

STATE OF NEW YORK  
NEW YORK STATE BOARD OF ELECTIONS

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In the Matter of:

JEAN RYAN,

Complainant,

HAVA Complaint No. 25-01  
Determination

-v-

NEW YORK CITY BOARD OF ELECTIONS,

Respondent.

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**Procedural Background**

On February 10, 2025, the New York State Board of Elections (hereinafter “SBOE”) received a written, sworn, signed, and notarized Complaint (hereinafter “Complaint”) dated January 20, 2025, filed by Jean Ryan, alleging certain conduct that constitutes violations of Title III of the Help America Vote Act of 2002 (52 U.S.C. § 21081) (hereinafter “HAVA”).

According to the Complaint, Ms. Ryan attempted to vote early at the Fort Hamilton High School poll site in Brooklyn during the 2023 General Election cycle. Ms. Ryan, who uses a wheelchair, was not permitted to operate the wheelchair lift in the poll site independently, despite her familiarity with doing so in other similar lifts. During the 2024 General Election cycle, DRNY sent a staff attorney to survey the poll site, and was informed by poll workers that they were trained to operate the lift from the outside and that voters were not permitted to operate the lift independently. When this was relayed to Ms. Ryan, she declined to vote early at the Fort Hamilton High School poll site and voted on Election Day, which was at a different poll site.

On February 25, 2025, the New York City Board of Elections (hereinafter “NYCBOE”) responded to the Complaint. NYCBOE denied that a violation of HAVA occurred under the circumstances described in the Complaint, and that poll workers were not erroneously trained. The wheelchair lift in question can be

operated from both the inside and outside, but per the school custodian, there were previous incidents where the lift malfunctioned and someone at the school became locked inside the lift for a lengthy period of time. Due to these concerns, the operational key was given to the NYCBOE's Accessibility Clerk, and Ms. Ryan was asked not to operate the lift out of concerns for her safety. Any perceived departure from ADA guidelines should be excused with respect to this specific incident, as Ms. Ryan was offered "substantially equivalent" access to the poll site.

NYCBOE also clarified that the manager of the poll site has been directed to allow voters to operate the lift independently from the inside in the future, and that the lift had been recently tested and operated without issue.

A hearing was held on March 21, 2025.

Jean Ryan and Jenessa Seymour appeared on behalf of Ms. Ryan. During the hearing, the complainant reiterated the information contained in their complaint, specifically that Ms. Ryan strives to maintain her independence in her daily life, and that her familiarity with operating wheelchair lifts should have been respected when she voted in the 2023 General Election. In response to a question from NYCBOE, Ms. Ryan confirmed that she was able to access the poll site through use of the wheelchair lift during the 2023 General Election and cast a ballot successfully.

Raphael Savino, Grace Pyun, and Eric Butkiewicz appeared on behalf of the NYCBOE. During the hearing, NYCBOE incorporated their written response into their testimony. They stated that there is little controversy related to the remedy, in that the issue in question has been effectively resolved in relation to future elections. In response to questions from Ms. Seymour and Ms. Ryan, NYCBOE stated that they were unsure whether NYCBOE has an explicit written policy on the independent operation of wheelchair lifts in the poll worker manual but that it would be discussed with the training staff to determine what currently exists and what could be added to future training guidelines in addition to the current provisions on disability etiquette.

## **Jurisdiction**

Section 402 of Help America Vote Act of 2002 (52 U.S.C. § 21112) requires the State to create a state-based administrative complaint procedure to assure compliance with Title III of the Help America Vote Act of 2002. Subdivision 16 of § 3-102 of the New York State Election Law directs SBOE to establish a HAVA administrative complaint procedure. Section 3-105 of the Election Law outlines the Complaint procedure, such as that a formal complaint shall be in writing, signed and notarized; that the evidentiary standard shall be a preponderance of the evidence; and that the final determination shall be published and appropriate action shall be taken by the State Board of Elections as necessary. Additionally, 9 NYCRR § 6216.2 further outlines the administrative complaint process.

As the Complaint was written, signed and notarized, and as the Complaint alleges conduct that constitutes a violation of Title III of HAVA, SBOE determines that Jean Ryan has standing to bring a Complaint.

## **Issues Raised by the Complainant**

The Complainant, Jean Ryan, alleges the following:

1. The wheelchair lift in the Fort Hamilton High School poll site was unable to be operated independently; and
2. The inability to operate the wheelchair lift independently interfered with her right to vote independently and privately.

## **Legal Authority**

Title III of HAVA, Section 301(a), outlines the minimum standards for polling locations used in federal elections. It is explicitly stated that all voting systems must be accessible to persons with disabilities (52 U.S.C. § 21081(a)(3)(A)). Furthermore, Title III outlines particular requirements that states must satisfy; namely, providing non-visual accessibility to the blind and visually impaired and maintaining at least one voting system at each polling location equipped for persons with disabilities (52 U.S.C. §

21081(a)(3)(A-B)). Title III also requires that the voting opportunities provided by elections officials to persons with disabilities “be accessible...in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters...” (52 U.S.C. § 21081 (a)(3)(A)).

### **Findings of Fact**

#### Ms. Ryan was refused the ability to operate the wheelchair lift independently:

The poll workers at the Fort Hamilton High School poll site refused to allow Ms. Ryan the ability to operate the wheelchair lift independently from the inside. However, this refusal was based on prior incidents where the wheelchair lift malfunctioned, and as such, concerns for Ms. Ryan’s safety.

#### NYCBOE has made corrective instruction to poll workers regarding the subject wheelchair lift:

Poll workers at the Fort Hamilton High School poll site have been instructed to permit those who utilize the wheelchair lift in question to allow voters to operate it independently in the future. Likewise, the wheelchair lift in question has been recently tested and was confirmed to be operational.

#### Ms. Ryan is willing to return to the poll site if she can operate the lift independently:

Ms. Ryan has confirmed that, should the lift in the Fort Hamilton High School poll site be able to be operated independently, she would be willing to return to the poll site for future elections.

### **Remedy**

Section 3-105 of the Election Law requires that “(w)hen a violation has been found, the final determination shall include an appropriate remedy for any violation of Title III of the Help America Vote Act of 2002 (HAVA) found by the state board of elections.” Further, 9 NYCRR 6216.2(f)(1) states that “(r)emedies may consist of a directive to the local or State official(s) or entities to undertake or to refrain from certain actions or to alter certain procedures pertaining to Federal elections.”

The Complaint makes reference to the incident in question being violative of Section 410.1 of the 2010 ADA Standards for Accessible Design, but this violation cannot be ruled on by the SBOE as ADA violations are not contemplated under the statutory authority granted to it under HAVA. As previously

stated, Title III of HAVA, Section 301(a), states that all voting systems must be accessible to persons with disabilities. Ms. Ryan confirmed not only that she was able to cast a ballot in the 2023 General Election despite the issues with the wheelchair lift, but that she did not vote at the poll site in question during the 2024 General Election. Given the foregoing, SBOE cannot explicitly find a violation of HAVA.

However, SBOE strongly encourages NYCBOE to review all poll worker training materials relating to disability etiquette to ensure there is sufficient language contained therein related to the use of wheelchair lifts in poll sites. In addition, SBOE also recommends that NYCBOE confirm with the poll site manager before the next election that they understand that the lift in the poll site can be operated independently by voters.

#### **Determination**

For the reasons stated above, SBOE finds the allegations in the Complaint to be credible, declines to find that there was a violation of Title III of HAVA, and strongly encourages NYCBOE to abide by the suggestions in the Remedy section of these findings. SBOE expresses no opinion as to alleged violations of any other state or federal law with respect to the accessibility of poll sites.

Dated: May 16, 2025

Kevin G. Murphy

Deputy Counsel, New York State Board of Elections

Aaron Suggs

Counsel, New York State Public Campaign Finance Board