



Council of the District of Columbia Committee on the Judiciary
Public Oversight Roundtable on the Board of Elections'
Performance regarding the June 2, 2020 Primary Election

Testimony of Peter Stephan, Staff Attorney
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Thank you for the opportunity to testify about the District of Columbia Board of Elections (DC BOE) performance conducting the June 2, 2020 Primary Election. Disability Rights DC (DRDC) is the designated protection and advocacy agency for the District of Columbia. We advocate on behalf of District residents with disabilities to promote their equal access to vote under the Help America Vote Act (HAVA) and Americans with Disabilities Act (ADA). I want to highlight our concerns regarding voters' lack of sufficient access to absentee ballots and voting centers.

Inaccessible and Mismanaged Absentee Balloting

In April, DRDC voiced its concern with BOE's drastic reduction of the number of polling places from 144 to 20, creating accessibility barriers including greater distances to the polls and predictably longer wait times.¹ DRDC asked BOE to delete the signature requirement on the absentee ballot request form and promote accessible alternatives to paper absentee ballots, such as a screen-readable ballots. BOE failed to address any of the issues we raised in April; instead it claimed that the majority of voters would use mail-in ballots and a phone line would be sufficient to resolve absentee ballot accessibility issues. BOE's notice urging the public to vote by absentee ballot relied heavily on its May 8th mailing of a paper Voting Guide that included request forms for absentee ballots. DRDC's outreach to community members revealed no general public knowledge regarding how to request or use accessible absentee ballots.

BOE relied almost exclusively on *paper* request forms and absentee ballots. As we have previously testified, paper ballots and signature requirements are inaccessible to people who are blind, have low vision, or manual dexterity issues. The paper request form confusingly and erroneously included a signature requirement, despite the DC Council's legislative waiving of that requirement.

¹ The Board acknowledged that unless the majority of registered voters vote by mail "massive lines and delays are expected at the early voting centers" as a result of its plan to reduce polling places to 20 voting centers from 144 precincts. *Vote Safe DC* (visited April 28, 2020). <https://www.dcboe.org/Request-Your-Ballot-by-Mail>

This compounded the inaccessibility of the request form, since blind voters and those with manual dexterity limitations cannot sign independently. BOE failed to correct the request form even on its website following the legislative action. Paper absentee ballots, paper request forms, and signature requirements have been challenged successfully in multiple states under the Americans with Disabilities Act and the Help America Vote Act.²

BOE was *supposed* to mail inaccessible paper ballots to people who submitted timely paper request forms. But BOE *failed to provide absentee ballots to hundreds of voters whose requests were submitted timely*. Over 500 complaints were received by DC Councilmember Silverman for BOE's failure to provide absentee ballots; there were undoubtedly scores more voters unable to cast their votes without the know-how to vote by email as offered at the last minute by BOE.

Accessibility of Voting Centers

BOE's failure to manage the absentee ballot process resulted in overcrowded voting centers, some of which had wait times of over four hours.³ Obviously, this posed great risks to voters' health and safety during the pandemic. Make no mistake: the overcrowding at the 20 voting centers was not due to voters' decision to wait until the "last minute" (Election Day) to vote, contrary to the statement of the BOE Chair Michael Bennett.⁴ The overcrowding was due to BOE's absolute failure to carry out its mandate and fulfill requests for absentee ballots, as well as BOE's drastic reduction in the number of polling sites.

I surveyed all of the District's 20 voting centers using an accessibility checklist developed by DRDC that is now a national model. The full results on operational and structural accessibility will be forthcoming in our report, but I wanted to preview those here.

DRDC has repeatedly urged all polling places to prop open heavy front doors, especially at schools, to facilitate entry by voters with mobility, manual dexterity, and vision disabilities. Despite the closure of DC public schools and public recreation facilities, 15% of the voting centers failed to prop their doors open or have working automatic door opener buttons or BOE staff stationed by the door.⁵ Poll worker shortages highlighted the impact of BOE's failure to forgo propping open doors at Sherwood and Turkey Thicket because instead scarce poll workers were assigned to open doors.

² See *Hernandez v. New York State Board of Elections*, 1:20-cv-4003 (S.D.N.Y. 2020); *League of Women Voters of Virginia v. Virginia State Board of Elections*, 6:20-cv-00024 (W.D.Va. 2020); *National Federation of the Blind v. Lamone*, 813 F.3d 494 (4th. Cir. 2016).

³ *Voting problems in D.C., Maryland lead to calls for top officials to resign*. The Washington Post (June 4, 2020) Last accessed June 4, 2020 at: https://www.washingtonpost.com/local/dc-politics/voting-problems-in-dc-maryland-lead-to-calls-for-top-officials-to-resign/2020/06/03/24b47220-a5a8-11ea-b619-3f9133bbb482_story.html

⁴ *Id.*

⁵ These voting centers were: Anacostia High School, Prince Hall Center, and Barry Farm Recreation Center.

Many precinct captains described shortages of poll worker staff due to the pandemic, meaning there were insufficient poll workers to conduct curbside voting at 30% of voting centers (6 of 20).⁶ Three-quarters (15 of 20) of the voting centers had unsecured mats, which create potential hazards for voters with mobility disabilities. Precinct captains variously told me it was the voting facility's obligation to secure mats, or BOE failed to instruct them to do so. Nine of those 15 precinct captains agreed to fix them upon request.

The accessibility problems with this critical presidential primary are systemic, from the design of the process, to the reduction of in-person voting centers without a bona fide, operationalized accessible mail-in voting process. Though BOE has announced for the November Presidential Election it will mail paper ballots to every voter and operate 40 voting centers, this falls far short of BOE's need to restore voters' confidence with access to in-person accessible polling sites as well as an overhaul of its absentee balloting system to ensure accessibility and basic, responsive, reliable provision of accessible ballots. Moreover, BOE must shore up accessibility training to precinct captains and poll workers, and consistently implement procedures like propping open doors at all schools and recreational centers, among other sites. BOE must implement systemic changes long before the November Presidential Election. The time is long past for research, investigation, and promises to improve the accessibility to a reliable voting system.

⁶ These voting centers were: Prince Hall Center, Murch Elementary School, Turkey Thicket Recreation Center, Hillcrest Recreation Center, Barry Farm Recreation Center, Anacostia High School. Benning Stoddert Community Center had no curbside poll worker outside but did have a doorbell to request curbside voting.