

STATE OF NEW YORK  
NEW YORK STATE BOARD OF ELECTIONS

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In the Matter of:

GIAN CARLO PEDULLA,

Complainant,

HAVA Complaint No. 25-04  
Determination

-v-

NEW YORK CITY BOARD OF ELECTIONS,

Respondent.

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**Procedural Background**

On February 18, 2025, the New York State Board of Elections (hereinafter “SBOE”) received a written, sworn, signed, and notarized Complaint (hereinafter “Complaint”) dated February 7, 2025, filed by Gian Carlo Pedulla, 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, Mr. Pedulla, who is blind, attempted to vote on Election Day at the P.S./I.S. 226 poll site in Brooklyn. After asking at check-in to utilize the BMD he was asked to take a seat, where he sat for several minutes alone before being informed that the BMD was experiencing a paper jam. Mr. Pedulla was informed that the poll workers were not permitted to touch the BMD and had to wait for a technician to arrive. Mr. Pedulla was offered the opportunity to fill out his ballot with assistance, which he declined. He then was left alone for approximately 30 minutes.

Mr. Pedulla stood up to inquire as to what was happening, and was told to return to his seat. At this point, he called a visual interpreting service to describe what was happening in the room but was told by a poll worker that he was not allowed to film within the poll site. He explained that he was utilizing a visual interpreting service, but shortly after was informed that he had to leave the poll site by an individual identifying as a member of the New York Police Department (hereinafter “NYPD”). Mr. Pedulla explained

the situation, and after conferring with poll workers, the officer apologized and stated that the technician had not yet arrived. Mr. Pedulla was left in the company of another NYPD officer to wait for the BMD to be repaired.

The machine tech arrived and spent approximately 45 minutes attempting to fix the BMD but was unable to do so. Mr. Pedulla then filled out his ballot with the assistance of a bipartisan team of poll workers, and left the poll site after nearly three hours. The Complaint alleges that Mr. Pedulla had to forgo his right to a private and independent vote by being unable to utilize the BMD.

On March 4, 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, as the temporary inoperability of a BMD due to a paper jam is unpredictable and cannot be guaranteed to be prevented by any level of pre-election maintenance or testing. Similarly, NYCBOE states that a number of the items being sought as “relief” in the Complaint are either improper remedies to a HAVA violation and/or not possible to implement. Specifically, NYCBOE emphasized that despite allegations to the contrary, the NYPD were not called to remove Mr. Pedulla from the poll site.

A hearing was held on March 21, 2025.

Gian Carlo Pedulla and Helen Hellmuth appeared on behalf of Mr. Pedulla. During the hearing, the Complainant reiterated the information contained in the Complaint, specifically that Mr. Pedulla was pressured to fill out his ballot with assistance once informed that the BMD was malfunctioning. He was not offered the full list of options that he had before him, which included waiting for the machine to be repaired or returning to the poll site once the machine was repaired. Mr. Pedulla stated that despite the written testimony of NYCBOE, he was told explicitly by at least one of the officers that the NYPD had been called to remove him from the poll site. However, it was clarified by Ms. Hellmuth that it was unclear whether a poll worker or a voter was the one who contacted NYPD, and that she had made a Freedom of

Information Law (hereinafter “FOIL”) request to NYPD for the call records associated with this incident. At the time of the Hearing, the request had not been fulfilled.

Grace Pyun, Raphael Savino, and Eric Butkiewicz appeared on behalf of the NYCBOE. During the hearing, NYCBOE incorporated their written response into their testimony. A NYCBOE machine technician was dispatched within 15 minutes of the call being placed, per poll site call records. Poll workers followed the appropriate procedure to first attempt to troubleshoot the issue prior to reaching out to a machine technician. At the time that the BMD was determined inoperative, it was too late in the day to get a backup BMD to the poll site before polls closed.

Ms. Hellmuth inquired about NYCBOE records that indicate a vendor machine tech was deployed to the poll site earlier in the day. Mr. Butkiewicz responded that technicians commonly visit poll sites on a rolling basis throughout the day, and that they did not have a record of any malfunction occurring prior to the arrival of the vendor machine technician. It is possible that a malfunction occurred, however, and that it was either not documented, and/or was with another piece of equipment, like a ballot scanner.

Following the Hearing, Mr. Pedulla and Ms. Hellmuth requested a 30-day extension from SBOE to issue its Determination to allow more time for the NYPD to respond to the aforementioned FOIL request. The extension request was granted. On May 27, 2025, Ms. Hellmuth informed SBOE that she received a response from the NYPD that no 911/311 call was ever made, and that the responding officers were “assigned to Election Day duties and were making routine visits to poll sites throughout their precinct.” It remains unclear who approached the officer in person at the poll site.

### **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 Gian Carlo Pedulla has standing to bring a Complaint.

### **Issues Raised by the Complainant**

The Complainant, Gian Carlo Pedulla, alleges the following:

1. The BMD was inoperable at the time Mr. Pedulla attempted to vote on Election Day 2024;
2. Mr. Pedulla was not fully informed of his voting options by poll workers once informed that the BMD was malfunctioning;
3. Mr. Pedulla was left alone for a significant period of time with no contact or updates from poll workers on the status of the machine's operability;
4. Mr. Pedulla was reprimanded by a poll worker for filming within the poll site even though he was utilizing a visual interpreting service to determine what was occurring;
5. An NYPD officer was alerted to Mr. Pedulla's continued presence in the poll site, which led to a confrontation that was eventually resolved without further incident;
6. The inability to vote on the BMD interfered with Mr. Pedulla's 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**

### The BMD malfunctioned and the poll workers did not provide Mr. Pedulla with all his options to vote

When Mr. Pedulla attempted to vote, he was informed that the BMD was experiencing a paper jam and was currently inoperable. Though machine technicians were contacted and dispatched to the poll site, the machine was unable to be repaired. During this period, poll workers did not provide Mr. Pedulla with his full options to vote and attempted repeatedly to have Mr. Pedulla fill out a ballot with bipartisan assistance. Mr. Pedulla should have been informed of all his voting options, including but not limited to returning to the poll site once the BMD had been repaired.

### Poll workers did not follow proper disability etiquette protocol

After declining to vote with bipartisan assistance, poll workers left Mr. Pedulla sitting alone for an extended period without any updates as to the operability of the BMD or the timeline of the arrival of the machine technician. When Mr. Pedulla attempted to garner information by asking questions of poll workers, he was instructed to return to his seat. When he attempted to utilize a visual interpreting service, he was reprimanded for filming within the poll site. Poll worker training dictates that Mr. Pedulla should

have received more attentive treatment from poll workers and should not have been reprimanded before the appropriate clarifying inquiry was made.

Mr. Pedulla was improperly approached by an NYPD officer and asked to leave the poll site

It is clear from the evidence before SBOE that no call was made to NYPD with respect to Mr. Pedulla's continued presence within the poll site. However, through personal contact, an NYPD officer confronted Mr. Pedulla and instructed him to leave. After some clarification and discussion with poll workers, the officer apologized to Mr. Pedulla for the misunderstanding. Though this encounter was improper, it is unclear from the evidence before SBOE whether NYCBOE bears any direct responsibility for it. It is entirely possible that a voter or otherwise "concerned citizen" involved themselves in this matter.

**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."

Pursuant to this authority, SBOE directs NYCBOE to:

1. Review all poll worker training materials to ensure that disability etiquette is fully and properly covered, and ensure that this subject area is emphasized during future poll worker trainings;
2. Ensure that the disability etiquette portion of the training materials includes instruction on properly accompanying visually impaired voters within the poll site;
3. Ensure that poll workers are trained regarding every option available to a voter when a BMD malfunctions, and that the voter must be informed of all available options.

**Determination**

For the reasons stated above, SBOE finds the allegations in the Complaint to be credible, finds that there was a violation of Title III of HAVA, and directs NYCBOE to comply with the Remedy section of these findings

Dated: June 18, 2025

Kevin G. Murphy

Deputy Counsel, New York State Board of Elections

Aaron Suggs

Counsel, New York State Public Campaign Finance Board