



Council of the District of Columbia
Committee on Executive Administration and Labor
D.C. Board of Elections Performance Oversight Hearing

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

March 1, 2023

Thank you for the opportunity to testify about the DC Board of Elections' (Board) obligation to ensure that all District residents with disabilities have a full and equal opportunity to vote. 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. The Help America Vote Act of 2002 (HAVA) charged protection and advocacy organizations throughout the nation, including DRDC, to "ensure full participation in the electoral process for individuals with disabilities, including...accessing polling places." 52 U.S.C. § 21061. For the last 19 years, DRDC has surveyed the accessibility of the District's polling sites, providing recommendations to the Board, and issuing comprehensive reports in an effort to ensure full compliance with HAVA and Americans with Disabilities Act (ADA).¹ My testimony today focuses on the Elections Modernization Amendment Act of 2022, improvements the Board has made to vote center accessibility, and the areas where additional improvement is needed.

Elections Modernization Amendment Act of 2022

First, we applaud the DC Council for the passage of the Elections Modernization Amendment Act of 2022 (EMAA). This law not only makes permanent many of the COVID-19 pandemic era improvements to access for District voters like universal vote by mail and voting at any polling place. It also increases accessibility for District voters with disabilities by: requiring DC Public Schools to be closed on all election days, which allows schools to prop open doors to facilitate access for voters in wheelchairs or who have other mobility disabilities; ensuring the Board's voter guide is provided on its website in an accessible screen readable format for voters with visual disabilities; requiring Accessible Remote Ballots (ARB) that are fully accessible and allow District

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

voters with disabilities to vote privately and independently; and requiring that ballot drop boxes are accessible to voters that use wheelchairs.² DRDC looks forward to working with the Board on implementing this law.

BOE Must Relocate Structurally Inaccessible Vote Centers and Remove all Access Barriers

Using an accessibility checklist developed by DRDC³ and adopted as a national model, DRDC surveyed 97% (or 87 of the District's 90) vote centers during the November 2022 General Election. We have provided this checklist to the Board to allow poll workers to take the necessary steps to ensure polling place accessibility. DRDC also works with the Board to address barriers to accessibility during early voting and on Election Day.

Based on preliminary findings⁴ from DRDC's accessibility checklist, our surveyors found 7% of the surveyed centers (6 locations) were structurally inaccessible. This means that voters with disabilities could not get to the voting area or vote due to structural barriers that Board staff or poll workers could not resolve. First, the vote center at M.P.D. R.O.C. North (#25) has an inaccessible elevator. We have noted this accessibility issue as far back as the November 2012 General Election, and have cited this site as inaccessible in eight previous election reports.⁵ Second, the cracked and crumbling accessible entrance ramp at Burroughs Elementary (#22) creates hazards for voters in wheelchairs. We cited this same issue repeatedly over three of the past election cycles.⁶ Third, the front entrance to Powell Elementary (#21) has a long, steep ramp that is not ADA-compliant, and the rear ramped entrance is inaccessible from the street. Finally, Fifteenth Street Presbyterian Church (#8), Lutheran Church of the Reformation (#40), and Payne Elementary School (#43) all had an abrupt curb rise with no curb cut that obstructed the pathway from the street to the accessible entrance. DRDC continues to urge the Board to relocate or modify these six vote centers.

DRDC found 70% of the surveyed centers (61 locations) had one or more operational accessibility issues.⁷ This means poll workers could have, but failed to, take the necessary steps to ensure the

² *Elections Modernization Amendment Act of 2022*, D.C. Act 24-642, <https://code.dccouncil.gov/us/dc/council/acts/24-642>.

³ The checklist was developed using the U.S. Department of Justice's ADA Checklist for Polling Places. U.S. Department of Justice, *ADA Checklist for Polling Places* (2016), <https://www.justice.gov/voting/accessibility-voting>.

⁴ DRDC will issue a public report with its comprehensive findings in advance of the 2024 Election cycle.

⁵ Disability Rights DC, *DC Voting Access Report on the June 21, 2022 Primary Election*; Disability Rights DC, *DC Voting Access Report on the November 3, 2020 General Election*; Disability Rights DC, *DC Voting Access Report on the June 19, 2018 Primary Election*; Disability Rights DC, *DC Voting Access Report on the June 14, 2016 Primary Election*; Disability Rights DC, *DC Voting Access Report on the November 4, 2014 General Election*; Disability Rights DC, *DC Voting Access Report on the April 1, 2014 Primary Election*; Disability Rights DC, *DC Voting Access Report on the April 23, 2013 Special Election*; Disability Rights DC, *DC Voting Access Report on the November 6, 2012 General Election*.

⁶ Disability Rights DC, *DC Voting Access Report on the June 21, 2022 Primary Election*; Disability Rights DC, *DC Voting Access Report on the November 3, 2020 General Election*; Disability Rights DC, *DC Voting Access Report on the June 19, 2018 Primary Election*.

⁷ As we noted in our surveys, the Board has acknowledged in its response to the Committee's oversight questions that the elevators at Union Temple Baptist Church (#62) and Fifteenth Street Presbyterian Church (#8) are

vote center was accessible. Although the overall operational inaccessibility has not significantly decreased between the 2022 Primary and General Elections,⁸ DRDC found that there were generally fewer operational issues at each center. For example, we found significant improvements in the availability of audio headsets on voting machines and magnifying glasses available at check-in tables. These auxiliary aids improve access to the ballot for District voters with visual disabilities. As the Board acknowledged in its after-action report, it continued to struggle with poll worker staffing during the 2022 General Election.⁹ 16% of surveyed centers (14 locations) lacked curbside voting due to staffing, despite the Board's announcements that curbside would be available at all vote and early vote centers. While an individual may choose to vote curbside, voters with disabilities are entitled to cast their votes independently and in privacy just as able-bodied voters do. The Board should ensure it has capacity to fully staff all curbside stations for voters who choose to vote curbside. DRDC continues to urge the Board to prop open all vote center entrance doors. 7% of surveyed centers (6 locations) had closed, heavy doors with no working backup system along the accessible path to the voting area. Propping open doors facilitates access for voters with disabilities, and alleviates the need to station scarce poll workers at doors to assist voters with disabilities. The Board must coordinate with partner agencies to ensure doors are unlocked and propped open.

DRDC also surveyed 93% of the mail ballot drop boxes (51 of 55) to ensure accessibility. DRDC found one structurally inaccessible ballot drop box at Benning Library (#D 40), which remained inaccessible outside of library operating hours because access from the street requires the use of the elevator inside the library. DRDC also found about 14% of the surveyed drop boxes (7 locations) were operationally inaccessible. This means the Board could have, but failed to, take the necessary steps to ensure drop box accessibility. For example, the drop box at Hattie Holmes Wellness Center (#D 18) was placed on a raised concrete slab that made the drop box too high for people in wheelchairs to access, and the pathway to the drop box at Harry Thomas Recreation Center (#D 31) was obstructed by a large, heavy piece of concrete. DRDC continues to urge the Board to make the necessary changes to ensure that all District voters can exercise their right to vote privately and independently.

Conclusion

We ask the Committee, in its oversight capacity, to monitor the Board's efforts to work with partner agencies to ensure that all vote centers and mail ballot drop boxes are structurally accessible and operationally accessible prior to the 2024 elections. I am happy to answer any questions about my testimony.

inaccessible. DC Board of Elections, *Performance Oversight Report FY22-23* (March 1, 2023), <https://dccouncil.gov/wp-content/uploads/2023/02/2023-Performance-Oversight-Responses-DC-BOE.pdf>.

⁸ Of the 89 designated vote centers in the 2022 Primary Election, DRDC found 76% of surveyed vote centers (52 of 68 surveyed) were operationally inaccessible. Disability Rights DC, *DC Voting Access Report on the June 21, 2022 Primary Election*.

⁹ D.C. Board of Elections, *2022 General Election After-Action Report*, Attachment 5. Americans with Disabilities Act (ADA) Section (p. 3) (February 6, 2023), <https://www.dcboe.org/FOIA-Info/After-Action-Reports>.