

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF DUTCHESS**

In the Matter of the Application of

BARD COLLEGE, ELECTION@BARD,
LEON BOTSTEIN, ERIN CANNAN,
CYNTHIA DEANN AUSTIN
CUNNINGHAM, MARIA ALEJANDRA
RODRIGUEZ ORTIZ, SARINA
JAQUELINE CULAJ, AND TOMAS S.
FORMAN,

,

Petitioners,

-against-

DUTCHESS COUNTY BOARD OF
ELECTIONS,
ERIK J. HAIGHT, in his official capacity,
HANNAH BLACK, in her official capacity,

Respondents,

For a Judgment Pursuant to Article 78 of the
Civil Practice Law and Rules

INTRODUCTION

1. Beginning in 2005 petitioners Bard College and Election@Bard (referred to collectively herein as “Bard”) has advocated on behalf of the registered voters in the Fifth Legislative District of Dutchess County (located in the Town of Red Hook, New York) (“District 5”) to secure a polling location on its campus. Year after year, Bard has explained to the Dutchess County Board of Elections (the “BOE”) why the BOE’s failure to certify a polling location at Bard defies fact, logic, and, most importantly, the law, and has consigned the majority of District 5 voters to utilize a significantly less accessible polling site. Importantly, over time other key voices

have amplified Bard's message: The Town of Red Hook itself; the wider disability rights community; the wider youth voting rights community; and even former BOE Commissioner Elizabeth Soto and current BOE Commissioner Black.

2. Bard's case became even more urgent in 2020, with the onset of the Covid-19 pandemic. Election@Bard, with the support of the Bard administration, advocated that voting take place in the Bertelsmann Campus Center ("the Center"), a large, state-of-the-art facility, was the ideal and obvious building in District 5 capable of hosting a polling site that could comply with the necessary safety measures required by the pandemic.

3. In a September 15, 2020 letter to the BOE, representatives of the Church of St. John the Evangelist in Barrytown the ("Church") attempted to withdraw from consideration as a polling location, explaining:

It has been an honor to serve the Red Hook community for many, many years, but this year we are writing to recommend that you find another polling site for Red Hook District 5 other than the Church of St. John the Evangelist, Barrytown. Our concerns revolve around the current pandemic of COVID-19, and our inability to provide an adequately safe environment for the poll workers as well as the voters. Simply put, our space is too small to support much-needed social distancing, and other sites within District 5 are much larger." Letter from M. Williams & J. Ferguson to Dutchess County Board of Elections (Sept. 15, 2020). A true and correct copy is attached hereto as Exhibit 1.

4. Nevertheless, the BOE defied the law as well as public health and safety by inexplicably continuing to insist on the Church as a polling location while refusing to certify the Center.

5. More specifically, Commissioner Haight refused to certify the Center and instead insisted on designating the Church, despite the Church's own recommendation that the BOE find another polling site.

6. Commissioner Soto publicly and unequivocally favored certifying the Center.

7. As a result of the impasse between the two Commissioners of the BOE, and the apparent assumption that Commissioner Haight's Church designation would prevail as a BOE determination despite his fellow Commissioner's disapproval, Bard sued to vindicate the rights, and protect the health, of all District 5 voters.

8. That litigation resulted in this Court's October 23 and October 30, 2020 orders directing the BOE to make the Center available as a polling location for voters in District 5 of the Town of Red Hook, New York. Decision and Order on Motion for Leave to Reargue and Renew (Oct. 23, 2020). A true and correct copy is attached hereto as Exhibit 2; Order (Oct. 30, 2020). A true and correct copy is attached hereto as Exhibit 3.

9. The October 23 order followed the BOE's decision on October 14, 2020 to relocate two unrelated polling locations.

10. The BOE's October 14 decision to relocate those two polling locations belied Commissioner Haight's sworn statements to this Court—in two affidavits he submitted in September 2020, just weeks earlier—that changing the District 5 polling site would cause disruption and confusion given its temporal proximity to the election. Affidavit of Erik J. Haight (Sept, 21, 2020). A true and correct copy is attached hereto as Exhibit 4; Supplemental Affidavit of Erik J. Haight (Sept, 28, 2020). A true and correct copy is attached hereto as Exhibit 5.

11. This Court's October 30, 2020 order, which tracked a negotiated resolution between the parties, could not have been clearer: "ORDERED that the Bertelsmann Campus Center at Bard College, . . . be made available by the Dutchess County Board of Elections ("BOE") as an additional polling location for the Town of Red Hook Voting District 5, along with the St. John's Episcopal Church." *See* Exhibit 3 at 1.

12. The Center proved a resounding success, providing a safe and convenient site for poll workers and voters. Indeed, poll workers from the Democratic and Republican parties, who staffed the site for the entirety of Election Day, thanked Bard for being what they called a “model host.” Letter from J. Becker & Y. Bromberg to Comm'rs E. Haight & H. Black (Feb. 19, 2021) at 1. A true and correct copy is attached hereto as Exhibit 6.

13. Recognizing that success, the Town of Red Hook Board unanimously reaffirmed its previous, unanimously approved resolutions supporting the Center as the District 5 polling location on February 9, 2021. Red Hook Town Board Meeting Minutes (Feb. 9, 2021) at 8. A true and correct copy is attached hereto as Exhibit 7.

14. On February 19 and March 12, 2021, Bard submitted letters to the BOE, in advance of the March 15 statutory deadline to certify 2021 polling locations, requesting that the Center be certified. *See* Exhibit 6; Letter from J. Becker to Comm'rs E. Haight & H. Black (March 12, 2021). A true and correct copy is attached hereto as Exhibit 8. Bard’s case was even more compelling than before; in addition to the host of valid reasons Bard had presented to the BOE in the past, its 2021 submission also pointed to this Court’s orders of October 23 and 30, 2020, and the successful use of the Center on Election Day 2020.

15. However, the BOE once again refused to designate the Center, or any suitable Bard location, as a District 5 polling location.

16. As of the date of this Petition, the BOE has not certified a District 5 polling location for the November 2, 2021 General Election.¹

¹ *See* New York State 2021 Political Calendar, *available at* <https://www.elections.dutchessny.gov/wp-content/uploads/2021/03/2021-Political-Calendar-v8.0-3.30.2021-Chap-90.pdf>.

17. Commissioner Haight appears to believe—erroneously—that: a) the failure to designate a polling station by the March 15, 2021 statutory deadline caused the “status quo” to be in effect; and b) that the “status quo” for District 5 voters is the Church, notwithstanding that both the Church and the Center served as polling locations in 2020, as ordered by this Court.

18. In sum, the BOE’s procedurally flawed and unsupportable attempt to change District 5 voters’ polling location back to only the Church, and its failure to restore a polling station at the Center, is arbitrary and capricious and lacks authority or justification under the law. Bard therefore respectfully submits this Petition and requests that this Court once again vindicate the inviolable voting rights of all District 5 voters by granting the relief sought herein.

PARTIES

19. Petitioner BARD COLLEGE is a private liberal arts college located in District 5. Many of its students, staff, and faculty are eligible to vote, and registered as voters, in District 5.

20. Approximately 68% of the eligible voters in District 5 reside on Bard’s campus, rendering the Church inadequate to meet the needs, and secure the rights, of the District 5 community in several respects, including but not limited to disabled voters, as described below. Indeed, not only do the vast majority of the voters in the District reside on Bard’s campus, but those voters also comprise significant portions of youth voters and voters of color in the District.

21. Petitioner ELECTION@BARD is a student-run organization at Bard located at 30 Campus Road, Annandale-on-Hudson, New York 12504 that facilitates voter registration for students, provides information about candidates, hosts forums in which candidates and students can meet, and protects the right of students to vote and have their votes counted.

22. Petitioner LEON BOTSTEIN is the President of Bard College, and has served in this role since 1975. As an on-campus resident, he resides in and is registered to vote in District 5. In 2020, he voted at the Center. In prior elections, he voted at the Church.

23. Petitioner ERIN CANNAN is Bard's Vice President for Civic Engagement. She served as a Poll Captain for the District 5 polling site at the Center during the November 2020 election. Prior to that she worked at the polling place located at the Church for ten years. She resides in the Town of Red Hook..

24. Petitioner CYNTHIA DEANN AUSTIN CUNNINGHAM is the Assistant Director of Student Activities at Bard. During the November 2020 election, she assisted in preparing the Center to serve as a polling site. As an on-campus resident, she resides in and is registered to vote in District 5. In 2020, she voted at the Center.

25. Petitioner MARIA ALEJANDRA RODRIGUEZ ORTIZ is a student at Bard, and a member of ELECTION@BARD. As an on-campus resident, she resides in and is registered to vote in District 5. In 2020, she voted at the Center.

26. Petitioner SARINA JAQUELINE CULAJ is a student at Bard. As an on-campus resident, she resides in and is registered to vote in District 5. In 2020, she voted absentee from her residence due to COVID. In prior elections, she voted at the Church.

27. Petitioner TOMAS S. FORMAN is a student at Bard. As an on-campus resident, he resides in and is registered to vote in District 5. In 2020, he studied remotely and voted absentee from his District 5 residence. In prior elections, he voted at the Church.

28. Respondent DUTCHESS COUNTY BOARD OF ELECTIONS (the "BOE"), led by and acting through its Commissioners, ERIK J. HAIGHT and HANNAH BLACK, administers Local, State, and Federal Elections in the County of Dutchess including the Town of Red Hook.

The BOE is charged with designating polling places in accord with New York Election Law. The BOE is composed of two Commissioners and two Deputy Commissioners and exists pursuant to the Laws of the State of New York.

- 29. Respondent ERIK J. HAIGHT is the BOE's Republican Commissioner.
- 30. Respondent HANNAH BLACK is the BOE's Democratic Commissioner.

FACTS

Bard's 2020 Petition Resulted in Orders By This Court Requiring The BOE To Make The Center Available As A District 5 Polling Location.

31. Under New York law, "[e]very board of elections shall, in consultation with each city, town and village, designate the polling places in each election district in which the meetings for the registration of voters, and for any election may be held." N.Y. Election Law § 4-104(1). "Such polling places must be designated by March fifteenth, of each year, and shall be effective for one year thereafter." *Id.* Thus, New York law requires the BOE to "designate the polling places in each election district" within its jurisdiction every year, no later than March 15.

32. As it had done repeatedly over the years, in 2020 Bard sought to serve the interests of District 5's voters by requesting that the BOE designate a Bard-based polling location in lieu of or in addition to the Church as a District 5 polling location. Specifically, Bard urged that the Center be designated Letter from M. Volpe to Comm'rs E. Haight & H. Black (Feb. 28, 2020).. A true and correct copy is attached hereto as Exhibit 9.

33. The Town of Red Hook agreed with Bard's request, and passed unanimous resolutions in 2016 and 2020 to the effect. Town of Red Hook Resolution (Aug 26, 2020). A true and correct copy is attached hereto as Exhibit 10; Town of Red Hook Resolution (April 12, 2016). A true and correct copy is attached hereto as Exhibit 11.

34. Then-commissioner Elizabeth Soto wrote a letter on March 3, 2020 supporting Bard's request. Letter from E. Soto to M. Volpe (March 3, 2020). A true and correct copy is attached hereto as Exhibit 12.

35. On March 15, 2020, the BOE designated the Church as District 5's sole polling place.

36. On September 4, 2020, Bard filed a petition with this Court, explaining that the Church was an inadequate polling location and that the decision to designate it as the sole District 5 polling site violated the New York Constitution and New York Election Law (the "2020 Petition"). Verified Petition (Sept, 4, 2020). A true and correct copy is attached hereto as Exhibit 13.

37. The 2020 Petition requested that this Court direct the BOE to change the District 5 polling location from the Church to the Center or to designate the Center as an additional District 5 polling location. *Id.*

38. On September 15, 2020, the Church wrote to the BOE to recommend the relocation of the District 5 polling location based on its concern for the safety of voters and poll workers and its inability to accommodate social distancing as compared to other larger sites in the district. *See* Exhibit 1.

39. On September 21, 2020, Commissioner Haight submitted a sworn affidavit to the Court stating that the BOE had already mailed information cards to District 5's voters advising them of their polling location, and that if the Court were to change the District 5 polling location, the BOE would have had to send another round of information cards. *See* Exhibit 4 at ¶ 10. That affidavit also stated that "Polling place changes that occur shortly before elections, after the Board

of Elections has sent out election notices that identify the old polling place, are particularly disruptive and problematic. . . . Last minute polling place changes are a last resort.” *Id.* at ¶ 12.

40. Commissioner Haight doubled down in his September 28, 2020 supplemental affidavit, stating that “Attempting to change the polling place at this point in time would be extremely problematic for reasons I have already explained.” *See* Exhibit 5 at ¶ 4.

41. On October 13, 2020, this Court (the Honorable Maria G. Rosa presiding) issued an order dismissing Bard’s petition. Decision and Order (Oct. 13, 2020). A true and correct copy is attached hereto as Exhibit 14.

42. The next day, on October 14, 2020, Commissioner Soto advised the Red Hook Town Supervisor, Board, and other officials that the BOE agreed earlier that morning to move the polling site for different districts in the Town of Red Hook from the Town Hall to the Linden Avenue Middle School.

43. On October 15—two days after the Court’s order—the Red Hook Town Supervisor announced the above-described relocation of the polling place for Red Hook’s Districts 7 and 8. Red Hook Supervisor Announcement (Oct. 15, 2020). A true and correct copy is attached hereto as Exhibit 15.

44. On October 15, 2020, Bard filed a motion for reconsideration of the Court’s October 13 order based on this new development, which contradicted Commissioner Haight’s above-described sworn statements.

45. On October 23, 2020, this Court granted Bard’s motion and ordered that: “The District 5 polling place shall be moved from the St. John’s Episcopal Church in Red Hook, N.Y. to the Bertelsmann Campus Center at Bard College in Red Hook, N.Y. in time for in-person voting on November 3, 2020 from 6:00 a.m. to 9:00 p.m.” *See* Exhibit 2 at 3.

46. In so ruling, the Court explained that “[t]he basis for this court’s [October 13] decision and order has now been eliminated since the primary factor identified by Commissioner Haight and relied upon by this court was *simply untrue*.” *Id.* at 4 (emphasis added). That “primary factor” was Commissioner Haight’s above-described sworn representations to the Court that it was too close in time to the November 3 election to move or add a polling location. *See supra* ¶¶ 39-40.

47. The Court also noted that the Town Supervisor’s announcement “cit[ed] “the same reasons the Petitioners and the Church seek to move the District 5 polling place.” *Id.* at 2-3.

48. Subsequent to the October 23 order, the parties agreed, consistent with that order and the 2020 Petition, that the Center would serve as a polling location for District 5 and that the Church also would serve as a polling location for District 5.

49. Based on that agreement, Judge Rosa issued an order on October 30 as follows:

ORDERED that the Bertelsmann Campus Center at Bard College . . . be made available by the Dutchess County Board of Elections . . . as an additional polling location of the Town of Red Hook Voting District 5, along with the St. John’s Episcopal Church . . . ;

ORDERED that the Dutchess County Board of Elections update its website to indicate that Bertelsmann Campus Center has been designated as an additional polling place for the Town of Red Hook Election District 5 as soon as possible

See Exhibit 3 at 1.

50. Neither order restricted its effect to the 2020 election.

Bard Renews Its Repeated Request That The BOE Designate The Center As A Polling Location—This Time For 2021.

51. Having successfully hosted a District 5 polling location for the 2020 general election, Bard submitted a letter to the BOE on February 19, 2021, requesting that the Center be designated again in 2021. *See* Exhibit 6.

52. Bard pointed out that, in addition to its proven track record, the Center more than satisfies all legal and logistical requirements for a polling site:

- a. It provides safe, ready access to public transportation, as it is only a 4-minute, 0.2-0.3 mile walk on well-lit sidewalks to the Dutchess County LOOP bus stop;
- b. It is accessible for those with disabilities and has satisfied the ADA compliance survey required under New York law;
- c. Located in the heart of the Bard campus, it is within easy walking distance to the majority of voters in District 5, who live or work on campus;
- d. The Bertelsmann Center has ample parking – including several designated accessible parking places – within its immediate vicinity;
- e. The size and layout of the Center allows more than sufficient space for voters to line up indoors and protected from inclement weather and can accommodate safe, social-distanced voting as Covid-19 or any other public health situation may require (as shown by the 2020 election experience).

Id. at 1-2.

53. Bard also explained in the February 19 letter that the Center is the most appropriate facility at Bard to serve as a polling site. *Id.* at 2. Specifically, Bard explained that the Center is far superior as a polling location to Bard's Fisher Performing Arts Center, which the BOE had temporarily designated, but later rescinded, as a polling site.

54. The BOE issued a resolution dated November 30, 2020, just as then-commissioner Soto was completing her term on the BOE, in which it designated 2021 polling locations for voting districts in Dutchess County. That document listed Bard's Fisher Performing Arts Center as the polling location for District 5. Dutchess County Pollsite Designation Resolution (Nov. 30, 2020). A true and correct copy is attached hereto as Exhibit 16. .

55. On information and belief, the BOE did not consult with Bard or any Bard representative, make any prior public announcement, offer an opportunity for public comment, nor conduct a requisite ADA survey, before issuing the secretive November 30 resolution.

56. By resolution dated February 8, 2021, the BOE rescinded the November 30 resolution. Resolution 05-2021 Rescinding Resolution 1-2021 (Feb. 8,2021). A true and correct copy is attached hereto as Exhibit 17. .

57. The Center is the most appropriate polling location because:

- a. it has more plentiful and accessible parking (including parking for those with disabilities);
- b. it is closer to public transportation and to the center of campus, whereas the Fisher Performing Arts Center is further from public transportation in contravention of New York Election Law § 4-104(6)(a);
- c. alcohol is prohibited at all times at the Center while it is served at the Fisher Performing Arts Center in contravention of New York Election Law § 4-104(1);
- d. the Center is regularly used by the public, as it contains a fully functioning United States Postal Service post office and hosts regular public events, including regular annual meetings of Bard's senior learners in its Lifetime Learning Institute;
- e. the Center does not host regular educational activities, making it far less disruptive to Bard's operations to use it as a polling site, whereas the Fisher Performing Arts Center regularly holds classes, rehearsals and student and public performances; and
- f. The Center provides access to the main or ground floor of the premises, pursuant to New York Election Law § 4-104(6), whereas the Fisher Performing Arts Center does not.

58. Finally, the February 19 letter reiterated why the Center is far better suited to hosting a polling site than the Church. *See* Exhibit 6 at 2. As the letter shows, the factors Bard relied on in the 2020 litigation remain largely applicable now:

- a. the Church is still in the same relatively remote location in the District, miles from more the two-thirds of the District's registered voters;
- b. The Church is still inaccessible by public transportation as required by New York Election Law § 4-104(6)(a);
- c. the 68% of District 5 voters who live on or near Bard still must access it by an unlit, narrow, winding country road with no sidewalk, a road that Bard does not allow its drivers to use except in exceptional circumstances; and
- d. The Church still does not provide sufficient area to admit and comfortably accommodate voters and election workers in numbers consistent with the deployment of voting systems and privacy booths, as required by New York Election Law § 4-104(6).

59. In addition, the Church still does not comply with the Americans with Disabilities Act ("ADA"), as required by New York Election Law § 4-104(1-a).

60. Moreover, the respondents are, and have been, aware of the need to conduct a new ADA compliance survey due to significant renovations to the Church after the 2019 survey, if it is to continue as a polling location. Bard made that point in its April 30 letter, even quoting a March 2021 email exchange between Commissioners Haight and Black. Letter from J. Becker to Comm'rs E. Haight & H. Black (April 30, 2021) at 3. A true and correct copy is attached hereto as Exhibit 18. As recounted in that letter, Commissioner Haight's email response to Commissioner Black's

request to “set up a date and time” for a ADA compliance review as obligatory speaks volumes: “Says who?” *Id.* at 3.

61. Even if the Church complied with the ADA, its physical configuration is still too small and cramped to adequately accommodate voters (both while voting and while waiting to vote), election officials, poll workers, and the necessary equipment.

62. While the current state of the Covid-19 pandemic has allowed for the lifting of some limited social distance requirements for the time being, the Church remains an inadequate polling location given the potential resurgence of Covid-19 variants as well as the understandable desire of individual voters to avoid crowded indoor spaces.

63. The Church also remains an inadequate polling location given its distance from the majority of voters in the District who reside on or near the Bard campus; its lack of infrastructure to accommodate voters in the District during both their transport and arrival to the venue; and its lack of accessibility for all voters, and particularly disabled voters. Moreover, this inadequacy stands in stark contrast to the availability of the Center—a modern, large structure on the Bard campus which readily accommodates the majority of voters in the District who also make up significant portions of the District’s population of youth voters and voters of color, and which readily and regularly accommodates both the general public and the disabled community.

64. In sum, the Church was and remains an inadequate polling location that cannot sufficiently meet the needs or the rights of most District 5 voters, let alone serve as its only polling location.

65. Bard’s February 19 letter also advised the BOE that on February 9, 2021, the Red Hook Town Board unanimously reaffirmed previous (unanimously approved) resolutions (including two from 2020) supporting the Center as the polling site for District 5.

66. The Town Board's input is critical, because state election law mandates consultation with the Town in this process. *See* N.Y. Election Law § 4-104(1) ("Every board of elections shall, *in consultation with each city, town and village*, designate the polling places in each election district . . .") (Emphasis added.)).

67. The BOE held a public meeting on February 25, 2021, during which it discussed the District 5 polling location and Bard's letter, among other topics.

68. Commissioner Haight moved to use the Fisher Performing Arts Center as a polling location—despite having received and read Bard's letter cataloging the reasons why the Bertelsmann Center is a superior option and the Fisher Performing Arts Center is an unsuitable option.

69. Commissioner Black did not second that motion, and instead moved that the Bertelsmann Center be designated, citing the February 19 letter and much of its reasoning.

70. Commissioner Haight refused to second that motion, asserting that he had received "countless" complaints from voters about the Center.

71. Commissioner Haight stated that he found it unfair that some voters – i.e., youth voters – should be "super-enfranchised" while others are disenfranchised.

72. Commissioner Haight also stated, without citing any supporting fact or legal authority, that the District 5 polling location would "default" to the Church absent a successful motion.

73. To date, Bard has tried, in vain, to locate documents or information supporting Commissioner Haight's claim that he had received "countless complaints."

74. As Bard chronicled in its March 12, 2021 letter to the BOE, its staff asked relevant security personnel and the Senior Poll Worker on site on November 3, 2020, about each category

of complaint Commissioner Haight asserted. None of those inquiries corroborated Commissioner Haight's claims. *See* Exhibit 8.

75. Moreover, Bard submitted requests to the BOE under New York's Freedom of Information Law for documents reflecting or relating to each of Commissioner Haight's complaint categories.

76. As the March 12 letter describes, Bard received no documents in response to those FOIL requests other than one letter from the Red Hook Republican Inspection Coordinator which expressed no voter complaints. *Id.* at 2.

77. The March 12 letter also clarified that the Fisher Performing Arts Center is "more than ten times further from the county road that bisects campus than the [Bertelsmann] Campus Center, and is significantly further from public transport than the Campus Center," correcting erroneous statements about campus geography by Commissioner Haight at the February 25 public meeting. *Id.* at 3.

78. In its March 12 letter and its follow-up letters to the BOE dated April 1 and April 30, Bard also addressed Commissioner Haight's unsupported contention at the February 25 public meeting that, because he and Commissioner Black were unable to agree, District 5's polling location would return to the Church, and the Church alone, by "default." *Id.* at 3; *see also* Letter from J. Becker to Comm'rs E. Haight & H. Black (April 1, 2021) at 2. A true and correct copy is attached hereto as Exhibit 19; *See* Exhibit 18 at 2.

79. Bard's explanation was simple and compelling: Judge Rosa's October 23 and October 30 orders *are* the status quo or "default" position. Together those orders establish that, at a minimum, the status quo includes the Center as a District 5 polling location (if not *the* location). Without further action by the BOE, the Center must remain available as a polling location.

The BOE Fails To Designate A District 5 Polling Location By March 15, 2021, But Then Tells Voters That The Church Is The District 5 Polling Location.

80. The BOE failed to designate a District 5 polling location on or before March 15, as required by New York Election Law § 4-104(1).

81. Instead, the BOE has sown confusion among District 5 voters through contradictory public messages.

82. On or about April 20, 2021, the BOE issued postcards to District 5's eligible voters purporting to tell those voters where they may vote.

83. In one place, the postcard says: "YOUR POLLING PLACE HAS BEEN CHANGED. YOU NOW VOTE AT: St. John's Episcopal Church, 114 River Road, Red Hook NY 12571." BOE Issued Postcard. A true and correct copy is attached hereto as Exhibit 20..

84. But elsewhere, the postcard says: "ATTENTION VOTER: If you still reside at the above address, you may *continue* to vote at the accessible polling place shown on this card." (Emphasis added.)

85. The use of the word "continue" suggests to the reader that they can vote at the same location where they voted most recently.

86. Most District 5 voters who "still reside at the above address" voted most recently at the Center. Thus, telling them they may "continue to vote at the accessible polling place shown on this card"—the Church—makes no sense and is confusing, particularly because the accessibility of the Center was widely known and acknowledged by the voters and the media, and resulted in its designation as a polling location by this Court.

87. Meanwhile, as recently as June 11, 2021, the BOE's webpage entitled "DUTCHESS COUNTY POLLING PLACES" continued to list both the Church and the Bertelsmann Center as valid polling places for District 5. CITE download of

<https://www.elections.dutchessny.gov/voter-information/dutchess-county-polling-places/> bearing date stamp June 11, 2021 at page 10.² BOE Dutchess County Website. A true and correct copy is attached hereto as Exhibit 21.

88. Thus, the BOE webpage was telling District 5 voters that the Center remained a valid polling location for more than seven weeks after the postcards were issued on or about April 20, while the postcard distributed to District 5 voters was confusing at best.

89. In sum, Judge Rosa's October 23 and October 30, 2020 Orders defined the status quo: The Center was and remains a valid District 5 polling location. The inability of the BOE to reach a different result on or before March 15, 2021 cannot turn back the clock to some point in time before Judge Rosa's orders. And the BOE's confusing April 20 postcard is no substitute for satisfying its statutory duty to timely designate a suitable polling place—especially when the BOE's own website, until at least June 11, clearly listed the Center as a valid District 5 polling location.

90. What becomes evident when reviewing the record as a whole, including but not limited to the historical background of voter accessibility in District 5, the sequence of events leading up to and following the March 15, 2021 statutory deadline, the BOE's departure from normal procedures, and the relevant judicial and administrative history (especially the 2020 Article 78 litigation), is that the failure to situate a polling location at the Center is unexplainable on grounds other than impermissible, discriminatory ones.

² When the undersigned counsel visited <https://www.elections.dutchessny.gov/voter-information/dutchess-county-polling-places/> on June 23, 2021, the content had been changed to a page entitled "2021 PRIMARY ELECTION COUNTY POLLING PLACES" which lists the Red Hook Town Hall as the 2021 primary polling place for all Red Hook districts.

91. In light of the above allegations, the BOE has acted arbitrarily and capriciously in violation of Article 78, amply justifying the relief sought below.

FIRST CAUSE OF ACTION

VIOLATION OF THE FUNDAMENTAL RIGHT TO VOTE AND RIGHT TO EQUAL PROTECTION OF LAWS UNDER THE NEW YORK STATE CONSTITUTION

92. The Petitioners repeat and reiterate each and every allegation contained in the preceding paragraphs, with the same force and effect as if herein fully set forth at length.

93. The New York State Constitution provides in relevant part:

Article I Section 1 [Rights, privileges and franchise secured; uncontested primary elections]

No member of this state shall be disenfranchised, or deprived of any of the rights or privileges secured to any citizen thereof, unless by the law of the land, or judgment of his or her peers, except that the legislature may provide that there shall be no primary election held to nominate candidates for public office or elect persons to party positions for any political party or parties in any unit of representation of the state from which such candidates or persons are nominated or elected whenever there is no contest or contests for such nominations or election as may be prescribed by general law.

94. The New York State Constitution provides in relevant part:

Article II Section 1 [Qualifications of voters]

Every citizen shall be entitled to vote at every election for all officers elected by the people and upon all questions submitted to vote of the people provided that such citizen is eighteen years of age or over and shall have been a resident of this state, and of the county, city, or village for thirty days next preceding an election.

95. The New York State Constitution further provides for the equal protection of laws, in relevant part:

Article I, Section II [Equal protection of laws; discrimination in civil rights prohibited]

No person shall be denied the equal protection of the laws in this state or any subdivision thereof.

96. By their actions, the Respondents have burdened Petitioners with onerous requirements and have constructively denied the fundamental right to vote and right to equal protection as guaranteed by Article I, Section 1; Article I, Section 11; Article II Section 1 of the New York State Constitution.

SECOND CAUSE OF ACTION

VIOLATION OF ARTICLE 78 OF THE NEW YORK CIVIL PRACTICE LAW & RULES – FAILURE TO DESIGNATE

97. The Petitioners repeat and reiterate each and every allegation contained in the preceding paragraphs, with the same force and effect as if herein fully set forth at length.

98. New York Election Law § 4-104(1) requires the BOE to designate polling locations for every district in Dutchess County each year, on or before March 15.

99. As alleged above, the Respondents have failed to designate a polling location for District 5.

100. In so doing, the Respondents:

- a. failed to perform a duty enjoined upon them by New York Election Law § 4-104(1) in violation of New York Civil Practice Law and Rules (CPLR) § 7803(1); and
- b. acted in a manner that was arbitrary and capricious or an abuse of discretion in violation of CPLR § 7803(3).

THIRD CAUSE OF ACTION

VIOLATION OF ARTICLE 78 OF THE NEW YORK CIVIL PRACTICE LAW & RULES – ADA COMPLIANCE

101. The Petitioners repeat and reiterate each and every allegation contained in the preceding paragraphs, with the same force and effect as if herein fully set forth at length.

102. New York Election Law § 4-104(1)(a) requires each polling place to be accessible to citizens with disabilities and comply with the accessibility guidelines of the Americans with Disabilities Act of 1990.

103. The United States Department of Justice has published an “ADA Checklist for Polling Places,” available at <https://www.ada.gov/votingchecklist.pdf> (the “Checklist”). ADA Checklist for Polling Places (June 2016). A true and correct copy is attached hereto as Exhibit 22.

104. On information and belief, the limited parking at the Church fails certain provisions of the Checklist. *See id.* at 17, §§ A1, A4.

105. On information and belief, the ramp at the Church’s main entrance on the western façade—the only ramp to enter the building—violates certain provisions of the Checklist and is therefore not ADA compliant. *See id.* at 23, §§ G1, G4, G5, G8, G9.

106. On information and belief, the BOE most recently completed an “ADA Checklist for Polling Places Survey Form” for the Church on March 11, 2019. ADA Checklist for Polling Places Survey Form (2019). A true and correct copy is attached hereto as Exhibit 23.. That form failed to answer entire sections of questions regarding ramp compliance, ADA access and overall accessibility. Inexplicably, it simply lists “N/A” for the entire ramp compliance section, although the ramp is the only way to enter the building, and although, upon information and belief, the ramp is not ADA compliant. *Id.*

107. Other ADA violations at the Church include the lack of ADA-accessible restrooms, at least prior to the recent renovations.

108. The Respondents are, and at all relevant times were, aware that the Church underwent renovations after the 2019 survey that require a new survey, but no such survey has been completed. *See* Exhibit 18 at 3-4 *See also supra* ¶ 60.12.

109. By claiming that the Church is the District 5 polling location by “default” and by sending postcards to District 5 voters purporting to advise them that the Church is the only valid District 5 polling location, the Respondents:

- a. failed to perform a duty enjoined upon them by New York Election Law § 4-104(1)(a) in violation of New York Civil Practice Law and Rules (CPLR) § 7803(1); and
- b. acted in a manner that was arbitrary and capricious or an abuse of discretion in violation of CPLR § 7803(3).

**FOURTH CAUSE OF ACTION
VIOLATION OF ARTICLE 78 OF THE
NEW YORK CIVIL PRACTICE LAW & RULES – PUBLIC TRANSIT**

110. The Petitioners repeat and reiterate each and every allegation contained in the preceding paragraphs, with the same force and effect as if herein fully set forth at length.

111. New York Election Law § 4-104(6)(a) states that “Each polling place designated, whenever practicable, shall be situated directly on a public transportation route.” On information and belief, the nearest public transportation stop is located approximately 1.7 miles from the Church.

112. By claiming that the Church is the District 5 polling location by “default” and by sending postcards to District 5 voters purporting to advise them that the Church is the only valid District 5 polling location, the Respondents:

- a. failed to perform a duty enjoined upon them by New York Election Law § 4-104(6) in violation of New York Civil Practice Law and Rules (CPLR) § 7803(1); and


- b. acted in a manner that was arbitrary and capricious or an abuse of discretion in violation of CPLR § 7803(3).

PRAYER FOR RELIEF


WHEREFORE, Petitioners pray that this Court:

- a. Direct Respondents to designate the Center as the polling location for District 5, or, in the alternative, designate the Center as an additional polling location for District 5 along with the Church;
- b. Direct Respondents to immediately inform all District 5 voters in writing that the Center is the District 5 polling location or an additional District 5 polling location, as appropriate;
- c. Direct Respondents to pay Petitioners' reasonable attorneys' fees and costs as permitted under applicable law; and
- d. Grant such other and further relief as the Court may deem just and proper.

Date: Montpelier, Vermont
July 15, 2021

By: 
Michael Donofrio, Esq. (2770725)
Stris & Maher LLP
28 Elm Street, 2d Floor
Montpelier, VT 05602
(802) 858-4465
mdonofrio@stris.com
Co-counsel for Plaintiffs

Date: New York, New York
July 15, 2021


By: 
Yael Bromberg, Esq. (036412011)
BROMBERG LAW LLC
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New York, NY 10036-7424
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Co-counsel for Plaintiffs

VERIFICATION

STATE OF VERMONT)
) ss.:
COUNTY OF WASHINGTON)

The undersigned being one of the attorneys for the Petitioner herein, hereby affirms under penalties of perjury and pursuant to CPLR § 2106 that he has read the foregoing verified Petition and knows the contents thereof to be true to deponent's own knowledge except as to those matters which are alleged upon information and belief and as to them deponent believes them to be true. The source of affirmant's information and belief are oral statements, books and records furnished by the Petitioner, its agent and/or employees and material contained in the office files. This affirmation is made by Petitioner's counsel pursuant to RPAPL § 741. The attorney's signature below is also pursuant to section 130-1.1-a of the Rules of the Chief Administrator (22 NYCRR).

Date: Montpelier, Vermont
July 15, 2021

By: 
Michael Donofrio, Esq. (2770725)
Stris & Maher LLP
28 Elm Street, 2d Floor
Montpelier, VT 05602
(802) 858-4465
mdonofrio@stris.com
Co-counsel for Plaintiffs



REQUEST FOR JUDICIAL INTERVENTION

_____ COURT, COUNTY OF _____

Index No: _____ Date Index Issued: _____

For Court Use Only:

CAPTION Enter the complete case caption. Do not use et al or et ano. If more space is needed, attach a caption rider sheet. -against- _____ Plaintiff(s)/Petitioner(s) Defendant(s)/Respondent(s)	IAS Entry Date
	Judge Assigned
	RJI Filed Date

NATURE OF ACTION OR PROCEEDING Check only one box and specify where indicated.

COMMERCIAL Business Entity (includes corporations, partnerships, LLCs, LLPs, etc.) Contract Insurance (where insurance company is a party, except arbitration) UCC (includes sales and negotiable instruments) Other Commercial (specify): _____ NOTE: For Commercial Division assignment requests pursuant to 22 NYCRR 202.70(d), complete and attach the COMMERCIAL DIVISION RJI ADDENDUM (UCS-840C) .	MATRIMONIAL Contested NOTE: If there are children under the age of 18, complete and attach the MATRIMONIAL RJI ADDENDUM (UCS-840M) . For Uncontested Matrimonial actions, use the Uncontested Divorce RJI (UD-13).
REAL PROPERTY Specify how many properties the application includes: _____ Condemnation Mortgage Foreclosure (specify): _____ Residential _____ Commercial _____ Property Address: _____ NOTE: For Mortgage Foreclosure actions involving a one to four-family, owner-occupied residential property or owner-occupied condominium, complete and attach the FORECLOSURE RJI ADDENDUM (UCS-840F) . Tax Certiorari Tax Foreclosure Other Real Property (specify): _____	TORTS Asbestos Child Victims Act Environmental (specify): _____ Medical, Dental or Podiatric Malpractice Motor Vehicle Products Liability (specify): _____ Other Negligence (specify): _____ Other Professional Malpractice (specify): _____ Other Tort (specify): _____
OTHER MATTERS Certificate of Incorporation/Dissolution [see NOTE in COMMERCIAL section] Emergency Medical Treatment Habeas Corpus Local Court Appeal Mechanic's Lien Name Change Pistol Permit Revocation Hearing Sale or Finance of Religious/Not-for-Profit Property Other (specify): _____	SPECIAL PROCEEDINGS CPLR Article 75 (Arbitration) [see NOTE in COMMERCIAL section] CPLR Article 78 (Body or Officer) Election Law Extreme Risk Protection Order MHL Article 9.60 (Kendra's Law) MHL Article 10 (Sex Offender Confinement-Initial) MHL Article 10 (Sex Offender Confinement-Review) MHL Article 81 (Guardianship) Other Mental Hygiene (specify): _____ Other Special Proceeding (specify): _____

STATUS OF ACTION OR PROCEEDING Answer YES or NO for every question and enter additional information where indicated.

	YES	NO
Has a summons and complaint or summons with notice been filed?		If yes, date filed: _____
Has a summons and complaint or summons with notice been served?		If yes, date served: _____
Is this action/proceeding being filed post-judgment?		If yes, judgment date: _____

NATURE OF JUDICIAL INTERVENTION Check one box only and enter additional information where indicated.

Infant's Compromise Extreme Risk Protection Order Application Note of Issue/Certificate of Readiness Notice of Medical, Dental or Podiatric Malpractice Notice of Motion Notice of Petition Order to Show Cause Other Ex Parte Application Poor Person Application Request for Preliminary Conference Residential Mortgage Foreclosure Settlement Conference Writ of Habeas Corpus Other (specify): _____	Date Issue Joined: _____ Relief Requested: _____ Relief Requested: _____ Relief Requested: _____ Relief Requested: _____	Return Date: _____ Return Date: _____ Return Date: _____
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RELATED CASES List any related actions. For Matrimonial cases, list any related criminal or Family Court cases. If none, leave blank.
If additional space is required, complete and attach the **RJI ADDENDUM (UCS-840A)**.

Case Title	Index/Case Number	Court	Judge (if assigned)	Relationship to instant case

PARTIES For parties without an attorney, check the "Un-Rep" box and enter the party's address, phone number and email in the space provided.
If additional space is required, complete and attach the **RJI ADDENDUM (UCS-840A)**.

Un-Rep	Parties List parties in same order as listed in the caption and indicate roles (e.g., plaintiff, defendant, 3 rd party plaintiff, etc.)	Attorneys and Unrepresented Litigants For represented parties, provide attorney's name, firm name, address, phone and email. For unrepresented parties, provide party's address, phone and email.	Issue Joined For each defendant, indicate if issue has been joined.	Insurance Carriers For each defendant, indicate insurance carrier, if applicable.
	Name: Role(s):		YES NO	
	Name: Role(s):		YES NO	
	Name: Role(s):		YES NO	
	Name: Role(s):		YES NO	
	Name: Role(s):		YES NO	
	Name: Role(s):		YES NO	
	Name: Role(s):		YES NO	
	Name: Role(s):		YES NO	
	Name: Role(s):		YES NO	
	Name: Role(s):		YES NO	
	Name: Role(s):		YES NO	
	Name: Role(s):		YES NO	
	Name: Role(s):		YES NO	
	Name: Role(s):		YES NO	
	Name: Role(s):		YES NO	

I AFFIRM UNDER THE PENALTY OF PERJURY THAT, UPON INFORMATION AND BELIEF, THERE ARE NO OTHER RELATED ACTIONS OR PROCEEDINGS, EXCEPT AS NOTED ABOVE, NOR HAS A REQUEST FOR JUDICIAL INTERVENTION BEEN PREVIOUSLY FILED IN THIS ACTION OR PROCEEDING.

Dated: _____

Michael Donofrio

Signature

Attorney Registration Number_____
Print Name

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF DUTCHESS

-----X

In the Matter of the Application of

BARD COLLEGE, ELECTION@BARD,
LEON BOTSTEIN, ERIN CANNAN,
CYNTHIA DEANN AUSTIN CUNNINGHAM,
MARIA ALEJANDRA RODRIGUEZ ORTIZ,
SARINA JAQUELINE CULAJ,
TOMAS S. FORMAN,

NOTICE OF PETITION

**ORAL ARGUMENT
REQUESTED**

Petitioners,

-against-

DUTCHESS COUNTY BOARD OF ELECTIONS,
ERIK J. HAIGHT, in his official capacity,
HANNAH BLACK, in her official capacity.

Respondents,

For a Judgment Pursuant to Article 78 of the Civil
Practice Law and Rules

-----X

To the respondents above named and described:

PLEASE TAKE NOTICE that upon the annexed petition of petitioners BARD COLLEGE, et. al., verified and filed the 15th day of July, 2021, petitioner will apply to this court on the 17th day of August, 2021, or as soon thereafter as counsel may be heard, for a judgment granting the relief requested in the annexed Petition.

PLEASE TAKE FURTHER NOTICE that you must serve a verified answer, any supportive affidavits and documents, and a certified transcript of the record of the proceeding at least five days before this application is made.

Petitioners designate Dutchess County as the place of trial. Pursuant to N.Y. C.P.L.R. 506(b), the venue for this proceeding is Dutchess County as this is the location where the Dutchess County Board of Elections resides and transacts business, including the designation of

polling places for the legislative districts in Dutchess County, including the Fifth Legislative District for the Town of Red Hook.

The Petitioners have not previously sought the relief requested herein with respect to the 2021 designation of polling places.

Dated: Montpelier, Vermont
July 15, 2021

By: 

Michael Donofrio, Esq. (2770725)
Stris & Maher LLP
28 Elm Street, 2d Floor
Montpelier, VT 05602
Phone: (802) 858-4465
mdonofrio@stris.com

Co-counsel for Plaintiffs

Dated: New York, New York
July 15, 2021

By: 

Yael Bromberg, Esq. (036412011)
BROMBERG LAW LLC
43 West 43rd Street, Suite 32
New York, NY 10036-7424
Phone: 212-859-5083
Fax: (201) 586-0427
ybromberg@bromberglawllc.com

Co-counsel for Plaintiffs

**Exhibit 1 to Verified Petition of
Bard College et al.**



**The Church of St. John
the Evangelist**

- 1874 -

1114 River Road, Barrytown
Red Hook, NY 12571-2938

The Rev. Mary Grace Williams, Vicar

Church: (845) 758-6433
email: stjohnsbarrytown@gmail.com
website: stjohnsbarrytown.org

September 15, 2020

Dutchess County Board of Elections
47 Cannon St
Poughkeepsie, New York 12601-3205

To the Board of Elections:

It has been an honor to serve the Red Hook community for many, many years, but this year we are writing to recommend that you find another polling site for Red Hook District 5 other than the Church of St. John the Evangelist, Barrytown. Our concerns revolve around the current pandemic of COVID-19, and our inability to provide an adequately safe environment for the poll workers as well as the voters. Simply put, our space is too small to support much-needed social distancing, and other sites within District 5 are much larger.

We appreciate your considering our recommendation.

Sincerely,

Mary Grace Williams +
Vicar

John B. Ferguson
Treasurer

**Exhibit 2 to Verified Petition of
Bard College et al.**

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF DUTCHESS

Present:

Hon. Maria G. Rosa, Justice

In the Matter of the Application of

ANDREW GOODMAN FOUNDATION,
ELECTION @BARD, SADIA SABA, ERIN CANNAN
and LEON BOTSTEIN,

DECISION AND ORDER
ON MOTION FOR LEAVE
TO REARGUE AND RENEW

Petitioners,

Index No. 52737/20

-against-

DUTCHESS COUNTY BOARD OF ELECTIONS,
ERIK J. HAIGHT, in his official capacity, and
ELIZABETH SOTO, in her official capacity,

Respondents.

For a Judgment Pursuant to Article 78 of the
Civil Practice Law and Rules.

The following papers were read on this motion by the Petitioners:

NOTICE OF MOTION
AFFIRMATION IN SUPPORT
EXHIBITS A

AFFIRMATION IN OPPOSITION
EXHIBIT 1

REPLY AFFIRMATION
EXHIBITS A - C

On October 13, 2020 this court denied Petitioner's application per CPLR Article 78 finding that the Board of Elections' (the "Board") determination in March of 2020 to designate the St. John's

Episcopal Church in Red Hook, N.Y. (the “Church”) as the polling place for Red Hook District 5 voters, and its denial of a request to move it, was not arbitrary and capricious or an abuse of discretion. The Petitioners sought to move the polling place to the Bertelsmann Campus Center at Bard College in Red Hook, N.Y.

On September 4, 2020 Petitioners commenced this proceeding. They had sent a letter to the Board’s Commissioners on February 28, 2020 and again in late summer 2020 asking that the polling place be relocated to Bard College. The Vicar and Treasurer of the Church made that request citing the “inability to provide an adequately safe environment for the poll workers as well as the voters...our space is too small to support much-needed social distancing...”

Although the Board of Elections must designate polling places by March 15th of each year it has the discretion to later select an alternate polling location if the initially designated polling place is subsequently found to be unsuitable or unsafe. As stated in this court’s October 13, 2020 decision and order, per CPLR Section 7804 the only relevant question before this court was whether the Board’s determination was arbitrary and capricious or an abuse of discretion. The court’s role in reviewing an agency’s action “is not to determine if the agency action was correct or to substitute its judgment for that of the agency, but rather to determine if the action taken by the agency was reasonable.” Hill v. State Bd. of Elections, 120 AD2d 55 (2nd Dept 1986).

In considering the Petitioners’ arguments, the court recognized their claims, as supported by the Church, that the current polling site is too small to safely accommodate voters and poll workers in light of the COVID-19 pandemic. Petitioners underscored that the proposed Bard College location is large enough to enable social distancing for voters and poll workers. This is supported by the affidavit of Felicia Keesing, a professor with expertise in the transmission of infectious diseases stating that the proposed polling place at Bard College is a safer option based upon the smaller size and layout of St. John’s Episcopal Church.

In opposition to the petition Elections Commissioner Eric Haight submitted an affidavit stating that the election was too close in time to enable a change in the polling site that would be fair to all voters in the 5th District including by giving them timely and effective notice of the change. This court relied upon Commissioner Haight’s assertions in this regard including that notification of a new polling place at this late date would likely cause voter confusion and result in voters going to the wrong polling place. As stated in the decision and order, it was largely on this basis that the court found that the determination not to move the polling place was based in reason and not arbitrary and capricious or an abuse of discretion. However, as pointed out in the motion now before this court, one day after the court’s decision and order Commissioners Haight and Soto moved two other polling places in Red Hook. Districts 7 and 8’s polling place was moved from the Red Hook Town Hall to the Linden Avenue Middle School “for safety reasons” related to COVID-19. Those 2 districts combined have approximately the same number of active voters as District 5 requiring notice to a similar number of voters.

On October 15, 2020, two days after this court’s decision and order, The Red Hook Town

Supervisor announced that the polling location for Districts 7 and 8 had been moved. The announcement states (in part): “Due to the expected number of voters, the limited space in the Town Hall meeting room, and the ongoing pandemic, the Dutchess County Board of Elections has made this change” citing the same reasons the Petitioners and the church seek to move the District 5 polling place.

The basis for this court’s decision and order has now been eliminated since the primary factor identified by Commissioner Haight and relied upon by this court was simply untrue. Apparently there was, and is, time to move the polling place for District 5 in Red Hook. The court notes that Commissioner Haight submitted no affidavit in opposition to this motion. Only his attorney’s affirmation was provided. On the basis of all of the above, it is hereby

ORDERED that Petitioners’ motion for leave to reargue is denied. It is further

ORDERED that Petitioners’ motion for leave to renew is granted. Upon renewal this court modifies its prior determination. The District 5 polling place shall be moved from the St. John’s Episcopal Church in Red Hook, N.Y. to the Bertelsmann Campus Center at Bard College in Red Hook, N.Y. in time for in-person voting on November 3, 2020 from 6:00 a.m. to 9:00 p.m.

This court notes the Respondents’ claims as to Bard’s rules regarding COVID-19 and Bard’s response and also notes Bard’s apparent ability to create a safe environment for voters particularly given its stated record of zero cases of COVID as of October 16, 2020 out of 4,417 tested students and employees.

Dated: October 23, 2020
Poughkeepsie, New York

ENTER:

s/ *Maria G Rosa*

MARIA G. ROSA, J.S.C.

Scanned to the E-File System only

Pursuant to CPLR §5513, an appeal as of right must be taken within thirty days after service by a party upon the appellant of a copy of the judgment or order appealed from and written notice of its entry, except that when the appellant has served a copy of the judgment or order and written notice of its entry, the appeal must be taken within thirty days thereof.

**Exhibit 3 to Verified Petition of
Bard College et al.**

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF DUTCHESS-----X
In the Matter of the Application ofANDREW GOODMAN FOUNDATION,
ELECTION@BARD, SADIA SABA,
ERIN CANNAN, AND LEON BOTSTEIN,Index No. 52737/20
(Rosa, J.S.C.)

Petitioners,

-against-

ORDERDUTCHESS COUNTY BOARD OF ELECTIONS,
ERIK J. HAIGHT, in his official capacity,
ELIZABETH SOTO, in her official capacity.

Respondents,

For a Judgment Pursuant to Article 78 of the Civil
Practice Law and Rules

-----X

UPON the reading and the decision of the court dated October 23, 2020, and after a withdrawal of the appeal from that decision (see attached order), the parties have agreed to the below terms that are so ordered as follows:

ORDERED that the Bertelsmann Campus Center at Bard College, 30 Campus Road, Annandale-on-Hudson, New York 12504 (the "Bertelsmann Campus Center"), be made available by the Dutchess County Board of Elections ("BOE") as an additional polling location for the Town of Red Hook Voting District 5, along with the St. John's Episcopal Church ("the Church") located at 1114 River Road, Barrytown, New York 12507;

ORDERED that Dutchess County Board of Elections update its website to indicate that Bertelsmann Campus Center has been designated as an additional polling location for the Town of Red Hook Election District 5 as soon as possible;

ORDERED that the BOE notify all registered voters in the Town of Red Hook Election District 5 as soon as possible, notifying them of both locations.

ORDERED that the Bertelsmann Campus Center shall have at least two (2) voter check-in stations, at least eight (8) voting booths available for use by voters, and that the BOE shall make available one (1) ICE ^(Image Cast Evolution) voting machine for use at the Bertelsmann Campus Center and one (1) voting machine at the Church.

ORDERED that not ~~less~~ ^{fewer} than forty (40) affidavit ballots be provided by the BOE to the Bertelsmann Campus Center.

ORDERED that the BOE shall provide adequate staffing at the Bertelsmann Campus Center to provide for the foregoing.

ORDERED that this court shall retain jurisdiction over this matter through final disposition.

Dated: October 30, 2020
Poughkeepsie, New York

ENTER

S/HON. MARIA G. ROSA

HON. MARIA G. ROSA, J.S.C.

**Exhibit 4 to Verified Petition of
Bard College et al.**

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF DUTCHESS**

- - - - - X

In the matter of

ANDREW GOODMAN FOUNDATION,
ELECTION@BARD, SADIA SABA, ERIN CANNAN,
and LEO BOTSTEIN,

Index No. 2020/52737

Petitioners,

-against-

**AFFIDAVIT OF
ERIK J. HAIGHT**

DUTCHESS COUNTY BOARD OF ELECTIONS,
ERIK J. HAIGHT, in his official capacity, and
ELIZABETH J. SOTO, in her official capacity,

Respondents.

- - - - - X

STATE OF NEW YORK)
) ss.:
COUNTY OF DUTCHESS)

ERIK J. HAIGHT, being duly sworn, deposes and says:

1. I am one of the two Commissioners of the Dutchess County Board of Elections. I live in the Town of Poughkeepsie, New York. I am over 18 years of age and am competent to testify on my own behalf. I submit this affidavit based on my own personal knowledge.

2. The Board of Elections is comprised of two Commissioners. I am one Commissioner, appointed by the Republican Party, and Elizabeth J. Soto is the other, appointed by the Democratic Party.

3. Every year, the Board of Elections designates polling places for each election district within Dutchess County. State law directs the Board of Elections to make these designations by March 15.

4. In the normal course, both Commissioners work together to make joint decisions about matters that fall within the discretion of the Board of Elections, including decisions related to the location of polling places.

5. Attached as Exhibit 1 is a copy of the designation of polling places that the Board of Elections made for the year 2020. As indicated on Exhibit 1, both Commissioner Soto and I executed this designation on March 13, 2020. As further indicated on Exhibit 1, the Board of Elections designated St. John's Episcopal Church, located at 1114 River Road in Barrytown, New York, as the polling place for Election District 5 in the Town of Red Hook.

6. I have been one of the two Commissioners of the Board of Election since January 2011. As far back as I can recall, St. John's Episcopal Church has been the polling place for this election district.

7. Attached as Exhibit 2 is the current map of election districts in the Town of Red Hook. This is a document that the Board of Elections prepares and makes available to the public. Generally stated, Election District 5 lies to the north of State Route 199, to the west of State Route 9G and to the south of a line that runs from Route 9G (just south of Abby Lane) westward to Kidd Lane (just south of Public Works Drive) and then further west through the Tivoli Bays Wildlife Management Area ("WMU"). The western boundary of Election District 5 is in the Hudson River. To my knowledge, no people reside in either the Tivoli Bays WMU or the areas of Election District 5 that are in the Hudson River. Excluding the Hudson River, Election District 5 is between about 5.3 and 5.5 miles "tall" and between about 1.4 and 1.7 miles "wide."

8. There are a number of different considerations when the Board of Elections designates polling places. State law provides, among other things, that polling places need to be able to admit and comfortably accommodate voters and to comply with the Americans with

Disabilities Act ("ADA") requirements. State law provides a strong preference for using tax exempt buildings should be used whenever possible, and it expressly authorizes the use of religious buildings. There is a preference for facilities located on the main floor, and there is a preference for facilities that are located on public transportation routes. (This is not an exhaustive list of requirements.)

9. Before a new polling place is designated, the Board of Elections must conduct an access survey to ensure compliance with ADA requirements. Furthermore, the Board of Elections also conducts access surveys whenever there are changes at a polling site, and otherwise, it seeks to conduct access surveys every 3 years. If a polling place is out of compliance, it must be brought into compliance within 6 months or be moved.

10. Before each election, the Board of Elections sends all registered voters a notice that provides pertinent information, including the location of their polling place. The Board of Elections has already sent these notices to all registered voters in Dutchess County. A copy of one notice sent to voters in Red Hook Election District 5 is attached as Exhibit 3. Were a polling place to now be changed, at this point in time, the Board of Elections would need to send a new notice to each registered voter in the election district.

11. In my experience as an Election Commissioner, I have seen that polling place changes often disrupt and interfere with the conduct of elections. Among other things, voters go to the old polling place and then call the Board of Elections to ascertain the location of the new one. Inspectors will also travel to the old polling place, with the result that the polls are not able to open on time. Otherwise, unforeseen traffic and parking issues can arise. As a general proposition, my view is that polling places should generally not be changed unless there is a

good reason for doing so. Having said that, the Board of Elections does change polling places when circumstances dictate.

12. Polling place changes that occur shortly before elections, after the Board of Elections has sent out election notices that identify the old polling place, are particularly disruptive and problematic. Many voters disregard the new card or do not look closely at it, or they may not receive it in time if they are out of town. Polling place workers have to devise layout and access plans at the last moment, and unforeseen problems of all sorts are more likely to arise. Last minute polling place changes are a last resort.

13. Before the Board of Elections designated polling places for the year 2020, attorneys representing the Andrew Goodman Foundation and Election@Bard sent a letter to the Board of Elections. The document filed by Petitioners, attached as Exhibit 4, is a copy of that letter. As indicated on Exhibit 4, the Board of Elections received this letter on March 2, 2020, which was 11 days before the date on which it needed to finalize polling place designations. (Because March 15, 2020 fell on a Sunday, the effective deadline was the preceding Friday.)

14. The letter (Exhibit 4) “requested that a new designated polling location for the Town of Red Hook’s Voting District 5 be set on the Bard campus.” The letter requested that the Board of Elections contact Bard officials “to establish a suitable campus location.” The letter cited three specific concerns that this would address:

1) allow pedestrian accessibility that is currently lacking (no sidewalks and poor street lighting near the current location for the voting district), 2) provide access to the designated location via a public transit route, and 3) ensure that voters are not disenfranchised and deprived of their state and federal rights to participate in the election process.

15. Preliminarily, state law does not authorize the Board of Elections to designate more than one polling place for an election district. Even were this not the case, it would be

essentially impossible to have more than one polling place for an election district. First and foremost, considerations of fairness and equity demand that all voters within an election district vote under the same conditions.

16. Other than the letter attached as Exhibit 4, I am not aware of any requests that the Board of Elections received to change the Election District 5 polling place in connection with the 2020 polling place designations.

17. I discussed the letter attached as Exhibit 4 with Commissioner Soto in early March 2020, shortly after its receipt, but before the Board of Elections designated the 2020 polling places. Commissioner Soto was in favor of taking further action to see whether a suitable polling place could be located at Bard College, but I was not for several reasons.

18. First, I did not think that the letter's cited concern with pedestrian access, sidewalks and street lights was particularly substantial. With regard to students at Bard, St. John's Episcopal Church is already very close to campus. According to Google Maps, the distance from the orchards that lie at the south part of campus to St. John's is 0.3 mile, and the distance from the Annandale Hotel, which in the southern part of the main campus, is 0.7 mile. (I determined ownership of the land by consulting the ParcelAccess system that the Dutchess County Clerk maintains.) This area of River Road consists of farmland, and while there is no sidewalk, there is a shoulder, and there is relatively little traffic. Furthermore, an alleviating consideration is that Bard operates a shuttle that transports students directly to the polling place. On the other hand, with regard to voters who are not Bard students, much of Election District 5 is rural and does not have sidewalks or street lights, so these individuals will still need to contend with these issues if they walk to the polling site.

19. Second, with regard to the availability of public transit services, I thought Bard's campus would likely present an advantage over St. John's, but not one that was especially large. Dutchess County Public Transit has only one route in Election District 5, which is Loop C. Exhibit 5 is a copy of the Loop C route map. This route comes within about 0.8 mile of the current polling place (at the intersection of River Road and Annandale Road, near the Annandale Hotel), but it has a stop within Bard's campus at the Kline Bus Stop. An individual who exited a public bus at the Kline Bus Stop would then need to walk to whatever building was designated as a polling place. According to Google Maps, the Campus Center is a 0.3 mile walk from the Kline Bus Stop. While 0.3 mile is less than 0.8 mile, neither location would be directly situated on a public transportation route.

20. Third, with regard to the interest in preventing voter disenfranchisement and facilitating meaningful participation, my conclusion was that this consideration weighed in favor of keeping the polling place at its present location at St. John's. Small liberal arts colleges are somewhat insular environments, and I was concerned that voters in Election District 5 who are not associated with Bard's would be less likely to vote if doing so required them to enter and navigate the campus. Furthermore, the interest in keeping polling sites neutral generally weighs against using college campuses as polling sites. College students are often vocal about political issues, and it would be difficult or impossible to prevent political signs and other acts of political expression from taking place in the windows of dorm rooms. There is also a greater risk of a disruptive protest at a college campus than there is at a church. And, as stated previously, the very act of changing an established polling place is something that increases the risk of disenfranchisement.

21. I also felt that other considerations weighed in favor of keeping St. John's as the polling place. Relative to Bard, St. John's is somewhat more centered in the district. The distance from St. John's to the furthest (land) corner of the district (to the northeast) is about 3.4 miles. The distance from Bard to the furthest (land) corner of the district (to the southwest) is about 3.9 miles. Overall, St. John's was the more central location.

22. I agree that a polling place on campus would be more convenient for Bard students, and if that were the only consideration, then I would likely have been in favor of taking further action to look for potential polling places on campus. However, when I take of the voters in Election District 5 who are not associated with Bard, I reach the conclusion that St. John's is the more appropriate polling place.

23. Finally, and setting other issues aside, when we received the Exhibit 4 letter on March 2, 2020, I did not think there was enough time to inspect potential facilities on campus, select one (if appropriate) and complete access surveys before the deadline for designating polling places, which was effectively 11 days later. The Board of Elections still needed to complete access surveys at new polling places that had actually been selected for designation.

24. I have reviewed the declarations submitted by Sadia Saba, Erin Cannan and Leon Botstein, which raise the contention that River Road is inordinately "dangerous" so as to render St. John's Episcopal Church unsuitable as a polling place. This issue was not raised at the time the Board of Elections was designating polling places in March 2020. I do not ever recall anyone contending that River Road was unreasonably dangerous before reviewing the declarations that were filed with the Court in this manner. I am somewhat skeptical of this claim, given that River Road enters onto and crosses Bard's property less than half a mile from the polling place, but in any event, it was not an issue that was raised in connection with the 2020 designations.

25. I have also seen the contention in the declaration submitted by Erika van der Velden that, in her opinion, St. John's Episcopal Church does not comply with ADA requirements. This issue was not raised at the time the Board of Elections was designating polling places in March 2020, and I do not recall anyone contending that the polling place did not comply with ADA guidelines before I reviewed Ms. van der Velden's declaration. I do not recall receiving any complaints about individuals not being able to access the St. John's in order to vote.

26. The most recent access survey that the Board of Elections conducted at St. John's was on March 11, 2019, and a copy of that access survey is attached as Exhibit 6. As indicated, this access survey did not identify any areas of ADA non-compliance. Among other things, the access survey indicates that the polling place is 38.5 feet by 19 feet.

27. One contention in Ms. Van der Velden's declaration is that a ramp leading to the door of the church does not have a rail. I can see in the picture submitted to the Court as Exhibit F that a rail is in fact present.

28. Now that the issue of ADA compliance has been raised, the Board of Elections will inspect St. John's and address any ADA issues that may be found to exist. However, given the current demands on our personnel (dealing with issues in the leadup to the election) this likely will not occur until early next year.

29. I have read the contention in the declarations of Leon Botstein and Felicia Keesing that concerns arising from the COVID-19 pandemic would make a location on Bard's campus preferable to St. John's Episcopal Church. This issue was not raised at the time the Board of Elections was designating polling places in March 2020, and I do not recall anyone making this contention before I reviewed the papers submitted to the Court.

30. Last summer, after the polling place designations had been made, Commissioner Soto and I made the decision to move six polling places in order to address COVID-19 concerns. All six of these locations were located in nursing homes, and we both agreed that these polling places should be moved in order to minimize the extent to which vulnerable populations were exposed to others. This took place before the election notices (e.g. Exhibit 3) were sent out. St. John's Episcopal Church was not a part of these discussions.

31. Notably, the efforts that we took to minimize the risk of COVID-19 transmission at polling places was reported in national media. Attached as Exhibit 7 is an article published by CNN that discusses actions taken by the Board of Elections to address COVID-19. The essential point is that both Commissioner Soto and I have taken COVID-19 very seriously.

32. After reviewing the papers submitted to the Court, I contacted Anil Vaidan, MD MPH, who is the Commissioner of Behavioral and Community Health for Dutchess County, and asked for his opinion. Attached as Exhibit 8 is an email that I received from Dr. Vaidan on September 16, 2020. In that email, Dr. Vaidan advised me that "having a poll location on Bard College campus may increase the potential for community transmission of COVID-19." Among other issues, Dr. Vaidan pointed out that COVID-19 infections are surging among college populations, many of whom are asymptomatic. Based on the information that has been presented to me to date, my view is that the Board of Elections should follow the advice of Dr. Vaidan.

33. Finally, I must note that there has been an exponential increase in applications for absentee ballots this year. Executive orders have made these much more readily available, with the only real requirement being that a voter state that their concerns with Covid-19 would keep them from using a designated polling place.


ERIK J. HAIGHT

Sworn to before me this
21 day of September, 2020


Notary Public

AMY L. TANNER
Notary Public, State of New York
Qualified in Dutchess County
Reg. No. 01TA6323442
Commission Expires April 20, 2023

**Exhibit 5 to Verified Petition of
Bard College et al.**

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF DUTCHESS**

- - - - - X

In the matter of

ANDREW GOODMAN FOUNDATION,
ELECTION@BARD, SADIA SABA, ERIN CANNAN,
and LEO BOTSTEIN,

Index No. 2020/52737

Petitioners,

-against-

DUTCHESS COUNTY BOARD OF ELECTIONS,
ERIK J. HAIGHT, in his official capacity, and
ELIZABETH J. SOTO, in her official capacity,

Respondents.

- - - - - X

STATE OF NEW YORK)
) ss.:
COUNTY OF DUTCHESS)

**SUPPLEMENTAL
AFFIDAVIT OF
ERIK J. HAIGHT**

ERIK J. HAIGHT, being duly sworn, deposes and says:

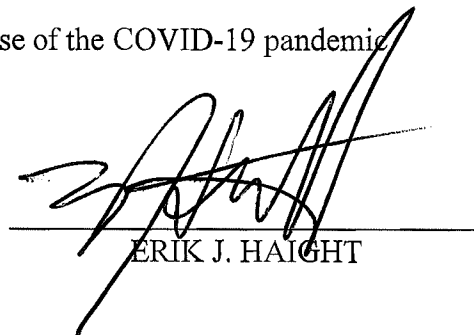
1. I am one of the two Commissioners of the Dutchess County Board of Elections. I live in the Town of Poughkeepsie, New York. I am over 18 years of age and am competent to testify on my own behalf. I submit this affidavit based on my own personal knowledge in order to respond to matters raised in Petitioners' reply and opposition papers.

2. After this action had been filed, on September 15, 2020, the Board of Elections received a letter from St. John's Episcopal Church that "recommend[ed] that you find another polling site" in light of the COVID-19 pandemic "and our inability to provide an adequately safe environment." To my knowledge, this was the first time that St. John's Church had objected to being designated as a polling place.

3. I responded to the September 15, 2020 letter the next day (on September 16, 2020) and advised that unless a court were to order us to change the polling place, we would not be changing the designation in connection with the 2020 election.

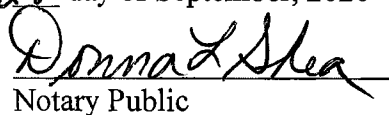
4. Attempting to change the polling place at this point in time would be extremely problematic for reasons I have already explained. As with other polling places in Dutchess County, we are working with public health authorities to minimize risks of disease transmission. The polling places we changed (several months ago) were all retirement homes, which have a significant number of vulnerable individuals present.

5. I have reviewed the letter dated August 25, 2020 that is attached to Mr. Volpe's affirmation as Exhibit A. I do not recall receiving this letter, although I may have. The Board of Elections has been particularly busy this year because of the COVID-19 pandemic.



ERIK J. HAIGHT

Sworn to before me this
28 day of September, 2020



Notary Public

Donna L. Shea
Notary Public, State of New York
No. 01SH6297837
Qualified in Dutchess County
Commission Expires March 3, 2022
Notary Public, State of New York
No. 01SH6297837
Qualified in Dutchess County
Commission Expires March 3, 2022

Donna L. Shea
Notary Public, State of New York
No. 01SH6297837
Qualified in Dutchess County
Commission Expires March 3, 2022

**Exhibit 6 to Verified Petition of
Bard College et al.**

Bard



February 19, 2021

Via email and post

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

Re: Designation of Polling Site for District 5 in the Town of Red Hook

Dear Commissioner Haight and Commissioner Black:

We are writing concerning the Board of Election's impending designation of polling sites in Dutchess County. As explained below, we ask that you designate the Bard College Bertelsmann Campus Center (the "Campus Center") as the polling site for District 5 in the Town of Red Hook.

Bard College promotes student voting and other forms of electoral participation and civic engagement as an essential part of its educational mission. Beyond fulfilling its duties under the Higher Education Act and the Higher Education Opportunity Act in terms of providing students with voter registration forms and opportunities, Bard works with student groups and outside partners to ensure student voting rights at Bard and across the county. Over the past several years, Bard has partnered with the Andrew Goodman Foundation to promote youth leadership development, voting accessibility, and social justice initiatives. The Andrew Goodman Foundation is a national organization on nearly 100 campuses across the country, including Bard, dedicated to making youth voices and votes a powerful force in democracy.

Due to our combined efforts, on November 3, 2020, the Campus Center successfully served as a polling place. In unprecedented circumstances, the Campus Center proved to be safe and convenient for voters and poll workers. Democratic and Republican poll workers, who spent the entire day there, thanked Bard at the end of the day for being what they called a "model host."

We ask the Board of Elections to designate the Campus Center to serve again as the polling location for the 5th District. In addition to its proven track record, the Campus Center complies with the NYS Election Law. Specifically:

Commissioner Erik J. Haight
Commissioner Hannah Black
February 19, 2021
Page 2

- the Campus Center is in close proximity to the Dutchess County LOOP bus stop (a .2-.3-mile, 4-minute walk on well-lit sidewalks);
- the Campus Center is accessible for those with disabilities and has satisfied the ADA-compliance survey required under the Election Law;
- the Campus Center is in the heart of the Bard campus, and thus is within easy walking distance to the majority of voters in District 5, who live or work on campus;
- the Campus Center provides a large quantity of parking – including several designated accessible parking places – within the immediate vicinity of the Campus Center;
- the Campus Center has large, open spaces which allow for socially-distant polling and adequate queuing as we continue to battle the COVID-19 pandemic; and
- the Campus Center allows for queuing inside the building, mitigating the impacts of inclement weather on elections.

On February 9, 2021, the Red Hook Town Board unanimously reaffirmed previous (unanimously approved) resolutions (including two from 2020) supporting the Campus Center as the polling site for District 5. The Town Board's input is critical, because state election law mandates consultation with the Town in this process.

The Bard College administration also endorses the Campus Center as the best polling place on campus. It is far preferable to the Performing Arts Center, which was briefly designated as a polling site in the now-rescinded resolution of November 30, 2020, because:

- The Campus Center is much closer to public transport than the Performing Arts Center.
- The Campus Center is at the center of the campus; the Performing Arts Center is nearly a mile from the center of campus, situated at the northern-most edge of a 600-acre main campus;
- The Campus Center has more proximate access to parking, including handicap parking, than the Performing Arts Center.
- The Campus Center has far better handicap accessibility and more and better situated handicap parking than other potential sites, like the Stevenson Gymnasium, which has little adjacent handicap parking and whose main floor is not on the same level of any entrance and thus requires the use of stairs or a single seated lift to access a polling location.
- The Campus Center is not regularly used as a core teaching facility and thus using it for polling is less disruptive to the day-to-day educational activities of the College than the Performing Arts Center, which regularly holds classes, rehearsals and student and public performances.
- The Campus Center is a substance-free building and has no liquor license, so alcohol is not sold or served there.
- The Campus Center, like other Bard facilities, is regularly used by the public: it contains a fully functioning United States Postal Service post office and hosts regular public events, including regular annual meetings of Bard's senior learners in its Lifetime Learning Institute.

Commissioner Erik J. Haight
Commissioner Hannah Black
February 19, 2021
Page 3

The Campus Center is also a far better location than St. John's Episcopal in Barrytown, the previous exclusive polling site in District 5, because:

- To support youth voters, who comprise 65-70% of the registered voters in District 5, it is important that the polling site be viewed as safe and accessible. These youth voters include a large number of Bard students from underrepresented communities, representing the largest concentration of youth voters and voters of color in Red Hook
- A significant majority of District 5 voters live near the center of the Bard campus, within easy walking distance of the Campus Center. St. John's is not accessible by foot, because it is situated on a dangerous windy and unlit county road with no sidewalk or walkable verge. Notably, Bard prohibits Bard-operated transportation from using this county road due to the dangerous driving conditions.
- The Campus Center is close to the Dutchess County LOOP bus stop; St. John's is not.
- The Campus Center has ample parking. St. John's has limited parking, consisting of two small lots that require either walking up or down an incline to get to the Church's entrances, creating a challenge for mobility-impaired voters.
- The Campus Center has handicap accessible parking. Neither of St. John's two small lots has designated handicap parking spaces.
- St. John's is not handicap accessible and fails to meet Americans with Disability Act guidelines for access (contrary to the erroneous conclusions of the Board of Elections' previous incomplete ADA assessment).
- The Campus Center is spacious; St. John's is too small for social distancing.
- The Campus Center has ample space for queuing inside the building, whereas the que at St. John's has forced voters to stand out in the pouring rain.¹

If the Board proposes a location other than the Campus Center, we trust we will receive reasonable advance notice of the meeting considering such a proposal (as required by the New York State Open Meeting Law) and an opportunity to submit additional written comments.

In 2000 a bipartisan county legislative committee, on which current-County Executive Mark Molinaro served, was asked to review relevant legislation when Bard students, and students across the county, were systematically denied voting rights across the county by then Election Commissioner William Paroli Sr. The committee concluded unanimously that not only do students have the right to vote locally, but "[t]he Dutchess County Board of Elections should encourage the use of voting franchise among students." Our request that you designate the Campus Center as the polling location for District 5 is in that spirit.

Our request is in the spirit of this year, which marks the 50th anniversary of the 26th Amendment to the U.S. Constitution. That amendment provides: "The right of citizens of the United

¹ At some point during our prior advocacy efforts for an on-campus polling place, Commissioner Haight raised a concern about the adequacy of the Bertelsmann Campus Center due to the supposed placement of political signs in the environs. Having surveyed the area and then consulted Bard Security, student life staff, and staff at Bard's Center for Civic Engagement, we found no such evidence.

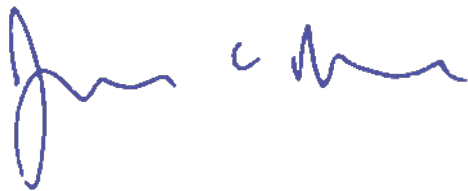
Commissioner Erik J. Haight
Commissioner Hannah Black
February 19, 2021
Page 4

States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age.” Of note, in ratifying the 26th Amendment, Congress explicitly contemplated the unconstitutionality of forcing students to undertake special burdens such as travelling off-campus to vote. The 26th Amendment is one of many steps taken to extend voting rights since the founding of the republic. These extensions have removed barriers to voting for previously disenfranchised communities, including African Americans, women, and non-property owners.

It is well documented, if less well known, that youth voters have long been subjected to such barriers as well. Sadly, these barriers have existed in Dutchess County, as evidenced by the lawsuits that Bard students have had to pursue (successfully) over several decades. We write in the hope that this year the Board of Elections will designate the Campus Center, a polling site that comports with state and federal law, complies with the wishes of the Town of Red Hook, and which, most importantly, promotes youth voter participation.

Thank you for your consideration of this important matter.

Yours sincerely,



Jonathan A. Becker
Executive Vice President, Bard College
Director, Bard Center for Civic Engagement
jbecker@bard.edu



Yael Bromberg, Esq.
Chief Counsel for Voting Rights
The Andrew Goodman Foundation

cc: Honorable Marcus J. Molinaro, County Executive-Dutchess County
Honorable Kevin A. Cahill, Assembly Member, Assembly District 103

Commissioner Erik J. Haight
Commissioner Hannah Black
February 19, 2021
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Honorable Sue Serino, State Senator, Senate District 41
Honorable Kristofer Munn, County Legislator
Honorable Robert McKeon, Supervisor, Town of Red Hook
New York State Board of Elections, Co-Chairs Peter S. Kosinski and Douglas A. Kellner;
Commissioner Andrew J. Spano; Commissioner Anthony J. Casale
Michael Volpe, Esq., Venable LLP

**Exhibit 7 to Verified Petition of
Bard College et al.**

**RED HOOK TOWN BOARD MEETING
February 9, 2021**

A meeting of the Town Board of the Town of Red Hook, Dutchess County, New York was convened by Zoom Videoconference due to COVID-19 pandemic stay in place rules at the Town Hall, 7340 South Broadway, Red Hook at 7:30 p.m.

Present: Supervisor Robert McKeon
Councilmember William Hamel
Councilmember Christine Kane
Councilmember William O'Neill
Councilmember Jacob Testa
Town Clerk Deanna Cochran
Also Present: Attorney Christine Chale
Supervisor's Assistant, Matt Fenaroli

Supervisor McKeon opened with the Pledge of Allegiance and reviewed the agenda.

SUPERVISOR’S REPORT

The Supervisor’s Report dated January 31, 2021 was read as follows: Opening balance - \$5, 480,728.66; Receipts - \$859,689.10; Disbursed - \$919,411.18; Balance - \$5,421,006.58. He showed the Budget Adjustments prepared by Bookkeeper Ann Conway, monthly Variance Reports, as well as the updated Supervisor's Report for December.

On a motion of Supervisor McKeon seconded by Councilmember O'Neill moved to approve the Supervisors report and budget adjustments.

Adopted	Ayes	5	McKeon, Hamel, Kane, O'Neill, Testa
	Nays	0	

TOWN CLERK’S REPORT

The Town Clerk’s report for the period January 1, 2021 to January 31, 2021 was read as follows: Total Local Shares remitted to the Supervisor - \$4,975.50; Amount remitted to NYS Ag. & Markets - \$54.00; Amount remitted to NYS Dept. of Health for Marriage Licenses - \$67.50; Total State, County & Local Revenues - \$5,097.00; Total monies collected for Garbage - \$4,053.00.

ABSTRACTS

• December, 2020 Vouchers 27127 through 27219 Total Abstract - \$130,875.36

Town Clerk Cochran reviewed the ways in which property owners can pay their Real Property Taxes. If you have any questions, please contact the Town Clerk's Office at 845-758-4606.

ANNOUNCEMENTS

Supervisor McKeon gave an update on COVID in Dutchess County. Vaccine eligibility is always changing and to see if you're eligible for the vaccine or want to make an appointment, please call the NYS Vaccine Appointment number: 1-833-NYS-4-VAX (1-833-697-4829. Some of the local pharmacies will be getting vaccines in. Please contact your local pharmacy or visit their website for more information. Supervisor McKeon announced that NYS Climate Action Council Advisory Panels will hold public meetings remotely during the week of February 8, 2021. Some topics include: Waste Advisory, Energy-Intensive and Trade-Exposed Industries, Energy Efficiency and Housing and Power Generation. For more information, please visit www.climate.ny.gov.

Reorganization

Supervisor McKeon reviewed the Reorganization List.
The following was updated:

Assessment Review Board

5 Members	5-year appointment (terms begin Oct. 1-Sept. 30 th)
Chair -Carl Dowden	2021

Jane Biezynski (4/10) 2025
R. Pete Hubbell (3/17) 2021
Carl Dowden 2022
Jay Greenblatt 2019 holdover
Secretary PT: Vacant
Liaison: Robert McKeon

On a motion of Supervisor McKeon seconded by Supervisor McKeon moved to reappoint Carl Dowden as Chair for 2021 of the Assessment Review Board.

Adopted: Ayes 5 McKeon, Hamel, Kane O'Neill, Testa
Nays 0

Economic Development Committee

9 Members 2-year appointment
Chair- Kristina Dousharm 2021
Amanda Bodian (2/12) 2021
Marty Reilingh (2/15) 2022
Chris Klose (3/10) 2021
Dan Budd (5/11) 2022
Vanessa Shafer 2022
Paul Sturtz 2022
Emily Sachar 2022
Ken Migliorelli (4/12) 2019 (Ag. & Open Space Representative)
Secretary PT – Chris Klose
Liaison: Jacob Testa

On a motion of Councilmember Testa seconded by Supervisor McKeon moved to appoint Emily Sachar to the Economic Development Committee to the term ending in 2022.

Discussion took place as to Emily Sachar being an editor and publisher of an online newspaper called, imby (in my back yard), and how this might be a conflict of interest if on the EDC. Councilmember Hamel was in favor of appointing Emily Sachar to the EDC as long as he could get an affirmative recognition from her that, as a journalist, she doesn't write about something that she has a personal financial interest in and that she doesn't participate in, as a governmental person, regarding representing the Town of Red Hook for the EDC. Supervisor McKeon stated that all committee members are advised to review the Town's Ethic's Code.

Adopted: Ayes 5 McKeon, Hamel, Kane O'Neill, Testa
Nays 0

Ethics Board

5 Members 5-year appointment
Chair- Vacant 2020
Vacant 2024
Brenda Elsey 2025
Gail Nussbaum (04/07) 2022
Susan Simon (7/09) 2023
Sal Guido (6/12) 2021
Secretary PT –not necessary per chair
Liaison: Jacob Testa

On a motion of Councilmember Testa seconded by Supervisor McKeon moved to reappoint Brenda Elsey to the Ethics Board to the term ending in 2025.

Adopted: Ayes 5 McKeon, Hamel, Kane O'Neill, Testa
Nays 0

Recreation Commission

7 Members 2-year Appointments
Chair-Doug Strawinski 2021
Doug Strawinski 2022
Jim Mulvey 2021

Laurie Lovice 2021
Melissa Germano 2020
Tom Gilbert 2021
Shannon Miller 2020
Pat Bowman (7/19) 2021
Advisor: Hollis Cochran (1/16)
Tivoli Liaison: Robin Bruno
Vacant - Student member (non-voting)
Vacant - Student member (non-voting)
Secretary: Vacant
Liaison: Robert McKeon, Christine Kane

Supervisor McKeon received additional communication from Susan Rohrmeir regarding starting up an Arts & Culture Committee. She shared their vision and mission statement and list of people interested in joining this committee.

Water District #1 Water Board

7 Members 2-year appointment
Chair-Henry Van Parys 2021
Vice Chair-Jerry Gilnack 2020
Jerry Gilnack 2021
Henry Van Parys 2022
Nick Annas 2022
Laurence Carr 2021
Ablen Amrod 2022
Greg Fildes 2021
Michael Roomberg 2021
Secretary PT- Doreen Buono
Liaison: William Hamel

On a motion of Councilmember Hamel seconded by Supervisor McKeon moved to reappoint Nick Annas and Ablen Amrod to the Water District #1 Water Board to the terms ending in 2022.

Adopted: Ayes 5 McKeon, Hamel, Kane O'Neill, Testa
Nays 0

Resolution to Award Contract - Security Camera System Rec Park East
Supervisor McKeon explained the resolution.

There were three bids: Janelli Security: \$26,500
SHD Technologies: \$28,158
SCW (Security Camera Warehouse, Inc.): \$23,228

**TOWN OF RED HOOK
RESOLUTION NO. 12
DATED FEBRUARY 9, 2021
AUTHORIZING CONTRACT AWARD FOR THE INSTALLATION OF SECURITY
CAMERAS AT THE TOWN OF RED HOOK REC PARK**

WHEREAS, the Town issued a solicited proposals for the acceptance of written proposals for the installation of security cameras at the Town Rec Park as described in the attached report and recommendation on file with the Town Clerk (the “Project”), and

WHEREAS, written proposals for the Project were received and tabulated as set forth in the attached report; and

WHEREAS, the proposal of SCW (Security Camera Warehouse, Inc.) in the amount of \$23,228 for the Project has been determined to be the lowest responsible bid for such work as specified in the report;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Red Hook does hereby authorize the Supervisor to accept the foregoing bid for the Project and

execute a contract in substantially the form on file with the Town Clerk, subject to the provision of a certificate of insurance and such further documentation as required by the specifications.

EXTRACT OF MINUTES

A regular meeting of the Town Board of the Town of Red Hook, Dutchess County, New York, was convened in public session via videoconference and/or teleconference pursuant to Executive Order 202.1, as amended, on February 9, 2021 at 7:30 p.m., local time. A live transmission was available to the public as described in the notice of meeting attached hereto. The meeting was recorded and a full transcript is required to be prepared to the extent required by such Executive Order.

The meeting was called to order by Supervisor Robert McKeon, and, upon roll being called, the following members were (Note: Where members are marked Present, specify whether In Person at the Town Hall, 7340 South Broadway, Red Hook, NY, via Videoconference, or via Teleconference):

	Present	Absent
Supervisor Robert McKeon	VIA videoconference	
Councilmember William Hamel	VIA videoconference	
Councilmember Christine Kane	VIA videoconference	
Councilmember William O'Neill	VIA videoconference	
Councilmember Jacob Testa	VIA videoconference	

The following persons were ALSO PRESENT:
Christine M. Chale, Esq., Attorney for the Town, VIA Videoconference

The following resolution was offered by Supervisor McKeon, seconded by Councilmember Hamel, to wit;

TOWN OF RED HOOK
RESOLUTION NO. 12
DATED FEBRUARY 9, 2021

AUTHORIZING CONTRACT AWARD FOR THE INSTALLATION OF SECURITY
CAMERAS AT THE TOWN OF RED HOOK REC PARK

The question of the adoption of the foregoing resolution was duly put to vote on a roll call, which resulted as follows:

Supervisor Robert McKeon	VOTING Aye
Councilmember William Hamel	VOTING Aye
Councilmember Christine Kane	VOTING Aye
Councilmember William O'Neill	VOTING Aye
Councilmember Jacob Testa	VOTING Aye

The foregoing resolution was thereupon declared duly adopted.

NOTICE OF TOWN BOARD MEETINGS – Wednesday, February 9, 2021 at 7:30 pm Town of Red Hook
NOTICE OF TOWN BOARD MEETINGS A public meeting will be held by the Town Board of the Town of Red Hook on Wednesday, February 9, 2021 at 7:30 pm. Due to the ongoing COVID pandemic, the Town Hall is closed to the general public until further notice. Pursuant to Executive Order No. 202.1, issued by Governor Cuomo, and advisories issued by Federal, State and Local officials related to the COVID-19 virus, the public will not be permitted to attend in person. Some or all of the Board members are expected to participate in the meeting via teleconference or video conference. Please refer to the meeting agenda to be posted on the Town website at <https://www.redhook.org>. The public may view and listen to the proceedings live on www.pandatv23.org. To the extent permitted by law, and until further notice, future Town Board meetings including the regularly scheduled meetings on the second Tuesday and fourth Wednesday of each month, will be available to the public via PANDA’s website listed above. Interested persons may comment on agenda matters by submitting an email or telephone by submitting comments to the Supervisor at rmckeon@redhook.org. All reasonable accommodations will be made for persons with disabilities. In such a case, please notify the Town Clerk’s office at 845-758-4606 so that arrangements can be made.
Deanna Cochran Town Clerk, Town of Red Hook

Resolution to Amend Conservation Easement - Seven Pines - Subdivision

Supervisor McKeon explained the resolution and noted there were some changes to the Easement.

Attorney Chale explained those changes.

**TOWN OF RED HOOK
RESOLUTION NO. 13
DATED FEBRUARY 9, 2021**

**APPROVING A CONSERVATION EASEMENT AMENDMENT TO CONSERVATION
EASEMENT REGARDING SEVEN PINES SUBDIVISION**

WHEREAS, 7 Pines LLC, Winnakee Land Trust, Inc., and the Town of Red Hook executed a conservation easement entitled “An Agricultural and Wetlands Conservation Easement” dated February 2, 2007, and recorded in the office of Dutchess County Clerk on February 5, 2007 as Document No. 02 2007 943 (“Original Easement”), regarding certain real property on Norton Road in the Town of Red Hook, Dutchess County, New York, (the “Property”) consisting of approximately 126.924 acres in an R3-A Zone, described (Tax I.D. Number 835135) pursuant to the conditions of the Planning Board approval of subdivision and site plan and the requirements of Section 143-33 and 143-48 of the Town Code; and

WHEREAS, certain building envelopes were authorized to be revised by the Red Hook Planning Board as approved and depicted in FM 12032B and 12032C; and

WHEREAS, a proposed form of amendment to the Original Easement entitled “Amendment No. 1 to Agricultural and Wetlands Conservation Easement” by and between the Winnakee, the Town of Red Hook, and the current owners of the property (“Owners”) subject to the Original Easement (“Amendment”) has been submitted to the Town Board of the Town of Red Hook and is on file with the Town Clerk; and

WHEREAS, the Town Board in an uncoordinated review of an unlisted action has reviewed the negative declaration issued January 9, 2007 in connection with their approval of the Original Easement, and has determined that the proposed amendment will not alter their conclusion therein that the proposed action will not have an adverse impact on the environment;

NOW THEREFORE BE IT RESOLVED, by the Town Board of the Town of Red Hook (by the favorable vote of not less than a majority of all of the members of the Board) as follows:

1. The Supervisor of the Town is hereby authorized and directed to execute the Amendment and such other documents necessary in connection with such Amendment. Such Amendment shall be in substantially the form on file with the Clerk, with such insubstantial changes as may be approved by the Supervisor. In the absence or unavailability of the Supervisor, the Deputy Supervisor shall be authorized to execute and carry out such authorization.
2. Execution and delivery of the Amendment shall be subject to payment by or on behalf of Winnakee or the Owners of all expenses required in connection with the recording of the Amendment, and Winnakee shall see to the prompt filing of a copy of the recorded instrument with the Office of the Town Clerk.

EXTRACT OF MINUTES

A regular meeting of the Town Board of the Town of Red Hook, Dutchess County, New York, was convened in public session via videoconference and/or teleconference pursuant to Executive Order 202.1, as amended, on February 9, 2021 at 7:30 p.m., local time. A live transmission was available to the public as described in the notice of meeting attached hereto. The meeting was recorded and a full transcript is required to be prepared to the extent required by such Executive Order.

The meeting was called to order by Supervisor Robert McKeon, and, upon roll being called, the following members were (Note: Where members are marked Present, specify whether In Person at the Town Hall, 7340 South Broadway, Red Hook, NY, via Videoconference, or via Teleconference):

	Present	Absent
Supervisor Robert McKeon	VIA videoconference	
Councilmember William Hamel	VIA videoconference	
Councilmember Christine Kane	VIA videoconference	
Councilmember William O'Neill	VIA videoconference	
Councilmember Jacob Testa	VIA videoconference	

The following persons were ALSO PRESENT:
Christine M. Chale, Esq., Attorney for the Town, VIA Videoconference

The following resolution was offered by Supervisor McKeon, seconded by Councilmember Kane, to wit;

**TOWN OF RED HOOK
RESOLUTION NO. 13
DATED FEBRUARY 9, 2021**

**APPROVING A CONSERVATION EASEMENT AMENDMENT TO CONSERVATION
EASEMENT REGARDING SEVEN PINES SUBDIVISION**

The question of the adoption of the foregoing resolution was duly put to vote on a roll call, which resulted as follows:

Supervisor Robert McKeon	VOTING Aye
Councilmember William Hamel	VOTING Aye
Councilmember Christine Kane	VOTING Aye
Councilmember William O'Neill	VOTING Aye
Councilmember Jacob Testa	VOTING Aye

The foregoing resolution was thereupon declared duly adopted.

NOTICE OF TOWN BOARD MEETINGS – Wednesday, February 9, 2021 at 7:30 pm Town of Red Hook
NOTICE OF TOWN BOARD MEETINGS A public meeting will be held by the Town Board of the Town of Red Hook on Wednesday, February 9, 2021 at 7:30 pm. Due to the ongoing COVID pandemic, the Town Hall is closed to the general public until further notice. Pursuant to Executive Order No. 202.1, issued by Governor Cuomo, and advisories issued by Federal, State and Local officials related to the COVID-19 virus, the public will not be permitted to attend in person. Some or all of the Board members are expected to participate in the meeting via teleconference or video conference. Please refer to the meeting agenda to be posted on the Town website at <https://www.redhook.org>. The public may view and listen to the proceedings live on www.pandatv23.org. To the extent permitted by law, and until further notice, future Town Board meetings including the regularly scheduled meetings on the second Tuesday and fourth Wednesday of each month, will be available to the public via PANDA’s website listed above. Interested persons may comment on agenda matters by submitting an email or telephone by submitting comments to the Supervisor at rmckeon@redhook.org. All reasonable accommodations will be made for persons with disabilities. In such a case, please notify the Town Clerk’s office at 845-758-4606 so that arrangements can be made.
Deanna Cochran Town Clerk, Town of Red Hook

Resolution to Set Public Hearing - Local Law A 2021 - Moratorium on Road Opening Permits
Supervisor McKeon explained the resolution.

**TOWN OF RED HOOK
RESOLUTION NO. 14
DATED FEBRUARY 9, 2021**

**ESTABLISHING A DATE FOR A PUBLIC HEARING REGARDING
THE ADOPTION BY THE TOWN BOARD OF THE TOWN OF RED HOOK OF
LOCAL LAW NO. A (PROPOSED) OF 2021 REGARDING ISSUANCE OF PERMITS
FOR WORK WITHIN A RIGHT OF WAY OF A TOWN HIGHWAY**

WHEREAS, a proposed form of Local Law No. A (Proposed) of 2021 entitled “A local law placing a six-month moratorium on the issuance of permits for work within the right of way of a Town Highway in the Town of Red Hook” has been submitted to the Town Board of the Town of Red Hook (the “Proposed Local Law”); and

WHEREAS, the Proposed Local Law would place a six (6) month moratorium on the issuance of permits for work within the right of way of a Town Highway in the Town of Red Hook while the Town considers amendments to the Town of Red Hook Highway Specifications; and

WHEREAS, pursuant to Section 239-m of the General Municipal Law, the Proposed Local Law must be referred to the Department of Planning and Development for its review and report thereon; and

WHEREAS, pursuant to 6 NYCRR 617.5(c)(36), the Proposed Local Law constitutes a Type II action for purposes of the State Environmental Quality Review Act and will not have a significant adverse impact on the environment.

NOW THEREFORE BE IT RESOLVED, by the Town Board of the Town of Red Hook (by the favorable vote of not less than a majority of all of the members of the Board) as follows:

1. The Town Board of the Town of Red Hook shall hold a public hearing on February 24, 2021, at 7:35 p.m. in the manner provided in the notice of public hearing attached hereto to hear all interested parties on said Proposed Local Law; and
2. The Town Clerk is hereby authorized and directed to publish notice of said public hearing in the Poughkeepsie Journal, the official newspaper of said Town, on or before February 14, 2021, which is not less than ten calendar days prior to the date of said public hearing.
3. The Town Clerk is hereby authorized and directed to refer a copy of Local Law A (Proposed) of 2021, to the Dutchess County Department of Planning and Development for a report and recommendation thereon pursuant to Section 239-m of the General Municipal Law.
4. The Town Clerk is hereby authorized and directed to send notice of said public hearing to the clerks of adjacent municipalities.

EXTRACT OF MINUTES

A regular meeting of the Town Board of the Town of Red Hook, Dutchess County, New York, was convened in public session via videoconference and/or teleconference pursuant to Executive Order 202.1, as amended, on February 9, 2021 at 7:30 p.m., local time. A live transmission was available to the public as described in the notice of meeting attached hereto. The meeting was recorded and a full transcript is required to be prepared to the extent required by such Executive Order.

The meeting was called to order by Supervisor Robert McKeon, and, upon roll being called, the following members were (Note: Where members are marked Present, specify whether In Person at the Town Hall, 7340 South Broadway, Red Hook, NY, via Videoconference, or via Teleconference):

	Present	Absent
Supervisor Robert McKeon	VIA Videoconference	
Councilmember William Hamel	VIA Videoconference	
Councilmember Christine Kane	VIA Videoconference	
Councilmember William O’Neill	VIA Videoconference	
Councilmember Jacob Testa	VIA Videoconference	

The following persons were ALSO PRESENT:
Christine M. Chale, Esq., Attorney for the Town, VIA Videoconference

The following resolution was offered by Supervisor McKeon, seconded by Councilmember O’Neill, to wit;

**TOWN OF RED HOOK
RESOLUTION NO. 14
DATED FEBRUARY 9, 2021**

**ESTABLISHING A DATE FOR A PUBLIC HEARING REGARDING
THE ADOPTION BY THE TOWN BOARD OF THE TOWN OF RED HOOK OF
LOCAL LAW NO. A (PROPOSED) OF 2021 REGARDING ISSUANCE OF PERMITS
FOR WORK WITHIN A RIGHT OF WAY OF A TOWN HIGHWAY**

The question of the adoption of the foregoing resolution was duly put to vote on a roll call, which resulted as follows:

Supervisor Robert McKeon	VOTING Aye
Councilmember William Hamel	VOTING Aye
Councilmember Christine Kane	VOTING Aye
Councilmember William O'Neill	VOTING Aye
Councilmember Jacob Testa	VOTING Aye

The foregoing resolution was thereupon declared duly adopted.

NOTICE OF TOWN BOARD MEETINGS – Wednesday, February 9, 2021 at 7:30 pm Town of Red Hook
NOTICE OF TOWN BOARD MEETINGS A public meeting will be held by the Town Board of the Town of Red Hook on Wednesday, February 9, 2021 at 7:30 pm. Due to the ongoing COVID pandemic, the Town Hall is closed to the general public until further notice. Pursuant to Executive Order No. 202.1, issued by Governor Cuomo, and advisories issued by Federal, State and Local officials related to the COVID-19 virus, the public will not be permitted to attend in person. Some or all of the Board members are expected to participate in the meeting via teleconference or video conference. Please refer to the meeting agenda to be posted on the Town website at <https://www.redhook.org>. The public may view and listen to the proceedings live on www.pandav23.org. To the extent permitted by law, and until further notice, future Town Board meetings including the regularly scheduled meetings on the second Tuesday and fourth Wednesday of each month, will be available to the public via PANDA's website listed above. Interested persons may comment on agenda matters by submitting an email or telephone by submitting comments to the Supervisor at rmckeon@redhook.org. All reasonable accommodations will be made for persons with disabilities. In such a case, please notify the Town Clerk's office at 845-758-4606 so that arrangements can be made.
Deanna Cochran Town Clerk, Town of Red Hook

Correspondence

Received two pieces of correspondence from Highway Superintendent Burke, one stating that the moratorium was not initiated from the Highway Department. Instead of updating the current Highway Specifications, she would like the money to be put towards increasing her clerk's hours and put more money towards equipment purchasing and staffing. Highway Superintendent Burke would like other problems to be addressed such as the Forest Park drainage and the three deficient bridges.

Supervisor McKeon noted that there are different funds in municipal governments and can only be used for certain purposes.

The second piece of correspondence from Highway Superintendent Burke was mapping showing where the recommended "No Parking" zone would be as it relates to Better Lives Animal Hospital on the corner of Rte. 9 and Metzger Road. This will be forwarded to our Town engineers for review.

Received correspondence from Jonathan Becker, Exec. Vice President; Dir., Center for Civic Engagement; Associate Professor of Political Studies, Bard College, regarding the Town Board reaffirming its previous Resolution of August 26, 2020 Regarding Election District No. 5, which reiterated and formalized the Town Board's vote of March 10, 2020. Bard College needs this re-affirmation to move the District No. 5 polling place from St. John's Episcopal Church in Barrytown to the Bertelsmann Campus Center ("student center"), due to the decision of the Dutchess County Board of Elections to designate 2021 voting places on February 25, 2021.

On a motion of Councilmember O'Neill seconded by Councilmember Kane moved to reaffirm Resolution No. 40 of August 26, 2020 – Resolution Regarding Election District No. 5.

Adopted:	Ayes	5	McKeon, Hamel, Kane O'Neill, Testa
	Nays	0	

Public Comment

Received correspondence from John Wagner, Attorney for the Preserve at Lakes Kill indicating that he is opposed to the proposed Local Law A and goes on to discuss his opinion of the Town Board Members and their view of the subdivision. There is a provision in the Law where a waiver application can be submitted, as routinely done when there is any type of moratorium. The Board will consider that and have the Town engineers review and make a recommendation.

Attorney Client - Tax Matters and Litigation

On a motion of Supervisor McKeon seconded by Councilmember Testa moved to go into Attorney Client.

Adopted:	Ayes	5	McKeon, Hamel, Kane O'Neill, Testa
	Nays	0	

9:20 p.m. out of Attorney Client.

Supervisor McKeon stated there would be no additional action taken at this time.

Supervisor McKeon noted that at the previous Special Meeting, there was comment by Deputy Supervisor O'Neill that the reason two Board Members were not present at the meeting was that they were recusing on discussion of the matter on the agenda item, Preserve at Lakes Kill. For the record, that was not the case, they chose not to be present at the meeting.

On a motion of Supervisor McKeon seconded by Councilmember Hamel moved to adjourn the meeting.

Adopted	Ayes	5	McKeon, Hamel, Kane, O'Neill, Testa
	Nays	0	

Respectfully submitted,

Deanna Cochran, Town Clerk

**Exhibit 8 to Verified Petition of
Bard College et al.**

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.

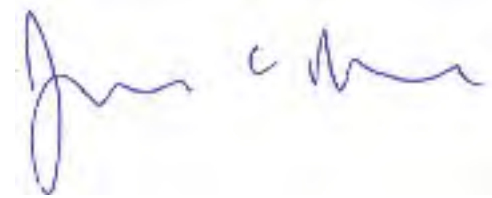
Finally, using the Church as a polling place disenfranchises voters. 65-70% of voters reside on Bard's campus, the vast majority of them youth voters and voters of color in the district. The Church is not ADA-compliant, is not accessible by foot, and is located on a dangerous and winding country road 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,



Jonathan A. Becker
Executive Vice President, Bard College
Director, Bard Center for Civic Engagement
jbecker@bard.edu

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
Commissioner Andrew J Spano
Commissioner Anthony J. Casale
Michael Volpe, Esq., Venable LLP
Yael Bromberg, Esq., Bromberg Law LLC, The Andrew Goodman Foundation

**Exhibit 9 to Verified Petition of
Bard College et al.**



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Michael J. Volpe

T 212.808.5676
F 212.307.5598
mjvolpe@venable.com

February 28, 2020

**VIA HAND DELIVERY &
OVERNIGHT MAIL**

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

RECEIVED
20 MAR -2 A 10:31.5
DUTCHESS COUNTY
BOARD OF ELECTIONS

Dear Commissioner Haight and Commissioner Soto:

This law firm represents the Andrew Goodman Foundation and Election@Bard, a student organization at Bard College in Allendale on Hudson, New York.

We write to request that a new designated polling location for the Town of Red Hook's Voting District 5 be set on the Bard College campus. Please confirm that a suitable on-campus location will be immediately designated. We can provide you with names of campus officials to establish a suitable campus location.

As you know, New York State law requires that all polling locations be designated by March 15, 2020. 2020 is a busy, critical election year (Presidential primary on April 28th, federal and statewide primaries on June 23rd and the general federal and state elections on November 3, 2020). Given this schedule, coupled with unprecedented youth engagement rates this crucial election cycle, it is imperative that a polling location be located on campus to: 1) allow pedestrian accessibility that is currently lacking (no sidewalks and poor street lighting near the current location for the voting district), 2) provide access to the designated location via a public transit route, and 3) ensure that voters are not disenfranchised and deprived of their state and federal rights to participate in the election process.

The students of Bard College and residents in the voting district have advocated for a change from the polling location designated for this voting district, which is currently St. John's Episcopal Church, located at 1114 River Road, Barrytown, New York 10257. We understand this has been the subject of much discussion over the years, and particularly applaud the efforts of the students. We encourage you to immediately select a polling location that complies in all respects with the requirements of the New York State Election Law and applicable federal law.

VENABLE LLP

Commissioner Erik J. Haight
Commissioner Elizabeth Soto
February 28, 2020
Page 2

On behalf of our clients we reserve the right to pursue all available legal remedies in state and/or federal court leading up to this important election cycle. Of course, we would prefer to avoid litigation, and welcome your input and cooperation toward that end.

Please date stamp the enclosed copy, and return it to me in the enclosed self-addressed stamped envelope. Thank you for your anticipated cooperation, and we look forward to your response.

Sincerely,



Michael J. Volpe

Yael Bromberg
Chief Counsel for Voting Rights,
The Andrew Goodman Foundation

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 Kristofer Munn, County Legislator
Honorable Robert McKeon, Supervisor, Town of Red Hook
New York State Board of Elections, Co-Chairs Peter S. Kosinski and Douglas A. Kellner;
Commissioner Andrew J. Spano
(All via Fedex)

RECEIVED
20 MAR -2 A 10:31 J
DUTCHESS COUNTY
BOARD OF ELECTIONS

**Exhibit 10 to Verified Petition
of Bard College et al.**

**TOWN OF RED HOOK
RESOLUTION NO. ____
DATED AUGUST 26, 2020**

RESOLUTION REGARDING ELECTION DISTRICT NO. 5

WHEREAS, on April 12, 2016, the Town Board passed Resolution No. 29 resolved that the Town Board communicate the need to locate a polling site at Bard College in order to provide safe, convenient access by the registered voters of Election District 5 (the "2016 Resolution"); and

WHEREAS, at the time of the 2016 Resolution, Election District 5 had more than the recommended number of registered voters (1,124 vs. 950) for a single district; and

WHEREAS, the overwhelming majority of voters resided at or adjacent to the Bard Campus and NYS Election Law states that the polling site should be located where the majority of voters live; and

WHEREAS, despite the Town Board's unanimous approval of the 2016 Resolution, the polling place remained at St. John's Church of Barrytown; and

WHEREAS, at the present time, the number of registered voters remains over the recommend number of registered voters (1,036 vs. 950);

WHEREAS, the overwhelming majority of voters still resided at or adjacent to the Bard Campus; and

WHEREAS, the Bard Campus is served by the Dutchess County Loop Bus System and NYS Election Law states that the polling site should be located on a public transportation route when possible; and

WHEREAS, the Bard Campus center is handicap accessible, providing fair access to all voters;

WHEREAS, the COVID-19 pandemic has created an additional and urgent need to provide a polling location which is large enough to accommodate the number of registered voters within Election District 5 with adequate social distancing measures and enhanced safety precautions;

WHEREAS, the Bard Campus has a student center which can accommodate a substantially larger number of voters with adequate social distancing, including, but not limited to, the ability to have a delineated entrance and exit to avoid cross-contact of voters, a substantially larger number of restroom facilities, and a larger room to space voting booths six feet apart;

WHEREAS, utilization of the Bard Campus would create a safer, more efficient voting experience;

WHEREAS, Bard College has previously, and continues to offer use of its facilities for voting purposes;

WHEREAS, sufficient space exists at Bard College to provide a safer voting experience and the ability to increase voter participation for all voters within Election District 5;

NOW THEREFORE BE IT RESOLVED, that the Town Board of the Town of Red Hook communicate the need to locate a polling site at Bard College for safe, convenient access by the registered voters of Election District 5.

**Exhibit 11 to Verified Petition
of Bard College et al.**

TOWN OF RED HOOK
RESOLUTION NO. 29
DATED APRIL 12, 2016

RESOLUTION REGARDING ELECTION DISTRICT NO. 5

WHEREAS, Election District 5 currently has more than the recommended number of registered voters (1,124 vs. 950) for a single district; and

WHEREAS, the overwhelming majority of voters reside at or adjacent to the Bard Campus and NYS Election Law states that the polling site should be located where the majority of voters live; and

WHEREAS, Election Law states that polling sites should be located near public transportation; and

WHEREAS, many of the residents of Election District 5 do not have access to public or their own transportation and River Road is neither safe or convenient for travel by foot or bicycle; and

WHEREAS, sufficient space exists at Bard College and the college has offered use of its facilities for such convenience;

NOW THEREFORE BE IT RESOLVED, that the Town Board of the Town of Red Hook communicate the need to locate a polling site at Bard College for safe, convenient access by the registered voters of Election District 5.

RECEIVED
2016 APR 21 P 2:49
DUTCHESS COUNTY
BOARD OF ELECTIONS

EXTRACT OF MINUTES

A regular meeting of the Town Board of the Town of Red Hook, Dutchess County, New York was convened in public session at the Town Hall, 7340 South Broadway, Red Hook on April 12, 2016 at 7:30 p.m., local time.

The meeting was called to order by Supervisor McKeon, and, upon roll being called, the following members were:

PRESENT:

Supervisor Sue Crane
Councilman William O'Neill
Councilman Harry Colgan
Councilwoman Sarah Imboden
~~Councilman James Ross~~

ABSENT: Councilman James Ross

The following persons were ALSO PRESENT:

Christine M. Chale, Esq., Attorney for the Town

The following resolution was offered by Councilman O'Neill, seconded by Councilman Colgan, to wit;

RESOLUTION NO. 29
DATED APRIL 12, 2016

RESOLUTION REGARDING ELECTION DISTRICT NO. 5

The question of the adoption of the foregoing resolution was duly put to vote on a roll call, which resulted as follows:

Supervisor Robert McKeon	VOTING <u>Aye</u>
Councilman William O'Neill	VOTING <u>Aye</u>
Councilman Harry Colgan	VOTING <u>Aye</u>
Councilwoman Sarah Imboden	VOTING <u>Aye</u>
Councilman James M. Ross	VOTING <u>Absent</u>

The foregoing resolution was thereupon declared duly adopted.

RECEIVED
2016 APR 21 P 2:49 PM
DUTCHESS COUNTY
BOARD OF ELECTIONS

CERTIFICATE OF RECORDING OFFICER

The undersigned hereby certifies that:

(1) She is the duly qualified and acting Clerk of the Town of Red Hook, Dutchess County, New York (hereinafter called the "Town") and the custodian of the records of the Town, including the minutes of the proceedings of the Town Board, and is duly authorized to execute this certificate.

(2) Attached hereto is a true and correct copy of a resolution duly adopted at a meeting of the Town Board held on the 12th day of April, 2016 and entitled:

RESOLUTION NO. 29
DATED APRIL 12, 2016

RESOLUTION REGARDING ELECTION DISTRICT NO. 5

(3) Said meeting was duly convened and held and said resolution was duly adopted in all respects in accordance with law and the regulations of the Town. To the extent required by law or said regulations, due and proper notice of said meeting was given. A legal quorum of members of the Board was present throughout said meeting, and a legally sufficient number of members voted in the proper manner for the adoption of the resolution. All other requirements and proceedings under law, said regulations or otherwise incident to said meeting and the adoption of the resolution, including any publication, if required by law, have been duly fulfilled, carried out and otherwise observed.

(4) The seal appearing below constitutes the official seal of the Town and was duly affixed by the undersigned at the time this certificate was signed.

IN WITNESS WHEREOF, the undersigned has hereunto set her hand this 13 day of
April 2016.

-SEAL-

~~Sue McCann~~
~~Town Clerk~~

Claire W. Horst
Claire W. Horst
Deputy Town Clerk

RECEIVED
2016 APR 21 P 2:50
DUTCHESS COUNTY
BOARD OF ELECTIONS

**Exhibit 12 to Verified Petition
of Bard College et al.**



Elizabeth A. Soto
Democratic Commissioner

Ira Margulies
Deputy Commissioner

DUTCHESS COUNTY BOARD of ELECTIONS
47 Cannon Street, Poughkeepsie, New York 12601
845-486-2473/845-486-2483 fax
www.dutchesselections.com

March 3, 2020

Mr. Michael J. Volpe
Venable LLP
Rockefeller Center
1270 Avenue of the Americas, 24th
New York, New York 10020

RE: St. John's Episcopal Church Polling Site

Dear Mr. Volpe:

I am in receipt of your letter, dated February 28, 2020, regarding establishing a Red Hook District 5 poll site on the Bard College Campus. Per your request, I am enclosing a time stamped copy of your letter evidencing such receipt.

Please note that I am in full agreement that the Red Hook District 5 poll site should be moved from its current location at the St. John's Episcopal Church in Barrytown to a suitable on-campus location at Bard College. Having said that, as you may know, I am only one of two Dutchess County Board of Elections Commissioners. Please understand that I cannot unilaterally approve the move of the District 5 poll site, but must secure the agreement of Erik Haight, my Republican counterpart, for such a move. As of the writing of this letter, Mr. Haight has not agreed to move the District 5 poll site from the current St. John's location.

You indicated in your communication that, absent the Dutchess County Board of Elections' cooperation, your clients reserve the right to pursue all available legal remedies to establish a poll site on the Bard Campus during this critical election year. Please know that if you must litigate this matter, you will have my full cooperation in establishing that the community will be well-served by having a poll site on the Bard College campus.

A handwritten signature in black ink that reads "Elizabeth A. Soto". The signature is stylized with a large, flowing "S" and "O".

Elizabeth A. Soto
Democratic Commissioner

**Exhibit 13 to Verified Petition
of Bard College et al.**

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF DUTCHESS

-----X

In the Matter of the Application of

ANDREW GOODMAN FOUNDATION,
ELECTION@BARD, SADIA SABA, ERIN CANNAN,
AND LEON BOTSTEIN,

VERIFIED PETITION

Petitioners,

-against-

DUTCHESS COUNTY BOARD OF ELECTIONS,
ERIK J. HAIGHT, in his official capacity,
ELIZABETH SOTO, in her official capacity.

Respondents,

For a Judgment Pursuant to Article 78 of the Civil
Practice Law and Rules.

-----X

PETITIONERS by their attorneys, VENABLE LLP and BROMBERG LAW LLC,
respectfully allege at all times mentioned herein as follows:

INTRODUCTION

1. This emergency action and filing is necessary to make certain that students, faculty and staff at Bard College (“Bard”), along with their families, and that voters generally in the 5th Legislative District in Dutchess County may easily and safely vote in the upcoming presidential election.

2. Pursuant to Governor Cuomo’s Executive Order 202.58 (Continuing Temporary Suspension and Modification of Laws Relating to the Disaster Emergency), issued on August 28, 2020, the Dutchess County Board of Elections must “send an information mailing to every registered voter by September 8, 2020” containing voter information for the general election, including “[i]nformation regarding . . . the voter’s election day polling place location.”

Accordingly, Petitioners request emergent relief to stay the issuance of this September 8, 2020 mailing, and ultimately for temporary and permanent relief to secure a polling place on the Bard College campus.

3. This Verified Petition is supported by the Memorandum of Law dated September 4, 2020 and Declarations of Petitioners Sadia Saba, Erin Cannan, and Leon Botstein, attached hereto as Exhibits 1 through 3, as well as Bard Director of Accessibility and Disability Erika van der Velden (Exhibit 4) and Bard College Professor of Biology Felicia Kessing (Exhibit 5).

4. The right to vote is a fundamental right of all Americans—including young voters. The right to vote free of age discrimination was secured in the United States Constitution nearly 50 years ago through the ratification of the Twenty-Sixth Amendment. This amendment is the quickest to be ratified in U.S. history, in large part due to unanimous cross-partisan recognition that young people serve a critical role in securing our democracy. The State of New York ratified the Twenty-Sixth Amendment on June 2, 1971.¹

5. Young voters face unique, persistent and sometimes thinly veiled attacks on their access to the franchise. Many localities and states target young voters with restrictive election laws, regulations, and practices. The structural obstacles that young people face due to voter restrictions is evident by their outsized reliance on provisional ballots: one in four Millennials voted provisionally during the last presidential cycle, compared to 6% of Baby Boomers and 2% of the Greatest Generation. In addition to this outsized reliance, provisional ballots cast by young voters are disproportionately rejected. One federal court observed that voters aged 18 to 21 had provisional ballots rejected at a rate more than four times higher the rejection rate for provisional

¹ See Yael Bromberg, *Youth Voting Rights and the Unfulfilled Promise of the Twenty-Sixth Amendment*, 21 U. Penn J. Const. Law, 1105 (May 2019), available at: <https://ssrn.com/abstract=3442198>.

ballots cast by voters between the age of 45 to 64.²

6. The currently designated polling place for the 5th Legislative District in Dutchess County is the Episcopal Church of St. John the Evangelist, located at 1114 River Road, Red Hook, New York 12571 (the “Church”).

7. The Church is inadequate as a polling place in every respect. As explained below, it is in a relatively remote location; is inaccessible by public transportation; has inadequate and difficult parking; is in violation of the Americans With Disabilities Act; and—more important than ever, in this pandemic—is simply too small to accommodate voters, persons waiting to vote, poll workers, check-in tables, scanners and printers in a fashion that will permit social distancing.

8. For these and other reasons, designation of the Church as a polling place violates the New York State Constitution and New York State Election Law, and disserves public health imperatives arising from the pandemic.

9. Petitioners have long and repeatedly requested that the Dutchess County Board of Elections (“Dutchess BOE”) designate Bard’s Bertelsmann Campus Center (the “Bard Location”) in lieu of or in addition to the Church as a polling place.

10. The Town of Red Hook Board unanimously supports this request, Ex. A (2020 Resolution), and has supported similar requests. Ex. B (2016 Resolutions).

11. Respondent Dutchess BOE Democratic Chair Elizabeth Soto supports this request. Ex. C (Letter dated March 3, 2020).

12. Despite this support, the BOE has not approved the Bard Location as a polling site, necessitating this petition.

PARTIES

² *Id.* at 1145-46.

13. Petitioners ANDREW GOODMAN FOUNDATION, INC. (“AGF”) and ELECTION@BARD are organizations focused on protecting voting rights.

14. AGF is a nonpartisan, non-profit organization with the mission of making young voices and votes a powerful force in democracy. In the summer of 1964, Andrew Goodman, AGF’s namesake, participated in Freedom Summer, a voter registration project aimed at registering African-American voters in Mississippi. On Andrew Goodman’s first day working on that project, June 21, 1964, he and his fellow civil rights advocates James Chaney and Michael Schwerner were kidnapped and murdered by members of the Ku Klux Klan. Today, AGF supports youth leadership development, voting accessibility, and social justice initiatives on campuses across the country, with training, mentoring, and mini-grants to select institutions as well as providing other financial assistance to students. AGF’s Vote Everywhere initiative is a national, nonpartisan, civic engagement movement of student leaders and university partners. The program provides extensive training and resources, as well as a peer network to support its Student Ambassadors while they work to register voters, remove voting barriers, organize Get Out The Vote activities, and tackle important social justice issues on their college campuses. Vote Everywhere is located on over 75 campuses in 25 states plus Washington, D.C., including on Bard College. To achieve its mission, AGF devotes substantial time, effort, and resources to training and supporting Student Ambassadors, including two to three at Bard College every year, who work with their home campuses to encourage voting, register voters, and advocate for the voting rights of their communities.

15. Petitioner ELECTION@BARD is a student-run organization at Bard located at 30 Campus Road, Annandale-on-Hudson, New York 12504. Bard is a private liberal arts college located in the 5th Legislative District of Dutchess County. Although 68% of the eligible voters in

its voting district reside on campus, the assigned polling location at the Church is miles from campus and inadequate to meet the needs of the community. The Election@Bard initiative facilitates voter registration for students, provides information about candidates, hosts forums in which candidates and students can meet, and protects the right of students to vote and have their votes counted. Students who run this organization are registered voters for the 5th Legislative District in Red Hook whose polling place would be St. John's Church.

16. Petitioner SADIA SABA is a student at Bard College residing in Red Hook, New York who is registered to vote in the 5th election district. She currently serves as an Andrew Goodman Foundation Student Ambassador. See Declaration of Sadia Saba, attached as Exhibit 1.

17. Petitioner ERIN CANNAN is the Vice President for Student Affairs at Bard College who has worked at the polling place located at St. John's Episcopal Church for ten (10) years, and who will again work the polls this November. She currently serves as an Andrew Goodman Foundation Vote Everywhere Campus Champion. See Declaration of Erin Cannan, attached as Exhibit 2.

18. Petitioner LEON BOTSTEIN is the President of Bard College, and has served in this role for forty-five (45) years since 1975. As an on-campus resident, he is also registered to vote in the 5th election district. See Declaration of Leon Botstein, attached as Exhibit 3.

19. Respondent DUTCHESS COUNTY BOARD OF ELECTIONS ("Dutchess BOE"), led by its commissioners, ERIK J. HAIGHT and ELIZABETH SOTO, is charged with designating polling places in accord with New York Election Law to be used during all elections. Respondent Dutchess BOE administers Local, State, and Federal Elections in the County of Dutchess and more specifically in the Town of Red Hook. The Dutchess BOE is comprised of two Commissioners and two Deputy Commissioners and exists pursuant to the Laws of the State of

New York.

20. Respondent ERIK J. HAIGHT is the Republican Commissioner of the Dutchess BOE.

21. Respondent ELIZABETH SOTO is the Democratic Commissioner of Dutchess BOE.

FACTS

22. On March 7, 2020, Governor Andrew Cuomo issued Executive Order 202, declaring a state of emergency amid a global health crisis after new cases of the coronavirus were confirmed in New York state.

23. On March 15, 2020, the Dutchess BOE designated the Church as the polling place for the 5th Legislative District, pursuant to New York Election Law § 4-104.

24. This designation is effective for one (1) year, making the Church the polling location for the General Election on November 3, 2020.

25. On August 28, 2020, Governor Andrew Cuomo issued Executive Order (“EO”) 202.58 that requires New York State BOEs to send a mailing to registered voters that contains information on (a) mail in voting, (b) early voting, and (c) where to vote in person. Ex. D (EO 202.58).

The Church Does Not Meet The Requirements for Voter Access Under the New York State Constitution and New York State Election Law

26. The Church fails to meet the requirements for voter access under the New York State Constitution and New York State Election Law.

The Church Is On A Treacherous Road That Is Not On A Public Transportation Route

27. River Road, where the Church is located, is an unlit, narrow, and winding country road.

28. Due to these safety concerns, Bard College explicitly prohibits Bard-authorized drivers from driving on River Road for any purpose other than shuttling students to the Church to vote. Ex. E (Bard College Van Operation Requirements).

29. River Road has no sidewalks or shoulders, making walking or biking perilous. It is particularly perilous for those many members of the Bard community, including students, faculty and staff, and their families, who walk the 1.3 mile stretch on River Road from the campus to the Church and back.

30. The Church is not accessible by public transportation.

The Church Lacks Adequate, Accessible Parking

31. The Church has limited parking, consisting of a lower lot and an upper lot. Ex. F (Church site key).

32. These lots require either walking up or down an incline to get to the Church's entrances, creating a challenge for mobility-impaired voters.

33. Neither lot has designated handicap parking spaces.

The Church Is Too Small To Accommodate Voting and Waiting to Vote

34. In the 2010 Dutchess BOE Polling Place Spatial Requirements Survey ("2010 Survey"), Aspinwall Hall measured 750.75 square feet (38.5 x 19.5). Ex. G (2010 Survey).

35. At that size, the Church has been cramped during voting hours.

36. Voters have had to wait in long lines outside the Church, because the limited space inside the Church allows only a few people to wait inside. See Declaration of Erin Cannan.

37. In the 2010 Survey, the Church did not respond to the question of how many people can fit on line in the polling area before the line reaches outside.

38. In the November 2018 election, voters waited outside in the rain for hours; some found cover in tents provided by Bard.

39. In 2019, a second survey was conducted (the “2019 Survey”) that showed that, at 750.75 square feet, Aspinwall Hall could accommodate only 4-5 standing voting booths. Ex. H (2019 Survey).

40. The 2010 Survey shows that all seven (7) voting booths historically were located on a single wall measuring 38.5 feet. Ex. G. The 2019 Survey does not show the location of voting booths. Ex. H.

41. With seven (7) voting booths against a single wall, there would be a maximum of 5.5 feet between voting booths—too little to permit social distancing this year. With only four (4) to five (5) voting booths, there would be too few booths for the number of voters.

42. In the 2019 Survey, Aspinwall Hall measured 731.5 square feet (38 ½ x 19). Ex. H. p. 1.

43. Upon information and belief, Aspinwall Hall has been undergoing construction and remains under construction. Bathrooms have been modified and closets installed, which has further reduced the square footage to approximately 700 square feet.

44. This Election Day will require seven (7) standing voting booths.

45. The 2019 Survey reports that Aspinwall Hall still can accommodate only “4-5” voting booths.

46. The Church also will not be able to accommodate six (6) poll workers, a handicap accessible ballot marking device, an optical scanner for completed ballots and registration table, as well as voters and those waiting to vote

47. Overall, the Church is simply too small to do what needs to be done, and to permit social distancing among those participating.

The Church Is In Violation of the Americans With Disabilities Act, and Thus In Violation of New York State Election Law.

48. New York State Election Law § 4-104(1)(a) requires that a polling location comply with the Americans With Disabilities Act.

49. The United States Department of Justice has published an “ADA Checklist for Polling Places,” available at <https://www.ada.gov/votingchecklist.pdf> (the “Checklist”).

50. The actual Checklist appears at pages 17-25.

51. The limited parking at the Church fails the following provisions of the Checklist:

- **A1: Is there at least one designated van accessible space with signage with the International Symbol of Accessibility and designated “van accessible”?** (§§208.2, 208.2.4, 502.6) No.
- **A4: Are designated accessible parking spaces and the access aisles serving them on a level surface, with slopes not exceeding 1:48 in all directions?** (Note: Curb ramps may not be part of an access aisle since they include slopes greater than 1:48.) (§502.4) No. Even if a van dropped off someone near the accessible ramp, that ramp is located on a slope.

52. The ramp at the Church’s main entrance on the western façade violates the following provisions of the Department of Justice Checklist:

- **G1: Is the running slope of the ramp no greater than 1:12?** (§405.2). No.

The slope not only does not meet the recommended standard of 1:20, it does

not meet the standard of 1:12, coming in at 1:7.5 (13 inches of rise per 8 feet of ramp).

- **G4: Is the ramp, measured between handrails, at least 36” wide? (§405.5)**

No. There is a handrail on only one side of the ramp. There are handrails on stairs leading to the other side of the ramp (see G8 and G9 below) and on those the space is 28.4”, considerably less than the prescribed 36”.

- **G5: Does the ramp have a level landing that is at least 60” long, at the top and bottom of each ramp section? (§405.7)**

No. The landing area at the bottom is not level and the landing area is less than 60 inches long. Note that both of the landing areas (at the bottom of the ramp and the top of the ramp) are also less than 25 square feet as prescribed by the ADA.

- **G8: If the rise of the ramp is greater than 6”, are handrails provided that are between 34” and 38” above the ramp surface? (§§405.8, 505.4)**

No. There are rails on only one side of the ramp (though there are stairs with rails: see below and the handrails on the stairs are 28.4” apart and not 36” apart as noted in G4).

- **G9: If the rise of the ramp is greater than 6” and the ramp or landing has a vertical drop-off on either side of the ramp, is edge protection**

provided? (§405.9) No. There are handrails on one side and an edge on the other, but the top landing of the ramp has an opening for stairs, meaning that someone in a wheelchair or other wheeled device could roll off the ramp and down the stairs if they proceeded up the (too steep) ramp too quickly.

53. This noncompliant ramp discharges into Breck Hall, which has an unevenly surfaced floor that voters must traverse on their way to Aspinall Hall.

54. The 2019 Survey Form failed to answer entire sections of questions regarding ramp compliance, ADA access and overall accessibility. Ex. H. Inexplicably, the 2019 Survey Form simply lists “N/A” for the entire ramp compliance section, although the ramp is the only way to enter the building.

55. Other violations of the ADA at the Church include the lack of ADA-accessible restrooms.

The Bard Location Is Superior To The Church In Every Respect, And Fully Satisfies The New York State Constitution and New York Election Law

The Bard Location Is Easily Accessible to Non-Drivers

56. Members of the Bard community, including students, faculty and staff, and their families, can walk to the Bard Location.

57. Non-drivers in the rest of the community can use the Dutchess County Loop Bus Loop C route, which runs to the campus.

The Bard Location Offers Ample, Easy Parking

58. The Bard Location offers ample parking, all of flat terrain.

59. Parking at the Bard Location complies with the Americans With Disabilities Act.

60. There are several handicapped parking spots that provide easy access to the front door of the Multi-Purpose Room that would be the actual voting location.

The Bard Location is Spacious and ADA Compliant, Enabling Social Distancing of Voters, Those Waiting to Vote, and those Working in the Polling Location

61. The Bard Location's Multi-Purpose Room measures approximately 2,260.44 square feet, over three times the size of the Church.
62. The Multi-Purpose Room has high ceilings and multiple entrances and exits that will permit social distancing of those coming, waiting and going.
63. The Multi-Purpose room is compliant with the Americans With Disabilities Act and is fully accessible to those with disabilities.
64. The Multi-Purpose Room will easily accommodate this year's requirement of six (6) poll workers, as well as seven (7) standing voting booths, a handicap accessible ballot marking device, an optical scanner for completed ballots, and registration table.
65. The Multi-Purpose Room has the space to position voting booths more than six (6) feet apart, allowing for social distancing while voting. Ex. I (photos of Bard location, attached as Exhibit I).
66. The Multipurpose Room has wide, spacious hallways that will enable people waiting to vote to do so inside, sheltered from the elements, and in a social distant fashion.
67. The Multipurpose Room has multiple handicapped accessible bathrooms.

FIRST CAUSE OF ACTION
VIOLATION OF THE NEW YORK STATE CONSTITUTION

68. The Petitioners repeat and reiterate each and every allegation contained in the preceding paragraphs, with the same force and effect as if herein fully set forth at length.
69. The New York State Constitution provides in relevant part:

Article I Section 1 [Rights, privileges and franchise secured; uncontested primary elections]

No member of this state shall be disenfranchised, or deprived of any of the rights or privileges secured to any citizen thereof, unless by the law of the land, or

judgment of his or her peers, except that the legislature may provide that there shall be no primary election held to nominate candidates for public office or elect persons to party positions for any political party or parties in any unit of representation of the state from which such candidates or persons are nominated or elected whenever there is no contest or contests for such nominations or election as may be prescribed by general law.

70. The New York State Constitution provides in relevant part:

Article II Section 1 [Qualifications of voters]

Every citizen shall be entitled to vote at every election for all officers elected by the people and upon all questions submitted to vote of the people provided that such citizen is eighteen years of age or over and shall have been a resident of this state, and of the county, city, or village for thirty days next preceding an election.

71. By its actions, the Respondents have burdened Petitioners with onerous requirements and have constructively denied their right to vote as guaranteed by Article I, Section 1 and Article II Section 1 of the New York State Constitution.

SECOND CAUSE OF ACTION
VIOLATION OF NEW YORK ELECTION LAW – ADA COMPLIANCE

72. The Petitioners repeat and reiterate each and every allegation contained in preceding paragraphs, inclusive of this Petition, with the same force and effect as if herein fully set forth at length.

73. New York Election Law § 4-104(1)(a) requires each polling place to be accessible to citizens with disabilities and comply with the accessibility guidelines of the Americans with Disabilities Act of 1990.

74. By selecting the Church as the polling site, Respondents failed to perform a duty enjoined by New York State Election Law and acted arbitrarily, capriciously, and in abuse of Respondents' discretion.

THIRD CAUSE OF ACTION

VIOLATION OF NEW YORK ELECTION LAW – PUBLIC TRANSIT

75. The Petitioners repeat and reiterate each and every allegation contained in the foregoing, inclusive of this Petition, with the same force and effect as if herein fully set forth at length.

76. New York Election Law § 4-104(6)(a) states that “Each polling place designated, whenever practicable, shall be situated directly on a public transportation route.” The nearest public transportation stop is located approximately 0.5 miles from the current polling site in violation of this provision.

77. Respondents have violated New York State Election Law by failing to provide a polling location with access to public transportation when such a polling location is available.

FOURTH CAUSE OF ACTION
VIOLATION OF NEW YORK ELECTION LAW – CONSTRUCTION SURVEY

78. The Petitioners repeat and reiterate each and every allegation contained in the foregoing paragraphs, inclusive of this Petition, with the same force and effect as if herein fully set forth at length.

79. New York Election Law § 4-104(1)(b) requires the county BOE to cause an access survey to be conducted for every polling site to verify substantial compliance with accessibility standards. Each polling site shall be evaluated prior to its designation, “...or upon changes to the facility.” [emphasis added].

80. Aspinwall Hall is currently undergoing construction and has not been re-surveyed as a polling place.

81. Respondents have failed to review the changes to the Church and certify compliance of the changes to the facility in violation of New York State Election Law is a failure of Respondents' duty enjoined by law.

82. The Petitioners have not previously sought the relief requested herein.

PRAYER FOR RELIEF

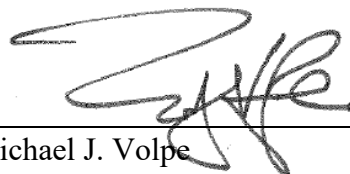
WHEREFORE, Petitioner pray that this Court:

- a. Directing that the Dutchess County Board of Elections change the polling place for the 5th Legislative District of Dutchess County from St John's Episcopal Church located at 1114 River Road, Red Hook, New York 12571 to the Bertelsmann Campus Center at Bard College, 30 Campus Road, Annandale-on-Hudson, New York 12504 or make the latter location a supplemental location providing notice of same to all voters in the election district;
- b. Stay issuance of polling guidance in accordance with the Executive Order to impacted voters, and/or to the extent same has issued provide polling guidance indicating to all voters in the election district that the polling location has been moved to or supplemented by a location at Bard College; and
- c. Granting such other and further relief as the Court may deem just and proper.

Dated: New York, New York
September 4 , 2020

By: _____

Michael J. Volpe



Venable LLP
1270 Avenue of the Americas, 23rd Fl.
New York, New York 10017

By: 


Yael Bromberg, Esq.
BROMBERG LAW LLC
43 West 43rd Street, Suite 32
New York, NY 10036-7424
T: (212) 859-5083
F: (201) 586-0427
ybromberg@bromberglawllc.com

Attorneys for Petitioners

[illegible]

The undersigned being one of the attorneys for the Petitioner herein, hereby affirms under penalties of perjury and pursuant to CPLR § 2106 that he has read the foregoing verified Petition and knows the contents thereof to be true to deponent's own knowledge except as to those matters which are alleged upon information and belief and as to them deponent believes them to be true. The source of your affirment's information and belief are oral statements, books and records furnished by the Petitioner, its agent and/or employees and material contained in the office files. This affirmation is made by Petitioner's counsel pursuant to RPAPL § 741. The attorney's signature below is also pursuant to section 130-1.1-a of the Rules of the Chief Administrator (22 NYCRR).

Date: New York, New York
September _____, 2020


Michael J. Volpe, Esq.

Michael J. Volpe, Esq.
Venable LLP
Attorneys for Petitioner
1270 Avenue of the Americas, 23rd Floor
New York, New York 10020

**Exhibit 14 to Verified Petition
of Bard College et al.**

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF DUTCHESS

Present:

Hon. Maria G. Rosa, Justice

In the Matter of the Application of

ANDREW GOODMAN FOUNDATION,
ELECTION @BARD, SADIA SABA, ERIN CANNAN
and LEON BOTSTEIN,

DECISION AND ORDER

Petitioners,

Index No. 52737/20

-against-

DUTCHESS COUNTY BOARD OF ELECTIONS,
ERIK J. HAIGHT, in his official capacity, and
ELIZABETH SOTO, in her official capacity,

Respondents.

For a Judgment Pursuant to Article 78 of the
Civil Practice Law and Rules,

The following papers were read on this Article 78 proceeding and Respondents' cross-motion.

ORDER TO SHOW CAUSE
NOTICE OF PETITION
VERIFIED PETITION
EXHIBITS 1 - 5; A - J
MEMORANDUM OF LAW IN SUPPORT

AFFIDAVIT OF ELIZABETH SOTO
EXHIBIT F

NOTICE OF MOTION
MEMORANDUM OF LAW IN SUPPORT
AFFIDAVIT IN SUPPORT
AFFIDAVIT IN SUPPORT
EXHIBITS 1 - 8

REPLY AFFIRMATION
EXHIBITS A - B
REPLY MEMORANDUM OF LAW
REPLY AFFIDAVIT OF FELICIA KEESING
REPLY MEMORANDUM OF LAW
REPLY AFFIDAVIT

Governor Cuomo's Executive Order 202.58 required the Boards of Election to send information to voters including the location of their polling places by September 8, 2020. On September 4, 2020 (a Friday) Petitioners commenced this proceeding challenging the Respondent Dutchess County Board of Elections' March 13, 2020 designation of St. John's Episcopal Church located at 1114 River Road, Barrytown, New York as the polling place for the 5th Legislative District of Dutchess County. The Petition was returnable September 28, 2020. Petitioners Andrew Goodman Foundation, Inc. and Election@Bard are organizations focused on protecting voting rights and facilitating voting by students of Bard College which is located within Dutchess County's 5th Legislative District. The individual petitioners are students and employees of Bard College registered to vote in that district. Petitioners maintain that the designated polling place violates voter access requirements of the New York State Constitution and New York State Election Law. They seek an order directing the Dutchess County Board of Elections to change the polling place to the Bertelsmann Campus Center at Bard College or to make that location a supplemental polling place in the November 3, 2020 general election. They assert that they sent a letter to the Dutchess County BOE Commissioners on February 28, 2020 asking that the polling place be relocated to Bard College. Despite the unfavorable response, the March 13, 2020 designation, for nearly six months Petitioners failed to challenge it.

New York State Election Law requires that every Board of Elections, in consultation with respective municipalities, designate the polling places in each election district in which an election may be held. Elec. Law §4-104(1). The Board of Elections must designate the polling places by March 15th of each year but has the discretion to select an alternative polling location after the date if the initially designated polling place is subsequently found to be unsuitable or unsafe. Id.

The only questions that may be raised in an Article 78 proceeding such as this one are whether the body or officer failed to perform a duty enjoined upon it by law; or proceeded or is about to proceed without or in excess of jurisdiction; or whether a determination was made by an error of law, was arbitrary and capricious or an abuse of discretion. CPLR Section 7804. In reviewing the Board of Elections' polling place designation, applying the relevant part of Section 7804, this court must determine whether the determination was arbitrary and capricious or affected by an error of law. See Matter of Scherbyn, 77 NY2d 753, 758 (1991). An action is arbitrary if it is without sound basis in reason and taken without regard to the facts. See Matter of Pell v. Board of Educ. of Union Free School Dist., 34 NY2d 222 (1974). The court's role in reviewing an agency action "is not to determine if the agency action was correct or to substitute its judgment for that of the agency, but rather to determine if the action taken by the agency was reasonable." Hill v. State Bd. of Elections, 120 AD2d 55 (2nd Dept 1986).

The Board of Elections' March 13, 2020 designation of St. John's Episcopal Church as a polling place was part of a broader resolution designating polling sites for the entire county. No specific explanation was offered for the designation of the St. John's Episcopal Church. Undisputed evidence in the record reflects that St. John's Episcopal Church has been the polling place for the 5th Legislative District since at least 2011. Both election commissioners signed the resolution designating the polling location. However, Respondent Commissioner Elizabeth Soto has submitted an affidavit and the record contains a letter stating that she was in agreement with petitioners' contentions that the poll site should be moved to a suitable on-campus location at Bard College. She notes that she lacks the authority to unilaterally approve moving the polling location. Correspondence she sent to Petitioners' counsel dated March 3, 2020 asserts that she would fully cooperate in any litigation seeking to establish that the community would be better served having a polling site on the Bard College campus.

Petitioners maintain that the current polling site disenfranchises voters because it is in a relatively remote location, is inaccessible by public transportation, has inadequate parking, does not comply with the accessibility requirements of the Americans with Disabilities Act and is too small to safely accommodate voters and poll workers in light of the COVID-19 pandemic. They assert that the proposed Bard College location is accessible by public transportation, has ample parking, complies with the Americans with Disabilities Act and is large enough to enable social distancing for voters and poll workers. They claim that the foregoing deficiencies of the St. John's Episcopal Church violate voting rights provisions of the New York State Constitution. See N.Y. Const. Art. I, §1; Art. II. Petitioners further assert that the Episcopal Church violates a provision in New York State Election Law §4-104(1)(a) providing that each polling place shall be accessible to citizens with disabilities and comply with the accessibility guidelines of the Americans with Disabilities Act of 1990. Election Law §4-104(1) requires the Board of Elections to take appropriate measures to comply with the requirements of those guidelines. Towards that end, a county Board of Elections is required to create an access survey for every polling site to assess its compliance with accessibility standards. See Election Law §4-104(1)(b). Any polling place that does not meet the standards must make changes or modifications or be moved to a verified accessible polling place. *Id.* Petitioners have submitted a 2019 access survey for the Episcopal Church stating that accessible handicap parking spaces do not have visible accessibility signage. It further indicates as "non-applicable" questions pertaining to whether passenger drop-off areas, sidewalks and walkways meet accessibility requirements. Petitioners have also submitted an affidavit of Bard College's Director of Accessibility and Disability Resources. She asserts that numerous aspects of the church and its parking lot fail to comply with the American with Disabilities Act. She states that an entrance ramp at the church lacks a railing. However, according to Commissioner Haight there in fact is a railing as the most recent BOE survey demonstrates. Petitioners assert there are uneven floors at the top of the ramp and there is no disability-accessible restroom facilities. None of this was raised in the February 28, 2020 letter proposing a change.

In opposition to the petition and in support of the cross-motion to dismiss, Election Commissioner Eric Haight has submitted an affidavit articulating the grounds underlying his March 2020 determination not to acquiesce to the request to relocate the polling site.

Commissioner Haight asserts that after receiving Petitioners' February 28, 2020 letter he discussed it with Commissioner Soto. He concluded, however, that cited concerns about pedestrian access, sidewalks and streetlights did not warrant moving the polling site. He asserts that St. John's Episcopal Church is between .3 miles and .7 miles from different parts of the Bard campus. He states that River Road, which runs from the campus to the polling site, goes through farmland and has relatively little traffic. He acknowledges there is no sidewalk but asserts there is a shoulder and notes that Bard College operates a shuttle that transports students directly to the church to vote. He states that the majority of Election District 5 is rural and most polling site locations would not have sidewalks or streetlights. Respondents assert that public transportation comes within about .5 miles of the current polling place. Finally, Commissioner Haight speculates that Bard is an insular environment that could impact the perceived neutrality of any voting site and pose risks of disruptive campus protests interfering with polling site operations. Commissioner Haight acknowledges that establishing a polling place on campus would be more convenient for Bard students but asserts that he also needs to take into consideration the non-student voters of Election District 5, and that state law does not authorize two polling places within the district.

Respondents have also submitted an affidavit of Board of Elections machine coordinator Timothy Malet. Mr. Malet states his familiarity with Board of Elections records pertaining to registered voters and asserts that as of September 2020 there were 1,035 registered voters in Election District 5 in the Town of Red Hook. He states that of those registrations, 670 had addresses indicating they are likely Bard students or reside on the Bard College campus, and there are approximately 365 voter registrations for individuals not associated with addresses on Bard's campus. He opines that these records likely overstate the number of people residing at Bard College who are eligible to vote because such voters are often students that have left the area after graduation. Annexed as an exhibit to Respondents' opposition papers is an Election District mailer the Board of Elections sent to all registered voters in the Election District notifying them that the polling place for the November 3, 2020 general election would be at St. John's Episcopal Church. The mailer also indicates that there will be a nine day early voting period from October 24, 2020 through November 1, 2020, lists the five Dutchess County locations for early voting and provides information about and the deadline for requesting and filing an absentee ballot.

As noted above, it is not the function of this court to substitute its judgment for that of an administrative agency, but rather only to determine if the action the agency as taken was reasonable. This court is cognizant of the provisions of the New York State Constitution. Petitioners cite protecting the right to vote. Petitioners' claims alleging state constitutional violations are premised primarily on allegations that the Episcopal Church is not handicapped accessible in violation of the Americans with Disabilities Act. Petitioners' February 28, 2020 letter to the election commissioners did not cite violations of the Americans with Disabilities Act as grounds for their request to move the polling site. Thus this was not raised for consideration nor did it form the basis for the Commissioners' determination not to move the polling place. Petitioners have failed to make any factual claims or present evidence that any specific registered voters have been disenfranchised based upon the design or lack of accessibility to the polling place. Petitioners' letter cited a desire to move the polling place to an on-campus location to

facilitate easier pedestrian access and access via public transportation. While the letter makes generalized complaints that moving the polling site will ensure compliance with the law, it does not specify the alleged legal deficiencies other than making a general reference to ensuring compliance with New York State Election Law and federal law. It is well settled that a litigant is required to address his or her complaints initially to an administrative tribunal and exhaust all possibilities of obtaining relief through administrative channels before appealing to the courts. See Kaufman v. Inc. Vill. of Kings Point, 52 AD3d 604, 607 (2nd Dept 2008). Thus, in a CPLR Article 78 proceeding the court's review is limited to the arguments and record adduced before the agency. Id. Accordingly, Petitioners may not now maintain that the challenged determination was arbitrary or affected by an error of law based on violations of the Americans with Disabilities Act and New York State Constitution. These claims were not specifically raised to the election commissioners before the designation of the challenged polling site. The court finds that the selection of the St. John's Episcopal Church, which has been used as a polling place for many years, is not so arbitrary, unreasonable or capricious as to compel a conclusion that Respondents have abused their discretion in selecting it. Nor have Petitioners presented evidence that the location of the polling place is so inconvenient or unsuitable as to impede or restrain any eligible voter from casting a ballot. This is particularly true in light of the ability to vote via absentee ballots as a matter of right in this election cycle and by nine days of early voting. As noted, the Election District mailer sent out by the Board of Elections provided details on these voting procedures and listed the nine dates, times and locations for early voting. Based on the foregoing, Petitioners have failed to establish that the decision to retain the Episcopal Church as a polling place served to disenfranchise voters or was arbitrary and capricious, an error of law or an abuse of discretion.

The court is further cognizant of Petitioners' claims that circumstances related to the COVID-19 pandemic make the St. John's Episcopal Church a less desirable polling place. This contention is supported by the affidavits of Felicia Keesing, a professor with expertise in the transmission of infectious diseases. Professor Keesing asserts that the proposed polling place at Bard College is a safer option based upon the smaller size and layout of St. John's Episcopal Church. In fact, after Petitioners commenced this proceeding the Vicar and Treasurer of the Church sent a letter to the Board of Elections dated September 15, 2020, stating that the Church was too small to support social distancing during the voting process. They strongly suggest that the use of the St. John's Episcopal Church as polling location is not ideal based on its size and layout.

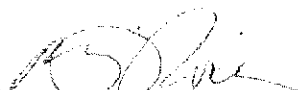
This Court can only adjudicate the controversies lawfully before it. Petitioners commenced this Article 78 proceeding on September 4, 2020 challenging respondents' March 13, 2020 polling place designation. Petitioners did not file a declaratory judgment action or articulate a theory in this Article 78 proceeding proving grounds upon which the Court could direct the Board of Elections to take any specific action based on the COVID-19 pandemic. While the Court has the authority to convert an Article 78 proceeding to a plenary action, it declines to do so here based the timing of petitioners' commencement of this proceeding and its procedural posture. The November 3, 2020 election is 21 days away. While the court has sixty days to render a determination it did so in this case within 2 weeks. Still, the election is too close in time to enable a change in the polling site that would be fair to all voters in the 5th district

including by giving them timely and effective notice of the change. Commissioner Haight underscores that mailing out notification of a new polling place at this late date would likely cause voter confusion and result in voters going to the wrong polling place. While Petitioners have stated good cause for fair consideration to be given to moving the polling place Petitioners offer no explanation for not commencing this action at an earlier date. Based on the foregoing, it is

ORDERED that the petition is denied without prejudice to renew sufficiently in advance of the 2021 elections. This constitutes the decision, order and judgment of the Court.

Dated: October 13, 2020
Poughkeepsie, New York

ENTER:



MARIA G. ROSA, J.S.C.

Scanned to the E-File System only

Pursuant to CPLR §5513, an appeal as of right must be taken within thirty days after service by a party upon the appellant of a copy of the judgment or order appealed from and written notice of its entry, except that when the appellant has served a copy of the judgment or order and written notice of its entry, the appeal must be taken within thirty days thereof.

**Exhibit 15 to Verified Petition
of Bard College et al.**

Volpe Affirmation - Exhibit A

October 15, 2020

FROM: Town Supervisor Robert McKeon
RE: Town Hall Election Districts 7 and 8 - *Change of Location*

**The Town of Red Hook Voting Location for Election Districts 7 and 8
has been moved to the Linden Ave. Middle School Gym.**

Those whose previous voting location was the Red Hook Town Hall (districts 7 and 8) will now vote at the Linden Avenue Middle School for the upcoming general election. Due to the expected number of voters, the limited space in the Town Hall meeting room, and the ongoing pandemic, the Dutchess County Board of Elections has made this change.

Polls will be open on November 3rd from 6 a.m. to 9 p.m.

Polling Sites for the Town of Red Hook include:

1 st District	Tivoli Fire House	2 Tivoli Commons	Tivoli
2 nd District	Red Hook High School	103 W. Market St.	Red Hook
3 rd District	St. John’s Reformed	126 Old Post Rd. N.	Red Hook
4 th District	Red Hook High School	103 W. Market St.	Red Hook
5 th District	St. John’s Episcopal	1114 River Rd.	Barrytown
6 th District	Red Hook Fire House	42 Firehouse Ln.	Red Hook
7 th District	Linden Ave. Middle School	65 W. Market St.	Red Hook
8 th District	Linden Ave. Middle School	65 W. Market St.	Red Hook

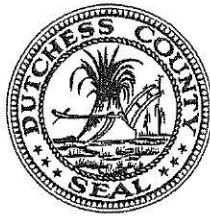
To see which election district you are in, please refer to the map linked [HERE](#)

Early voting is available to all Dutchess County residents between
October 24th – November 1st at any of the locations listed below

<u>Early Voting Time Slots</u> Oct-24-2020 (Sat) : 12 pm - 5 pm Oct-25-2020 (Sun) : 12 pm - 5 pm Oct-26-2020 (Mon) : 9 am - 5 pm Oct-27-2020 (Tue) : 12 pm - 8 pm Oct-28-2020 (Wed) : 9 am - 5 pm Oct-29-2020 (Thu) : 12 pm - 8 pm Oct-30-2020 (Fri) : 9 am - 5 pm Oct-31-2020 (Sat) : 9 am - 4 pm Nov-01-2020 (Sun) : 12 pm - 5 pm	Rhinebeck Town Hall 80 East Market Street Rhinebeck, 12572 Get Directions	
	Dutchess County Board of Elections 47 Cannon Street Poughkeepsie, 12601 Get Directions	Millbrook Fire House 20 Front Street Millbrook, 12545 Get Directions
	Boardman Road Library 141 Boardman Road Poughkeepsie, 12603 Get Directions	Fishkill Town Hall 807 Route 52 Fishkill, 12524 Get Directions

If you wish to vote by mail, all ballots must be mailed in by October 27th.
You can request a ballot [HERE](#) and, due to COVID, select
“Temporary illness or physical disability” as your reason.

**Exhibit 16 to Verified Petition
of Bard College et al.**



Erik J. Haight
Commissioner

Elizabeth A. Soto
Commissioner


DUTCHESS COUNTY BOARD of ELECTIONS
47 Cannon Street, Poughkeepsie, New York 12601
845-486-2473/845-486-2483 fax
www.dutchesselections.com

Resolution Number 01-2021: Designating Poll Sites for 2021

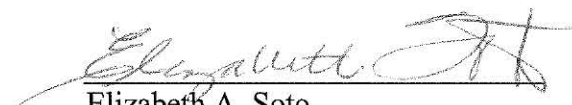
Whereas, New York State Election Law Section 4-104 requires the Dutchess County Board of Elections to designate polling places,

Now, therefore, be it

Resolved, the Dutchess County Board of Elections designates the attached list of polling places for 2021.



Erik J. Haight
Commissioner



Elizabeth A. Soto
Commissioner

Dated: 11/30/20

DUTCHESS COUNTY POLLING SITES 2021 - 20222

Effective: March 1, 2021 to February 29, 2022

AMENIA

1st Dist. Immaculate Conception-St. Patrick Parish, 11 Lavelle Road, Amenia
2nd Dist. Wassaic Fire House, 27 Firehouse Road, Wassaic
3rd Dist. V.F.W. Harlem Valley Post #5444, 3422 Route 22, Dover Plains

BEEKMAN

1st Dist. Beekman Library, 11 Town Center Boulevard, Poughquag
2nd Dist. Beekman Library, 11 Town Center Boulevard, Poughquag
3rd Dist. Beekman Community Center, 31 Recreation Center Road, Poughquag
4th Dist. Beekman Elementary School, 201 Lime Ridge Road, Poughquag
5th Dist. Beekman Fire House, 316 Beekman-Poughquag Road, Poughquag
6th Dist. Beekman Elementary School, 201 Lime Ridge Road, Poughquag
7th Dist. Beekman Elementary School, 201 Lime Ridge Road, Poughquag
8th Dist. Beekman Fire House, 316 Beekman-Poughquag Road, Poughquag
9th Dist. Beekman Community Center, 31 Recreation Center Road, Poughquag

CLINTON

1st Dist. Clinton Town Hall, 1215 Centre Road, Clinton Corners
2nd Dist. Valley Community Church, 2260 Salt Point Turnpike, Clinton Corners
3rd Dist. West Clinton Fire House, Station #1, 219 Hollow Road, Staatsburg

DOVER

1st Dist. Dover Town Hall, 126 East Duncan Hill Road, Dover Plains
2nd Dist. Dover Town Hall, 126 East Duncan Hill Road, Dover Plains
3rd Dist. Dover Town Hall, 126 East Duncan Hill Road, Dover Plains
4th Dist. Dover Middle School, 2368 Route 22, Dover Plains
5th Dist. Dover Middle School, 2368 Route 22, Dover Plains
6th Dist. Dover Middle School, 2368 Route 22, Dover Plains

EAST FISHKILL

1st Dist. Hillside Lake Fire House #3, 207 Hillside Lake Road, Wappingers Falls
2nd Dist. East Fishkill Community Center, 888 Route 82, Hopewell Junction
3rd Dist. Stormville Fire House, 112 Old Route 52, Stormville
4th Dist. Stormville Fire District Substation, 26 Mountain Top Road, Stormville
5th Dist. Stormville Fire District Substation, 26 Mountain Top Road, Stormville
6th Dist. East Fishkill Town Hall, 330 Route 376, Hopewell Junction
7th Dist. East Fishkill Community Library, 348 Route 376, Hopewell Junction
8th Dist. Fishkill Plains Elementary School, 17 Lake Walton Road, Wappingers Falls
9th Dist. Hillside Lake Fire House #3, 207 Hillside Lake Road, Wappingers Falls
10th Dist. Fishkill Plains Elementary School, 17 Lake Walton Road, Wappingers Falls
11th Dist. Fishkill Plains Elementary School, 17 Lake Walton Road, Wappingers Falls
12th Dist. East Fishkill Community Center, 888 Route 82, Hopewell Junction
13th Dist. Wiccopee Fire House, 6 West Hook Rd, Hopewell Junction
14th Dist. Wiccopee Fire House, 6 West Hook Rd, Hopewell Junction
15th Dist. East Fishkill Fire Training Center, 2502 Route 52, Hopewell Junction
16th Dist. Stormville Fire District Substation, 26 Mountain Top Road, Stormville
17th Dist. Stormville Fire House, 112 Old Route 52, Stormville
18th Dist. East Fishkill Town Hall, 330 Route 376, Hopewell Junction
19th Dist. East Fishkill Community Library, 348 Route 376, Hopewell Junction
20th Dist. East Fishkill Community Center, 888 Route 82, Hopewell Junction
21st Dist. East Fishkill Fire Training Center, 2502 Route 52, Hopewell Junction

FISHKILL

1st Dist. Slater Chemical Fire House, 76 Old Glenham Road, Glenham
2nd Dist. Fishkill Center for Rehab & Nursing, 22 Robert R. Kasin Way, Beacon
3rd Dist. Fishkill Center for Rehab & Nursing, 22 Robert R. Kasin Way, Beacon
4th Dist. Dutchess Junction Fire House, 75 Slocum Road, Beacon
5th Dist. Wingate at Dutchess, 3 Summit Court, Fishkill
6th Dist. Slater Chemical Fire House, 76 Old Glenham Road, Glenham
7th Dist. Wingate at Dutchess, 3 Summit Court, Fishkill
8th Dist. Brinckerhoff Elementary School, 16 Wedgewood Road, Fishkill
9th Dist. Brinckerhoff Elementary School, 16 Wedgewood Road, Fishkill
10th Dist. Fishkill Town Hall, 807 Route 52, Fishkill
11th Dist. Fishkill Town Hall, 807 Route 52, Fishkill
12th Dist. Van Wyck Hall, 1095 Main Street, Fishkill
13th Dist. Wingate at Dutchess, 3 Summit Court, Fishkill
14th Dist. Fishkill Town Hall, 807 Route 52, Fishkill
15th Dist. Fishkill Center for Rehab & Nursing, 22 Robert R. Kasin Way, Beacon
16th Dist. Van Wyck Hall, 1095 Main Street, Fishkill

HYDE PARK**FIRST WARD**

1st Dist. Roosevelt Fire House #4, 159 South Cross Road, Staatsburg
2nd Dist. Roosevelt Fire House #5, 47 Old Post Road, Staatsburg
3rd Dist. North Park Elementary School, 1593 Route 9G, Hyde Park
4th Dist. Roosevelt Fire House #1, 9 Cardinal Road, Hyde Park

SECOND WARD

1st Dist. Hyde Park Town Hall, 4383 Route 9, Hyde Park
2nd Dist. Hyde Park Town Hall, 4383 Route 9, Hyde Park
3rd Dist. Hyde Park Town Hall, 4383 Route 9, Hyde Park
4th Dist. St. Peter's School, 12 Father Cody Plaza, Poughkeepsie

THIRD WARD

1st Dist. Roosevelt Fire House #3, 830 Violet Avenue, Hyde Park
2nd Dist. St. Peter's School, 12 Father Cody Plaza, Poughkeepsie
3rd Dist. Roosevelt Fire House #3, 830 Violet Avenue, Hyde Park
4th Dist. Roosevelt Fire House #3, 830 Violet Avenue, Hyde Park

FOURTH WARD

1st Dist. Roosevelt Fire House #2, 265 Cream Street, Poughkeepsie
2nd Dist. Roosevelt Fire House #1, 9 Cardinal Road, Hyde Park
3rd Dist. North Park Elementary School, 1593 Route 9G, Hyde Park
4th Dist. Roosevelt Fire House #2, 265 Cream Street, Poughkeepsie

LAGRANGE

1st Dist. LaGrange Town Hall, 120 Stringham Road, LaGrangeville
2nd Dist. LaGrange Town Hall, 120 Stringham Road, LaGrangeville
3rd Dist. LaGrange Fire House #3 (Southwest LaGrange), 21 Red Oaks Mill Road, Poughkeepsie
4th Dist. LaGrange Fire House #3 (Southwest LaGrange), 21 Red Oaks Mill Road, Poughkeepsie
5th Dist. Overlook Primary School, 11 Mapleview Road Extension, Poughkeepsie
6th Dist. Freedom Plains Presbyterian Church, Community Room, 1168 Route 55, LaGrangeville
7th Dist. LaGrange Fire House #1 (Billings), 2388 Route 82, LaGrangeville
8th Dist. Overlook Primary School, 11 Mapleview Road Extension, Poughkeepsie
9th Dist. Saint Kateri Church, 1925 Route 82, LaGrangeville
10th Dist. Saint Kateri Church, 1925 Route 82, LaGrangeville
11th Dist. LaGrange Fire House #2, 504 Freedom Plains Road, Poughkeepsie
12th Dist. Freedom Plains Presbyterian Church, Community Room, 1168 Route 55, LaGrangeville

MILAN

1st Dist. Milan - Wilcox Memorial Building Town Hall, 20 Wilcox Circle (off Route 199), Milan
2nd Dist. Milan - Wilcox Memorial Building Town Hall, 20 Wilcox Circle (off Route 199), Milan

NORTH EAST

1st Dist. North East - Millerton Library Annex, 28 Century Boulevard, Millerton
2nd Dist. North East - Millerton Library Annex, 28 Century Boulevard, Millerton
3rd Dist. North East - Millerton Library Annex, 28 Century Boulevard, Millerton

NYSCEF DOC. NO. 19

RECEIVED NYSCEF: 07/15/2021

PAWLING

1st Dist. Lathrop Center at Lakeside Park, 2 Lakeside Drive, Pawling
2nd Dist. Lathrop Center at Lakeside Park, 2 Lakeside Drive, Pawling
3rd Dist. Holmes Whaley Lake Civic Association, 239 Route 292, Holmes
4th Dist. Pawling Town Hall, 160 Charles Colman Boulevard, Pawling
5th Dist. Pawling Town Hall, 160 Charles Colman Boulevard, Pawling
6th Dist. Lathrop Center at Lakeside Park, 2 Lakeside Drive, Pawling

PINE PLAINS

1st Dist. Pine Plains Town Hall, 3284 Route 199, Pine Plains
2nd Dist. Pine Plains Town Hall, 3284 Route 199, Pine Plains

PLEASANT VALLEY

1st Dist. Traver Road Primary School, 801 Traver Road, Pleasant Valley
2nd Dist. West Road Intermediate School, 181 West Road, Pleasant Valley
3rd Dist. West Road Intermediate School, 181 West Road, Pleasant Valley
4th Dist. Traver Road Primary School, 801 Traver Road, Pleasant Valley
5th Dist. Traver Road Primary School, 801 Traver Road, Pleasant Valley
6th Dist. Salt Point Fire House, 30 Cottage Street, Salt Point
7th Dist. Salt Point Fire House, 30 Cottage Street, Salt Point

TOWN OF POUGHKEEPSIE**FIRST WARD**

1st Dist. Sheafe Road Elementary School, 287 Sheafe Road, Wappingers Falls
2nd Dist. New Hamburg Fire House, Station #1, 15 Channingville Road, Wappingers Falls
3rd Dist. East End Fire House #2 (New Hamburg Fire District), 2886 Route 9D, Wappingers Falls
4th Dist. Sheafe Road Elementary School, 287 Sheafe Road, Wappingers Falls
5th Dist. East End Fire House #2 (New Hamburg Fire District), 2886 Route 9D, Wappingers Falls

SECOND WARD

1st Dist. Vassar Road Elementary School, 174 Vassar Road, Poughkeepsie
2nd Dist. Oak Grove Elementary School, 40 Kerr Road, Poughkeepsie
3rd Dist. Spackenkill High School, 112 Spackenkill Road, Poughkeepsie
4th Dist. Vassar Road Elementary School, 174 Vassar Road, Poughkeepsie
5th Dist. Oak Grove Elementary School, 40 Kerr Road, Poughkeepsie

THIRD WARD

1st Dist. Poughkeepsie Town Hall, 1 Overocker Road, Poughkeepsie
2nd Dist. Poughkeepsie Town Hall, 1 Overocker Road, Poughkeepsie
3rd Dist. Rochdale Fire House (Arlington Station #4), 1075 Dutchess Turnpike, Poughkeepsie
4th Dist. Town of Poughkeepsie Community Room, 19 Tucker Drive, Poughkeepsie
5th Dist. Rochdale Fire House (Arlington Station #4), 1075 Dutchess Turnpike, Poughkeepsie
6th Dist. Poughkeepsie Town Hall, 1 Overocker Road, Poughkeepsie

FOURTH WARD

1st Dist. Town of Poughkeepsie Community Room, 19 Tucker Drive, Poughkeepsie
2nd Dist. Rochdale Fire House (Arlington Station #4), 1075 Dutchess Turnpike, Poughkeepsie
3rd Dist. Violet Avenue School, 191 Violet Avenue, Poughkeepsie
4th Dist. Violet Avenue School, 191 Violet Avenue, Poughkeepsie
5th Dist. Town of Poughkeepsie Community Room, 19 Tucker Drive, Poughkeepsie

FIFTH WARD

1st Dist. St. Simeon II, 9 Hilltop Court, Poughkeepsie
2nd Dist. Town of Poughkeepsie Senior Center, 14 Abe's Way, Poughkeepsie
3rd Dist. Town of Poughkeepsie Senior Center, 14 Abe's Way, Poughkeepsie
4th Dist. Spackenkill High School, 112 Spackenkill Road, Poughkeepsie

SIXTH WARD

1st Dist. Poughkeepsie United Methodist Church, 2381 New Hackensack Road, Poughkeepsie
2nd Dist. Poughkeepsie United Methodist Church, 2381 New Hackensack Road, Poughkeepsie
3rd Dist. Dutchess County Water and Wastewater Authority, 1 LaGrange Avenue, Poughkeepsie
4th Dist. Dutchess County Water and Wastewater Authority, 1 LaGrange Avenue, Poughkeepsie
5th Dist. Spackenkill High School, 112 Spackenkill Road, Poughkeepsie
6th Dist. Spackenkill High School, 112 Spackenkill Road, Poughkeepsie

NYSCEF DOC. NO. 19

RECEIVED NYSCEF: 07/15/2021

RED HOOK

1st Dist. Tivoli Fire House, 2 Tivoli Commons, Tivoli
2nd Dist. Red Hook High School, 103 West Market Street, Red Hook
3rd Dist. St. John's Reformed Church, 126 Old Post Road North, Red Hook
4th Dist. Red Hook High School, 103 West Market Street, Red Hook
5th Dist. Richard B Fisher Center for the Performing Arts, 60 Manor Avenue, Annandale-on-Hudson
6th Dist. Red Hook Fire House, 42 Firehouse Lane, Red Hook
7th Dist. Red Hook Town Hall, 7340 South Broadway, Red Hook
8th Dist. Red Hook Town Hall, 7340 South Broadway, Red Hook

RHINEBECK

1st Dist. Arbor Ridge at Brookmeade, 11 Mountain Laurel Lane, Rhinebeck
2nd Dist. Rhinebeck Town Hall, 80 East Market Street, Rhinebeck
3rd Dist. Starr Library, 68 West Market Street, Rhinebeck
4th Dist. Rhinebeck Town Hall, 80 East Market Street, Rhinebeck
5th Dist. Rhinebeck Town Hall, 80 East Market Street, Rhinebeck
6th Dist. Starr Library, 68 West Market Street, Rhinebeck
7th Dist. Arbor Ridge at Brookmeade, 11 Mountain Laurel Lane, Rhinebeck

STANFORD

1st Dist. Stanford Town Hall-Ground Level, 26 Town Hall Road, Stanfordville
2nd Dist. Stanford Town Hall-Upper Level, 26 Town Hall Road, Stanfordville
3rd Dist. Stanford Town Hall-Ground Level, 26 Town Hall Road, Stanfordville

UNION VALE

1st Dist. Senior Citizen Center, Tymor Park Barn Complex, 6 Tymor Park Road, LaGrangeville
2nd Dist. Senior Citizen Center, Tymor Park Barn Complex, 6 Tymor Park Road, LaGrangeville
3rd Dist. Union Vale Fire House, Station #1, 3373 Route 82, Verbank
4th Dist. Union Vale Fire House, Station #1, 3373 Route 82, Verbank

WAPPINGER**FIRST WARD**

1st Dist. Village Hall, 2582 South Avenue, Wappingers Falls
2nd Dist. Village Hall, 2582 South Avenue, Wappingers Falls
3rd Dist. Hughsonville Fire House, 88 Old Hopewell Road, Wappingers Falls
4th Dist. Hughsonville Fire House, 88 Old Hopewell Road, Wappingers Falls
5th Dist. Imperial Gardens Apartment Complex, 5101 Princess Circle, Wappingers Falls

SECOND WARD

1st Dist. Hughsonville Fire House, 88 Old Hopewell Road, Wappingers Falls
2nd Dist. Chelsea Fire House, 16 Liberty Street, Wappingers Falls
3rd Dist. Chelsea Fire House, 16 Liberty Street, Wappingers Falls
4th Dist. Hughsonville Fire House, 88 Old Hopewell Road, Wappingers Falls
5th Dist. Mid-Hudson Chinese Christian Church, 306 All Angels Hill Road, Wappingers Falls
6th Dist. Hughsonville Fire House, 88 Old Hopewell Road, Wappingers Falls

THIRD WARD

1st Dist. Imperial Gardens Apartment Complex, 5101 Princess Circle, Wappingers Falls
2nd Dist. Roy C. Ketcham High School, 99 Myers Corners Road, Wappingers Falls
3rd Dist. Myers Corners Elementary School, 156 Myers Corners Road, Wappingers Falls
4th Dist. Mid-Hudson Chinese Christian Church, 306 All Angels Hill Road, Wappingers Falls
5th Dist. Myers Corners Elementary School, 156 Myers Corners Road, Wappingers Falls
6th Dist. Roy C. Ketcham High School, 99 Myers Corners Road, Wappingers Falls

FOURTH WARD

1st Dist. New Hackensack Fire House, 217 Myers Corners Road, Wappingers Falls
2nd Dist. New Hackensack Fire House, 217 Myers Corners Road, Wappingers Falls
3rd Dist. Roy C. Ketcham High School, 99 Myers Corners Road, Wappingers Falls
4th Dist. Mid-Hudson Chinese Christian Church, 306 All Angels Hill Road, Wappingers Falls
5th Dist. New Hackensack Fire House, 217 Myers Corners Road, Wappingers Falls

NYSCEF DOC. NO. 19

RECEIVED NYSCEF: 07/15/2021

WASHINGTON

1st Dist. Millbrook Fire House, 20 Front Street, Millbrook
2nd Dist. Millbrook Fire House, 20 Front Street, Millbrook
3rd Dist. Millbrook Fire House, 20 Front Street, Millbrook
4th Dist. Millbrook Fire House, 20 Front Street, Millbrook

CITY OF BEACON**FIRST WARD**

1st Dist. Lewis Tompkins Hose Company Route 9D Entrance, 13 South Avenue, Beacon
2nd Dist. Rombout Middle School, 84 Matteawan Road (Gymnasium Entrance), Beacon

SECOND WARD

1st Dist. Lewis Tompkins Hose Company Route 9D Entrance, 13 South Avenue, Beacon
2nd Dist. Lewis Tompkins Hose Company Route 9D Entrance, 13 South Avenue, Beacon
3rd Dist. Lewis Tompkins Hose Company Route 9D Entrance, 13 South Avenue, Beacon

THIRD WARD

1st Dist. Rombout Middle School, 84 Matteawan Road (Gymnasium Entrance), Beacon
2nd Dist. James V. Forrestal Elementary School, 125 Liberty Street, Beacon
3rd Dist. James V. Forrestal Elementary School, 125 Liberty Street, Beacon

FOURTH WARD

1st Dist. City of Beacon Memorial Building, 413 Main Street, Beacon
2nd Dist. City of Beacon Memorial Building, 413 Main Street, Beacon

CITY OF POUGHKEEPSIE**FIRST WARD**

1st Dist. Poughkeepsie City Hall, 62 Civic Center Plaza, Poughkeepsie
2nd Dist. Poughkeepsie City Hall, 62 Civic Center Plaza, Poughkeepsie
3rd Dist. Poughkeepsie City Hall, 62 Civic Center Plaza, Poughkeepsie

SECOND WARD

1st Dist. Mid-Hudson Library, Auditorium, 105 Market Street, Poughkeepsie
2nd Dist. Mid-Hudson Library, Auditorium, 105 Market Street, Poughkeepsie
3rd Dist. Manor at Woodside, 168 Academy Street, Poughkeepsie

THIRD WARD

1st Dist. Beulah Baptist Church, 92 Catharine Street, Poughkeepsie
2nd Dist. Beulah Baptist Church, 92 Catharine Street, Poughkeepsie

FOURTH WARD

1st Dist. Manor at Woodside, 168 Academy Street, Poughkeepsie
2nd Dist. St. Simeon Apartments, Community Room, 700 Second Mile Drive, Poughkeepsie
3rd Dist. Unitarian Universalist Church, 67 South Randolph Avenue, Poughkeepsie
4th Dist. Manor at Woodside, 168 Academy Street, Poughkeepsie

FIFTH WARD

1st Dist. Warring School Gymnasium, 283 Mansion Street, Poughkeepsie
2nd Dist. Warring School Gymnasium, 283 Mansion Street, Poughkeepsie
3rd Dist. Warring School Gymnasium, 283 Mansion Street, Poughkeepsie

SIXTH WARD

1st Dist. Beth-El Church of God in Christ - Rear Entrance, 91 Hooker Avenue, Poughkeepsie
2nd Dist. Beth-El Church of God in Christ - Rear Entrance, 91 Hooker Avenue, Poughkeepsie
3rd Dist. City of Poughkeepsie Public Safety Building, 505 Main Street, Poughkeepsie

SEVENTH WARD

1st Dist. Poughkeepsie Middle School Lobby, 55 College Avenue, Poughkeepsie
2nd Dist. Salvation Army, 19 Pershing Avenue, Poughkeepsie
3rd Dist. Poughkeepsie Middle School Lobby, 55 College Avenue, Poughkeepsie

EIGHTH WARD

1st Dist. Krieger School Gymnasium - Whittier Boulevard Entrance, 265 Hooker Avenue, Poughkeepsie
2nd Dist. St. John's Lutheran Church, 55 Wilbur Boulevard, Poughkeepsie
3rd Dist. St. John's Lutheran Church, 55 Wilbur Boulevard, Poughkeepsie
4th Dist. Krieger School Gymnasium - Whittier Boulevard Entrance, 265 Hooker Avenue, Poughkeepsie

The following poll sites have been designated as early voting sites:

Poughkeepsie City Hall, 62 Civic Center Plaza, Poughkeepsie

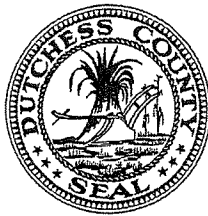
Fishkill Town Hall, 807 Route 52, Fishkill

Rhinebeck Town Hall, 80 East Market Street, Rhinebeck

Town of Poughkeepsie Community Room, 19 Tucker Drive, Poughkeepsie

Cornell Cooperative Extension, 2715 Route 44, Millbrook

**Exhibit 17 to Verified Petition
of Bard College et al.**



Erik J. Haight
Commissioner

Hannah R. Black
Commissioner

DUTCHESS COUNTY BOARD of ELECTIONS
47 Cannon Street, Poughkeepsie, New York 12601
845-486-2473/845-486-2483 fax
www.dutchesselections.com

Resolution Number 05-2021: Rescinding Resolution 1-2021

Whereas, Resolution 1-2021 Designating Polling Places for the year 2021, is hereby rescinded.

Now, therefore, be it

Resolved, The Board of Elections will designate 2021 polling places to be held on February 25, 2021 at 11:00 am. The BOE will provide notice in accordance with the open meetings law.

A handwritten signature in black ink, appearing to be "E. Haight", written over a horizontal line.

Erik J. Haight
Commissioner

A handwritten signature in black ink, appearing to be "H. Black", written over a horizontal line.

Hannah R. Black
Commissioner

Dated: 2/8/2021

**Exhibit 18 to Verified Petition
of Bard College et al.**

BARD COLLEGE

A College of the Liberal Arts and Sciences

*Executive Vice President and Director
Center for Civic Engagement*

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

Re: Board of Elections Ongoing Violation of Duty To Designate District 5 Polling Location

Dear Commissioner Haight and Commissioner Black:

Over the last three months, I have written to you repeatedly regarding the request of the Bard Center for Civic Engagement that the Board of Elections (the “Board”) designate the Bertelsmann Campus Center (the “Center”) as the polling location for District 5 in Red Hook, including.

- My February 19, 2021 letter in advance of the February 25, 2021 public meeting of the Board.
- My March 12, 2021 letter following the February 25, 2021 meeting.
- My April 1, 2021 letter following the expiration of the March 15 location-designation deadline with no explicit designation by the Board.

In these letters, I have laid out in detail the various misstatements of Commissioner Haight at the February 25 public meeting; the merits of the Center as a polling location, following its successful experience on November 3, 2020; and the continuing defects of the St. John’s Church in Barrytown (the “Church”) as a polling location. I have received no response from the Board.

Despite all of the factors referenced in my earlier letters—including the expiration of the deadline for designating polling locations--it appears the Board is on a course to attempt to retroactively designate the Church as the sole polling location for District 5 in Red Hook for 2021. Hence, this letter.

On November 3, 2020, District 5 voters voted at either the Center or the Church. They did so pursuant to Judge Rosa’s October 30, 2020 Order that the Center “be made available by the Dutchess County Board of Elections as an additional polling location.” That Order is the most recent legal designation of polling locations in District 5 because, as noted, the Board did not designate polling locations by the March 15 deadline, or since then.

Nevertheless, on or about April 20 the Board issued postcards to eligible voters in District 5 of Red Hook with the following language: “YOUR POLLING PLACE HAS BEEN CHANGED. YOU NOW VOTE AT: St. John’s Episcopal Church, 114 River Road, Red Hook NY 12571.” The Board

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*Executive Vice President and Director
Center for Civic Engagement*

had no authority to issue such postcards. Having failed to designate any polling location by the March 15 deadline, the Board could not have “changed” any polling place.

Furthermore, the postcards also say: “ATTENTION VOTER: If you still reside at the above address, you may continue to vote at the accessible polling place shown on this card.” “Continue” implies voting in the future at the same place you voted most recently. Thus, it is incorrect and confusing to tell someone who voted at the Center on November 3, 2020 that s/he “may **continue** to vote at the accessible polling place shown on this card” (i.e., the Church) when that person did not vote at the Church on November 3. For someone who voted at the Center on November 3, 2020, the only location to “continue” to vote is the Center.

Finally, it is also incorrect and misleading to refer to the Church as an “accessible polling place.” My earlier letters explain the Church’s inaccessibility in detail. This misdescription is an offense to District 5 voters with disabilities or mobility impairments, or persons who accompany such persons to the polls, who rely on such information in determining whether they must anticipate physical obstacles.

Absent a timely, unanimous Board designation, Judge Rosa’s Order remains the last legal designation of polling locations in District 5. As I said in my letter of March 12, “[i]f there is a ‘default’ position [i.e., in the absence of an agreement between the two Commissioners], it is that both the Church and the Campus Center be re-designated.”

To ensure that the Board understands Bard’s position, I am attaching a copy of that October 30, 2020 Order. Please note the relevant language:

ORDERED that the Bertelsmann Campus Center at Bard College...be made available by the Dutchess County Board of Elections...as an additional polling location of the Town of Red Hook Voting District 5, along with the St. John’s Episcopal Church....;

ORDERED that Dutchess County Board of Elections update its website to indicate that Bertelsmann Campus Center has been designated as an additional polling location for the Town of Red Hook Election District 5 as soon as possible....

Neither these nor any other paragraphs of the Order limit the designation of the Bertelsmann Campus Center to the election of November 3, 2020. Neither that Election Day nor any other is referenced in the Order. I note that, consistent with this Order, the Board of Elections’ website continues to (correctly) identify both the Bertelsmann Campus Center and the Church as polling locations for District 5 after the March 15 deadline.

The explicit language of the October 30, 2020 Order refutes Commissioner Haight’s unsupported, erroneous contention at the February 25 meeting that absent an agreement between the Commissioners the default position reverts to the Church as the sole 2021 polling location in District 5. Failing to recognize the Bertelsmann Campus Center as a polling location—after Judge Rosa’s *two* orders designating it and after the Center successfully hosted voting on November 3,

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*Executive Vice President and Director
Center for Civic Engagement*

2020--would be further evidence of discrimination against students, minorities, and disabled voters of District 5.

Particularly troubling is the Board's continued indifference to the American with Disabilities Act and to the interests of District 5 voters who are persons with disabilities or mobility impairments generally. The most recent evidence of this indifference comes from the response I received to a recent FOIL request. On March 10, 2021 at 9:26AM, Commissioner Black emailed Commissioner Haight: "It has come to my attention that St. John's Episcopal Church is not ADA compliant and requires another review. Can we set up a date and time with someone from your side to be available to set up doing this survey?" Commissioner Haight responded six minutes later: "Says who?" That response—"says who?"—speaks volumes. A Board that takes seriously its obligation to ensure that polling locations are ADA-compliant would *welcome* input from the community about such concerns. More important, such a Board would conduct real ADA surveys (as opposed to the sham 2019 Survey that was the supposed basis of the designation of the Church in the past) and would conduct the post-construction ADA survey required by the recent construction at the Church (as the Board has failed to do).

My earlier letters provide a detailed history of the Board's derelictions regarding the ADA. In summary:

A) The March 11, 2019, "ADA Checklist for Polling Places Survey Form" (found on page 73 of our filing: <https://tools.bard.edu/wwwmedia/files/8850342/79/FullFiling.pdf>), that the Board purportedly used in previously designating the Church is a sham. "N/A" is the response to 17 of the 37 survey questions. The ramp compliance section is ignored entirely, despite the fact that the ramp is the only way for voters to enter the building. In a separate letter to County Executive Marcus Molinaro (attached), I have urged him to hold the Board accountable and demand answers to questions such as:

- Who reviewed this "Survey?"
- Who authorized the surveyors to ignore the 17 questions left "N/A?"
- Who advised the Board that these questions need not be answered?
- What training did the surveyors have regarding the applicable requirements of the ADA?
- Did the Board ask the surveyors why they felt those 17 questions were "N/A?" If not, why not? If so, what did the surveyors say?
- Did the surveyors review the "ADA Checklist for Polling Places" published by the U.S. Department of Justice in preparing the Survey? <https://www.ada.gov/votingchecklist.pdf>
- Did the Board review this ADA Checklist after receiving the Survey?
- How did the Board determine that the Church is ADA-compliant upon a review of the Survey?

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*Executive Vice President and Director
Center for Civic Engagement*

- What has the Board done to ensure that future ADA surveys will not be similarly flawed?
- Having been placed on notice of the severe insufficiencies of the Survey, what steps has the Board taken to confirm whether the Church is ADA compliant in connection with its recent issuance of Voting Cards informing District 5 voters that their polling place has been changed to the Church?

B) The Board's continued insistence upon the Church as a polling location reflects the Board's indifference to its ADA-related obligations under New York State election law. We detailed the Church's non-compliance in court filings in our lawsuit last fall

(<https://tools.bard.edu/wwwmedia/files/8850342/78/ADAReport.pdf>) . You can also see a film vividly outlining the non-compliance here

(<https://www.youtube.com/watch?v=jbp69ILmCG8&t=4s>), and see a press conference concerning disability issues and District 5 hosted by Caring Majority Rising here

(<https://www.youtube.com/watch?v=ZFp2C8bU7S0&t=2s>).

C) The Board has repeatedly ignored complaints about the Church's inaccessibility. Such documentation has appeared in numerous letters and documents and images submitted in cases before the New York State Supreme and Appellate Courts to which Commissioner Haight was party, as well as in images and documents easily available to the public

(<https://cce.bard.edu/community/election/voting-rights/>).

D) The Board is aware that, after this 2019 "Survey," the Church underwent significant renovations. Such renovations require a new ADA survey that the Board has failed to conduct despite being placed on notice repeatedly of its obligation to do so.

For all of these reasons, we ask the Board to acknowledge the Bard College Campus Center as the polling location for the 5th District, or one of two such locations as required by Judge Rosa's Order. In addition to its proven track record, the Campus Center complies with the NYS Election Law. Specifically:

- the Campus Center is in close proximity to the Dutchess County LOOP bus stop (a .2- .3-mile, 4-minute walk on well-lit sidewalks);
- the Campus Center is accessible for those with disabilities and has satisfied the ADA-compliance survey required under the Election Law;
- the Campus Center is in the heart of the Bard campus, and thus is within easy walking distance to the majority of voters in District 5, who live or work on campus;
- the Campus Center provides a large quantity of parking – including several designated accessible parking places – within the immediate vicinity of the Campus Center;

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*Executive Vice President and Director
Center for Civic Engagement*

- the Campus Center has large, open spaces which allow for socially-distant polling and adequate queuing as we continue to battle the COVID-19 pandemic; and
- the Campus Center allows for queuing inside the building, mitigating the impacts of inclement weather on elections.

On February 9, 2021, the Red Hook Town Board unanimously reaffirmed previous (unanimously approved) resolutions (including two from 2020) supporting the Campus Center as the polling site for District 5. The Town Board's input is critical, because state election law mandates consultation with the Town in this process.

The Bard College administration also endorses the Campus Center as the best polling place on campus. It is far preferable to the Performing Arts Center, which was briefly designated as a polling site in the now-rescinded resolution of November 30, 2020, because:

- The Campus Center is much closer to public transport than the Performing Arts Center.
- The Campus Center is at the center of the campus; the Performing Arts Center is nearly a mile from the center of campus, situated at the northern-most edge of a 600-acre main campus;
- The Campus Center has more proximate access to parking, including handicap parking, than the Performing Arts Center.
- The Campus Center has far better handicap accessibility and more and better situated handicap parking than other potential sites, like the Stevenson Gymnasium, which has little adjacent handicap parking and whose main floor is not on the same level of any entrance and thus requires the use of stairs or a single seated lift to access a polling location.
- The Campus Center is not regularly used as a core teaching facility and thus using it for polling is less disruptive to the day-to-day educational activities of the College than the Performing Arts Center, which regularly holds classes, rehearsals and student and public performances.
- The Campus Center is a substance-free building and has no liquor license, so alcohol is not sold or served there.
- The Campus Center, like other Bard facilities, is regularly used by the public: it contains a fully functioning United States Postal Service post office and hosts regular public events, including regular annual meetings of Bard's senior learners in its Lifetime Learning Institute.¹

¹ At some point during our prior advocacy efforts for an on-campus polling place, Commissioner Haight raised a concern about the adequacy of the Bertelsmann Campus Center due to the supposed placement of political signs in the environs. Having surveyed the area and then consulted Bard Security, student life staff, and staff at Bard's Center for Civic Engagement, we found no such evidence.

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*Executive Vice President and Director
Center for Civic Engagement*

The Campus Center is also a far better location than St. John's Episcopal in Barrytown, the previous exclusive polling site in District 5, because:

- To support youth voters, who comprise 65-70% of the registered voters in District 5, it is important that the polling site be viewed as safe and accessible. These youth voters include a large number of Bard students from underrepresented communities, representing the largest concentration of youth voters and voters of color in Red Hook
- A polling place must be located on a public transportation route when practicable. The Church is not. A significant majority of District 5 voters live near the center of the Bard campus, within easy walking distance of the Campus Center. St. John's is not accessible by foot, because it is situated on a dangerous windy and unlit county road with no sidewalk or walkable verge. Notably, Bard prohibits Bard-operated transportation from using this county road due to the dangerous driving conditions.
- A polling place must be ADA-accessible. The Church is not.
- The Church has no designated ADA-accessible parking.
- The Campus Center is close to the Dutchess County LOOP bus stop; St. John's is not.
- The Campus Center has ample parking. St. John's has limited parking, consisting of two small lots that require either walking up or down an incline to get to the Church's entrances, creating a challenge for mobility-impaired voters.
- The Campus Center has handicap accessible parking. Neither of St. John's two small lots have designated handicap parking spaces.
- St. John's is not handicap accessible and fails to meet Americans with Disability Act guidelines for access (contrary to the erroneous conclusions of the Board of Elections' previous incomplete ADA assessment).
- The Campus Center is spacious; St. John's is too small for social distancing.
- The Campus Center has ample space for queuing inside the building, whereas the que at St. John's has forced voters to stand out in the pouring rain.
- An accessibility survey must be conducted after construction. The Church underwent reconstruction in fall 2020, but no survey has been conducted.

In 2000 a bipartisan county legislative committee, on which current-County Executive Mark Molinaro served, was asked to review relevant legislation when Bard students, and students across the county, were systematically denied voting rights across the county by then Election Commissioner William Paroli Sr. The committee concluded unanimously that not only do students have the right to vote locally, but "[t]he Dutchess County Board of Elections should encourage the use of voting franchise among students." Our request that you designate the Campus Center as the polling location for District 5 is in that spirit.

Our request is in the spirit of this year, which marks the 50th anniversary of the 26th Amendment to

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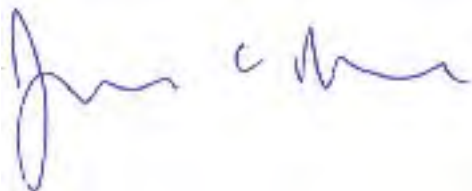
*Executive Vice President and Director
Center for Civic Engagement*

the U.S. Constitution. That amendment provides: "The right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age." Of note, in ratifying the 26th Amendment, Congress explicitly contemplated the unconstitutionality of forcing students to undertake special burdens such as travelling off-campus to vote. The 26th Amendment is one of many steps taken to extend voting rights since the founding of the republic. These extensions have removed barriers to voting for previously disenfranchised communities, including African Americans, women, and non-property owners.

It is well documented, if less well known, that youth voters have long been subjected to such barriers as well. Sadly, these barriers have existed in Dutchess County, as evidenced by the lawsuits that Bard students have had to pursue (successfully) over several decades. We write in the hope that this year the Board of Elections will designate the Campus Center, a polling site that comports with state and federal law, complies with the wishes of the Town of Red Hook, and which, most importantly, promotes youth voter participation.

Thank you for your consideration of this important matter.

Yours sincerely,



Jonathan A. Becker

Executive Vice President, Bard College Director, Bard Center for Civic Engagement

jbecker@bard.edu

cc:

New York State Board of Elections, Chief Enforcement Counsel

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 Kristofer Munn, County Legislator

Honorable Robert McKeon, Supervisor, Town of Red Hook

New York State Board of Elections, Co-Chairs Peter S. Kosinski and Douglas A. Kellner;

Commissioner Andrew J. Spano; Commissioner Anthony J. Casale

Michael Volpe, Esq., Venable LLP

**Exhibit 19 to Verified Petition
of Bard College et al.**

VIA ELECTRONIC MAIL AND USPS

April 1, 2021

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

Re: Supplement to March 12, 2021 Letter to BOE

Dear Commissioner Haight and Commissioner Black:

I am writing a follow up note to my letter of March 12th now that the March 15 deadline for designating polling locations has passed without any explicit designation by the Board of Elections of which we are aware.

In my letter of March 12, 2021 (page 3), I wrote that Judge Rosa's October 30, 2020 Order that the Bertelsmann Campus Center "be made available by the Dutchess County Board of Elections as an additional polling location" is the last legal designation of polling locations in District 5. As I said in that letter, "[i]f there is a 'default' position [i.e., in the absence of an agreement between the two Commissioners], it is that both the Church and the Campus Center be re-designated."

To ensure that the Board understands Bard's position, I am attaching a copy of that October 30, 2020 Order. Please note the relevant language:

ORDERED that the Bertelsmann Campus Center at Bard College...be made available by the Dutchess County Board of Elections...as an additional polling location of the Town of Red Hook Voting District 5, along with the St. John's Episcopal Church....;

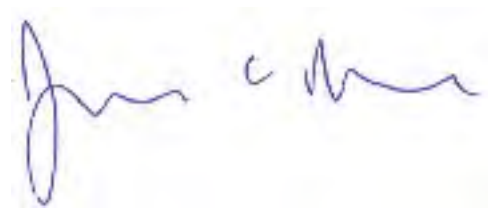
ORDERED that Dutchess County Board of Elections update its website to indicate that Bertelsmann Campus Center has been designated as an additional polling location for the Town of Red Hook Election District 5 as soon as possible....

Neither these nor any other paragraphs of the Order limit the designation of the Bertelsmann Campus Center to the election of November 3, 2020. Neither that Election Day nor any other is referenced in the Order. I note that, consistent with this Order, the Board of Elections' website continues to (correctly) identify both the Bertelsmann Campus Center and the Church as polling locations for District 5 after the March 15 deadline

The explicit language of the October 30, 2020 Order refutes Commissioner Haight's unsupported, erroneous contention at the February 25 meeting that absent an agreement between the Commissioners the default position reverts to the Church as the sole 2021 polling location in District 5. Failing to recognize the Bertelsmann Campus Center as a polling location—after Judge Rosa's *two* orders designating it and after the Center successfully hosted voting on November 3, 2020--would be further to evidence of discrimination against students, minorities, and disabled voters of District 5.

Thank you for your consideration on this important matter.

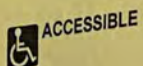
Yours sincerely,

A handwritten signature in blue ink, appearing to read "Jonathan A. Becker". The signature is fluid and cursive, with a large initial "J" and "A".

Jonathan A. Becker
Executive Vice President, Bard College
Director, Bard Center for Civic Engagement
jbecker@bard.edu

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
Commissioner Andrew J Spano
Commissioner Anthony J. Casale
Michael Volpe, Esq., Venable LLP
Yael Bromberg, Esq., Bromberg Law LLC, The Andrew Goodman Foundation

**Exhibit 20 to Verified Petition
of Bard College et al.**



ACCESSIBLE



R2073234	Your Party Affiliation is: Democratic
Town Ward District	Red Hook 000 005

RESIDENCE ADDRESS: 117 BARRYTOWN RD
BARRYTOWN NY 12507

ATTENTION VOTER: If you still reside at the above address, you may continue to vote at the accessible polling place shown on this card. **Knowing your election district will help speed the check-in process at the polls.**

- If you move from this address, but remain in New York, send your change of address to the Board of Elections, so that your record may be updated.
- If you have not notified the Board of your change of address, you may vote by a paper ballot at your new polling place on election day, and have your records updated at that time.

If you will be out of the County on Primary or General Election day or are physically disabled you may contact the County Board of Elections to apply for an absentee ballot or to make alternate voting arrangements.

If you are interested in serving as an election day worker, need an absentee ballot application or voter registration forms, or have other questions, please contact the Board of Elections at 845-486-2473 or www.elections.dutchessny.gov

**YOUR POLLING PLACE HAS BEEN CHANGED.
YOU NOW VOTE AT:**

**St. John's Episcopal Church
114 River Road
Red Hook NY 12571**

**** HELPFUL INFORMATION ****

In New York State, in order to vote in a Primary, you must be enrolled in the party having the Primary, unless state party rules allow otherwise.

There may not always be a Primary for your party.

The Following is your Jurisdictional Information

Town Ward District	Red Hook 000 005
Congressional District	019
State Senatorial District	041
Assembly District	103
County Legislative District	020

DUTCHESS COUNTY BOARD OF ELECTIONS
112 DELAFIELD STREET, SUITE 200
POUGHKEEPSIE NY 12601



RETURN SERVICE REQUESTED



Non-Profit
U.S. Postage
PAID
Rochester NY
Permit No. 1694

Voter ID # 2110001

**ATTENTION VOTER:
NYS HAS ADOPTED EARLY VOTING!**

2021 Primary – June 22nd, 2021

Polls open 6:00 AM until 9:00 PM

Early Voting: June 12th – June 20th, 2021*

*You are eligible to vote 10 days before the
June 22nd, 2021 election*

2021 General Election – Nov. 2nd, 2021

Polls open 6:00 AM until 9:00 PM

Early Voting: October 23rd – October 31st, 2021*

*You are eligible to vote 10 days before the
November 2nd, 2021 election*

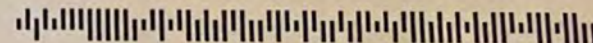
**For further information on times and location(s) of your
Early Voting Site, contact the Dutchess Board
of Elections at 845-486-2473 or visit our website at
www.elections.dutchessny.gov*

Commissioner: Erik J. Haight
Commissioner: Hannah Black

IF THE PERSON THIS MAIL WAS SENT TO IS NOT AT THIS ADDRESS,
PLEASE MARK THE CARD ACCORDINGLY AND DROP IT BACK IN THE MAIL.

**ATTENTION VOTER
NYS HAS ADOPTED
EARLY VOTING**

**FOR FASTER CHECK-IN BRING
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JONATHAN A BECKER
347 NORTON RD
RED HOOK, NY 12571-1857

**Exhibit 21 to Verified Petition
of Bard College et al.**

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DUTCHESS COUNTY POLLING PLACES

[Home](#) > [Voter Information](#) > Dutchess County Polling Places

Please note that some polling locations may have changed. Check your election district below to see where you will go to vote. Many polling locations can be clicked to get a map of its address.

The [online poll site locator](#) is updated to reflect the current election.

AMENIA

1st District	A	Immaculate Conception-St. Patrick Parish	11 Lavelle Rd	Amenia
2nd District	A	Wassaic Fire Company	27 Firehouse Rd	Wassaic
3rd District	A	V.F.W. Harlem Valley Post #5444	3422 Route 22	Dover Plains

BEEKMAN

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District

3rd District	A	Beekman Community Center	31 Recreation Center Rd.	Hopewell
4th District	A	Beekman Elementary School	201 Lime Ridge Rd.	Poughquag
5th District	A	Beekman Fire Company	316 Beekman-Poughquag Rd.	Poughquag
6th District	A	Beekman Elementary School	201 Lime Ridge Rd.	Poughquag
7th District	A	Beekman Elementary School	201 Lime Ridge Rd.	Poughquag
8th District	A	Beekman Fire Company	316 Beekman-Poughquag Rd.	Poughquag
9th District	A	Beekman Community Center	31 Recreation Center Rd.	Hopewell

CLINTON

1st District	A	Clinton Town Hall	1215 Centre Rd.	Clinton Corners
2nd District	A	Valley Community Church	2260 Salt Point Turnpike	Clinton Corners
3rd District	A	West Clinton Fire Co., Station #1	219 Hollow Rd.	Staatsburg

DOVER

1st District	A	Dover Town Hall	126 East Duncan Hill Rd.	Dover Plains
2nd District	A	Dover Town Hall	126 East Duncan Hill Rd.	Dover Plains
3rd District	A	Dover Town Hall	126 East Duncan Hill Rd.	Dover Plains
4th District	A	Dover Middle School	2368 Route 22	

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EAST FISHKILL


1st District	A	Hillside Lake Fire Company #3	207 Hillside Lake Rd.	Wappingers Falls
2nd District	A	East Fishkill Community Center	888 Route 82	Hopewell Junction
3rd District	A	Stormville Fire House	112 Old Route 52	Stormville
4th District	A	Stormville Fire District Substation	26 Mountain Top Rd.	Stormville
5th District	A	Stormville Fire District Substation	26 Mountain Top Rd.	Stormville
6th District	A	East Fishkill Town Hall	330 Route 376	Hopewell Junction
7th District	A	East Fishkill Community Library	348 Route 376	Hopewell Junction
8th District	A	Fishkill Plains Elementary School	17 Lake Walton Rd.	Wappingers Falls
9th District	A	Hillside Lake Fire Company #3	207 Hillside Lake Rd.	Wappingers Falls
10th District	A	Fishkill Plains Elementary School	17 Lake Walton Rd.	Wappingers Falls
11th District	A	Fishkill Plains Elementary School	17 Lake Walton Rd.	Wappingers Falls
12th District	A	East Fishkill Community Center	888 Route 82	Hopewell Junction
13th District	A	Wicoppee Fire Company	6 West Hook Rd.	Hopewell Junction
14th District	A	Wicoppee Fire Company	6 West Hook Rd.	Hopewell Junction

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15th District	A	East Fishkill Fire Training Center	2502 Route 52	Hopewell Junction
16th District	A	Stormville Fire District Substation	26 Mountain Top Rd.	Stormville
17th District	A	Stormville Fire House	112 Old Route 52	Stormville
18th District	A	East Fishkill Town Hall	330 Route 376	Hopewell Junction
19th District	A	East Fishkill Community Library	348 Route 376	Hopewell Junction
20th District	A	East Fishkill Community Center	888 Route 82	Hopewell Junction
21th District	A	East Fishkill Fire Training Center	2502 Route 52	Hopewell Junction

FISHKILL

1st District	A	Slater Chemical Fire House	76 Old Glenham Rd.	Beacon
2nd District	A	Dutchess Stadium Transportation Center	1500 Route 9D	Wappingers Falls
3rd District	A	Dutchess Stadium Transportation Center	1500 Route 9D	Wappingers Falls
4th District	A	Dutchess Junction Fire Company	75 Slocum Rd	Beacon
5th District	A	Our Savior Lutheran Church	1400 Route 52	Fishkill
6th District	A	Slater Chemical Fire House	76 Old Glenham Rd.	Beacon
7th District	A	Our Savior Lutheran Church	1400 Route 52	Fishkill
8th	A	Brinckerhoff Elementary	16 Wedge	Fishkill

 English

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District			Rd.	
10th District	A	Fishkill Town Hall	807 Route 52	Fishkill
11th District	A	Fishkill Town Hall	807 Route 52	Fishkill
12th District	A	Van Wyck Hall	1095 Main St.	Fishkill
13th District	A	Our Savior Lutheran Church	1400 Route 52	Fishkill
14th District	A	Fishkill Town Hall	807 Route 52	Fishkill
15th District	A	Dutchess Stadium Transportation Center	1500 Route 9D	Wappingers Falls
16th District	A	Van Wyck Hall	1095 Main St.	Fishkill

HYDE PARK

1st Ward	1st District	A	Roosevelt Fire House #4	159 S Cross Rd.	Sta
1st Ward	2nd District	A	Roosevelt Fire House #5	47 Old Post Rd.	Sta
1st Ward	3rd District	A	North Park Elementary School	1593 Route 9G	Hy
1st Ward	4th District	A	Roosevelt Fire House #1	9 Cardinal Rd.	Hy
2nd Ward	1st District	A	Hyde Park Town Hall	4383 Albany Post Road	Hy
2nd Ward	2nd District	A	Hyde Park Town Hall	4383 Albany Post Road	Hy
2nd Ward	3rd District	A	Hyde Park Town Hall	4383 Albany Post Road	Hy
2nd Ward	4th District	A	St. Peter's School	12 Father Cody Plaza	Po

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3rd Ward	2nd District	A	St. Peter's School	12 Father Cody Plaza	Pol
3rd Ward	3rd District	A	Roosevelt Fire House #3	830 Violet Ave	Hy
3rd Ward	4th District	A	Roosevelt Fire House #3	830 Violet Ave	Hy
4th Ward	1st District	A	Roosevelt Fire House #2	265 Cream St.	Pol
4th Ward	2nd District	A	Roosevelt Fire House #1	9 Cardinal Rd.	Hy
4th Ward	3rd District	A	North Park Elementary School	1593 Route 9G	Hy
4th Ward	4th District	A	Roosevelt Fire House #2	265 Cream St.	Pol

LAGRANGE

1st District	A	Lagrange Town Hall	120 Stringham Rd
2nd District	A	Lagrange Town Hall	120 Stringham Rd
3rd District	A	Lagrange Fire District Station #3	21 Red Oaks Mill I
4th District	A	Lagrange Fire District Station #3	21 Red Oaks Mill I
5th District	A	Overlook Primary School	11 Maplevue Rd.
6th District	A	Freedom Plains Presbyterian Church Fellowship Hall	1168 Route 55
7th District	A	LaGrange Fire District Station #1 (Billings)	2388 Route 82
8th District	A	Overlook Primary School	11 Maplevue Rd.
9th District	A	Saint Kateri Church	1925 Route 82
10th District	A	Saint Kateri Church	1925 Route 82
11th District	A	Lagrange Fire District Station #2	504 Freedom Plaj

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MILAN

1st District	A	Milan - Wilcox Memorial Building Town Hall	20 Wilcox Cir (off Rte 199)	Milan
2nd District	A	Milan - Wilcox Memorial Building Town Hall	20 Wilcox Cir (off Rte 199)	Milan

NORTH EAST

1st District	A	North East - Millerton Library Annex	28 Century Blvd	Millerton
2nd District	A	North East - Millerton Library Annex	28 Century Blvd	Millerton
3rd District	A	North East - Millerton Library Annex	28 Century Blvd	Millerton

PAWLING

1st District	A	Lathrop Center at Lakeside Park	2 Lakeside Dr	Pawling
2nd District	A	Lathrop Center at Lakeside Park	2 Lakeside Dr	Pawling
3rd District	A	Holmes Whaley Lake Civic Association	239 Route 292	Holmes
4th District	A	Pawling Town Hall	160 Charles Colman Blvd.	Pawling
5th District	A	Pawling Town Hall	160 Charles Colman Blvd.	Pawling
6th District	A	Lathrop Center at Lakeside Park	2 Lakeside Dr	Pawling

PINE PLAINS

1st District	A	Stissing Center	2950 Church St.	Pine Plains
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PLEASANT VALLEY

1st District	A	Traver Rd. Primary School	801 Traver Rd.	Pleasant Valley
2nd District	A	West Rd. Intermediate School	181 West Rd.	Pleasant Valley
3rd District	A	West Rd. Intermediate School	181 West Rd.	Pleasant Valley
4th District	A	Traver Rd. Primary School	801 Traver Rd.	Pleasant Valley
5th District	A	Traver Rd. Primary School	801 Traver Rd.	Pleasant Valley
6th District	A	Salt Point Fire House	30 Cottage St.	Salt Point
7th District	A	Salt Point Fire House	30 Cottage St.	Salt Point

TOWN OF POUGHKEEPSIE

1st Ward	1st District	A	Sheafe Road Elementary School	287 Sheafe Rd.
1st Ward	2nd District	A	New Hamburg Fire Station # 1	15 Channingville R
1st Ward	3rd District	A	East End Engine Co. #2 (New Hamburg Fire District)	2886 Route 9D
1st Ward	4th District	A	Sheafe Road Elementary School	287 Sheafe Rd.
1st Ward	5th District	A	East End Engine Co. #2 (New Hamburg Fire District)	2886 Route 9D
2nd Ward	1st District	A	Vassar Rd. Elementary School	174 Vassar Rd
2nd Ward	2nd District	A	Oak Grove Elementary School	40 Kerr Rd.
2nd Ward	3rd District	A	Spackenkill High School	112 Spackenkill Rd
2nd Ward	4th District	A	Vassar Rd. Elementary School	174 Vassar Rd.

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3rd Ward	1st District	A	Poughkeepsie Town Hall	1 Overocker Rd.
3rd Ward	2nd District	A	Poughkeepsie Town Hall	1 Overocker Rd.
3rd Ward	3rd District	A	Rochdale Fire House (Arlington Station #4)	1075 Dutchess Turnpike
3rd Ward	4th District	A	Town of Poughkeepsie Community Room	19 Tucker Dr.
3rd Ward	5th District	A	Rochdale Fire House (Arlington Station #4)	1075 Dutchess Turnpike
3rd Ward	6th District	A	Poughkeepsie Town Hall	1 Overocker Rd.
4th Ward	1st District	A	Town of Poughkeepsie Community Room	19 Tucker Dr.
4th Ward	2nd District	A	Rochdale Fire House (Arlington Station #4)	1075 Dutchess Turnpike
4th Ward	3rd District	A	Violet Avenue School	191 Violet Avenue
4th Ward	4th District	A	Violet Avenue School	191 Violet Avenue
4th Ward	5th District	A	Town of Poughkeepsie Community Room	19 Tucker Dr.
5th Ward	1st District	A	St. Simeon II	9 Hilltop Ct.
5th Ward	2nd District	A	Town of Poughkeepsie Senior Center	14 Abe's Way
5th Ward	3rd District	A	Town of Poughkeepsie Senior Center	14 Abe's Way
5th Ward	4th District	A	Spackenkill High School	112 Spackenkill Rd
6th Ward	1st District	A	Poughkeepsie United Methodist Church	2381 New Hackensack Rd

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6th Ward	3rd District	A	Dutchess County Water and Wastewater Authority	1 Lagrange Ave
6th Ward	4th District	A	Dutchess County Water and Wastewater Authority	1 Lagrange Ave
6th Ward	5th District	A	Spackenkill High School	112 Spackenkill Rd
6th Ward	6th District	A	Spackenkill High School	112 Spackenkill Rd

RED HOOK

1st District	A	Tivoli Fire House	2 Tivoli Commons	Tivoli
2nd District	A	Red Hook High School	103 West Market St.	Red Hook
3rd District	A	St. John's Reformed Church	126 Old Post Rd. N.	Red Hook
4th District	A	Red Hook High School	103 West Market St.	Red Hook
5th District	A	St. John's Episcopal Church	1114 River Rd.	Barrytown
5th District	B	Bertelsmann Campus Center at Bard College	30 Campus Rd	Annandale-on-Hudson
6th District	A	Red Hook Fire House	42 Firehouse Ln.	Red Hook
7th District	A	Linden Ave Middle School	65 W Market St.	Red Hook
8th District	A	Linden Ave Middle School	65 W Market St.	Red Hook

RHINEBECK

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3rd District	A	Starr Library	68 West Market St.	Rhinebeck
4th District	A	Rhinebeck Town Hall	80 East Market St.	Rhinebeck
5th District	A	Rhinebeck Town Hall	80 East Market St.	Rhinebeck
6th District	A	Starr Library	68 West Market St.	Rhinebeck
7th District	A	Rhinebeck Performing Arts Center	661 NY-308	Rhinebeck

STANFORD

1st District	A	Stanford Town Hall-Ground Level Large Room	26 Town Hall Rd.	Stanfordville
2nd District	A	Stanford Town Hall - Library Room Upstairs	26 Town Hall Rd.	Stanfordville
3rd District	A	Stanford Town Hall-Ground Level Large Room	26 Town Hall Rd.	Stanfordville

UNION VALE

1st District	A	Senior Citizen Center, Tymor Park Barn Complex	6 Tymor Park Road	Lagrangeville
2nd District	A	Senior Citizen Center, Tymor Park Barn Complex	6 Tymor Park Road	Lagrangeville
3rd District	A	Union Vale Fire House, Station #1	3373 Route 82	Verbank
4th District	A	Union Vale Fire House, Station #1	3373 Route 82	Verbank

WAPPINGER

1st Ward	1st District	A	Village Hall	2582 South Ave
1st Ward	2nd District	A	Village Hall	

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1st Ward	5th District	A	Imperial Gardens Complex	5101 Princess Circle
2nd Ward	1st District	A	Hughsonville Fire House	88 Old Hopewell Rd.
2nd Ward	2nd District	A	Chelsea Fire House	16 Liberty St.
2nd Ward	3rd District	A	Chelsea Fire House	16 Liberty St.
2nd Ward	4th District	A	Hughsonville Fire House	88 Old Hopewell
2nd Ward	5th District	A	Mid-Hudson Chinese Christian Church	306 All Angels Hill Rd
2nd Ward	6th District	A	Hughsonville Fire House	88 Old Hopewell Rd.
3rd Ward	1st District	A	Imperial Gardens Complex	5101 Princess Circle
3rd Ward	2nd District	A	Roy C. Ketcham High School	99 Myers Corners Rd
3rd Ward	3rd District	A	Myers Corners Elementary School	156 Myers Corners Rd.
3rd Ward	4th District	A	Mid-Hudson Chinese Christian Church	306 All Angels Hill Rd
3rd Ward	5th District	A	Myers Corners Elementary School	156 Myers Corners Rd.
3rd Ward	6th District	A	Roy C. Ketcham High School	99 Myers Corners Rd
4th Ward	1st District	A	New Hackensack Fire House	217 Myers Corners Rd.
4th Ward	2nd District	A	New Hackensack Fire House	217 Myers Corners Rd.
4th Ward	3rd District	A	Roy C. Ketcham High School	99 Myers Corners Rd

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4th Ward	5th District	A	New Hackensack Fire House	217 Myers Corners Rd.
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WASHINGTON

1st District	A	Millbrook Fire House	20 Front St.	Millbrook
2nd District	A	Millbrook Fire House	20 Front St.	Millbrook
3rd District	A	Millbrook Fire House	20 Front St.	Millbrook
4th District	A	Millbrook Fire House	20 Front St.	Millbrook

CITY OF BEACON

1st Ward	1st District	A	Lewis Tompkins Hose Co. Route 9D Entrance	13 South Aver
1st Ward	2nd District	A	Rombout Middle School Gymnasium Entrance	84 Matteawar
2nd Ward	1st District	A	Lewis Tompkins Hose Co. Route 9D Entrance	13 South Aver
2nd Ward	2nd District	A	Lewis Tompkins Hose Co. Route 9D Entrance	13 South Aver
2nd Ward	3rd District	A	Lewis Tompkins Hose Co. Route 9D Entrance	13 South Aver
3rd Ward	1st District	A	Rombout Middle School Gymnasium Entrance	84 Matteawar
3rd Ward	2nd District	A	James V. Forrestal Elementary School	125 Liberty St
3rd Ward	3rd District	A	James V. Forrestal Elementary School	125 Liberty St
4th Ward	1st District	A	City of Beacon Memorial Building	413 Main St.

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CITY OF POUGHKEEPSIE

1st Ward	1st District	A	City Hall	62 Civic Center
1st Ward	2nd District	A	City Hall	62 Civic Center
1st Ward	3rd District	A	City Hall	62 Civic Center
2nd Ward	1st District	A	Mid-Hudson Library Auditorium	105 Market St.
2nd Ward	2nd District	A	Mid-Hudson Library Auditorium	105 Market St.
2nd Ward	3rd District	A	St. Simeon Apts, Community Room	700 Second Mi
3rd Ward	1st District	A	Beulah Baptist Church	92 Catharine St
3rd Ward	2nd District	A	Beulah Baptist Church	92 Catharine St
4th Ward	1st District	A	Unitarian Fellowship Church	67 South Rand Ave.
4th Ward	2nd District	A	St. Simeon Apts, Community Room	700 Second Mi
4th Ward	3rd District	A	Unitarian Fellowship Church	67 South Rand Ave.
4th Ward	4th District	A	Unitarian Fellowship Church	67 South Rand Ave.
5th Ward	1st District	A	Warring School Gymnasium	283 Mansion S
5th Ward	2nd District	A	Warring School Gymnasium	283 Mansion S

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6th Ward	1st District	A	Beth-El Church of God in Christ - Rear Entrance	91 Hooker Ave
6th Ward	2nd District	A	Beth-El Church of God in Christ - Rear Entrance	91 Hooker Ave
6th Ward	3rd District	A	Public Safety Building	505 Main St.
7th Ward	1st District	A	Poughkeepsie Middle School Lobby	55 College Ave
7th Ward	2nd District	A	Salvation Army	19 Pershing Av
7th Ward	3rd District	A	Poughkeepsie Middle School Lobby	55 College Ave
8th Ward	1st District	A	Krieger School Gymnasium - Whittier Blvd Entrance	265 Hooker Av
8th Ward	2nd District	A	St. John's Lutheran Church	55 Wilbur Blvd.
8th Ward	3rd District	A	St. John's Lutheran Church	55 Wilbur Blvd.
8th Ward	4th District	A	Krieger School Gymnasium - Whittier Blvd Entrance	265 Hooker Av

**Exhibit 22 to Verified Petition
of Bard College et al.**

U.S. Department of Justice

Civil Rights Division

Disability Rights Section



Americans with Disabilities Act

**ADA CHECKLIST
FOR POLLING PLACES**



June 2016

Part 1 discusses polling place accessibility with a focus on the areas of a facility that may be used as a polling place on Election Day.

Part 2 includes a list of the tools election officials will need in order to use the Checklist, some helpful tips on taking measurements and photographs, and a useful list of the most common tools for temporary remedies and the circumstances in which they may be used.

Part 3 is the 2016 Checklist.

Reproduction of this document is encouraged. Additional copies of this publication may be obtained, viewed or downloaded from the technical assistance section of the ADA Website (www.ada.gov) or by calling the ADA Information Line at 800-514-0301 (voice), 800-514-0383 (TTY).

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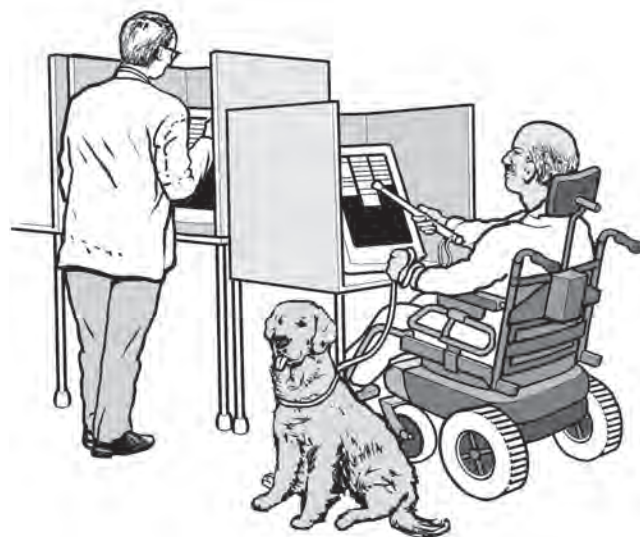
POLLING PLACE ACCESSIBILITY IS REQUIRED BY THE AMERICANS WITH DISABILITIES ACT

The Americans with Disabilities Act (ADA) is a federal civil rights law that provides protections to people with disabilities to ensure that they are treated equally in all aspects of life. Title II of the ADA requires state and local governments ("public entities") to ensure that people with disabilities have a full and equal opportunity to vote. The ADA's provisions apply to all aspects of voting, including polling places (or vote centers). Voting at one's polling place allows voters the chance to interact with neighbors and candidates who talk with voters outside the polling place, and to ask questions of or receive assistance from trained poll workers inside the polling place. Simply put, voting in person at a local polling place is the quintessential American voting experience.

In communities large and small, people cast their ballots in a variety of facilities that temporarily serve as polling places, such as libraries, schools, and fire stations, or churches, stores, and other private buildings. Voters include people with a variety of disabilities, such as those who use wheelchairs, scooters, or other devices, those who have difficulty walking or using stairs, or those who are blind or have vision loss. They are people, young and old, who have come to their polling place to exercise their right to vote. Many public entities report that their polling places are accessible. However, the Government Accountability Office estimates that only 27% of polling places were accessible to people with disabilities in the 2008 elections.¹ This means that 73% of the polling places used in 2008 had architectural barriers that made it difficult or even impossible for people with disabilities to enter their polling place and vote side by side with their neighbors.

People with disabilities must have the opportunity to be full participants in an integrated civic event. The ADA requires that public entities ensure that people with disabilities can access and use all of their voting facilities. Because

a mix of public and private facilities are used as polling places, public entities may ensure Election Day accessibility of a polling place by using low-cost temporary measures, such as portable ramps or door stops, rather than necessarily making permanent modifications to a facility. If temporary measures will not fix a barrier, and public entities are unable to make a permanent modification to fix the barrier, then the public entity must look for an alternative, accessible polling place. In some circumstances, when a public entity is unable to identify or create an accessible polling place for a particular voting precinct or ward, election administrators may instead use an alternative method of voting at the polling place.² Public entities are encouraged to make permanent modifications to their facilities used as polling places, such as



A voter with a disability casting his ballot

schools, community centers, and town halls. The use of temporary measures to provide access to polling places on Election Day does not change a public entity's obligations under the ADA to ensure that its programs and services are accessible to people with disabilities, nor does it mean that a temporary remedy would be appropriate in a public facility on an every-day basis.

REQUIREMENTS FOR ACCESSIBILITY

The ADA's regulations and the ADA Standards for Accessible Design set out what makes a facility accessible and should be used to determine the accessibility of any facility being considered for use as a polling place. This publication, the ADA Checklist for Polling Places (2016 Checklist), provides guidance to election officials for determining whether a polling place already has the basic accessibility features needed by most voters with disabilities or can be made accessible on Election Day using temporary solutions to remove barriers. The updated Checklist includes provisions from the 2010 ADA Standards for Accessible Design ("2010 Standards").³ Any alterations made to a polling place must comply with the 2010 Standards.

Other Justice Department Publications

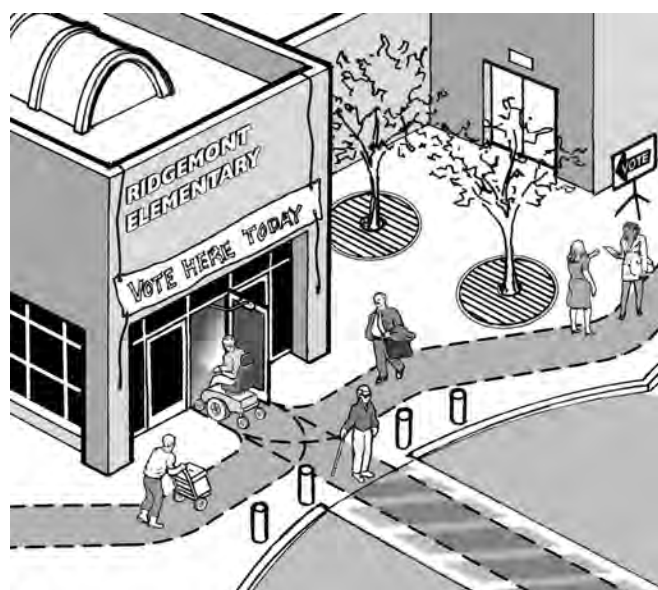
In addition to the 2016 Checklist, election officials should consult the Department's 7-page publication on the rights of voters with disabilities, *The Americans with Disabilities Act and Other Federal Laws Protecting the Rights of Voters with Disabilities*.

Another Justice Department publication, *Solutions for Five Common ADA Access Problems at Polling Places*, illustrates suggested temporary solutions for several common accessibility problems found at polling places.

This 2016 Checklist and other Justice Department publications, as well as the title II regulation and the 2010 Standards are available at www.ada.gov.

Part 1: Evaluating the Physical Accessibility of Polling Places

The 2016 Checklist, found in Part 3 of this document, is designed to assist officials in determining whether a facility being considered for use as a polling place is accessible to people with mobility or vision disabilities, and, if not, whether modifications can be made to ensure accessibility or relocation to another accessible facility will be necessary. The 2016 Checklist should be used to evaluate both new and existing polling places. Completing the 2016 Checklist will provide guidance on whether a facility is accessible for voters with disabilities, and how to identify and remedy any barriers that exist.



Accessible polling place

¹U.S. Government Accountability Office Report: Voters with Disabilities; Additional Monitoring of Polling Places Could Further Improve Accessibility; September 2009.

²See U.S. Department of Justice Technical Assistance: "The Americans with Disabilities Act and Other Federal Laws Protecting the Rights of Voters with Disabilities," (September 2014), available at www.ada.gov.

³The requirements that new construction and alterations comply with the 2010 Standards went into effect on March 15, 2012. Facilities that were built or altered before that date, and that complied with the 1991 Standards, need not be modified

to comply with the 2010 Standards as to those provisions included in the 1991 Standards. See 28 C.F.R. §35.151(b)(2)(i). This is referred to as a safe harbor. The 1991 Standards and the 2010 Standards, as applied to polling places, are very similar, however, with the exception of the requirements for accessible parking. For example, the 1991 Standards required only one van-accessible space for every eight accessible spaces, see 28 C.F.R. pt. 36, Appendix D, §4.1.2(5)(b), while the 2010 Standards require one van-accessible space for every six accessible spaces, see 2010 Standards §208.2.4.

Getting Started

Individuals using the 2016 Checklist need not be experienced in evaluating facilities for accessibility. It is designed to be used to evaluate key areas that must be accessible. By following these directions, staff can identify accessible polling places and consider how to implement temporary and permanent accessibility remedies to those facilities found to be inaccessible. References are also provided to the 2010 Standards for more information about particular requirements. We encourage election officials to provide training to their staff on compliance with the ADA.

An evaluation of polling place accessibility focuses on those areas of a facility that may be used as a polling place on Election Day. Think about how people generally arrive at, enter, and move through the polling place. Do people drive and park? Are people dropped off at the entrance? Do they arrive on foot or do they take public transportation? This document addresses the following key areas or features that must be accessible: the parking area and passenger drop-off sites; routes (both exterior and interior); the entrance to the polling place; and the voting area itself.

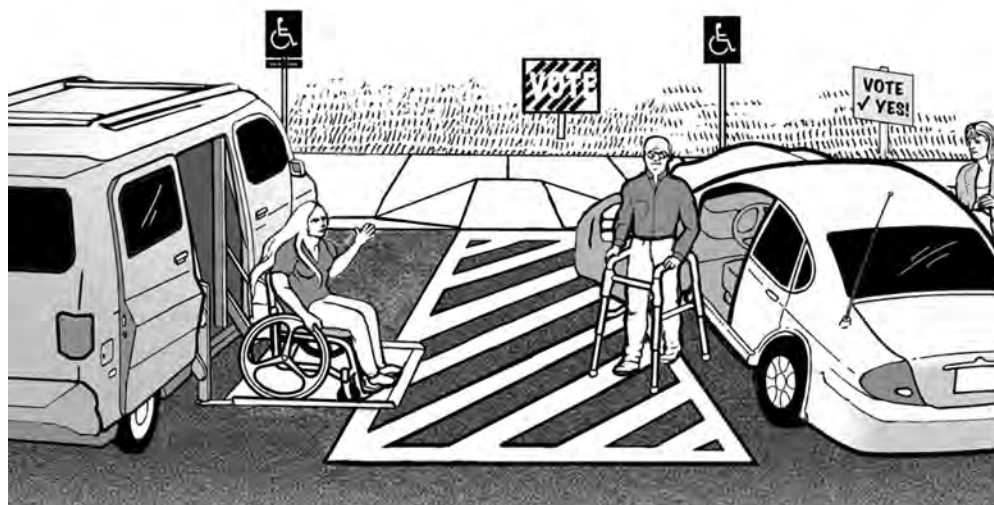
Arriving at the Polling Place

Parking

If parking is provided for voters, accessible parking must be provided for people with disabilities. An accessible space is composed of three elements: the parking space, an access aisle adjacent to the space that is wide enough to allow voters with a mobility disability to get out of their car or van, and signage designating it as an accessible space. The 2010 Standards require one accessible parking space per 25 parking spaces provided (up to the first 100 spaces). One of six (or fraction of six) accessible parking spaces, but always at least one, must be van accessible. Generally, the access aisle must be at least 60 inches wide for cars and 96 inches wide for vans. Van accessible spaces can also have an access aisle at least 60 inches wide if the width of the van parking space is at least 132 inches. A sign, with the International Symbol of Accessibility, must mark each accessible parking space. Van accessible spaces must be designated as such on the sign at these spaces. Accessible parking spaces and the access aisles serving them must be on a surface that is stable, firm, and slip resistant (e.g., clear of gravel or mud) without wide cracks or broken pavement and located on the closest accessible route to the accessible entrance. The accessible parking spaces and access aisles must also be level

to allow a safe transfer from the car to a person's wheelchair. (See Part 2 of this document for tips on measuring slopes and cross slopes.)

Parking requirements are in Section A of the 2016 Checklist found in Part 3 of this document.



A van accessible parking space and a car parking space share an access aisle

Solutions for Accessibility: Problems Involving the Parking Area

Problem One: Parking is available, but no accessible parking is provided or there are not enough accessible parking or van accessible spaces.

Solution: Find a relatively level parking area near the accessible entrance and then designate the area for accessible parking spaces and adjacent access aisles. Use three parking spaces to make two accessible parking spaces with an access aisle. Traffic cones or other temporary elements may be used to mark these spaces and access aisles. Provide a temporary sign designating each accessible parking space and make sure the access aisle of each space is connected to the accessible route to the accessible entrance.

Problem Two: Accessible parking is provided, but it does not have a marked access aisle next to each designated accessible parking space.

Solution: Use traffic cones to mark and block off the access aisle and curb ramp area. The first accessible parking space provided should be a van accessible parking space with an access aisle that is at least 96 inches wide.

Problem Three: Accessible parking spaces or access aisles are on a sloped surface and do not provide a level area for a safe transition from the voter's car to a wheelchair.

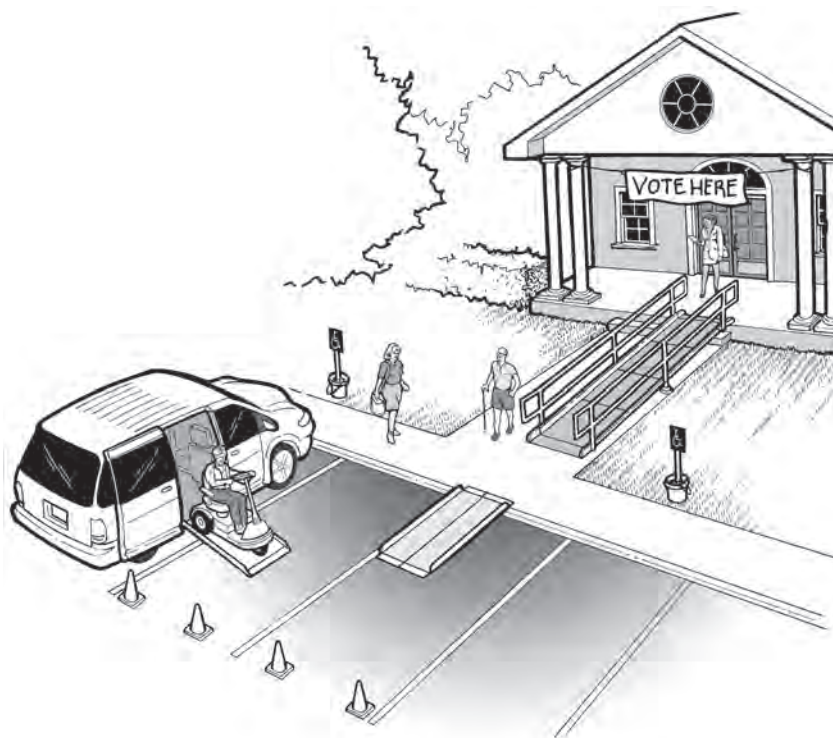
Solution: Find a parking area that is close to the accessible entrance and is level. Provide accessible parking spaces and access aisles in that area by marking them off with traffic cones. Make sure the accessible parking spaces connect to an accessible route to the entrance. Provide a sign designating each accessible

parking space. When the parking area generally is not level, you may need to look beyond the parking area, to driveways and streets, for example, to provide accessible parking in a level area temporarily on Election Day.

Problem Four: No sign with the International Symbol of Accessibility is installed at each accessible parking space.

Solution: Provide a temporary sign in front of each accessible parking space, including a "van accessible" sign for the van parking space.

Problem Five: A large number of accessible parking spaces are provided, including van accessible spaces, at a school near the main building entrance. The voting area and entrance to the voting area, however, are at the rear of the school and there are no designated accessible parking spaces in this area.



Three standard parking spaces are converted into a van accessible parking space with an access aisle. Cones mark and block off the access aisle and a temporary curb ramp with edge protection connects to an accessible route to the polling place.

Solution: Find a relatively level parking area near the accessible entrance to the voting area and then designate the area for accessible parking spaces and adjacent access aisles. Traffic cones or other temporary elements may be used to mark the spaces and access aisles. Provide a temporary sign for each accessible parking space and make sure the access aisle of each space is connected to the accessible route to the accessible entrance.

Passenger Drop-off Locations

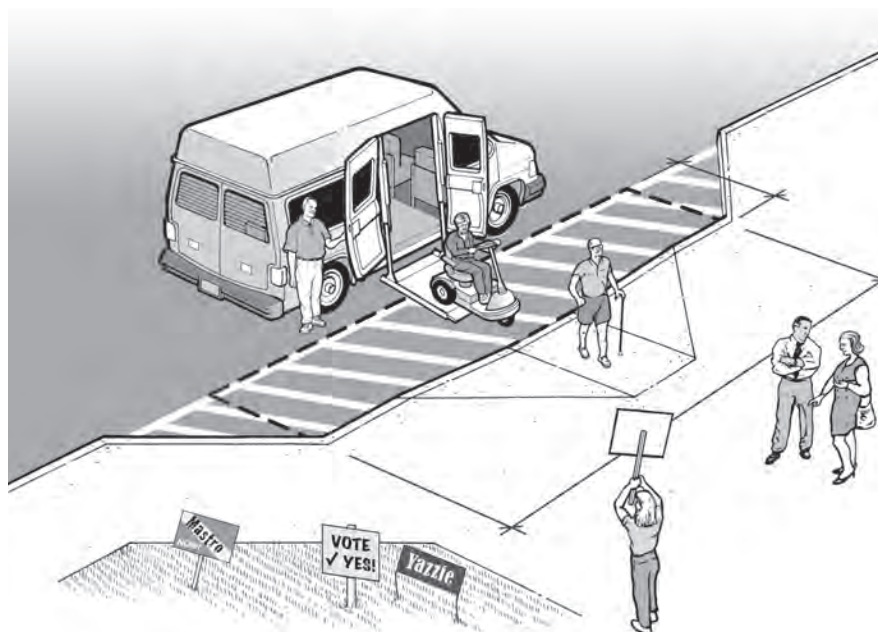
Some voters with disabilities will be driven to the polling place and dropped off in a passenger drop-off area near the entrance. If the polling place is served by passenger drop-off areas, then at least one drop-off area must be accessible. An accessible drop-off area, also known as an accessible passenger loading zone, must have a level access aisle next to the vehicle space. If a curb separates the access aisle from an accessible route, a curb ramp must be provided so that people with disabilities can get to the accessible route leading to the accessible entrance.

Passenger drop-off area requirements are in Section B of the 2016 Checklist found in Part 3 of this document.

Accessible Routes (Exterior and Interior)

Once a voter with a disability arrives at the polling site, there must be an accessible route from the accessible parking, passenger drop-off sites, sidewalks and walkways, and public transportation stops to get to the entrance of the voting facility. The accessible route must be at least 36 inches wide. It may narrow briefly to 32 inches wide, but only for a distance of up to 24 inches. (See Part 2 of this document for tips on taking measurements.) Whenever possible, the accessible route must be the same as or near the general circulation path (i.e., the path for general pedestrian use).

Inside the polling place, there must be an accessible route from the entrance through hallways, corridors, and interior rooms leading to the voting area. The route must be free of abrupt changes in level, steps, high thresholds, or steeply sloped walkways. The accessible route is essential for people who have difficulty walking or who use wheelchairs or other mobility devices to get into the polling place and to the voting area. Where an accessible route is different from the general circulation path, signs will be needed to direct voters with disabilities to the accessible route and to the voting area.



Route requirements are in Sections C and E of the 2016 Checklist found in Part 3 of this document.



Accessible routes to and within the polling place

Solutions for Accessibility: Problems Involving the Accessible Route

Problem One: The sidewalk connecting parking to the polling place entrance is too steep to be accessible.

Solution: Check to see if there is another sidewalk that provides an accessible route to the accessible entrance. Sometimes there is a less direct route that can serve as the accessible route. If no accessible route can be found from the current designated accessible parking, relocate the accessible parking using traffic cones and signs to an area where there is an accessible route to the entrance.

Problem Two: The accessible route crosses a curb and no curb ramp is provided.

Solution: Install a portable ramp.

Problem Three: One or two steps are part of the route leading to the accessible entrance.

Solution: Install a portable ramp.

Problem Four: The interior hallway leading to the voting area contains a set of stairs that cannot be ramped.

Solution: If the accessible route cannot be relocated, look for another area where voting may be provided. For example, if the stage in a school auditorium used for voting is up several steps, perhaps the hallway or lobby area may be accessible and used for voting instead of the stage. Or, if a church basement located down a flight of stairs is used as the voting area, perhaps one of the ground floor rooms could be used as the voting area. If it is impossible to relocate the voting area for all voters, find a location for an accessible voting station that offers the same privacy as the other voting area.

Ramps

If any part of the accessible route - exterior or interior - has a slope greater than 1:20, it is considered a ramp and must meet the requirements for ramps. (See Part 2 of this document for tips on measuring running slopes and cross slopes.) If any part of the accessible route contains steps, it must be ramped. Even one short step at an entrance or in a hallway can prevent access by a person using a wheelchair, walker, or cane and can make entry difficult for many people who have other mobility disabilities. Interior and exterior ramps must not be too steep and must have a level landing at the bottom and top, and where the ramp changes direction. They must meet the ADA's requirements regarding slope, width, landings, handrails, and edge protection. Ramps with a rise greater than six inches must have handrails and if there are vertical drop offs on the sides, there must be edge protection.

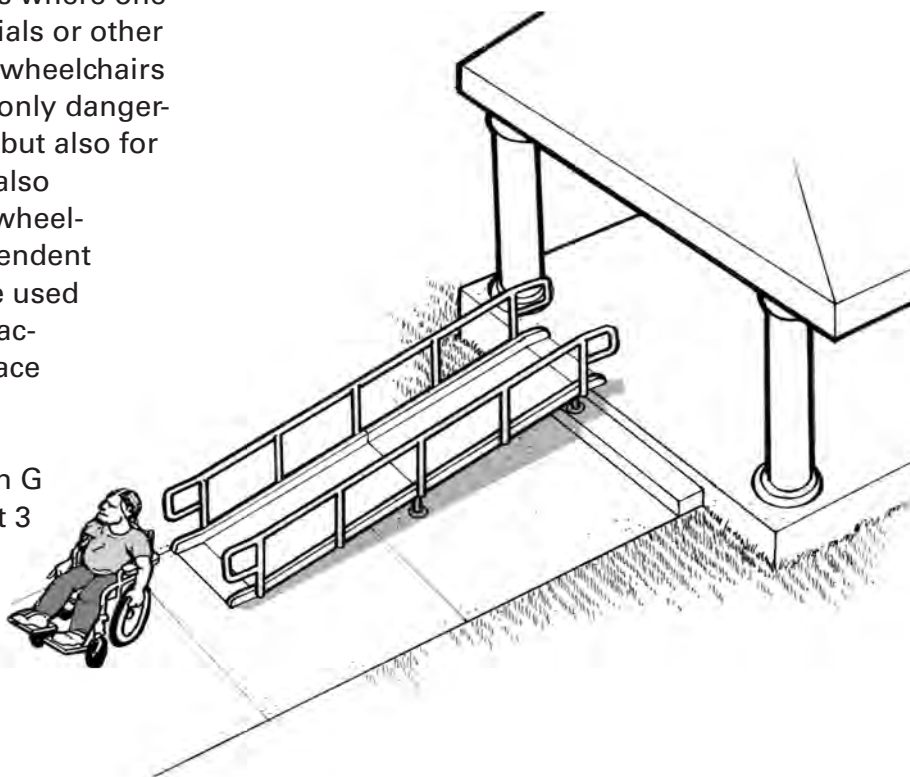
In the past, at some polling places where one or more steps were present, officials or other voters have carried people using wheelchairs up the steps. This practice is not only dangerous for the person being carried, but also for those lifting the wheelchair. It is also degrading to the person using a wheelchair and does not provide independent access. Carrying should never be used as an alternative to providing an accessible way to enter a polling place (or other facility).

Ramp requirements are in Section G of the 2016 Checklist found in Part 3 of this document.

Solutions for Accessibility: Problems Involving Ramps

Problem One: There is a six inch high step on the accessible route that has a ramp that is only three feet long, making the ramp too steep and, therefore, inaccessible.

Solution: Alter the route to avoid the steep ramp or place a temporary ramp that is at least six feet long over the short ramp.



A portable ramp with edge protection and handrails is placed over stairs to provide an accessible route on Election Day.

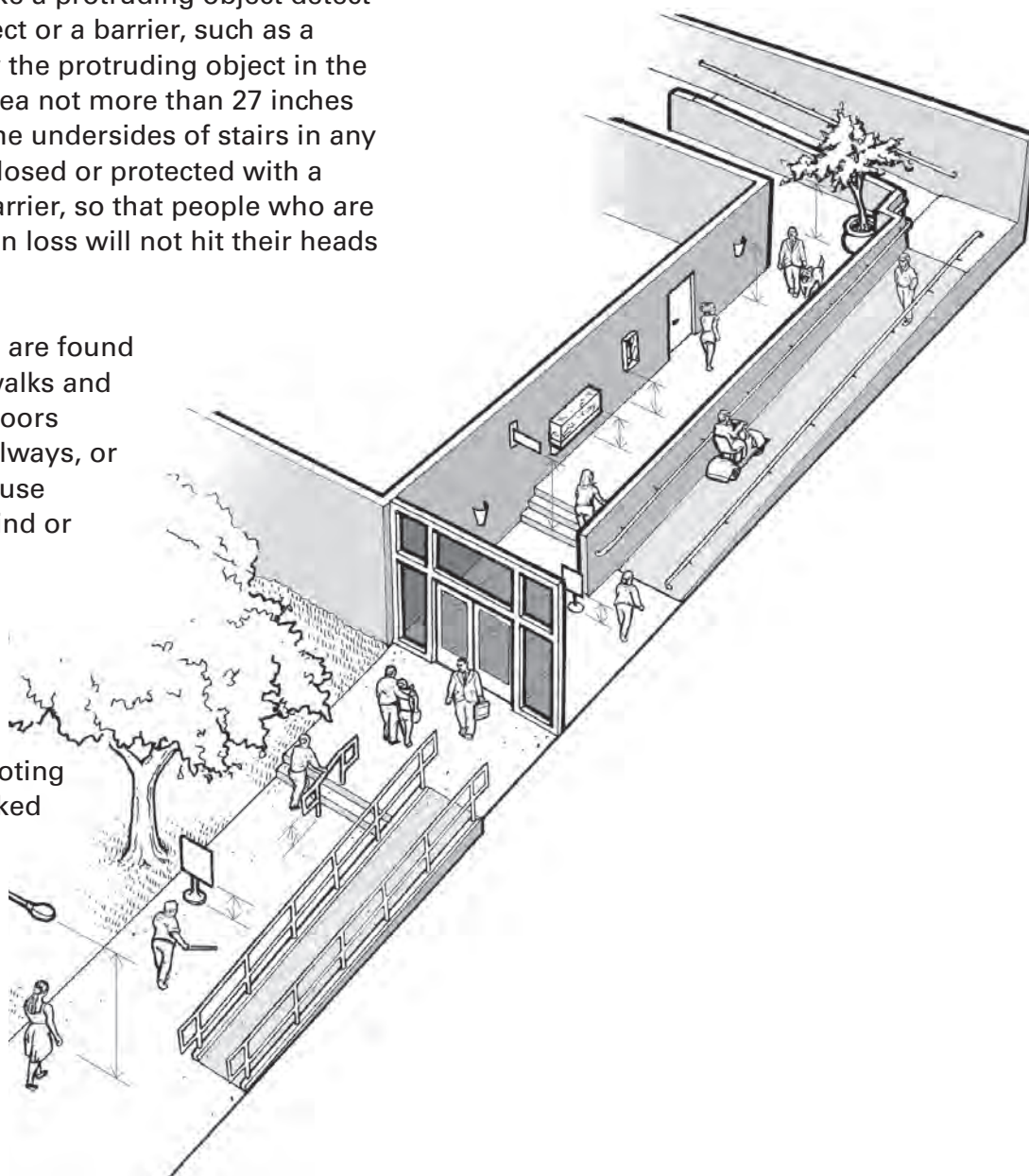
Protruding Objects

When people who are blind or who have vision loss use a cane to detect hazards, only objects located at 27 inches above the floor or ground or lower are detectable. If an object is higher than 27 inches and wall-mounted, it must not protrude more than four inches into the path of travel. Similarly, post mounted objects higher than 27 inches must not protrude more than 12 inches into the path of travel. There must be at least 80 inches clear height above the pedestrian route. To make a protruding object detectable: place an object or a barrier, such as a traffic cone, below the protruding object in the cane-detectable area not more than 27 inches above the floor. The undersides of stairs in any route must be enclosed or protected with a cane-detectable barrier, so that people who are blind or have vision loss will not hit their heads on the underside.

Protruding objects are found outdoors on sidewalks and walkways, and indoors in lobby areas, hallways, or voting areas. Because people who are blind or have vision loss may walk on any circulation path, not just the accessible routes, all routes serving or leading to the voting area must be checked for protruding objects.

Examples of outdoor protruding objects include post or wall-mounted signs and low-hanging tree limbs. Examples of indoor protruding objects include fire extinguishers and wall-mounted display cases, wall sconces, open staircases, exit signs, overhead signs, banners, and some arched doorways.

Protruding object requirements are in Sections C, E, and F of the 2016 Checklist found in Part 3 of this document.



Signs or other objects in the pedestrian route can be a hazard if the bottom is more than 27 inches but less than 80 inches above the route. Objects that overhang the pedestrian route must be at least 80 inches above the route.

Solutions for Accessibility: Problems Involving Protruding Objects

Problem One: Objects, such as branches and ceiling-mounted televisions, over a route are lower than 80 inches above the ground or floor.

Solution: Prune the branches or remove the items that are hanging below 80 inches. Another approach is to install a detectable barrier under the item that is too low. The detectable barrier or object must be no higher than 27 inches above the route.

Problem Two: A wall-mounted display case protrudes seven inches from the wall and the bottom of the case is 40 inches above the floor.

Solution: Place a detectable object or skirting below the case. The bottom of the skirting or detectable object must be no higher than 27 inches above the floor.

Problem Three: The bottom of a set of stairs is open and voters who are blind or have vision loss can hit their head on the underside of the stairs.

Solution: Provide a detectable fence or other object so voters cannot walk under the stairs.

Building Entrance

A polling place must have at least one accessible entrance. At least one door at the accessible entrance must have a minimum clear width of 32 inches for a voter who uses a wheelchair or other mobility device to pass through the doorway. (See Part 2 of this document for tips on taking measurements.) Door hardware must be useable with one hand without tight grasping, pinching, or twisting of the wrist, so that it is operable by someone with limited mobility in their hands. Doors may not have high thresholds that impede voters who use wheelchairs or other mobility devices in crossing the threshold. Inaccessible entrances must have signs directing voters to the accessible entrance. The accessible entrance must remain



When the underside of a set of stairs is open, it is a hazard to people who are blind or have low vision. Enclosing the area below the stair or installing a cane-detectable barrier helps the person to stop before hitting her head.

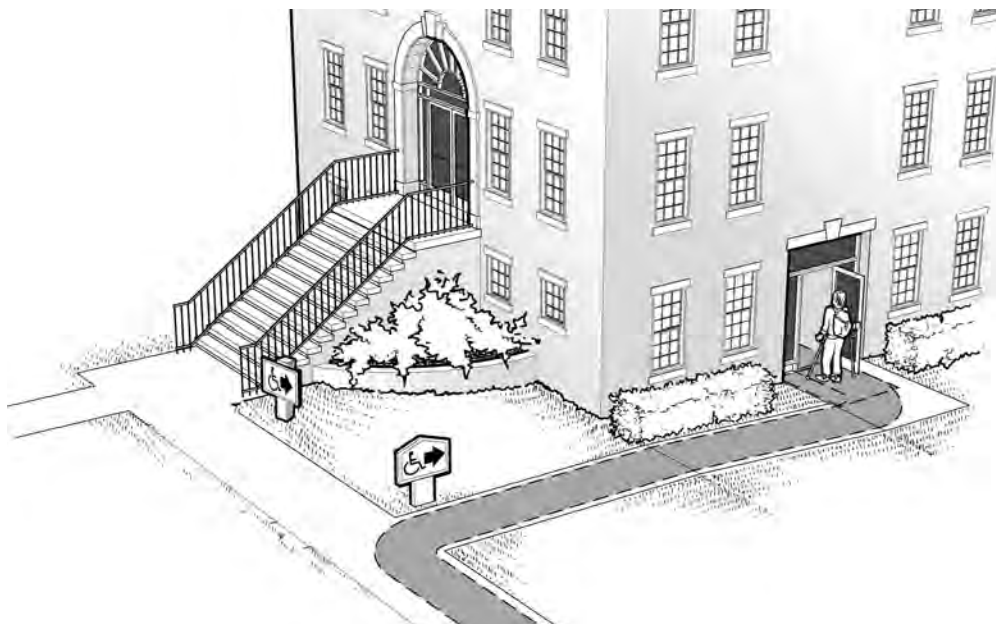
unlocked at all times the polling place is open.

Building entrance requirements are in Section D of the 2016 Checklist found in Part 3 of this document.

Solutions for Accessibility: Problems Involving the Building Entrance

Problem One: One or two steps at the entrance prevent access.

Solution: If another entrance is accessible and on an accessible route from parking, passenger drop-off sites, or public transportation stops, designate it as the accessible entrance. If the main entrance is not accessible, install a directional sign at the main entrance directing voters with disabilities to the accessible entrance. Keep the accessible entrance unlocked during all voting hours. If another accessible entrance is not available, install a temporary ramp at the main entrance.



Accessible entrance to polling place with signs directing voters to the accessible entrance

Problem Two: The entrance door threshold is one inch high.

Solution: Short ramps or wedges may be used on both sides of the threshold to allow a voter in a wheelchair to pass over the threshold.

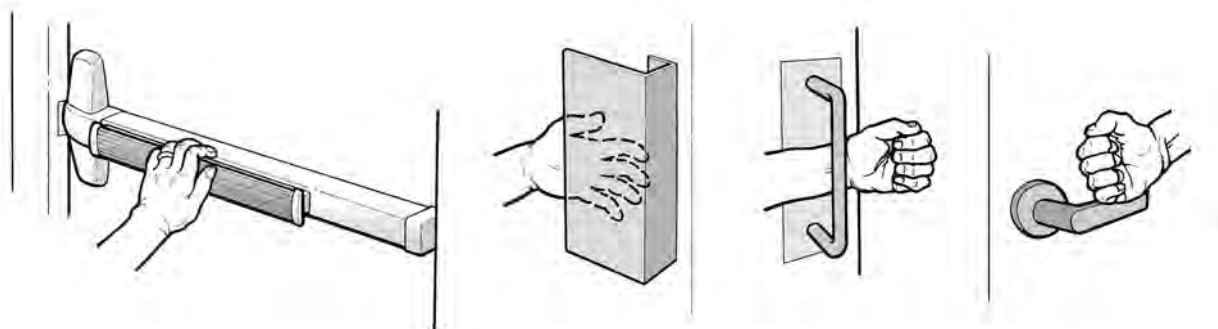
Problem Three: The entrance doors are narrow double leaf doors that are normally opened by an automatic door opener but it is not working on Election Day.

Solution: Keep both doors propped open, station volunteers near the doors to open them for voters while the polling place is open, or provide a temporary doorbell to notify officials

that the door needs to be opened in a timely manner.

Problem Four: The entrance door has a door knob and/or latch that requires tight pinching and twisting and is not accessible.

Solution: There are four typical solutions: add an accessible pull or handle and leave the door unlatched; install fully accessible door hardware; leave the door propped open; or provide a temporary doorbell to notify officials that the door needs to be opened in a timely manner.



Examples of accessible door hardware

Lifts and Elevators

If the voting area is not on the same level as the entrance, there must be an independently operable elevator or lift to provide an accessible route to individuals with disabilities. The door into the elevator or lift and the space within must be wide enough to accommodate wheelchairs and other mobility devices. All controls should be operable without tight grasping, pinching, or twisting and should be no higher than 48 inches. Chair or seated lifts found on staircases do not comply with the 2010 Standards as they are not suited for many voters with disabilities, including people who use wheelchairs.

Lift and elevator requirements are in Section H and I of the 2016 Checklist found in Part 3 of this document.

Solutions for Accessibility: Problems Involving Lifts and Elevators

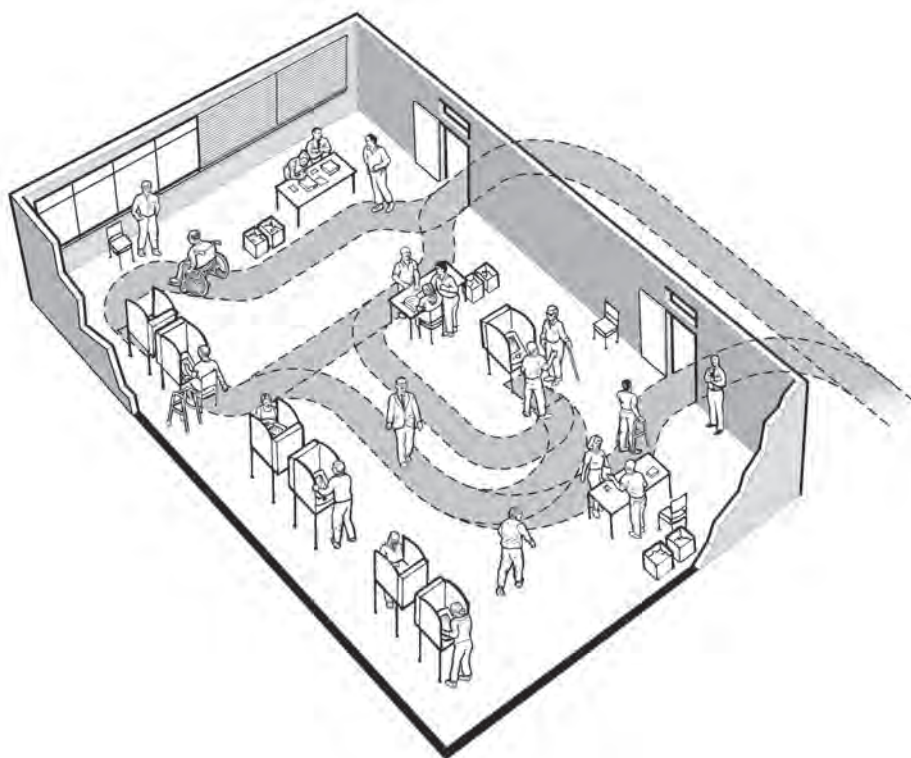
Problem One: The elevator or lift to the voting area requires a key to be inserted before the elevator or lift is operational.

Solution: Relocate the voting area to avoid use of the elevator or lift. Otherwise, leave the key in the elevator or lift for the entire time the polling place is open, or station a volunteer, who has been trained in its operation, to operate the elevator or lift while the polling place is open.

Voting Area

The accessible voting area must have an accessible entrance and adequate circulation and maneuvering space for voters who use wheelchairs or scooters, or who walk with mobility devices, to get in to the voting area, sign in at the check-in table, and go to the voting stations or machines. Within the voting area there must be enough clearance for an individual with a disability to access and use all the voting equipment. Voting machines should be positioned so that the highest operable part is no higher than 48 inches. If voters are expected to vote at counters or tables, there should be a writing surface that provides knee and toe clearance so that a voter who uses a wheelchair may sit at and use the counter or table.

Voting area requirements are in Section F of the 2016 Checklist found in Part 3 of this document.



An accessible route connects the building entrance with the voting area, including voter check-in and voting stations.

Solutions for Accessibility: Problems Involving the Voting Area

Problem One: The voting area is in a small room and the accessible voting machine is only two feet from the check-in table.

Solution: Relocate the voting area to a larger space such as a hallway or lobby or change the layout of the voting area by moving the check-in table outside the room to provide appropriate space for voters with disabilities to use the accessible voting machine.

Part 2: Tools for Surveys

The tools necessary to conduct surveys using the 2016 Checklist are inexpensive and many, if not all, can be purchased at local hardware and home improvement stores.

Tools and Documentation

The following tools are needed for the 2016 Checklist:

- a metal tape measure at least 20 feet long
- a digital level or a bubble level that is at least 24 inches long
- a door pressure gauge
- a digital camera with a flash
- a copy of the 2016 Checklist for each location to be surveyed
- a clipboard and pens or pencils

Completing Measurements and Recording Information

One person can complete a survey of a polling place but it is often quicker and easier for two people to work together. One can be responsible for taking the measurements and the other for recording the information and taking any photographs.

Taking Measurements

Sloped Surfaces

Measuring the slope of a ramp, parking space, pedestrian route, or other ground or floor surface is important to identify whether the surface is accessible. Two slope measurements perpendicular to one another should be taken at each location. One is the running slope that runs parallel to the direction of travel and the other is the cross slope, which runs perpendicular to the running slope.

The amount of slope or grade is described as the proportion of a vertical rise to a horizontal length. It is usually described as:

- a ratio (e.g., 1:20, means one unit of vertical rise for each 20 units of horizontal length); or
- a percentage (e.g., 8.33% which equates to a ratio of 1:12 or 4.76 degrees).

The easiest way to measure slope is to use a digital level. The digital display gives a reading that may be shown as a ratio, percent, or degree. Calibrate the digital level before each use.



A digital level that can be used with measurements in degrees, percentages, or ratios

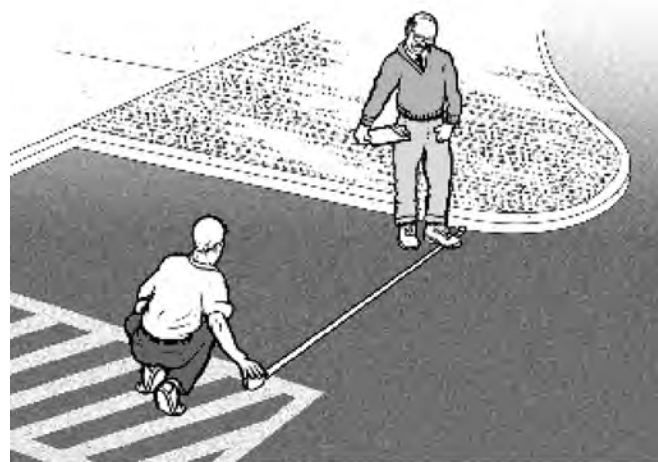
Another way to measure slope is to use a 24 inch level with leveling bubbles and a tape measure. Place the level on the sloped surface in the direction you wish to measure. Rest one end of the level at the highest point of the sloped surface and lift the other end (see image) until the bubble is in the middle of the tube. This is the "level" position. While the level is in this position, measure the distance between the bottom end of the level and the sloped surface below. If the distance is two inches or less, then the slope is 1:12 or less. When the distance is more than two inches, record the distance on the checklist so the exact slope can be calculated later. For measuring cross slope, if the distance measured from the level position is $\frac{1}{2}$ inch or less then the slope is 1:48 or less.



Measuring slope using a 24 inch bubble level and tape measure

Using the Tape Measure

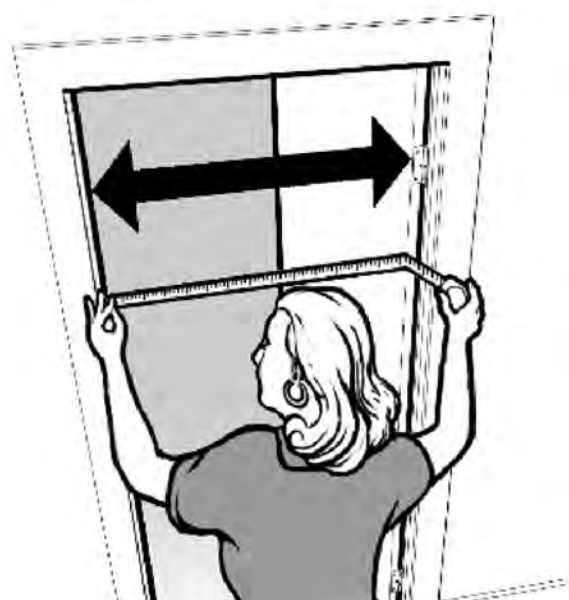
A tape measure is used to measure the length, width, height, and depth of various elements including parking spaces and access aisles, routes, thresholds, doorways, and protruding objects.



Using a tape measure to measure the width of a parking space

Measuring Door Openings

Special care is needed when measuring the clear opening of a doorway. To measure the clear opening of a standard hinged door, open the door to 90 degrees. Measure the clear door opening from the edge of the doorstop to the edge of the door (not to the door jamb). This measures the clear width of the door opening through which people pass, which is less than the width of the door itself. Door handles and push bars should not be included in the measurements of door opening widths.



Measuring the clear door opening

Taking Photographs

It is always useful to first take a photo that will clearly identify the site, then the elements surveyed. A comprehensive set of photographs makes it easier to understand existing conditions after the survey is completed. It is a good idea to take several photos of the exterior and interior of the polling place. We recommend taking photographs of measurements and non-compliant elements such as steps. It is likely that others may review information about the facility you are surveying.

Temporary Remedies

Many accessibility barriers at polling places can be removed with temporary remedies. Although not designed to be permanent solutions, the following tools can be used to provide remedies on Election Day to improve accessibility. These tools can often be found in local hardware and home improvement stores or online at minimal cost.

Temporary Remedies

Traffic Cones



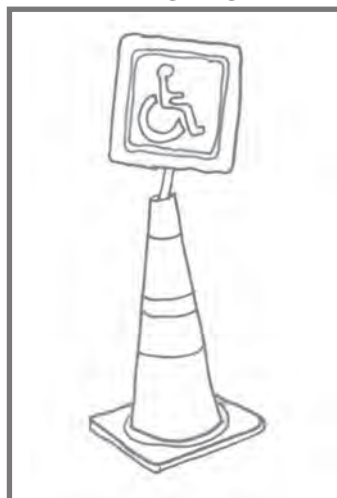
Traffic cones can be used to mark parking spaces, access aisles and passenger loading zones, to hold parking signs, and to warn of protruding objects.

Van Parking Sign



Van accessible parking signs should be used to designate van accessible parking locations.

Parking Signs



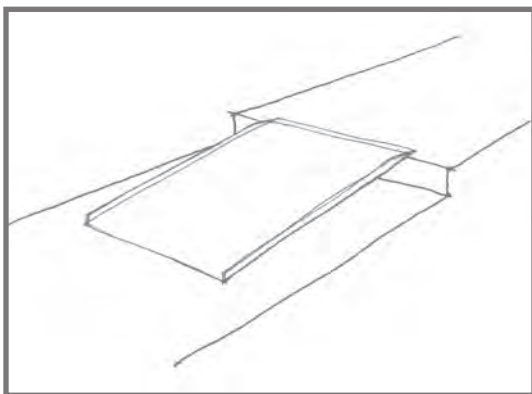
Accessible parking signs should be used to designate accessible parking locations.

Directional Signs



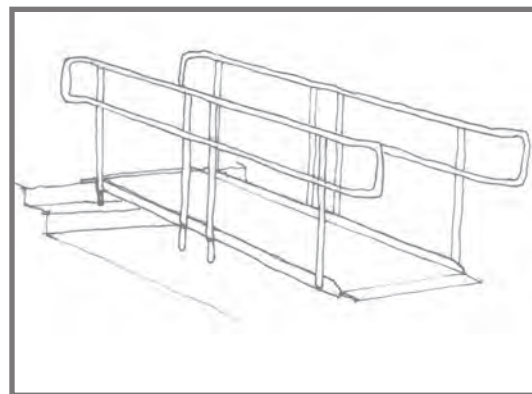
Directional signage should be used to show direction to the accessible route, accessible entrance, and voting area.

**Portable ramp -
step six inches or less**



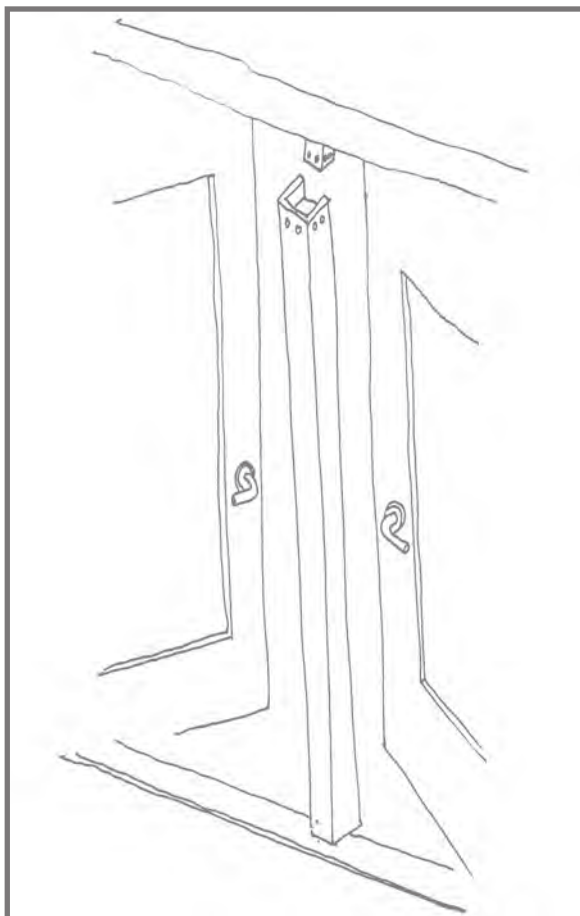
Portable ramps without handrails can only be used for heights six inches or less and can provide access at a curb or low step. Portable ramps also can be placed flat to cover holes or gaps in a sidewalk.

**Portable ramp -
greater than six inch step**



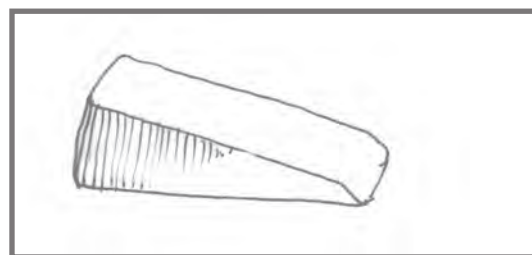
Portable ramps with handrails must be used for heights greater than six inches to provide access over steps. For ramps greater than six inches high, temporary edge protection such as a pipe or piece of wood can be attached with ties or twine to the edges of the ramp. Edge protection must run the entire length of the ramp.

**Remove post (increase clear width
at double leaf doors)**



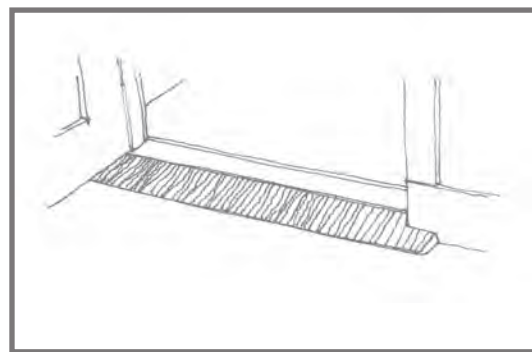
Remove center post between doors if the post is bolted to the door frame to provide a 32 inch clear opening or to allow double doors to be propped open.

Door stop



Door stops can be used to prop open a door if the door handle is inaccessible, or if there is an inadequate maneuvering clearance for a person using a wheelchair or other mobility device to open the door.

Wedges



Wedges can provide access at thresholds and slight changes in level.

Part 3 : Polling Place Accessibility Checklist

Ward:_____ Precinct:_____ Staff:_____ Date:_____ Time:_____

Address:_____ Location name:_____

This checklist is designed to provide guidance for determining whether a polling place has basic accessibility features needed by voters with disabilities.

For each question below there are citations to the 2010 ADA Standards for Accessible Design (2010 Standards). Please review the 2010 Standards for all requirements.

There are some differences between the 1991 ADA Standards for Accessible Design (1991 Standards) and the 2010 Standards. Elements and spaces in a building constructed or altered before March 15, 2012, that complied with the 1991 Standards may remain in compliance with the 2010 Standards. See 28 C.F.R. §35.150(b)(2) for more information.

In completing the checklist, provide a measurement for every question with a "no" answer. Where a question asks about more than one element, provide a note in the comments explaining any noncompliant elements.

Status of Polling Place

____ All Elements Compliant

____ Non-Compliant Elements Remediable with Temporary Measures

____ Non-Compliant Elements Not Remediable with Temporary Measures
(Relocate Polling Place)

Ward:_____ Precinct:_____ Staff:_____ Date:_____ Time:_____

Address:_____ Location name:_____

A	Parking	Yes	No	N/A	Comments/ Remedies
	<p>Only complete this section if off-street parking is provided to voters. If off-street parking is not provided to voters, go to Section B.</p> <p>If more than 25 parking spaces are provided to voters, see the 2010 Standards for the number of accessible parking spaces required. (§208.2)</p>				
A1	Is there at least one designated van accessible space with signage with the International Symbol of Accessibility and designated "van accessible"? (§§208.2, 208.2.4, 502.6)				
A2	<p>Are the designated van accessible spaces at least 96" wide with a 96" wide access aisle, or 132" wide with a 60" wide access aisle? (§§502.2, 502.3)</p> <p>Width of space _____</p> <p>Width of access aisle _____</p>				
A3	For van accessible spaces (particularly in a garage or parking structure), is there vertical clearance of at least 98" for the vehicular route to the parking space, in the parking space and access aisle, and along the vehicular route to the exit? (§502.5)				
A4	Are designated accessible parking spaces and the access aisles serving them on a level surface, with slopes not exceeding 1:48 in all directions? (Note: Curb ramps may not be part of an access aisle since they include slopes greater than 1:48.) (§502.4)				
A5	Are the surfaces of the designated accessible parking spaces and access aisles stable, firm, and slip resistant? (§§502.4, 302.1)				
A6	Are the designated accessible parking spaces located on the shortest accessible route to the accessible entrance? (§208.3.1)				

Ward:_____ Precinct:_____ Staff:_____ Date:_____ Time:_____

Address:_____ Location name:_____

B	Passenger Drop-Off Area	Yes	No	N/A	Comments/ Remedies
	Only complete this section if a passenger drop-off area is provided for voters. If a drop-off area is not provided to voters, go to Section C.				
B1	Is the vehicle pull-up space on a level surface, with slopes not exceeding 1:48 in all directions? (§503.4)				
B2	Is the access aisle next to the vehicle pull-up space on a level surface, with a slope not exceeding 1:48 in all directions? (§503.4)				
B3	Is there vertical clearance of at least 114" (9 feet 6 inches) from the site entrance to the vehicle pull-up area, in the access aisle, and along the vehicular route to the exit? (§503.5)				
B4	Is a curb ramp provided if a curb separates the access aisle from the accessible route to the accessible entrance? (§§206.2.1, 503.3)				
B5	Is the width of the curb ramp surface at least 36" (not counting the side flares)? (§405.5)				
B6	Does an accessible route connect the access aisle and curb ramp to the accessible entrance of the polling place? (§206.2)				

Ward:_____ Precinct:_____ Staff:_____ Date:_____ Time:_____

Address:_____ Location name:_____

C	Exterior Route to Accessible Entrance	Yes	No	N/A	Comments/ Remedies
	<p>Complete a separate Exterior Route form, when applicable, for the routes from 1) parking, 2) passenger drop-off areas, 3) public sidewalks and 4) public transportation stops.</p> <p>Exterior route location: _____</p>				
C1	Is the route at least 36" wide? (§403.5.1)				
C2	Is the route free of abrupt changes in level greater than ½", including stairs? (§303)				
C3	Is the route free of surface openings greater than ½", such as grates or holes in the pavement? (§302.3)				
C4	Are walking surfaces stable, firm, and slip resistant? (§302.1)				
C5	Is the route free of wall mounted objects that protrude more than 4" into the path of travel and are between 27" and 80" high? (§307.2)				
C6	Is the route free of post mounted objects that protrude more than 12" into the path of travel and are between 27" and 80" high? (§307.3)				
C7	Are objects that hang over the pedestrian route 80" or higher, including the underside of exterior stairs? (§307.4)				
C8	If the route crosses a curb, is there a curb ramp that is at least 36" wide with a slope no more than 1:12? (§§303.4, 405.2, 405.5, 406.1)				
C9	Is the running slope of part of the route greater than 1:20? If yes, go to Section G. (§402.2)				
C10	Is the cross slope of the accessible route no greater than 1:48? (§§403.3, 405.3)				

Ward:_____ Precinct:_____ Staff:_____ Date:_____ Time:_____

Address:_____ Location name:_____

D	Polling Place Entrances	Yes	No	N/A	Comments/ Remedies
D1	Is the clear width of the door opening (one door or one active leaf of a double door) at least 32"? (§404.2.3)				
D2	Is each door hardware useable with one hand without tight grasping, pinching, or twisting of the wrist? (§§309.4, 404.2.7)				
D3	On the pull side of the door, is there at least 18" of clearance provided to the side of the latch? (§404.2.4)				
D4	Is the area in front of the door level, with slopes no greater than 1:48 in all directions? (§§404.2.4.4, 405.7.1)				
D5	If there are doors in a series, is the distance between the two hinged doors at least 48" plus the width of the door swinging into the space? (§404.2.6)				
D6	Can the second door (interior door) in the series be opened with no more than 5 pounds of force? (§309.4)				
D7	Does the second door (interior door) in the series comply with D2, D3, and D4, above?				
D8	Are door thresholds no higher than ½"? (Note: If the threshold is between ¼" and ½" it must be beveled.) (§404.2.5)				
D9	Do inaccessible entrances have signage directing voters to the accessible entrance? (§216.6)				
D10	If voters are directed to an alternative accessible entrance, is this entrance kept unlocked during voting hours? (28 C.F.R. §§35.130, 35.133)				

Ward:_____ Precinct:_____ Staff:_____ Date:_____ Time:_____

Address:_____ Location name:_____

E	Route from Entrance Into Voting Area	Yes	No	N/A	Comments/ Remedies
E1	Is the route at least 36" wide? (§403.5.1)				
E2	Is the route free of wall mounted objects that protrude more than 4" into the path of travel and are between 27" and 80" high? (§307.2)				
E3	Is the route free of post mounted objects that protrude more than 12" into the path of travel and are between 27" and 80" high? (§307.3)				
E4	Are objects that hang over the route 80" or higher, including the underside of stairs? (§307.4)				
E5	Is the route free of abrupt changes in level greater than ½", including stairs? (§303)				
E6	Is the running slope of part of the route greater than 1:20? If yes, go to Section G. (§303.4)				
E7	If the route to the voting area has stairs, is a platform lift or elevator provided? If yes, go to Section H (lifts) or Section I (elevators). (§402.2)				
E8	If doors are provided along the route to the voting area, is the clear width of each door opening (one door or one active leaf of a double door) at least 32"? (§404.2.3)				
E9	Is each door hardware useable with one hand without tight grasping, pinching, or twisting of the wrist? (§§309.4, 404.2.7)				
E10	Can each door be opened with no more than 5 pounds of force? (§309.4)				
E11	Is the threshold at each door no higher than ½"? (Note: If the threshold is between ¼" and ½" it must be beveled.) (§404.2.5)				
E12	On the pull side of each door, is there at least 18" of clearance provided to the side of the latch? (§404.2.4)				
E13	Is the area in front of each door level, with slopes no greater than 1:48 in all directions? (§§404.2.4.4, 405.7.1)				

Ward:_____ Precinct:_____ Staff:_____ Date:_____ Time:_____

Address:_____ Location name:_____

F	Within the Voting Area	Yes	No	N/A	Comments/ Remedies
F1	Are floor surfaces stable, firm, and slip resistant? (§302.1)				
F2	Is the route free of wall mounted objects that protrude more than 4" into the path of travel and are between 27" and 80" high? (§307.2)				
F3	Is the route free of post mounted objects that protrude more than 12" into the path of travel and are between 27" and 80" high? (§307.3)				
F4	Are objects that hang over the route 80" or higher, including the underside of stairs? (§307.4)				
F5	Is there enough room to provide a route at least 36" wide to the registration table and voting stations? (§403.5.1)				
F6	Is there enough room to provide a turning space in front of at least one voting station, such as a circle that is at least 60" in diameter? (§304.3)				
F7	Is there enough room to provide a turning space in front of at least one accessible voting machine, such as a circle that is at least 60" in diameter? (§304.3)				

Ward:_____ Precinct:_____ Staff:_____ Date:_____ Time:_____

Address:_____ Location name:_____

G	Ramps Complete a separate ramp form for each ramp, whether exterior or interior. Ramp location: _____	Yes	No	N/A	Comments/ Remedies
G1	Is the running slope of the ramp no greater than 1:12? (§405.2)				
G2	Is the cross slope of the ramp 1:48 or less? (§405.3)				
G3	Is the rise (height) for any ramp run 30" or less? (§405.6)				
G4	Is the ramp, measured between handrails, at least 36" wide? (§405.5)				
G5	Does the ramp have a level landing that is at least 60" long, at the top and bottom of each ramp section? (§405.7)				
G6	For every 30" of rise, is a level landing at least 60" long provided? (§§405.6, 405.7)				
G7	Is a level landing, at least 60" by 60" provided where the ramp changes direction? (§405.7.4)				
G8	If the rise of the ramp is greater than 6", are handrails provided that are between 34" and 38" above the ramp surface? (§§405.8, 505.4)				
G9	If the rise of the ramp is greater than 6" and the ramp or landing has a vertical drop-off on either side of the ramp, is edge protection provided? (§405.9)				

Ward:_____ Precinct:_____ Staff:_____ Date:_____ Time:_____

Address:_____ Location name:_____

H	Lifts	Yes	No	N/A	Comments/ Remedies
H1	Is the lift operational at the time of the survey? (28 C.F.R. §§35.130, 35.133)				
H2	Is the lift independently operable, or can it be made so during Election Day? (§410.1)				
H3	Is there 30" by 48" of clear floor space within the lift? (§§410.3, 305.3)				
H4	Are the controls for the lift no higher than 48"? (§§410.5, 309.3, 308)				
H5	Are the controls useable with one hand without tight grasping, pinching or twisting? (§§410.5, 309.4)				
H6	Is the clear width of the door opening/gate opening at the end of the lift at least 32"? If a side door/gate is provided, is the clear opening width at least 42"? (§410.6)				

Ward:_____ Precinct:_____ Staff:_____ Date:_____ Time:_____

Address:_____ Location name:_____

I	Elevators	Yes	No	N/A	Comments/ Remedies
I1	Is the elevator car door opening at least 36" wide? (§407.3.6, Table 407.4.1)				
I2	Is there space to maneuver within the elevator car, e.g., 51" deep and 68" wide; OR 80" deep and 54" wide; OR 60" deep and 60" wide? (§407.4.1)				
I3	Are hallway elevator call buttons 48" high or lower? (§§407.2.1.1, 308.2, 308.3)				
I4	Are elevator car controls 48" high or lower? (§§407.4.6.1, 308.2, 308.3)				
I5	Does the elevator have visible and audible signals in the hallway to indicate the arrival and direction of the elevator car? (§407.2.2.1)				
I6	Does the elevator have visible and audible signals within the elevator car to indicate the position of the car? (§407.4.8)				

The Americans with Disabilities Act authorizes the Department of Justice (the Department) to provide technical assistance to individuals and entities that have rights or responsibilities under the Act. This document provides informal guidance to assist you in understanding the ADA and the Department's regulations.

This guidance document is not intended to be a final agency action, has no legally binding effect, and may be rescinded or modified in the Department's complete discretion, in accordance with applicable laws. The Department's guidance documents, including this guidance, do not establish legally enforceable responsibilities beyond what is required by the terms of the applicable statutes, regulations, or binding judicial precedent.

**Exhibit 23 to Verified Petition
of Bard College et al.**

ADA Checklist for Polling Places Survey Form

Checklist Survey for Accessible Polling Places

County: Dutchess Election District(s): 5th

Surveyed on: 3/11/19 Surveyed by: Karen Bucher and Jill Feldstein

Polling Place: St. John's Episcopal

Address: 1114 River Road City: Barrytown State: NY Zip: _____

City/Town: Red Hook

Contact Person: John Ferguson

Telephone #: 705 4529 TTY #: _____ Fax #: _____

E-mail: _____

Information

Quality of Location: <input type="checkbox"/> Excellent <input checked="" type="checkbox"/> Good <input type="checkbox"/> Fair <input type="checkbox"/> Poor	Location of Polling Entrance: <input type="checkbox"/> Front <input type="checkbox"/> Back <input checked="" type="checkbox"/> Right Side <input checked="" type="checkbox"/> Left Side <input type="checkbox"/> _____
Location of Accessible Entrance: <u>Left side</u>	Voting Space Location: <u>Meeting Room</u>
Terrain Around Polling Place: <input type="checkbox"/> Flat <input checked="" type="checkbox"/> Hilly <input type="checkbox"/> Grassy <input type="checkbox"/> Gravel <input type="checkbox"/> _____	Type of Building: <input type="checkbox"/> Business <input type="checkbox"/> School <input type="checkbox"/> Senior Center <input type="checkbox"/> Government Building <input checked="" type="checkbox"/> Church <input type="checkbox"/> _____
<input checked="" type="checkbox"/> Accessible Tables Available? How Many: _____	# of Electrical Outlets Available in Voting Space: <u>enough</u>
<input checked="" type="checkbox"/> Accessible Chairs Available? How Many: _____	<input type="checkbox"/> A Phone is Provided for Use on Election Day.
Voting Space Size: <u>38</u> ft. x <u>19</u> ft.	Maximum # of Voting Booths: <u>45</u>

Parking

1. Are all accessible parking spaces, including the aisle, relatively level (2%) in all directions? Yes ☒ No ☐
2. Does each accessible parking space have a sign with the symbol of accessibility that is visible when a vehicle is parked in the space? Yes ☐ No ☒
3. If there is a curb between the access aisle and the accessible route to the building, is there a curb ramp that meets the following requirements:
- a. Is the ramp surface at least 36" wide, excluding flared sides? Yes ☐ No ☐ *No curbs*
- b. Is the slope no more than 1:12? Yes ☐ No ☐
4. Are the accessible parking spaces serving the voting area on the shortest accessible route to the accessible entrance? Yes ☒ No ☐
5. Does each access aisle connect to an accessible route from the parking area to the accessible building entrance? Yes ☒ No ☐

Passenger Drop-Off Areas (If provided)

1. Is a relatively level (1:50 or 2% max slope) access aisle provided adjacent and parallel to the side of the vehicle pull-up area? Yes ☐ No ☐ *N/A*
2. Is the vehicle space relatively level (2% max) Yes ☐ No ☐
3. Is the area for the access aisle at least 5 feet wide and 20 feet long? Yes ☐ No ☐
4. Is the vertical height for the vehicle route to the loading zone, the drop off area, and the exit at least 114" (9' 6") in height? Yes ☐ No ☐
5. Is a curb ramp provided between the vehicle pull up area and the access aisle or the access aisle and the accessible route to the accessible entrance? Yes ☐ No ☐
6. If a curb ramp is provided, is the slope of the ramp Surface no more than 1:12? Yes ☐ No ☐
7. Is the width of the curb ramp surface at least 36"? Yes ☐ No ☐
8. Does an accessible route connect the curb ramp to the accessible entrance? Yes ☐ No ☐

Sidewalks & Walkways

1. Is an accessible route provided from accessible parking spaces to the accessible entrance of the building? Yes ✓ No
2. Is an accessible route provided from public sidewalks and public transportation stops on the polling site (if provided) to the accessible entrance of the building? Yes No NA
3. Is the accessible route at least 36 inches wide? Yes No
4. Is the accessible route free of steps and abrupt level changes over ½ inch? Yes No
5. Where an accessible route crosses a curb-is a curb ramp provided? Yes No
If so,
Is the ramp surface at least 36" wide? Yes No
Is the slope no more than 1:12? Yes No
6. If the slope of part of the accessible route is greater than 1:20, does this part meet the following requirements for an accessible ramp? Yes No
Is the slope no greater than 1:12? Yes No
Is the ramp width at least 36"? Yes No
Does the ramp have a level landing at the top and bottom of each ramp section that is at least 60 inches long? Yes No
If a ramp is more than 30' long, is a level landing at least 60" long provided every 30' of horizontal length? Yes No
Is a level landing, at least 60 x 60, provided where a ramp changes direction? Yes No
Are the handrails mounted between 34 & 35" above the ramp surface? Yes No
If the ramp or landing has a vertical drop-off on either side of the ramp, is edge protection provided? Yes No
7. Are all sidewalks and walkways to the voting area free of any objects with bottom edges that are higher than 27 inches but less than 80 inches above the walkway and that extend more than 4 inches into the sidewalk or walkway? Yes No
8. Are the undersides of exterior stairs enclosed or protected with a cane-detectable barrier so that people who are blind or have low vision will not hit their heads on the underside? Yes No NA
9. Are all objects that hang over the pedestrian routes 80" or more above the route? Yes No NA

Building Entrance

1. Is there at least one accessible entrance connected to an accessible route? Yes ☒ No ☐
2. Does at least one door or one side of a double leaf door at the accessible entrance provide at least 32 inches clear passage width when the door is open 90 degrees? Yes ☒ No ☐
3. Is the door hardware (e.g., lever, pull, panic bar) usable with one hand without tight grasping, pinching, or twisting of the wrist? Yes ☒ No ☐
4. On the pull side of the door, is there at least 18" clearance provided to the side of the latch if the door is not automatic? Yes ☒ No ☐
5. If there is a raised threshold, is it no higher than 3/4 inch at the door and beveled on both sides? Yes ☒ No ☐
6. If an entry has a vestibule, is there a 30" x 48" clear floor space inside the vestibule where a wheelchair or scooter user can be outside the swing of a hinged door? Yes ☒ No ☐

Hallways and Corridors

1. Is there an accessible route, at least 36" wide that connects the accessible entrance to the voting area? (2' length can be 32") Yes ☒ No ☐
 2. Is the accessible route free of steps and abrupt level changes over 1/2 inch (level changes between 1/4" and 1/2" should be beveled)? Yes ☒ No ☒
 3. Does the route from the accessible entrance to the voting area change levels using a ramp, lift or elevator? Yes ☐ No ☐
 - If yes, is a **ramp** or sloped hallway provided? Yes ☐ No ☐
 - Is the slope no greater than 1:12? Yes ☐ No ☐
 - Is the ramp width at least 36 inches? Yes ☐ No ☐
 - Are the handrails 34 & 38" above surface? Yes ☐ No ☐
- For **elevators**, are the call buttons mounted in an accessible location with the centerlines at 42" above the floor? Yes ☐ No ☐
- Does the floor area of the elevator car provide space for wheelchair users to enter, reach the controls and exit the car? Yes ☐ No ☐
- Are raised letters and Braille characters used to identify each floor button and each control? Yes ☐ No ☐
- Is the elevator equipped with audible tones or bells or verbal annunciators that announce each floor as it is passed? Yes ☐ No ☐

For lifts, is the change in level from the floor to the lift surface ramped or beveled

Yes _____ No _____

Is there at least a 30" x 48" clear floor space on the wheel chair lift?

Yes _____ No _____

Does the lift allow a wheelchair user unassisted entry, operation and exit?

Yes _____ No _____

Are the controls and operating mechanisms mounted no more than 54" above the floor for a side reach or 48" for a forward reach?

Yes _____ No _____

Are the controls and operating mechanisms usable with one hand without tight grasping, pinching or twisting?

Yes _____ No _____

4. At each location on the way to the voting area where the accessible route passes through a door(s), does at least one door meet the following requirements?

Is the clear width for the door opening at least 32" when the door is open 90 degrees?

Yes ☒ No _____

Is the door hardware usable with one hand without tight grasping, pinching or twisting?

Yes ☒ No _____

Is there clear maneuvering floor space in front of each accessible door, and on the pull side, is there at least 18" clear floor space beyond latch side? Yes ☒ No _____

Is no more than 5 pounds force needed to push or pull open the accessible door?

Yes ☒ No _____

If the answer to those above 4 questions is "no", can the door be propped open to provide an accessible route on election day?

Yes ☒ No _____

5. For voters who are blind/have low vision, are pedestrian routes free of objects that protrude from the side more than 4" into the route with the bottom of the object more than 27" above the floor?

Yes ☒ No _____

Are interior stairs built so that people who are blind cannot hit their heads on the underside?

Yes _____ No _____

Voting Area

1. Is there an accessible entrance to the voting area? Yes ☒ No _____

2. Within the voting area, is adequate space available on the accessible level for check-in tables and accessible voting station? Yes ☒ No _____

3. Is the voting area free of objects that protrude from the side more than 4" into the route with the bottom of the object more than 27" above the floor? Yes ☒ No _____

4. Is the voting area free of overhead objects that voters may pass under with the bottom edge lower than 80 inches above the floor? Yes ☒ No _____

St. John's Episcopal

