

VIA ELECTRONIC MAIL AND USPS

March 12, 2020

Commissioner Erik J. Haight
Commissioner Hannah Black
Dutchess County Board of Elections
47 Cannon Street
Poughkeepsie, New York 12601

Re: February 25, 2021 Board of Elections Meeting: Clarifications to the Record Regarding Designation of Polling Site for District 5 in the Town of Red Hook

Dear Commissioner Haight and Commissioner Black:

We are writing as a follow-up to the February 25, 2021 Board of Election (“BOE”) meeting regarding designation of polling sites for District 5 in the Town of Red Hook (the “Polling Site Meeting”). This letter supplements our February 19, 2021 letter submitted in advance of the BOE meeting. I attended the meeting, along with representatives of the Bard College community, to advocate for a polling location that is fair, accessible to Red Hook District 5 voters, and compliant with all applicable law.

In opposing the continued use of the Bard College Bertelsmann Campus (the “Campus Center”) as a polling location, Commissioner Haight made several inaccurate and misleading statements at the February 25 meeting regarding the Campus Center’s successful experience on November 3, 2020. Specifically:

- Commissioner Haight said he had “received countless complaints from voters” that “the Campus Center was difficult to find.” On Election Day and thereafter, voters and poll workers expressed enthusiasm to Bard’s Vice President for Student Affairs and Vice President for Academic Affairs for the Campus Center as a polling location. Bard College received no such complaints from voters or people who may have attempted to vote, and has received no notice of any such complaints. The senior poll worker, who was elected poll captain, received no

such complaints from voters or the several poll watchers present. After the February 25 meeting, Bard College submitted a FOIL request seeking documents pertaining to any such “countless complaints,” and received no such documents from voters, only a copy of a letter from the Red Hook Republican Inspector Coordinator who similarly expressed no such complaints by voters.

- Commissioner Haight suggested that the presence of Bard Security at a “check point” was intimidating to voters. He implied that this was in a sequestered area that stopped people from voting. Please note that Bard Security was situated along a county road as it is for most major events at Bard, including Parents Day and Graduation Day, directing traffic, in this case to parking at the Campus Center. Bard College received no such complaints from voters or people who may have attempted to vote, and has received no notice of any such complaints. The senior poll worker, who was elected poll captain, received no such complaints from voters, the several poll watchers present, or from the Board of Elections. After the February 25 meeting, Bard College submitted a FOIL request seeking documents pertaining to such activities but received no such documents from voters.
- Commissioner Haight also said that those “countless complaints from voters” concerned “covid questions that they had to endure.” Again, voters and poll workers expressed their appreciation to Bard officials, including the Vice President for Student Affairs and the Vice President for Academic Affairs, for the covid-related safety procedures implemented by Bard. Those procedures were consistent with state guidance provided by Commissioner Soto, were approved by the poll workers, and assured that all voters could voter safely on the polling machines at the Campus Center. Bard received no such complaints from voters or people attempting to vote. Bard’s FOIL request also requested any such documents; none was produced.
- Commissioner Haight stated that the Bard site was note “neutral” and in an email indicated that there were inappropriate campaign signs in the area that intimidated voters. I personally can attest that there were no campaign signs for any candidate within 100 feet of the Campus Center. I say that on the basis of my repeated personal inspection of the premises near the Campus Center before and on Election Day. Indeed, during the two weeks prior to the election through the end of election day, Bard Security identified only one sign on campus advocating for a political candidate, and that sign was in a remote part of campus and was, per campus policy, removed. Furthermore, on Friday, October 30, 2020, I arranged for then-Commissioner Soto and Republican Board of Elections Voting Machine Coordinator Timothy Malet to accompany me and Erin Cannan, a long-time Intake Inspector for District 5, to inspect the Campus Center polling location. During the visit, we also discussed signs produced by a Bard art class that encouraged people to vote but did not advocate for a party or parties. The signs ranged from saying “Vote” to “70% of 18-29 year-olds Don’t Vote, Let’s Change That!,” to “Vote 4 the Future,” to “I Vote Because My Mom Reminds Me Enough Times”. The signs were situated along a walking path leading to the Center, including within 100 feet

of the door through which voters would enter to vote. I asked whether the signs were acceptable since they did not advocate for particular candidates. Commissioner Soto and Mr. Malet agreed that the signs did not violate electioneering rules, because they only encouraged people to vote. I raised a question about one sign that referenced Justice Ruth Bader Ginsburg. Mr. Malet said that sign was acceptable. (Nevertheless, to avoid any perceived impropriety, I subsequently moved it from a position of approximately 100 feet from the entrance to approximately 300 feet from the entrance off of the path that led directly to the polling site). Again, Bard received no complaints of any such (non-existent) signs, no notice of any such complaints, and no documents or photographs pertaining to any such complaints in response to its FOIL request.

We would also like to clarify certain statements that were made regarding the Richard B. Fisher Center for the Performing Arts (the “Performing Arts Center”). The Performing Arts Center is ADA-compliant, but its handicap accessible parking is significantly further from the entrance compared with the Campus Center and the building is far more difficult to navigate. Commissioner Haight suggested during the public hearing of February 25 that the Performing Arts Center is on a county road and the Campus Center is not. This is untrue. The Performing Arts Center is on the northern-most edge of a 600-acre campus main campus, is more than ten times further from the county road that bisects campus than the Campus Center, and is significantly further from public transport than the Campus Center. Additionally, Bard regularly uses the Performing Arts Center for classes. Using it for voting would disrupt class schedules. By way of reminder, our February 19, 2021 letter details several deficiencies with the Performing Arts Center and why the Campus Center is by comparison a more appropriate and voter-friendly venue.

At the February 25 meeting, Commissioner Haight said, without explanation or supporting authority, that because he and Commissioner Black could not agree to a polling place, Commissioner Haight’s view was that the St. John’s Episcopal Church (the “Church”) in Barrytown would return to being the sole polling location in District 5, by default. In an Order of October 23, 2020, Judge Rosa ordered the District 5 polling location be moved from the Church to the Campus Center. In an agreement dated October 29, 2020 following argument in the appellate court, the parties agreed that both the Church and the Campus Center would serve as polling locations on November 3, 2020. That agreement, endorsed by Judge Rosa, is the last legal designation of polling locations in District 5. If there is a “default” position, it is that both the Church and the Campus Center be re-designated.

We also object to re-designating the Church because it does not comply with New York State Election Law (the “Election Law”) requirements for a polling place. Specifically:

- A polling place must be located on a public transportation route when practicable. The Church is not.
- A polling place must be ADA-accessible. The Church is not.
- An accessibility survey must be conducted after construction. The Church underwent construction in 2020, but no survey has been conducted.
- The Church has no designated ADA-accessible parking.

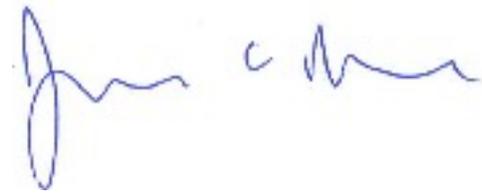
Finally, using the Church as a polling place disenfranchises voters. 65-70% of voters reside on Bard's campus, the vast majority of them youth voters and voters of color in the district. The Church is not ADA-compliant, is not accessible by foot, and is located on a dangerous and winding country road without sidewalks. The Church is also far too small. Voters have been forced to line up alongside the dangerous road due to space limitations. During inclement weather, voters are forced to stand outside, and the Bard community has even been forced to pay for last-minute tents to accommodate these voters. The Church is also far too small based on the ongoing need for social distancing due to COVID-19. Again, our February 19, 2021 letter, and our various correspondences and court filings, detail several deficiencies with the Church and why the Campus Center is by comparison a more appropriate and voter-friendly venue.

Recognizing these numerous infirmities of the Church, the Red Hook Town Board once again has unanimously endorsed the Campus Center as the polling location for District 5.

For these reasons, we urge the BOE to redesignate the Campus Center as the polling site for District 5 in the Town of Red Hook, or alternatively as a polling location in addition to the Church.

Thank you for your consideration on this important matter.

Yours sincerely,



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cc: Honorable Marcus J. Molinaro, County Executive – Dutchess County
Honorable Kevin A. Cahill, Assembly Member, Assembly District 103
Honorable Sue Serino, State Senator, Senate District 41
Honorable Robert McKeon, Supervisor, Town of Red Hook
New York State Board of Elections, Co-Chairs Peter S. Kosinski and Douglas A. Kellner
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