



Council of the District of Columbia
Committee on Executive Administration and Labor
D.C. Board of Elections Public Roundtable

Testimony of Peter Stephan, Staff Attorney
Disability Rights DC at University Legal Services

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Thank you for the opportunity to testify about the current readiness of the DC Board of Elections (Board) for the 2024 elections. Disability Rights DC (DRDC) is the designated protection and advocacy agency for the District. We advocate on behalf of District residents with disabilities to promote their equal access to voting, among other programs. For the last 19 years, DRDC has surveyed the accessibility of the District's polling sites, provided recommendations to the Board, and issued reports to advocate for a full and equal opportunity to vote for all District residents with disabilities pursuant to the federal Help America Vote Act (HAVA) and Americans with Disabilities Act (ADA).¹ The Board must take action prior to the 2024 elections to ensure its mail-in voting, ballot drop boxes, eligible voter outreach, and voter registration processes are accessible to people with disabilities consistent with federal and District laws.

Electronic Return for Mail-in Voting and Ballot Drop Boxes

The Elections Modernization Amendment Act of 2022 (EMAA) provides requirements in greater detail about the Board's existing obligations under federal and District law to ensure equal access to voting for District voters with disabilities. The EMAA requires, among other things, that: Accessible Remote Ballots (ARB) are fully accessible and allow District voters with disabilities to vote privately and independently by returning ballots electronically; ballot drop boxes are accessible to voters that use wheelchairs; and the Board's voter guide is provided in screen readable format for voters with visual disabilities.² The ARB is an electronic ballot that allows a voter with a disability to receive, read, and mark their ballot electronically. The ARB system is

¹ DRDC reports are available on our website at: <http://www.uls-dc.org/protection-and-advocacy-program/programs/protection-and-advocacy-for-voter-access/>.

² D.C. Law 24-342. Elections Modernization Amendment Act of 2022, <https://code.dccouncil.gov/us/dc/council/laws/24-342>. Accessible mail ballot drop boxes are also required under federal law. See U.S. Department of Justice, *Ballot Drop Box Accessibility The Americans with Disabilities Act* (published February 15, 2022), https://archive.ada.gov/ada_voting/ballot_box_access.pdf.

compatible with all major screen readers, alternate input devices, and closed captioning. The Board has not indicated to the public how it will implement electronic return for ARBs, or how it will implement ARB for incarcerated District voters with disabilities. Before the EMAA, voters were required to print and return the ARB ballot to the Board. DRDC recommends that the Board work with its ARB vendor, Democracy Live, to implement the option on its platform that already allows for secure electronic return.

The Board must take steps to ensure that all drop boxes are accessible to voters who use wheelchairs and other District residents with disabilities.³ After surveying 93% (51 of 55) of the mail ballot drop boxes, DRDC found one structurally inaccessible ballot drop box at Benning Library, which remained inaccessible outside of library operating hours because that location requires the use of the elevator inside the library to access it from the street. DRDC also found about 14% of the surveyed drop boxes (7 locations) were operationally inaccessible. These drop boxes should be placed at an accessible location at these sites, or if no placement is fully accessible, the Board should relocate these sites. For example, the drop box at Hattie Holmes Wellness Center was placed on a raised concrete slab that made the drop box too high for individuals in wheelchairs to access. The Board should relocate the drop box to a level location, such as the sidewalk, or consider finding a new site for this drop box. We urge the Board to publish promptly the new locations for mail ballot drop boxes. The EMAA requires the Board to publish these locations for public comment, and the Board must do this with sufficient time for it to receive comments and make changes to any inaccessible locations.

The Board is also required to ensure its voter guide is fully accessible in an electronic format designed for screen reader compatibility for voters who are blind or have other visual disabilities. We urge the Board to test the screen reader compatibility for its voter guide and all its voter materials before publishing them. The Board should identify testers who are blind that can provide meaningful guidance on any necessary modifications prior to publication. The Board must ensure these changes are implemented prior to the 2024 elections.

Voter Outreach and Registration

The Restore the Vote Amendment Act of 2020 increases voter access by restoring the right to vote for District residents convicted of a felony.⁴ Pursuant to this Act, the Board must provide to every unregistered qualified elector in the District Department of Corrections' (DOC) care or custody, and endeavor to provide to every unregistered qualified elector in the Bureau of Prisons' (BOP)

³ Because this roundtable is focused on the Board's planning for early and mail in voting, ballot drop boxes, voter registration, and eligible voter outreach, DRDC's testimony is focused on these issues. As with every election, the Board must also relocate structurally inaccessible vote centers and remove all operational barriers to accessibility. During the November 8, 2022 General Election, DRDC volunteers surveyed 87 out of the 90 designated vote centers (97% of the total). Seven percent (7%) of the surveyed vote centers (6 locations) were structurally inaccessible. This is about the same compared to the 2022 Primary Election, where DRDC documented 6 (9%) of surveyed vote centers as structurally inaccessible. Seventy percent (70%) of the surveyed vote centers (61 locations) were operationally inaccessible. This rate of operational inaccessibility is also similar to the June 21, 2022 Primary Election, during which 76% of surveyed vote centers (52 locations) were operationally inaccessible.

⁴ D.C. Law 23-277. Restore the Vote Amendment Act of 2020, <https://code.dccouncil.gov/us/dc/council/laws/23-277>.

care or custody: a voter registration form and postage-paid return envelope; and lay-friendly educational materials about the importance of voting and the right of an individual currently incarcerated or with a criminal record to vote in the District. Additionally, the EMAA requires the Board to develop educational materials and provide a vote center for individuals in the DOC's custody. The requirements to provide outreach and education help ensure District residents are aware of their rights to vote, and voter registration forms help facilitate access to the ballot. The Board must test all these materials to ensure screen readability. The requirement to provide a vote center at DOC facilities enables same day voter registration, preventing unnecessary disenfranchisement of District residents with disabilities who may not have had time to register, or whose forms may have been incomplete, incorrect, or lost. Together with a coalition of advocacy groups, DRDC has collaborated with the Board on sending voter information and voter registration forms to District residents in BOP and DOC facilities, and looks forward to the Board's efforts prior to the 2024 elections to again provide information and outreach to District residents with disabilities in these facilities, as well as to work with voters who have transferred facilities and need their voter registration updated with their new ballot mailing address.

The Board must engage in meaningful outreach regarding the availability of Accessible Remote Ballots, including the option for electronic return, to all District voters with disabilities to ensure they know that this fully accessible vote by mail system is available and how to use it. We urge the Board to include information about ARB and how to request access in its voter guide, and other outreach materials so that everyone, including people with disabilities, their family, friends, caregivers, and others know to request this option when needed by District voters with disabilities. The number of voters who registered for ARBs or cast them was not provided by the Board for the 2022 elections.⁵ The Board previously committed that it would keep track of ARB request metrics going forward.⁶ For the 2020 General Election, the first where only voters with disabilities could request or cast ARBs, the Board reported only six voters with disabilities requested an ARB, and only four voters cast them.⁷ Based on the approximately 16,400 individuals who are blind in the District, the ARB system is likely vastly underutilized.⁸

Conclusion

We ask the Committee to continue monitoring the Board's efforts to comply with District and federal laws to ensure that all mail ballot drop boxes and vote centers are structurally and operationally accessible, that the voter guide and mail-in voting are made fully accessible for people with disabilities, and voter outreach and registration efforts are fully implemented prior to

⁵ 2022-2023 DC BOE Performance Oversight Hearing Responses, Question 75, parts A and B, <https://dccouncil.gov/wp-content/uploads/2023/02/2023-Performance-Oversight-Responses-DC-BOE.pdf>.

⁶ 2021-2022 DC BOE Performance Oversight Hearing Responses, Question 71, part A (regarding the Board's current planning for the 2022 primary and general elections), <https://dccouncil.gov/wp-content/uploads/2022/03/JPS-Performance-Oversight-Responses-2022-BOE.pdf>.

⁷ 2020-2021 DC BOE Performance Oversight Hearing Responses, Question 76, part B, <https://dccouncil.gov/wp-content/uploads/2021/03/JPS-Performance-Oversight-Responses-2021-BOE.pdf>.

⁸ The National Federation for the Blind estimates that in 2016 there were approximately 16,400 blind individuals in the District of Columbia using American Community Survey results for 2016, as interpreted by Cornell University's Employment and Disability Institute (EDI). Blindness Statistics, National Federation of the Blind (2016), available at: <https://nfb.org/resources/blindness-statistics>.

the 2024 elections. We also urge the Committee to ask the Board during the roundtable discussion and on an ongoing basis what support it needs from the Committee to address barriers to implementation of the EMAA and the Restore the Vote Amendment Act.

Thank you again for this opportunity to submit testimony on these important issues.

For further information:

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