

STATE OF NEW YORK  
NEW YORK STATE BOARD OF ELECTIONS

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In the Matter of:

KATHLEEN M. COLLINS,

Complainant,

HAVA Complaint No. 25-08  
Determination

-v-

NEW YORK CITY BOARD OF ELECTIONS,

Respondent.

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**Procedural Background**

On October 2, 2025, the New York State Board of Elections (hereinafter “SBOE”) received a written, sworn, signed, and notarized Complaint (hereinafter “Complaint”) dated September 24, 2025, filed by Kathleen Collins, 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, during early voting, on Friday, June 20, 2025, at approximately 3:45 P.M., Ms. Collins went to vote at Baruch University at 25th Street between 3rd Avenue and Lexington Avenue. After Ms. Collins completed marking the first page of the ballot with the Ballot Marking Device (hereinafter “BMD”), it did not print. Ms. Collins asked a poll worker for assistance, and they attempted to troubleshoot the BMD but were unable to resolve the issue. Poll workers offered to have a bipartisan team assist Ms. Collins in marking the ballot. They did not offer any other options. Ms. Collins did not know if there was another BMD available at that site, but they did not offer the option to try another one. Ms. Collins declined the offer of assistance, to preserve her privacy, and asked for a new first page. She marked the entire ballot by holding the pen between her arm and face, as she does not have hands. By the time she finished voting it was approximately 4:30 p.m. and the poll site was closed. Ms. Collins also experienced technical issues with the BMD. It was too difficult to write in a name and the cursor kept

jumping back and forth when she tried to type. It was also very confusing and difficult to make her selections in the ranked-choice format. The BMD made it difficult to tell who she was selecting for which contest, and to remember what selections she had already made.

On October 16, 2025, the New York City Board of Elections (hereinafter “NYCBOE”) responded to the Complaint. The Response stated that the NYCBOE did not violate Title III of HAVA. Two BMDs were present at the poll site during early voting in the June 2025 Primary Election. If one was temporarily inoperable there was still an accessible voting system available ensuring that a voter could cast their ballot privately and independently. The NYCBOE maintains policies, procedures, and trainings to ensure BMDs are tested and operable, including specific procedures for poll workers to troubleshoot issues. The NYCBOE also trains its poll workers every year on assisting BMD users. The NYCBOE implemented these procedures for its BMDs and poll worker trainings for the June 2025 Primary Election, including training poll workers in responding appropriately to BMD issues and assisting voters with disabilities, if requested. Here, the poll workers properly offered one of the choices available for assisting voters to complete their ballot. Ms. Collins declined such option and ultimately was able to cast her vote. Considering the above, the temporary inoperability of a single BMD, out of two at the poll site, is not a violation of Title III of HAVA, 52 U.S.C. § 21081(a)(3)(A) and (B) or any other applicable legal requirement. The NYCBOE has already implemented most of the relief sought by Ms. Collins with the remainder being requests for relief that are beyond the Board's purview to implement.

A hearing was held on November 20, 2025.

Kathleen Collins and Jenessa Seymour appeared on behalf of the Complainant. During the hearing, the Complainant reiterated what was stated in her complaint. Ms. Collins also testified that the poll workers did not offer to call a technician to come fix the BMD. They also did not inform her that she could return on a different day after the BMD was fixed or that a trusted individual could assist her in marking

her ballot. The complainant also submitted a Freedom of Information Law request for records related to a broken BMD at this poll site and the NYCBOE responded that there were no records.

Grace Pyun, Raphael Savino, and Eric Butkiewicz appeared on behalf of the NYCBOE. During the hearing, the NYCBOE reiterated its written response to this complaint. The NYCBOE also testified that they have added a magnetic sticker to each BMD with a phone number to report problems and the options to provide to the voter if the BMD is inoperable. The NYCBOE also testified that they are awaiting new BMDs to be certified.

### **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 Kathleen Collins has standing to bring a Complaint.

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

The Complainant, Kathleen Collins, alleges the following:

1. The BMD malfunctioned and Ms. Collins was not offered an opportunity to vote on a different BMD or provided with other options to vote.

## **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)).

Section 8-102 of the Election Law requires election inspectors to inspect ballot devices and BMDs to ensure they are in working order prior to the opening of the polls, and to inspect the polling site to ensure that there is sufficient privacy when using devices, booths, and BMDs. Section 8-300 of the Election Law provides that “(t)he operating of the ballot scanner by the voter while voting or the use of a privacy booth or ballot marking device for marking a ballot shall be secret and obscured from all other persons except as provided by this chapter in cases of voting by assisted voters or in cases of children under the age of sixteen accompanying their voting parents or guardians.”

## **Findings of Fact**

The BMD did not print Ms. Collins’ ballot, and she was not offered an opportunity to vote on a different BMD or provided with her other options to vote.

The BMD would not print Ms. Collins’ ballot, and the poll workers tried but were unable to remedy the malfunction. Thereafter the poll workers did not provide Ms. Collins an opportunity to use the other BMD. They also did not provide Ms. Collins with her other options to vote other than by a bipartisan team of poll workers. Ms. Collins refused the bipartisan team because she wanted to maintain her privacy and voted by holding the pen between her arm and face because she does not have hands.

## **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. Emphasize in poll worker training that poll workers must offer the voter with all their options to vote when the BMD malfunctions, including using another BMD at the poll site.
2. Highlight in poll worker training that magnetic stickers with directions on what to do in the event of a BMD malfunction have been attached to all BMDs.

## **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 the NYCBOE to comply with the Remedy section of these findings.

Dated: December 29, 2025

Kevin G. Murphy

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