four years later, Jaws II comes out. It's the same Mayor in the town and that's because nobody showed up to vote to get him out of office. When people are civically engaged and paying attention, that can make a huge difference. Educating people with disabilities about their rights to vote and about the importance of voting and about how it gives disabilities rights issues a lot more notice, a lot more attention than they'd otherwise get. It's really, really critical.

VB: I want to ask you, maybe you can say a few things about people with disabilities who think that they might not have a right to vote whether it be because they have guardianship or- I know there's a lot of misconception about that. Can you just say a few things about that?

JZ: Sure. So in a number of states around the country, if you are under a guardianship or subject to a guardian, you lose the right to vote automatically. In New Hampshire, that's not the case. There's nothing in the guardianship statute that prevents somebody from voting if they have a guardian. As a matter of fact, in RSA 171-A, The Developmental Disabilities Act for New Hampshire that sets up the developmental services program, there's a provision in there that says it doesn't matter if you have a developmental disability, it doesn't matter if you're involved in a developmental services program receiving services from an area agency, that does not take away your right to vote. Nothing should abridge that right to vote. You're absolutely right, Vanessa. There's a misconception that well, I have a guardian. My guardian told me I couldn't vote. It's important to look at your guardianship order from the court. I think that a lot of people think that even if they're not under guardianship, you know, mom and dad have been taking care of me for a long time. They tell me I shouldn't vote. I don't have the right to vote. Well, no, unless a judge orders a guardianship and imposes one on you that takes away that right to vote, you can vote. If you have a guardianship that's 10, 20 years old or older, take a look at it. If the right to vote is taken away on that order and it's listed as one of the things that the guardianship can control, please contact the Disabilities Right Center and we'd love to help you out and we can try to set you straight.

CE: I think it's very important to point out that if you're 18 years or older and a US citizen, unless judicially ordered, you have the right to vote. Especially in the small elections or you'll keep getting eaten by sharks. So, to kind of a bigger

topic. This has been a nationwide issue followed by CNN, MSNBC, all these people have talked about restrictive voting laws. Luckily in New Hampshire we have not passed one yet, especially a heavily restrictive one that we've seen in a lot of other states. Why do you think there's such a big push for these types of laws, not only in this state but across the country? And, how do you think New Hampshire has been able to stop these from being passed?

JZ: That's a two-part question. For part one – why is there such a push? I think some people are concerned about election integrity. Right or wrong. A lot of people have been listening to media outlets, reading news reports that allege there are voting irregularities or problems with mail-in voting, with early voting. Some states don't have voter ID laws, some states allow voter drop boxes. Some states, like New Hampshire, don't have an absentee signature requirement. I think some people look at that – right or wrong – if Joe Smith doesn't have to show his ID when he goes to vote and just says 'I'm Joe Smith, give me a ballot'. Some people do have concerns about that. There's no evidence that that has led to any kind of voter fraud at all. This issue has been looked at from every which way, and there's just no proof that some of these laws that make it easier to vote and vote more efficiently, lead to increases in voter fraud. But I think there's a lot of push back in that. And I think a lot of people just want to tighten up the voting process to make it harder for whatever reason. The second question is very interesting to me. To say New Hampshire hasn't seen or passed any of these restrictive voting laws. I just want to point out there was a study that was done last year looking at the cost of voting of all 50 states and it was a survey. Can either one of you guess when New Hampshire ranks, 1-50?

CE: I think I saw this study, so I won't put my vote in. But, go ahead Vanessa.

VB: So, one being least costly or most?

JZ: The easiest state is number one, the hardest state to vote is number fifty.

VB: I'm going to say we're 48.

JZ: 49! We are only ahead of Mississippi. New Hampshire is the second hardest state to vote in in the country. I have a lot of issues of how the metrics of that study, for a number of reasons. To answer your question, Chase, some of the

reasons people might argue – we don't have these restrictive voting laws because it's already really hard to vote in New Hampshire, we're number 49 on the list. I think if you take a step back and look at the big picture, all the other states on the list – it's really hard to vote and for the most part are down south where in the 1960s they had to pass the Voting Rights Act to make sure that people would have an equal access to the ballot. New Hampshire clearly, we don't have those kinds of issues. We don't have that kind of history of voter suppression that a lot of states have and continue to have. So it's a little bit upsetting to see New Hampshire is number 49. I think that because we don't have early voting, that's a big factor. But, we also have same day registration. So, in a lot of states, that's one thing that I didn't really understand about that study—states where you have to register eight weeks before the election, it's easier to vote in that state. Even though if you forget to register to vote in September, you're not allowed to vote in November. It's still easier to vote in a state where if you forget, you can show up at the polling place like you can in New Hampshire and register to vote that day. To me, that reduces a lot of barriers to vote. But to answer your question about why we haven't seen a real push for restrictive voting laws, I think we already do have a voter ID law already on the books, our state is by and large pretty educated. And if you look at studies –the higher the degree of people that receive post-secondary education, the more likely they are to vote and the higher the voting rates are. And New Hampshire ranks in the top seven or eight states of people who have received some post secondary education, I think that piece of being educated and understanding the election process, and how it works a little bit more. It fosters civic engagement, it fosters trust in the electoral process as well.

VB: I also think that we have a legacy of being very political people in general. And to go back to the Town Hall thing, as silly as that seems to some people, it is part of that history of being truly engaged in like the minute of decision making that goes on in your town.

JZ: It's true participatory democracy. Back to like the Greeks in Athens. One person one vote, and it's an anachronism and it's kind of neat, but I think the reality of it is, it's not great for people with disabilities because it's like doing a caucus sort of thing. In the states that do caucuses, you have to show up all day long. You have to be willing to sit there for 5, 6, 7 hours and if you don't, if you're not willing to do that, say you have a disability, say you're elderly, say you have

young children and you can't find childcare coverage, you don't get to take part in the decision-making process. As quaint as it is, the bottom-line effect is that it does disenfranchise a lot of people.

VB: So, to wrap up, I wish we had so much more time. But we would be happy to have you back to talk about election results, maybe at the beginning of next year. I'd like to give people an opportunity to say whatever they want to say, so, what would you like to say about voting accessibility in New Hampshire?

JZ: I think that New Hampshire, the in-person experience has come a long way the last three or four voting cycles. But there's still a lot left to accomplish. I think getting into a polling place is pretty easy throughout the state and you can't say that about polling places around the country. Some studies show that 30-40 percent of polling places in the United States aren't physically accessible. New Hampshire fortunately has eliminated a lot of those physical barriers but it's the practical barriers that are very concerning and remain a concern. People that want to use an accessible voting system, like the One For All ballot marking device, people who want to vote in a local election, using an accessible ballot marking device, people that just want to have someone else come with them to assist them in the polls if they're not literate or if English isn't their first language, that can be a barrier. They maybe don't understand, yes, you're eligible to vote and you can have anybody you want, as long as it's not your boss or your union rep, come with you. It can be your child, who maybe is proficient or maybe is literate to help you complete that ballot. I think there's a lot of work to be done in terms of making local elections accessible, helping people with disabilities understand they have a right to vote, and to make sure that poll workers understand how to work with people with disabilities when they come to the polling place on election day.

VB: Thank you so much for coming out today and talking to us about this. Thank you, Chase. And if anybody wants to read Chase's report, it is on the DD Council website. And if you have any questions, please let us know. I will put some information in the show notes about the Disability Rights Center NH and about your voting rights. Have a great day.

VB: Thank you for joining us today. I'm Vanessa Blais and this was a production of the New Hampshire Council on Developmental Disabilities produced by Isadora Rodriguez, Legendre, and Vanessa Blais with many thanks to Josh Hardy and rest of the crew here at Concord TV.

We love to have guests with differing perspectives. These are personal, and do not necessarily represent those of the DD Council.