



# City of New York

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## OFFICE OF THE COMPTROLLER

Scott M. Stringer  
COMPTROLLER



## MANAGEMENT AUDIT

**Marjorie Landa**

Deputy Comptroller for Audit

Audit Report on the Board of Elections'  
Controls over the Maintenance of  
Voters' Records and Poll Access

MG16-107A

November 3, 2017

<http://comptroller.nyc.gov>



THE CITY OF NEW YORK  
OFFICE OF THE COMPTROLLER  
SCOTT M. STRINGER

November 3, 2017

To the Residents of the City of New York:

My office has audited the controls of the New York City Board of Elections (BOE) over the maintenance of voters' records and access to poll sites. We audit City entities such as the BOE as a means of increasing accountability and ensuring that City operations function as intended and in the best interest of the public.

The audit found that the BOE took efforts to ensure that Brooklyn voters inappropriately purged from voter rolls for the April 2016 Primary Election were restored in time for the November 2016 General Election. However, the audit found that the BOE failed to ensure that the poll sites operated effectively and efficiently and in accordance with applicable law, rules and guidelines, which ultimately could have impacted the ability of individuals to vote. Auditors visited a total of 156 sites (out of as many as 1,205 sites operated by the BOE throughout the City) during three elections between June 28, 2016 and November 8, 2016 and identified one or more deficiencies at 141 (90 percent) of those sites. Among the deficiencies found were problems with the assistance provided to voters, including those who require language interpreters and those with disabilities; problems with the information provided to voters; and problems with the accessibility of the poll sites themselves for disabled voters. The audit also found issues with the quality and amount of training the BOE provides for Election Day workers.

The audit makes nine recommendations to the BOE, including that the agency should ensure that every poll site is fully accessible to disabled voters; that every poll site is fully staffed; and that the required number of interpreters skilled in the languages needed at each polling site are on site and available to provide assistance to voters. The audit also recommends that the BOE re-evaluate its current training curriculum for poll workers and coordinators.

The results of the audit have been discussed with BOE officials, and their comments have been considered in preparing this report. Their complete written response is attached to this report.

If you have any questions concerning this report, please e-mail my Audit Bureau at [audit@comptroller.nyc.gov](mailto:audit@comptroller.nyc.gov).

Sincerely,

A handwritten signature in blue ink, appearing to read "Scott M. Stringer".

Scott M. Stringer

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# THE CITY OF NEW YORK OFFICE OF THE COMPTROLLER MANAGEMENT AUDIT

## Audit Report on the Board of Elections' Controls over the Maintenance of Voters' Records and Poll Access

MG16-107A

### EXECUTIVE SUMMARY

The New York City Board of Elections (BOE) is charged with conducting federal, New York State (the State) and local elections in New York City (the City). To carry out its functions, the BOE distributes, receives, and processes New York City residents' voter-registration forms, and maintains the roll of the City's registered voters. Its operations are governed by federal and State laws, as well as by its own guidelines and procedures and those established by the State Board of Elections.<sup>1</sup>

To facilitate Election Day operations, the BOE employs poll workers to open and close the polling sites, administer the voting operations, assist voters, and electronically transmit the preliminary results from scanners to the BOE's General Office. Poll workers are required to arrive at the polls by 5:00 a.m., open the polls at 6:00 a.m., close the polls at 9:00 p.m. and conduct the closing process so votes can be transmitted to the BOE, a minimum of a 17-hour work day that usually runs longer.

Between March 2014 and July 2015, the BOE's Brooklyn office canceled, or "purged," the registrations of over 117,600 voters, which prevented them from voting during the April 19, 2016 Presidential Primary Election. The BOE's action triggered an investigation by the New York State Attorney General and by the U.S. Department of Justice. BOE subsequently agreed to restore these voters to the rolls.

The objective of this audit was to determine whether the BOE took effective actions to ensure that certain voters inappropriately purged from voter rolls were restored to the voting rolls for the November 2016 elections. In addition, the audit was conducted to determine whether adequate assistance was provided to voters at polling sites and whether polling sites were accessible to all voters, including persons with disabilities.

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<sup>1</sup> Under State law, the State Board of Elections is responsible for, among other things, overseeing the City BOE and other local boards of election throughout the State. The State Board of Elections has the responsibility for administration and enforcement of all laws relating to elections in New York State. It has the power to "visit boards of elections, examine their procedures and records and direct that any such procedures be modified in any manner consistent with the provisions of [the State Election Law]." State Election Law § 3-102. The State Board of Elections also offers assistance to local election boards, investigates complaints of possible statutory violations, and is generally "charged with the preservation of citizen confidence in the democratic process and enhancement in voter participation in elections."



## Audit Findings and Conclusions

The audit found that the BOE took efforts to ensure that Brooklyn voters inappropriately purged from voter rolls for the April 2016 Primary Election were restored in time for the November 2016 General Election and, through our sample testing, those efforts appear to have been effective. However, our audit found that the BOE failed to ensure that the polls operated effectively and efficiently and in accordance with applicable law, rules and guidelines, which ultimately could have impacted the ability of individuals to vote. We visited a total of 156 sites (out of as many as 1,205 sites operated by the BOE throughout the City) during three elections between June 28, 2016 and November 8, 2016 and identified one or more deficiencies at 141 (90 percent) of those sites. Among the deficiencies found were problems with the assistance provided to voters, including those who require language interpreters and those with disabilities; problems with the information provided to voters; and problems with the accessibility of the poll sites themselves for disabled voters. We also found issues with the quality and amount of training BOE provides for Election Day workers.

If not corrected, these deficiencies increase the risk that registered voters will not be provided the opportunity to vote and to have their votes counted. To protect the rights of all City voters, the BOE must make greater efforts to ensure that its staff follows applicable procedures, and that they are thoroughly trained on and familiar with Election Day procedures. In addition, it must ensure that all voters have full access to the polling sites during the period of time mandated by law.

## Audit Recommendations

To address the issues raised by this audit, we make nine recommendations, including the following:

- The BOE should ensure that every poll site is fully accessible to disabled voters.
- The BOE should ensure that every poll site is fully staffed, including that it has a sufficient number of standby poll workers to dispatch to poll sites where needed.
- The BOE should ensure that the required number of interpreters skilled in the languages needed at each polling site are on site and available to provide assistance to voters.
- The BOE should re-evaluate its current training curriculum for poll workers, as well as coordinators, so it puts greater emphasis on basic Election Day protocol, requirements for handling affidavit ballots, and hands-on training sessions, especially pertaining to the usage of devices such as scanners, ballot marking devices (BMDs) and tablets.

## Agency Response

In its response, the BOE partially disagrees with recommendation number 1, disagrees with recommendations numbered 4, 8 and 9, and does not address recommendation number 6 at all. In addition, the BOE does not directly indicate its agreement or disagreement with recommendations numbered 2, 3 and 5 and instead provides information about actions it represents that it is taking to address some of the related concerns raised in the audit. Finally, the BOE contends that it is already in compliance with recommendation number 7.

# AUDIT REPORT

## Background

The BOE is an administrative body established by the New York State Constitution and pursuant to the State Election Law. The BOE is charged with conducting federal, State and local elections. Its operations in the City are governed by federal and State laws, as well as by its own guidelines and procedures and those established by the State Board of Elections. Pursuant to State law, the BOE's operations are funded by the City. The BOE consists of ten commissioners, two from each borough, who are appointed by the City Council for terms of four years. The Commissioners appoint a bipartisan staff to oversee and conduct the daily activities of the BOE's main and five borough offices.

To be eligible to register to vote in the City, an individual must:

- be a citizen of the United States;<sup>2</sup>
- be a City resident for at least 30 days;
- be at least 18 years of age before the next election;
- not be serving a jail sentence or on parole for a felony conviction;
- not be adjudged mentally incompetent by a court; and
- not claim the right to vote outside the City.

New Yorkers wishing to vote must complete a voter registration form. Such forms are available on the BOE's website, at each of its borough offices and through the State Department of Motor Vehicles (DMV), among other places. Completed registration forms may be submitted online through the DMV's websites, through the United States Postal Service mail, and in person at the BOE's borough offices or at its General Office.<sup>3</sup> A bipartisan team at each borough office is responsible for processing the voter registration forms.

The BOE maintains a list of all registered voters (both "active" and "inactive") in its Archival for Voters Image and Data (AVID) computer system. A list of "active" registered voters only in each election district is disseminated to the respective election districts. Registered voters whose names are included on the list can vote with a regular ballot. However, voters whose names do not appear on the list are offered an affidavit ballot—a provisional manual ballot that is assessed for validity after the election.<sup>4</sup> Under certain circumstances described in more detail below, an affidavit ballot will be counted in the election where it is cast. However, where an affidavit ballot is not counted, it still may be used to register the voter for subsequent elections. As of April 1, 2016, there were 4.4 million registered voters in New York City's five boroughs.

To facilitate Election Day operations, the BOE employs poll workers to open and close the polling sites, administer the voting operations, assist voters, and electronically transmit the preliminary results from scanners to the BOE's General Office. Poll workers are required to (1) be at least 18 years old; (2) be residents of New York City; (3) attend training classes; and (4) be registered

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<sup>2</sup> United States citizens include people born in Puerto Rico, Guam and the U.S. Virgin Islands.

<sup>3</sup> The BOE's General Office has the ability to process registrations for all of the five boroughs that make up the City.

<sup>4</sup> If a voter does not wish to use an affidavit ballot, he or she may seek a court order that would enable the voter to cast a regular ballot.

voters.<sup>5</sup> These poll workers are assigned to work by the BOE's Election Day Operations (EDO) department based on the type of training that each of them has completed.

**BOE Response:** "Poll workers are assigned by the borough offices. EDO administers the list of the poll workers."

**Auditor Comment:** This statement contradicts the BOE's own 2016 Annual Report, which describes the responsibilities of the EDO to include "responsibility for recruiting, training, assigning and tracking the performance of individuals who staff the polls and serve voters on Election Day." [Emphasis added.]

Poll workers are required to arrive at the polls by 5:00 a.m., open the polls at 6:00 a.m., close the polls at 9:00 p.m. and conduct the closing process so votes can be transmitted to BOE, a minimum of a 17-hour work day that usually runs longer. Poll workers' specific responsibilities include: confirming that ballot scanners are opened and closed on time; directing voters to their appropriate Election District (ED)/Assembly District (AD) tables; monitoring accessibility of polling sites; assisting voters with disabilities; confirming that all ballots are accounted for; and responding to technical issues at polling sites. (A complete list of poll worker positions and functions is located in Appendix I.)

Between March 2014 and July 2015, the BOE's Brooklyn office canceled, or "purged," the registrations of over 117,600 voters, which prevented them from voting during the April 19, 2016 Presidential Primary Election. The BOE's action triggered an investigation by the New York State Attorney General's (NYSAG's) Office and by the U.S. Department of Justice. According to a complaint filed in federal court by the NYSAG, BOE officials stated that the voters' registrations were canceled in an effort to update the rolls and that voters were purged based solely on the fact that they had not voted since 2008.<sup>6</sup> However, canceling voters' registrations for no reason other than that they had not voted for an extended period of time is prohibited by both State and federal law. The BOE subsequently agreed to restore these voters to the rolls.

In April 2016, the New York City Mayor's Office offered the BOE \$20 million in additional City funds as an incentive for the BOE to adopt reforms proposed by the Mayor intended to improve poll worker staffing levels and facilitate better communication with voters. As a condition of receiving that incentive funding, the BOE would have been required to sign, by June 1, 2016, a binding agreement for the implementation of those reforms. To date, the BOE has not entered into that proposed agreement.<sup>7</sup>

## Objective

The objective of this audit was to determine whether the BOE:

- ensured that effective actions were taken to restore certain voters inappropriately purged from voter rolls in time for them to vote in the November 2016 elections;

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<sup>5</sup> Pursuant to federal regulations, poll workers recruited as Accessibility Clerks and Interpreters are exempt from the registered voter requirement. Accessibility Clerks are responsible for posting external signage prior to opening of the polls, monitoring accessible entrance to election site and assisting those voters with disabilities. Interpreters are responsible for assisting non-English speaking voters by translating information and the ballot in a designated language.

<sup>6</sup> Complaint in Intervention (Intervenor 2) at 15, et. seq., Common Cause New York, et. al., v. Board of Elections in the City of New York, 1:16-cv-06122-NGG-RML, E.D.N.Y. (2016).

<sup>7</sup> The BOE declined to discuss the details of the proposed agreement during the course of our audit.

- ensured that adequate assistance was provided to voters at polling sites; and
- ensured that polling sites were accessible to all voters, including persons with disabilities.

## Scope and Methodology Statement

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective. This audit was conducted in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the New York City Charter.

The primary scope of this audit was July 1, 2014 (the beginning of Fiscal Year 2015) through August 4, 2017 (the last day that we reviewed voters' records and voting history). Please refer to the Detailed Scope and Methodology at the end of this report for the specific procedures and tests that were conducted.

## Discussion of Audit Results with the BOE

The matters covered in this report were discussed with BOE officials during and at the conclusion of this audit. A preliminary draft report was sent to the BOE and discussed at an exit conference held on October 12, 2017. We submitted a draft report to the BOE with a request for comments and received a written response from the agency on October 30, 2017.

In its response, the BOE partially disagrees with recommendation number 1, disagrees with recommendations numbered 4, 8 and 9, and does not address recommendation number 6 at all. In addition, the BOE does not directly indicate its agreement or disagreement with recommendations numbered 2, 3 and 5 and instead provides information about actions it represents that it is taking to address some of the related concerns raised in the audit. Finally, the BOE contends that it is already in compliance with recommendation number 7. The BOE's response also includes objections to our audit findings and the presentation of the BOE's election process.

Among other things, in its response, the BOE asserts that it "has worked diligently and cooperatively with the Office of the Comptroller in completing this process." However, the record of audit activity belies this assertion. During the course of this audit, the BOE has not responded to our requests for information and materials in a timely manner or at all. Information as basic as the list of purged voters was not produced until, after five months, when we informed BOE officials that we would be issuing a subpoena to obtain the requested information.

In its response, the BOE suggests that it was not given sufficient time to respond to the audit's findings. However, BOE officials were aware of the audit's findings prior to their receipt of the preliminary draft report. On August 31, 2017, we sent the audit findings to the BOE, and officials were given an opportunity to point out anything they believed to be incorrect and to provide further evidence to support their position; however, they did not respond to our findings. Consequently, the BOE was provided ample time to respond.

The BOE also disagrees with a number of findings without presenting evidence to support the basis for its arguments or with arguments that are not germane to the finding or recommendation



that it challenges. After carefully reviewing the BOE's arguments, and in the absence of credible evidence, we find no basis for altering our audit findings. The full text of the BOE's response is included as an addendum to this report. The BOE also included a number of attachments with its response. Due to their volume, those attachments have not been physically appended to the report, but are available upon request.

# FINDINGS AND RECOMMENDATIONS

The audit found that the BOE took efforts to ensure that Brooklyn voters inappropriately purged from voter rolls for the April 2016 Primary Election were restored in time for the November 2016 General Election and, through our sample testing, those efforts appear to have been effective. However, our audit found that the BOE failed to ensure that the polls operated effectively and efficiently and in accordance with applicable law, rules and guidelines, which ultimately could have impacted the ability of individuals to vote.

Among the deficiencies found were problems with the assistance provided to voters, including those who require language interpreters and those with disabilities; problems with the information provided to voters; and problems with the accessibility of the poll sites themselves for disabled voters. We also found issues with the quality and amount of training BOE provides for Election Day workers.

The BOE operated as many as 1,205 polling sites throughout the City in the three 2016 elections we observed. To determine whether these poll sites were properly administered, we visited a total of 156 sites during three elections between June 28, 2016 and November 8, 2016.<sup>8</sup> During our visits we identified one or more of the issues generally described above at 141 (90 percent) of those sites, as noted in Table I below.

**Table I**

Polling Sites with Identified Issues  
during Three Election Observations

Election	Sites Open*	Sites Sampled	# of Poll Sites with These Types of Issues			Number of Sampled Sites with Issues**	% of Sampled Sites with Issues
			Poll Workers Did Not Follow State and BOE Guidelines	Insufficient Staffing	Inadequate Accessibility		
Federal Congressional Primary (June 28, 2016)	677	47	24	20	13	36	77%
State/Local Primary (September 13, 2016)	1,015	49	22	44	16	48	98%
General (November 8, 2016)	1,205	60	36	54	16	57	95%
<b>TOTALS</b>		156	82	118	45	141	90%

\*The number of sites open is dependent on the number of districts where there is an office up for election.

\*\*Most sites had more than one type of issue.

If not corrected, these deficiencies increase the risk that registered voters will not be provided the opportunity to vote and to have their votes counted. To protect the rights of all City voters, the BOE must make greater efforts to ensure that its staff is thoroughly familiar with Election Day procedures and that activities are carried out in accordance with those procedures. In addition, it must ensure that all voters have full access to the polling sites during the period of time mandated by law.

<sup>8</sup>The three elections were as follows – June 28, 2016 Federal Congressional Primary Election; September 13, 2016 State and Local Primary Election; and November 8, 2016 General Election.

The details of these findings are discussed in the following sections of this report.

## Erroneously Purged Brooklyn Voters Were Restored to the November 2016 Election Rolls

New York State Election Law requires the BOE to maintain an accurate voter registration roll while it simultaneously protects registered voters against improper cancellations. State Election Law specifically dictates the circumstances and procedures required for the “cancellation” of voters’ registrations (which is done through “purging” the voters from the registration rolls), and also for the “removal” of individuals from the registration roll (which has a different effect and process from “purging”). Cancellation of a voter’s registration takes away the voter’s ability to have his or her vote counted and the voter must reregister to be entitled to vote. By contrast, where a voter is only removed from the registration roll (reflected as a change from active to inactive status), the voter is still eligible to vote by affidavit ballot, which will be counted provided that certain conditions are met.<sup>9</sup>

**BOE Response:** “While this heading is technically accurate, it remains misleading. The voters were restored to the voter rolls prior to the Federal Primary in June 2016, immediately after the certification of the Presidential Primary and upon completion of voter history.”

**Auditor Comment:** The audit heading, which the BOE agrees is accurate, correctly reflects the findings from the test that we performed. Since the registration roll for an election contains only those voters eligible to vote in that election, we performed the restoration test for the November 8, 2016 General Election because every registered voter was eligible to vote in that election and should, therefore, have been included on the roll.

### *Cancellation of Voter Registration*

Voters whose registrations can be canceled, according to State law, include: (1) voters who have been convicted and are serving sentences of imprisonment or parole for a felony; (2) voters who are deceased; and (3) voters who are adjudicated as incompetent. In each of these cases, the BOE receives notification from the State Board of Elections informing it of changes in a voter’s status.

When based on information from the State Board of Elections or from other sources, the BOE has reason to believe that a registered voter is no longer qualified to vote due to a conviction or adjudication of incompetency, the BOE can initiate the cancellation process for that registered voter. Pursuant to that process, prior to cancelling the voter’s registration, the BOE must first send an “intent to cancel” (ITC) notice to the voter at that address at which that voter registered that informs the voter why the BOE believes that he or she is ineligible to vote.<sup>10</sup> The voter then has 14 days from the date the intent to cancel notice is mailed to respond to the notice and verify

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<sup>9</sup> In its audit response, the BOE states that when voters are deemed ineligible to vote, it is “more accurate” to state that “such voters are removed from the poll ledgers, in other words the poll list books.” However, we note that NYS Election Law § 1-104 uses the term “active registration rolls” when describing the records from which inactive voters have been removed after they are determined to be inactive. Further, throughout the course of our audit, the terms “registration rolls,” “poll ledgers” and “poll list books” were used interchangeably by BOE staff and officials when discussing active and inactive voters. Thus, we used the term “registration rolls” throughout this report.

<sup>10</sup> The BOE is not required to send an intent to cancel notice when a voter dies or when a voter has made a request to be removed, or where duplicate records for a voter are found. However, in these instances, after verification, the BOE is permitted to remove the voters from the registration rolls and ultimately to cancel the registration pursuant to the procedures described below.

his or her eligibility. The voter's failure to respond to the ITC notice within 14 days will result in BOE's entering a cancelled status (also referred to as a "purged" status) in AVID and the voter will be removed from the registration rolls. In this case, if the voter attempts to vote on Election Day, he or she will receive an affidavit ballot that will not be counted, but rather will be used to register the individual as a voter in the next election, assuming all other conditions of eligibility are met.

### *Removal of a Registered Voter from the Registration Rolls*

A voter's name can be removed from the registration rolls at the voter's written request, when the voter has changed his or her address to one outside of the five boroughs, or when there is a duplicate record of an individual's registration.<sup>11</sup> Removal from the registration roll is frequently the precursor of cancelling the voter's registration, as is the case when BOE receives notice that a voter has changed his or her address. In such a case, upon receipt of information that a voter has moved (most often based upon BOE mail being returned as undeliverable or receipt of a formal change of address notification from the post office), the BOE must: (1) send a prepaid and pre-addressed return card known as a "Confirmation Notice" to the original address in the voter's registration file (enabling the voter to indicate a current address); and (2) change that voter's status from active to inactive in the AVID system.<sup>12</sup>

Voters in inactive status are still eligible to vote, but their names are removed from the registration roll, and consequently they will not receive regular ballots to fill out at their polling sites. Instead, those voters can vote by affidavit ballot, and those ballots will be counted in an election after BOE verifies the voter's eligibility. However, if a voter does not vote in the next two consecutive federal elections after failing to respond to a Confirmation Notice and becoming inactive, the BOE then has authority to cancel the voter's registration after following the cancellation process described above.

### *The 2015 Brooklyn Purge of the Registration Rolls*

According to a complaint filed in federal court by Common Cause New York (where the Department of Justice and the New York State Attorney General intervened), BOE officials stated that, in an attempt to update the registration rolls in the Brooklyn Borough Office, BOE staff improperly canceled the voting status of more than 117,600 voters who appeared to not have voted since 2008. Based on both State and federal law, an individual's failure to vote in prior elections alone *cannot* result in the cancellation of the voter's registration. Nonetheless, Brooklyn BOE officials improperly sent these voters intent to cancel notices, which were not called for under the circumstances. These notices informed the voters of the agency's intent to cancel their registration unless they responded within 14 days. By July 5, 2015, the BOE cancelled the registration of over 117,600 Brooklyn voters who did not respond to the intent to cancel notices by purging them from the registration rolls, which prevented them from voting in the April 19, 2016 Presidential Primary Election.

Our audit found that the BOE, in time for the November 8, 2016 General Election, restored 117,305 of the 117,633 Brooklyn voters who had been improperly purged from the rolls based on voting inactivity, leaving 328 voters off the November 2016 Brooklyn voter rolls. We tested a

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<sup>11</sup> Duplicate records can occur when voters attempt to register more than one time, when there is a change in the last name, or when they move and re-register rather than provide a change of address. The State Board of Elections notifies the BOE of the duplicated records.

<sup>12</sup> A voter's status is changed from inactive to active by the voter's responding to a Confirmation Notice, casting an affidavit ballot in an election, or providing his or her local board of elections with an updated registration form.

random sample of 25 of those 328 voters who were not on the November 8, 2016 registration rolls and verified that these sampled voters were eliminated from the registration rolls for reasons other than voting inactivity (e.g., some were deceased, others had duplicated registration records, and some had moved). We also verified that 4,395 of the 4,476 voters who had responded to the intent to cancel notices that the BOE had originally inappropriately sent in connection with the July 5, 2015 voter purge were not purged from the records and were included on the November 2016 General Election rolls. We tested a random sample of 25 of the remaining 81 voters who responded to the intent to cancel notices but who were nonetheless not listed on the November 8, 2016 General Election rolls and verified that they had also been eliminated for different lawful reasons, such as death or duplicate records.

During the same period, from March 2014 through April 2015, BOE also purged 73,125 voters from the remaining four boroughs for various reasons, such as a report of a voter's death, move, or inactive status, etc. – 85 of whom were listed on the November 8, 2016 General Election registration rolls. We reviewed the voting records for a sample of 25 of these 85 individuals that BOE restored to the rolls, and determined that BOE had erroneously removed these 25 sampled voters from the rolls initially, but restored them in time for the November 8, 2016 election. In addition, using a weighted average, we also reviewed a sample of records for 100 of the 73,040 voters from the other four boroughs and who had been purged but had not been placed back on the November 8, 2016 rolls. Based on notations in AVID, we found that the 100 sampled voters had been purged for reasons other than voting inactivity, such as duplicated registration records, information indicating that voters had moved (returned mail, notification from the US postal service), and failure to respond to intent to cancel notices.

Since February 2016, BOE has not sent out any additional intent to cancel or Confirmation Notices.

**BOE Response:** “[T]he description asserting that the Board ‘canceled’ or ‘purged’ the registrations of ‘over 117,600 voters which prevented them from voting during the April 19, 2016 Presidential Primary Election’ (Presidential Primary) is inaccurate with respect to certain key points.”

**Auditor Comment:** A careful reading of the several pages of text that follows this statement reveals that the BOE fails to identify the “certain key points” in the report that it claims are inaccurate. Rather, the BOE raises multiple irrelevant issues, including a 2013 New York City Department of Investigation report that found dead people on the registration rolls, and a court case in Ohio that the BOE contends could, at some future time, result in a change in the law that governs the purging of voter registrations. None of these issues raised by the BOE specify any “key points” in the audit that are inaccurate. Moreover, another assertion made by BOE, that 104 (<0.1 percent) of the more than 117,600 improperly purged voters ultimately had their affidavit ballots counted, actually supports the audit findings that the BOE improperly purged in excess of 117,600 from its rolls.

## Deficiencies at Poll Sites

Our audit found multiple deficiencies in the BOE's operation of poll sites during three different elections we monitored: the June 28, 2016 Federal Congressional Primary Election, the September 13, 2016 State/Local Primary Election, and the November 8, 2016 General Election. As noted, poll workers' responsibilities include checking voter registrations, directing voters within



the polling place, answering and resolving voters' questions, ensuring that equipment is running properly, and ensuring that ballots are safeguarded. To meet those responsibilities, the BOE must ensure that its staff is thoroughly familiar with election procedures and that Election Day activities are carried out in accordance with those procedures. However, our audit identified inadequate knowledge and unprofessional conduct exhibited by poll workers and as a result, key requirements of the law and BOE guidelines were not always followed.

According to State Election Law, poll workers are forbidden from allowing or engaging in electioneering,<sup>13</sup> discussing ballots and candidates, viewing affidavit ballots returned by voters, and handing out ballots to voters before comparing their signatures made in the poll workers' presence with their signatures as recorded on the registration roll at the time that the voter initially registered to vote.<sup>14</sup> In addition, poll workers are required to offer affidavit ballots to individuals who are not found on the registration roll, even if the poll worker believes a potential voter is ineligible to vote in the election.<sup>15</sup> Further, poll workers must document the issuance of the affidavit ballots according to the BOE's specific procedures and store the affidavit ballots in a separate and secure location. Poll workers are also required to assist voters with the voting process and to resolve questions and issues that arise.

During our visits to the 156 sampled polling sites, we found that one or more of the poll workers at 82 (53 percent) of the 156 sites we observed did not follow the federal, State and BOE guidelines during the elections, at the rates, per election, noted in Table II below.

**Table II**

Number of Polling Sites Where Poll  
Workers Did Not Follow the Federal,  
State and BOE Guidelines

Election	# of Sites Visited	# of Poll Sites Where Staff Did Not Follow Guidelines	Percentage
June 28, 2016	47	24	51%
Sept. 13, 2016	49	22	45%
Nov. 8, 2016	60	36	60%
	<b>156</b>	<b>82</b>	<b>53%</b>

The specific areas where we found inadequate compliance with federal, State and BOE requirements include the handling of affidavit and voided ballots, the provision of assistance to voters, closing the polls, and comparing voters' signatures. The auditors' observations are described in more detail below.

*Affidavit ballots and voided ballots processed incorrectly.* At 22 sites, poll workers incorrectly processed affidavit ballots and/or voided ballots, a failure that could threaten the integrity of the vote count and that has the potential to disenfranchise voters. In particular:

- At one site, rather than following federal and State law and offering an affidavit ballot to a voter whose name was not found on the registration rolls, the coordinator told the

<sup>13</sup> Electioneering is when someone tries to persuade voters to vote for a particular political party or candidate.

<sup>14</sup> Signatures are updated based on voter activity such as, completion of change of address forms.

<sup>15</sup> The requirement that an affidavit ballot must always be offered is established by the federal Help America Vote Act (HAVA).

information clerk that the voter was not able to vote at all. This error could have disenfranchised the voter, whose eligibility could have been verified had the voter been allowed to vote with an affidavit ballot.<sup>16</sup>

- At another site we observed sealed affidavit ballots being left out on tables rather than properly secured in the designated envelopes. According to BOE procedures, affidavit ballots are required to be stored in separate envelopes so that each ballot can be accounted for during the closing process and delivered to BOE's General Office for further processing. Affidavit ballots that are not properly secured in accordance with BOE procedures are at an increased risk of being misplaced or lost, possibly causing voters to be disenfranchised.
- At two sites, we observed voided ballots that were not properly recorded. All voided ballots must be marked void on the face of the ballot, and the fact that they were voided must be noted in the registration book to prevent the distribution of ballots beyond the three that are permitted. Each voided ballot must then be placed into a separate envelope to be accounted for at the end of the night during the poll site election night closing and reconciliation process, as well as during the borough office reconciliation processes that follow the election.<sup>17</sup> At one of the two sites, we observed an ED inspector take a ballot away from a voter who had made a mistake, offer a new ballot to the voter, and then fail to mark the face of the first ballot as void, a control that would prevent someone else from erroneously or improperly scanning it. In addition, the ED inspector also failed to record the ballot as voided in the registration book, as required. That procedure is required to help ensure that voters are given no more than three regular ballots based on errors; after receiving three voided ballots, a voter can vote only by a court order. At the other site, the ED inspector correctly marked voided ballots as "void" but then folded them in half and placed them inside the poll book rather than inside the designated envelope for voided ballots, as required for the purpose of reconciling all ballots as part of the closing process.

*Assistance to voters was not provided.* We observed multiple occasions where poll workers at 16 different poll sites failed to provide required assistance to voters or failed to do so in a timely manner. In nine instances, the lack of assistance was a result of poll workers' preoccupation with their cell phones, reading books, or talking among themselves – activities that are specifically prohibited under BOE guidelines.

- For example, in one instance we observed a scanner inspector who was not paying attention and by the time the inspector realized that a vote had not registered on the scanner, the voter had already left the premises, and the ballot was marked as "void." The vote was not counted because poll workers are prohibited from scanning a ballot that should have been completed by a voter. The voter was disenfranchised as a result.
- At another location, we observed an information clerk who was at various times busy with his cell phone, reading a book, or dozing off, while at the same time voters who needed his assistance were kept waiting until someone was able to get the information clerk's attention.

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<sup>16</sup> Federal and State law mandates that all voters must be offered an affidavit ballot, even unregistered voters. State Election Law procedures provide that the affidavit-voter's eligibility is subsequently determined after the polls have closed.

<sup>17</sup> During the closing process, poll workers are required to account for all ballots that were received by the polling site and distributed to voters, and to also account for ballots that were not used, including voided ballots.

- Auditors observed another information clerk at a third polling site attempt to assist two different voters while also talking on the phone. In one instance, she sent one of the voters to the wrong table.
- An ED table inspector at a different site was observed texting on her cell phone (another specifically prohibited activity) when a voter came to the desk. The voter had to wait until the inspector finished with her text before she provided assistance.

We also observed an apparent lack of knowledge on the part of numerous poll workers as evidenced by their failure to follow proper procedures mandated by law, including:

- Inspectors at two sites asked voters to provide identification, despite the fact that requiring voters to do so, absent certain specific grounds, is prohibited by federal law.
- An inspector at one site did not know how to proceed after being unable to find a voter's name on the list of registered voters.

Among the unlawful conduct observed was electioneering, i.e., promoting one candidate or party over another. Examples of these observations include:

- Auditors at multiple poll sites overheard poll workers, within earshot of voters, discussing candidates on the ballot.
- One voter complained that an interpreter assigned to a poll site was telling voters whom to vote for.
- One table inspector was observed telling a voter who needed help filling out the affidavit ballot the name of the candidate that the voter should write on the ballot.

In addition we observed misinformation or no information being supplied at various poll sites that, at a minimum, caused confusion, and that increased the risk that that voters would not be able to vote or that their choices of who to vote for might be influenced by the misinformation provided. Examples of our observations include:

- At one site during the General Election, a voter asked a coordinator if it was permissible to vote Republican for one office and Democrat for another. The coordinator erroneously told the voter that the votes had to be made for candidates from one party only. The same coordinator incorrectly told a voter, who had impermissibly marked the ballot to select a single candidate under different parties, that the scanning machine had rejected his vote because he did not vote for the same party throughout the ballot.
- A voter at one site stated that he had to wait in line by each ED/AD table to see whether his name appeared in their respective register books because the information clerk could not help him find the correct district. The voter said that it wasn't until he waited at a fourth table that he was finally able to locate the correct district.
- At one site a coordinator was not able to answer a poll worker's question regarding affidavit ballots and sent the poll worker to other poll workers for the answer. Another poll worker asked the same coordinator whether he should place the voided ballots into the voided envelope or the affidavit envelope, and she told him to put the ballots wherever he wanted. However, BOE procedures require the voided ballots to be maintained separately from the affidavit ballots for the purpose of sorting and counting them after the election.
- One table inspector did not know how to properly tear the ballot from the pre-numbered ballot book. He tore out the whole page, rather than separating the ballot from the book

by using the perforation, and when he asked the coordinator for help, the coordinator asked the scanner inspector to show the table inspector how to tear the ballots. At one point, the inspector had to go back to the voter to retrieve the top of the ballot form with the serial number from a voter, although that portion of the ballot should not have been handed to the voter in the first place. The serial numbers are used for reconciliation purposes to account for the used and unused ballots, so that poll workers at the end of the night can account for all of the ballots that were distributed to voters. To that end, the portion of the ballot bearing the serial number should be retained by the poll workers and not distributed to voters.

- At one poll site, the workers' apparent lack of knowledge resulted in a chain of missteps that lasted thirty minutes. At the outset we observed that the ED table inspector was unable to find the voter's name on the list of registered voters and asked the voter for an ID (prohibited by the federal Election Law) rather than offering an affidavit ballot, as required. The coordinator overheard that exchange and correctly offered the affidavit ballot but failed to instruct the voter to fill it out in a privacy booth. Consequently, the voter filled out the ballot at the coordinator's table and was then incorrectly instructed by the table inspector to scan the affidavit ballot at the scanner rather than to return the ballot to the table inspector, who was required to store all completed affidavit ballots in a separate envelope. After the scanner did not accept the ballot, the scanner inspector told the voter to return the affidavit ballot to the table inspector at the ED/AD table. The table inspector appeared unfamiliar with where to store the completed affidavit ballot and required the assistance of another table inspector in order to properly store it.

*Poll workers were generally not familiar with essential steps for closing the polls.* The closing process requires a series of steps that poll workers must take after the polls are closed to the public. These steps include packing up the scanners; tallying the number of voters who received ballots at each table and reconciling those counts with the number of ballots distributed; and transmitting the results to the BOE's General Office. At 11 of the 21 sites where we observed the closing process, we found that poll workers were not familiar with the basic documents required for closing the poll sites, such as transmittal sheets and return of canvass forms, and so did not know what those required documents looked like or how to fill them out.<sup>18</sup> Most of the poll coordinators we observed offered little assistance with filling out these and other forms, and we witnessed many poll workers frantically flipping through the manual searching for instructions. A coordinator we spoke with stated that every year the closing process was a "disaster," and a number of other coordinators echoed her sentiments.

*ED table inspectors failed to consistently ensure that voters signed the registration rolls prior to receiving the ballots.* Before handing a ballot to a voter, table inspectors are required to compare the signature the voter makes in their presence to the voter's previously-recorded signature on the registration roll. In instances of a discrepancy, table inspectors have the authority to challenge the voter and ask the voter to take an oath, attesting to the fact that the voter is the individual named on the registration roll. At 42 sites we observed poll workers handing out ballots as voters were still signing their names, and in some cases handing out the ballots and failing to obtain voters' signatures altogether.<sup>19</sup> At one site we observed that in 7 of 17 cases, poll workers gave out the ballots before comparing the voter's signature made in their presence with the signature

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<sup>18</sup> A ballot transmittal sheet contains the number of ballots each table received in the morning and is used to record the number of used and unused ballots at the closing of the polls. A return of canvass form is a ballot reconciliation form used to account for all scannable ballots that were used, voided or unused at the end of the day. Both are integral parts of the closing process.

<sup>19</sup> In these instances the voters were called back to the table to sign in the registration roll.

recorded on the BOE’s registration roll. Those operational weaknesses increase the risk that a mistake can occur and that votes can be improperly cast.

## Insufficient Staffing

In accordance with BOE procedures, each polling site is required to have an Election Day team on site to assist the voters, with the number and function of the team members dictated by the State Election Law. These teams should include coordinators, information clerks, accessibility clerks, interpreters, ED table inspectors, scanner inspectors, ballot marking device (BMD) inspectors, and relief workers.<sup>20</sup> In case a full team is not available on Election Day at a particular poll site, the team can be supplemented by standby poll workers stationed at each borough office who can be dispatched to different poll sites based on need.

Based on the above requirements, we found staffing deficiencies at 76 percent of the poll sites we visited at the rates, per election, indicated in Table III below.

**Table III**

Number of Polling Sites with an  
Insufficient Number of Staff

Election	# of Sites Visited	# of Poll Sites with an Insufficient Number of Staff	Percentage
June 28, 2016	47	20	43%
Sept. 13, 2016	49	44	90%
Nov. 8, 2016	60	54	90%
	<b>156</b>	<b>118</b>	<b>76%</b>

Among other staffing deficiencies, we found specific roles that were not filled by the BOE, poll workers who did not arrive for work on Election Day, and inadequate assignment of interpreters for required languages. A lack of poll workers at each site can result in longer lines, less assistance for voters and greater confusion in the voting process, all of which could frustrate individuals’ attempts to vote and ultimately depress the total number of votes cast.

One coordinator told us that she had called poll workers several days prior to the September 13, 2016 election to confirm their attendance. After learning that many of them did not plan to show up on Election Day, she informed the BOE. She informed us that despite her notification to BOE in advance of the election date, replacement workers were not sent to the site. Thus, on Election Day, we found that 9 (41 percent) of the 22 poll workers scheduled to work at that poll site did not arrive, and their positions were not filled. The coordinator further informed us that on Election Day she had unsuccessfully attempted to contact the BOE to request additional workers. In the absence of the requested additional workers, the coordinator, in an attempt to ensure that each ED/AD table had at least two inspectors to serve voters, reassigned some of the poll workers who had shown up to perform different tasks than those for which that they had been previously trained and to which they originally had been assigned. Those reassignments, however, led to other roles being unfilled, such as information clerk, accessibility clerk, and BMD and scanner operators. In

<sup>20</sup> BMDs are machines designed to assist voters with disabilities. They are equipped with features that allow a voter to adjust the size of the print and contrast of the ballot image, and allow the use of a "Sip-N-Puff" or paddle device by voters with limited hand dexterity.



one case, the coordinator could not assign two poll workers to a particular table. As a result, that particular ED/AD table was left unstaffed during the time the sole assigned worker was on a break, and voters from that particular ED/AD had to wait to vote. At another site, there was only one scanner inspector for the entire site, so there was no one to assist voters with ballots when that inspector took her break.

We also found that understaffing affected the number of interpreters available to assist voters who needed language assistance. At 14 (9 percent) of the polling sites we visited, coordinators and poll workers complained that there was either an insufficient number of interpreters for the primary languages spoken by area voters who needed assistance, or that interpreters who spoke those languages had not been assigned to the polling site. For example, at one site, the coordinator pointed out that although Spanish and Russian were the predominant languages spoken in the election district, there were no Spanish and Russian interpreters at the poll site. Instead, the BOE assigned three Chinese language interpreters whose services were not used during our observation and who the coordinator stated were not needed.<sup>21</sup> That complaint was echoed by other coordinators, who said that they lacked interpreters for the predominant languages spoken in their areas. The U.S. Census Bureau identifies the specific languages spoken in individual communities and the consequent need for professional interpreters for the specific languages spoken in the various election districts. BOE internal procedures permit two poll workers, one a Democrat and the other a Republican, who are familiar with the relevant languages but not necessarily trained as interpreters, to assist voters if no professional interpreters are on hand. However, we observed cases where no professional interpreter was at a polling place, or none in the language required by the majority of voters at the site and only one poll worker, or none at all, with the required language skills was available. While BOE procedure does allow for a single poll worker to assist with interpreting for a voter in need, the voter in such cases must make a request for interpretation services and takes an oath that they require assistance. We observed multiple instances where the poll site coordinators were unaware of this requirement.

We also found deficiencies in overall staffing levels at poll sites. The BOE reported an average 13 percent absentee rate for poll workers during the three elections we observed in 2016. Further, the BOE reported a 17 percent vacancy rate, meaning that no inspectors were assigned to 17 percent of the required poll site positions. According to BOE officials and to poll workers we interviewed, one of the key factors hampering BOE's ability to maintain adequate staffing levels is pay. Currently, poll workers receive \$200 for working on Election Day and coordinators receive \$300. A typical Election Day includes a *minimum* of 17 hours (from 5 a.m. through 10 p.m., including two hours of break time). As a result, poll workers are paid \$13.33 per hour and coordinators receive \$20 per hour, with no extra pay for overtime.

In addition to concerns raised about the rate of pay, poll workers also voiced a desire to work in shifts rather than a 17-hour or more day. Some observed that they became tired by the end of the very long work day, just at the time when they were required to perform the closing process, which is particularly demanding and requires extra attention to detail. It was also suggested that the long shifts might increase the number of poll workers who fail to show up at all on Election Day. When discussing no-show staff, one coordinator told us that one worker who failed to show up lived two and a half to three hours away from the assigned polling site.

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<sup>21</sup> The assistance of the Chinese interpreters was never required during the two hours that the auditors were at this site. However, the auditors observed one instance where a Spanish language interpreter was needed, but none was available.

BOE officials acknowledged they had difficulties recruiting staff because of the low pay and the long work day. The requirements for both are dictated by the State Elections Law enacted by the State Legislature. In particular, State Election Law § 3–420 provides that

Election inspectors, poll clerks, election coordinators and qualified voters appointed to act in place of an absent inspector, clerk or coordinator shall be paid for their services on the days of registration and election, by the county containing the election district in which they serve, in an amount fixed by the county legislative body, subject to such limitations as shall be prescribed or authorized by statute, **except that in the city of New York the amount of such compensation shall be payable by such city and shall be fixed by the mayor at a daily rate which, in the case of election inspectors shall not be less than one hundred thirty dollars and in the case of election coordinators not less than two hundred dollars.** [Emphasis added.]

BOE officials told us that they were working with the State Board of Elections and the State Legislature to increase the Election Day pay structure. In addition, with regards to the work shifts, we note that State Election Law §3-400 provides that

The board of elections may employ election inspectors to work half-day shifts with adjusted compensation, provided, however, that at least one inspector from each of the two major political parties is present at the poll site for the entire time that the polls are open. Each county board of elections shall prescribe the necessary rules and procedures to ensure proper poll site operation.

BOE officials stated that during the November 8, 2016 General Election they began a pilot program to implement half-day shifts.

## **Inadequate Provisions of Assistance for Voters with Disabilities**

The Americans with Disabilities Act (ADA) is a federal civil rights law that established certain legal rights for individuals with disabilities. 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, and prohibits discrimination on the basis of disability in all services, programs and activities provided or made available by local or state governments. To comply with ADA requirements, BOE officials must guarantee that each polling place meets ADA standards and that all voters have an equal opportunity to cast a ballot. This includes ensuring that the entrances to the polling sites are physically accessible, that accessibility clerks are on hand to assist people with special needs, and that polling devices enable people with disabilities to vote privately and independently.

However, we found that the BOE did not provide adequate assistance for people with disabilities at 45 (29 percent) of the 156 sites that we visited. Specifically, we found deficiencies in the accessibility of poll sites, the number of accessibility clerks, and functioning BMD machines. Table IV below indicates the number of poll sites where we identified one or more of these issues.

**Table IV**

Number of Polling Sites with  
Inadequate Assistance Provided to  
Voters with Disabilities

Election	# of Sites Visited	# of Poll Sites with Inadequate Assistance Provided to Voters with Disabilities*	Percentage
June 28, 2016	47	13	28%
Sept. 13, 2016	49	16	33%
Nov. 8, 2016	60	16	27%
	<b>156</b>	<b>45</b>	<b>29%</b>

\*There is some overlap; a site may fall under all three categories – access issues, accessibility clerk did not arrive, BMD machines were not fully operational.

In accordance with BOE policy, a poll site is accessible when “all voters can enter, travel to the voting area, and vote without obstacles.” Based on a checklist created by the BOE, which appears to be based on the ADA standards, polling sites are in compliance with ADA policies when the polling site can demonstrate that issues such as the following have been addressed:

- Signs identifying wheelchair accessible entrance and path of travel must be posted;
- Ramps must be installed and their installations must be stable;
- There must not be barriers or obstacles blocking the pathway to the polling room; and
- Doorways must be opened with nothing blocking access.

However, we found access issues for voters with disabilities at 15 (10 percent) of the sites that we visited. Among other things, we found ramps that were not installed until hours after the poll sites opened, blocked doorways, elevators not operating properly and insufficient or inadequate signs placed outside of the polling center, making it difficult to locate the polling site.

- In one location, the ramp was not installed until 10 a.m., four hours after the site opened.
- In another site the ramp was not delivered until 11:15 a.m.
- At another the ramp was not delivered until nearly 12 p.m., almost six hours after the polling site opened.
- At one site, there was a small and easily missed step at the entrance of the building that posed a potential hazard to voters with wheelchairs or walkers in particular, and a tripping hazard to everybody else.
- At another site the lift to bring people with disabilities to the voting site, on a lower level, was not working. Those who required the lift for access were not able to vote directly. Instead, during the duration of our observation at this site, the coordinator brought ballots to those who couldn't walk to the basement, waited for them to fill out the ballots, then took their IDs and brought the ballots downstairs and fed them into the scanners.
- At another site, there was only one accessibility sign near the main entrance, and no other signs offering directions, including the absence of required signs at the corner of the block, where voters needed to know which way to turn. Upon entrance to the building, there

were no signs directing people where to vote and so no indication for voters of where an accessible entrance might be.

**BOE Response:** “The Board does not own and/or maintain any poll sites. The vast majority of poll sites are public schools (approximately 700) and other city-owned sites. As such, permanent resolutions for the accessibility of these sites must be addressed by other City agencies and/or private entities. The Board is fully cognizant of its responsibilities to ensure that the poll sites utilized for election events are accessible for voters with disabilities.”

**Auditor Comment:** The report makes no argument that the BOE is responsible for the *permanent* resolution for the accessibility of these sites. However, as the BOE acknowledges in its response, the agency *is* responsible for ensuring that the locations it selects to be poll sites are accessible on Election Day.

We found additional instances where the BOE failed to provide proper assistance to voters who require special assistance.

- For example, at 19 (12 percent) of the polling sites, accessibility clerks either did not arrive on Election Day or were reassigned to perform a different task.
- At 16 (10 percent) of the polling sites, the BMD machines were not fully operational (ballots were jamming, machines were not functioning, or were only partially functioning). Ensuring that the BMD voting equipment functions properly is a critical aspect in enabling all voters to cast an independent and private ballot.

It is incumbent upon the BOE to ensure that polling places are maintained in a manner that allows for all voters, including those with disabilities, to navigate the voting area and fully participate in the electoral process.

**BOE Response:** “A diligent search of the Board’s call logs from these election events does not reveal that audit staff contacted the Board during the election to provide information regarding the existence of a problem... Such an alert would have provided the Board an opportunity to remediate any problem on election day [*sic*] and may have prevented such circumstances from future occurrence. The call logs are voluminous and available upon request.”

**Auditor Comment:** We shared our findings with the BOE after completing our audit analysis, which includes evaluating the significance and relevance of the situations we observed. Those results were shared with BOE officials prior to the September 12, 2017 State/Local Primaries and the November 7, 2017 General Election, giving the agency an opportunity to take corrective measures to address the deficiencies we observed. However, the BOE in its audit response does not indicate that it intends to make any operational changes based on our observations. Consequently, we question whether the BOE would have taken the “opportunity to remediate any problems” had officials been notified earlier.

## Recommendations

1. The BOE should take appropriate action consistent with its authority to:
  - increase the rate of pay for poll workers; and

- improve the knowledge base of poll workers through training, supplemental resources, assessments of knowledge, and enhanced oversight.

**BOE Response:** The Board disagreed with part of the recommendation, stating that, “The first bullet point is beyond the scope of the Board’s authority. The rate of poll worker pay may be increased in either of two ways, an amendment to the NYS Election Law by the NYS Legislature and Governor or an Executive Order of the Mayor of the City of New York. The rate of pay for poll workers in New York City already exceeds the NYS Election Law requirement; however, the current compensation for poll workers was set in 2001 by Mayoral Executive Order issued by Mayor Giuliani. The Board consistently urges the NYS Legislature and the Mayor of the City of New York to act expeditiously to raise the rate of poll worker pay.”

The Board partially responded to the second bullet of the recommendation—the training component only—within its response to Recommendation #7.

**Auditor Comment:** While the BOE claims that it is beyond its scope to increase the rate of pay for its poll workers, we note that part of the \$20 million offered by the Mayor’s Office in 2016, if accepted by the BOE, was expressly intended to be used for the increase of pay. To that end, the BOE should consider working with the Mayor’s Office to reach an agreement that would enable it to receive these funds. The BOE should also continue its efforts to petition the NYS Legislature and the Mayor’s Office to raise the rate of poll workers’ salaries.

2. The BOE should ensure that every poll site is fully accessible to disabled voters.

**BOE Response:** The BOE did not directly address this recommendation, stating, “The efforts the Board have made in this regard is fully set forth above.”

**Auditor Comment:** As indicated above, our findings during the three observations make it clear that the BOE is not in compliance with its obligations to ensure that all of its poll sites are accessible to disabled voters. Consequently, we urge the BOE to fully comply with the ADA standards and implement this recommendation.

3. The BOE should ensure that every poll site is fully staffed, including that it has a sufficient number of standby poll workers available to dispatch to poll sites where needed.

**BOE Response:** The BOE stated that it “makes every effort to fully staff poll sites for each election event, including establishing standby pools for each borough.”

**Auditor Comment:** As indicated in the report, we found staffing deficiencies at 76 percent of the poll sites that we visited. Consequently, we urge the BOE to implement this recommendation.

4. The BOE should ensure that the required numbers of interpreters skilled in the languages needed at each polling site are on site and available to provide assistance to voters.

**BOE Response:** The BOE did not directly address this recommendation. However, based on its response to the related finding, the BOE does not agree with the recommendation, stating, “Were the Board to move beyond the scope of the mandates of §203 of the VRA for another particular language group or groups,



the specter of the Equal Protection Clause violation would be raised. Under such circumstances, the validity of an election could be called into question. Further, the Board could face the unmanageable and prohibitively costly requirement of providing language assistance across the broad spectrum of individual languages present in New York City.”

**Auditor Comment:** The BOE is arguing against a position that we do not take. We do not recommend that one language group be favored over another. Rather, we recommend that the BOE ensure that it provides an adequate number of interpreters for each language as is required to meet the needs of the area where the poll site is located in accordance with the law.

5. The BOE should evaluate the pilot program with regard to half day shifts and if applicable should implement staffing requirements that accommodate the needs and preferences of poll workers, including split shift and/or half days options, to attract a larger pool of qualified applicants and improve attendance.

**BOE Response:** The BOE did not directly address this recommendation. However, it stated that “[BOE] staff worked diligently to expand the pilot program [described elsewhere in the response], including making personal calls to poll workers seeking volunteers to work a half-day shift. Ultimately, these efforts proved unsuccessful as the poll workers opted to work full days rather than be placed in a half-day shift assignment.”

**Auditor Comment:** The BOE provided no evidence to support its assertion, so we are unable to confirm its claim. As noted in the audit report, poll workers we interviewed during the audit expressed the desire for split and half-day shifts, citing excessively long hours as a major deterrent to people seeking employment as poll workers. Consequently, we urge the BOE to reconsider this recommendation.

6. The BOE should establish a working group to identify and implement needed changes and to ensure that voting sites are fully operational and accessible on Election Day. These include determining how best to approach the issue, including the feasibility of accepting the \$20 million in funding that was offered by the Mayor’s Office.

**BOE Response:** The BOE did not address this recommendation or the associated finding, stating, “To the extent the Board wishes to discuss this matter, such discussion would be conducted between the Board and the Office of the Mayor, not in the context of an audit response.”

## Deficiencies in the BOE’s Training Provided to Poll Workers

State Election Law § 3–412 requires that

Each board of elections shall, at least once every year, conduct a mandatory school for the instruction of election inspectors, poll clerks and election coordinators.

The statute further provides that

Election inspectors, poll clerks and election coordinators shall be instructed concerning the election law, the taking of registrations, the use of voting machines, disability etiquette and their duties in connection therewith as soon as possible after their designation.

To train poll workers for Election Day activities, the BOE provides an annual, five-hour training program to coordinators and four hours of basic training to ED table, scanner and BMD inspectors, as well as to information clerks.<sup>22</sup> Participants must attend the course and pass the exam that is given at the end of the session in order to be eligible to work on Election Day.

We participated in three of the 1,650 basic poll workers training sessions provided by the BOE from July 14, 2016 through September 10, 2016, and in two of the 69 coordinators' training classes during that same period, and found that they were inadequate in the following areas:

- *Not all relevant areas were covered during the training.* The training sessions are intended to cover major components of the entire Election Day process, which include the protocols for opening and closing poll sites, setting up the equipment required for voting, distribution of the ballots, and how to address voting-related issues that poll workers may encounter, e.g., voters' names not found on registration lists, voters' signatures not matching those found in the voting books, handling voided and affidavit ballots. Accounting for breaks, the actual training time for coordinators' classes is four hours, 15 minutes and for other poll workers, three hours, 15 minutes. Based on our observations and the breadth and complexity of the material covered, we question whether this is enough time, especially as it pertains to the complex closing process, which many poll workers struggle with. In all five training sessions we attended, instructors stated that they were skipping certain sections, because of time constraints. Among other things, the training sessions we observed spent little time, if any, reviewing situations that poll workers may encounter on Election Day, such as what to do in instances where the poll worker cannot find a voter's name or signature in the registration book, or if the book lists a signature that does not match the voter's current signature. In addition, training sessions that we attended did not go into detail in terms of steps that poll workers should take when voters ask for new ballots—affidavit and scannable ballots.
- *Little, if any, hands-on training provided.* There was limited hands-on training for the setting up, operating and closing process of the BMD machines and the scanners, including the usage of the emergency slot of the scanners. According to poll workers, the BMD machine is especially challenging and complicated to operate and they stated that they had observed voters who were hesitant and reluctant to use the BMDs as a result of the difficulties in using them. In four of the five classes that we attended, only two of the 20 to 30 training attendees were allowed to handle the BMD machines; the other participants watched without actually using them. In the remaining class, the demonstration for using the BMD machine was offered via a video session rather than a live process, so none of the attendees actually used the machines.
- *The training of persons charged with overseeing the Election Day process at the polling sites does not include all aspects of that process.* Although coordinators are responsible for supervising the other poll workers and providing assistance as needed, their training did not cover all the necessary areas to enable them to do so. For example, in the training we attended, coordinators were not shown how to use the BMD and scanners because, according to the instructors, "the poll workers would be trained in this area." Additionally,

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<sup>22</sup> The BOE also provides two hours of training to the accessibility clerks and interpreters.

in one of the two coordinators training class that we attended, coordinators were not offered in-depth training on operating the tablets that are used for recording poll workers' attendance, communicating with the BOE if issues arise, looking up voter information, and transmitting voting results to the BOE at the end of the Election Day process.

- *The exam used to test poll workers' knowledge is of questionable value.* The exam that poll workers and coordinators must pass includes 20 questions, of which participants are required to answer 17 questions correctly. It is an open book exam and next to each question is the specific page number in the manual that provides the test taker with the correct response to the question asked on the exam. Consequently, the test does not appear to test poll workers' knowledge, although it does help increase the number of people who pass the exam.

Poll workers and coordinators themselves identified many of the same deficiencies we directly observed. Among other things, poll workers and coordinators said that they needed additional training, especially hands-on training with regards to the opening and closing process. They told us that the closing process was especially difficult, and that the training session devoted an insufficient amount of time to understanding it. In one case, a coordinator said that one worker assigned to be a BMD operator told him that she never received any hands-on training in the class—a statement that was consistent with auditors' observations in the classes we attended.

Coordinators in particular expressed concern regarding poll workers' ability to conduct the Election Day closing process, stating in substance that the BOE did not provide adequate training. One coordinator remarked, "Oh my god, no one knew anything, they could not find pieces of papers or count numbers. No one could figure out what to do or how to count." Coordinators also expressed concern with the lack of differentiation in training offered to experienced and new Election Day employees. Coordinators felt that the BOE's current training is geared primarily towards experienced workers and that new poll workers should therefore receive separate training. Newer staff members, in turn, said in substance that they were "winging it," since they were not certain as to what they were supposed to do, and complained that there was a lack of guidance from the coordinator. A number of poll workers also complained about the open book test. As one poll worker stated, "BOE made the test into an idiot test, where you are told where to find the answers." Coordinators also expressed frustration with the insufficient training that they received in using the tablets.

At the exit conference, BOE officials stated that the current curriculum, including the open book exam, as well as the hours of training, were recommended by Election Center—the vendor hired by the BOE to provide training to the poll workers. However, based on the multiple deficiencies that we observed and that were confirmed by a number of the coordinators and poll workers we interviewed, the BOE should reevaluate the training provided to its workers.

## Recommendations

7. The BOE should re-evaluate its current training curriculum for poll workers, as well as coordinators, so it puts greater emphasis on basic Election Day protocol, requirements for handling affidavit ballots, and hands-on training sessions, especially pertaining to the usage of devices such as scanners, BMDs and tablets.

**BOE Response:** The BOE appears to contend that it is already in compliance with this recommendation, stating that "The Board evaluates the training process on an on-going basis. As this is a significant undertaking, it is not possible to implement all improvements in a single training year. The Board is working closely

with Election Center to continue to implement its plan to improve the training process.”

**Auditor Comment:** Despite the BOE’s assertions that it evaluates the training process on an on-going basis, the agency provided us with no evidence of such evaluations. Based on our observations during the three elections that were the focus of this audit, the deficiencies we identified in the training sessions we attended, and the sentiments expressed by the poll workers we interviewed, we urge the BOE to reconsider its response and implement this recommendation.

8. The BOE should consider extending the hours of training sessions, providing more in-depth instruction for poll workers and coordinators.

**BOE Response:** The BOE disagreed with this recommendation, stating, “This recommendation runs counter to the best practices advice provided by election administration experts.”

**Auditor Comment:** The BOE provided us with no evidence of the best practices advice it is referring to, so we are unable to verify the validity of the BOE’s claim. Based on the training sessions we attended, and the statements expressed by the poll workers we interviewed, the hours currently devoted for training were not sufficient to cover the wide spectrum of pertinent laws and issues relevant to adequately prepare poll workers for an election. This was evident during our observations of three elections. Consequently, we urge the BOE to implement this recommendation.

9. The BOE should redirect the focus of the exam, so it more accurately measures a poll worker’s proficiency with Election Day protocols.

**BOE Response:** The BOE disagreed with this recommendation, stating, “This recommendation runs counter to the best practices advice provided by election administration experts.”

**Auditor Comment:** Based on our observations during the three elections and the subsequent findings in this report, the exam is not designed to measure a poll worker’s proficiency with the Election Day protocols. Consequently, we urge the BOE to implement this recommendation.

## DETAILED SCOPE AND METHODOLOGY

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective. This audit was conducted in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the New York City Charter.

The primary scope of this audit was July 1, 2014 (the beginning of Fiscal Year 2015) through August 4, 2017 (the last day that we reviewed voters' records and voting history).

We interviewed the following individuals within the BOE's operations to assist in evaluating the BOE's internal controls over its registration process, the maintenance of voters' records, and the operations of poll sites on Election Day: the BOE's Operations Manager; Queens Borough Chief and Deputy Chief Clerk; Staten Island Chief Clerk; Brooklyn Borough Acting Chief and Deputy Chief Clerk; and a BOE Election Day Operation department official. To identify security measures in place for the safeguarding of voters records in the BOE's computer system, AVID, the audit team met with the BOE's Management Information Systems (MIS) Director. In addition, we observed the processing of voters' registration at the Brooklyn Borough Office.

To assess the adequacy of the BOE's internal controls as they related to our audit objective, we evaluated information obtained from the BOE's website, interviews, and the BOE's policies and procedures. We used the following as audit criteria:

- Federal Public Law 107-252 - Help America Vote Act (HAVA) of 2002;
- 52 United States Code (USC) Chapter 205- The National Voter Registration Act (NVRA);
- AVID Procedures-Including AVID-5 Policies and Procedures of the BOE in the City of New York-Section 3 Voter Registration –Revised 4/9/2015;
- Board of Election In The City of New York, Basic Poll Workers Manual-2015/2016 Certification Period v 03/2015;
- Board of Election In The City of New York, Coordinators Manual-2016/2017 Certification Period v.07/2016 - procedures for the operation of poll sites;
- NYS Election Law: Article 5 Sections 5 - Registration and Enrollment of Voters; 52 USC 21083: Computerized statewide voter registration list requirements for voters who register by mail; Article 8 – Conduct of Elections, Section 8-100 through 8-300 and Section 8-500; Article 4, Section 4- 117 - Check of registrants and information notice by mail; and
- Section 4 –Canvas/ Re Canvas procedures.

To evaluate the adequacy of the BOE's poll site operations, we judgmentally selected a total of 156 poll sites for observations during the June 28, 2016 Federal Congressional Primary Election, September 13, 2016 State/Local Primary Election, and the November 8, 2016 General Election.<sup>23</sup> For each election, we assessed whether the poll sites were adequately staffed; whether poll sites were in compliance with the American with Disabilities Accessibility Act; the functionality of poll

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<sup>23</sup> We selected 47 of the 677 open poll sites for the June 28, 2016 Primary Election, 49 of the 1,015 open poll sites for the September 13, 2016 State/Local Primary Election, and 60 of the 1,205 open poll sites for the November 8, 2016 General Election.

site equipment (scanners, tablets and ballot marking devices); whether the poll workers carried out the election process in compliance with State and BOE policies, and the overall poll workers' conduct during the elections.

To evaluate whether the BOE provided training to its poll workers, we stratified the poll workers population from the three elections and removed those poll workers who worked at a position that did not provide assistance to the voters, for a collective total of 80,847 poll workers who provided direct assistance to the public during the three elections.<sup>24</sup> We reviewed BOE records to determine whether: these poll workers successfully passed the examination after the training class; the training was completed before the poll worker was assigned to a poll site; the training class was completed within the BOE annual training cycle; poll workers were assigned to positions they trained for; and whether poll workers worked at positions in accordance with their training. Additionally, to assess the adequacy of the training provided to poll workers, we attended three of the 1,650 basic poll workers training sessions provided by the BOE for the period of July 14, 2016 through September 10, 2016 and we attended two of the 69 coordinators training classes provided by the BOE during that same period to assess the adequacy of the training provided to poll workers.

To determine the accuracy of the BOE's assessment of the affidavit ballots during the November 8, 2016 General Election, we randomly selected 500 of the 130,178 affidavit ballots distributed during the November 8, 2016 General Election for review and ascertained whether: (1) voters were given affidavit ballots for correct reasons; (2) only votes of registered voters who met the voting requirements were counted; and (3) affidavit ballots of non-registered voters were used as registration forms where appropriate.<sup>25</sup>

To determine whether the total of 117,633 Brooklyn voters who were erroneously purged on June 18, 2015 and July 5, 2015 respectively were reactivated, if necessary, in BOE's AVID system, we compared the population of 117,633 purged voters to the November 8, 2016 General Election registration roll. For the 328 voters who were not listed on the registration roll, we randomly selected 25 for review to determine whether there was any voter activity between May 2015 and November 8, 2016 General Election Day that resulted in their elimination from the registration rolls.

To determine whether any of the 4,476 Brooklyn voters who responded to the intent to cancel notices that BOE sent during Calendar Year 2015 were included in the population of 117,633 erroneously purged voters, we matched the entire population of 4,476 voters to the 117,633 purged Brooklyn voters' population.<sup>26</sup> To further ascertain whether the 4,476 voters were listed on the November 8, 2016 General Election active registration rolls, we compared these voters to the registration rolls. Of the 81 voters that were not listed on the November 8<sup>th</sup> registration roll, we randomly selected 25 to determine whether any activity existed on voters' records in AVID, from June 2015 to November 8, 2016 that resulted in their elimination from the November 8, 2016 General Election active registration rolls.

In addition to reviewing the list of voters who were purged from the BOE's records in Brooklyn, we also reviewed the listing of 73,125 voters who were purged from the Bronx, Manhattan, Queens and Staten Island during Calendar Year 2015. We determined whether any of the purged

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<sup>24</sup> For the three elections combined, a total of 82,861 poll workers serviced the voters, of which 2,014 did not provide direct assistance to voters on Election Day – this included Custodians, AD Poll Site Monitor, Election Night Reporting Clerks, and Field/Office/Zone/Coordinators.

<sup>25</sup> We reviewed 250 affidavit ballot envelopes that were assessed by the BOE as valid and 250 that were assessed as invalid.

<sup>26</sup> The BOE did not send any ITC notices during Fiscal Years 2016 and 2017.



voters were listed on the BOE's registration rolls. Of the 85 that were listed on the November 8, 2016 registration rolls, we randomly selected 25 and determined whether they were on the registration rolls for valid reasons.

Using a weighted average methodology, we selected 100 of the 73,040 purged voters (excluding Brooklyn voters) that were not listed on the November 8, 2016 General Election registration rolls and reviewed the activity history in AVID to determine whether these voters were purged for reasons other than voting inactivity.

We also randomly selected 25 voters from each of the remaining four boroughs (Bronx, Manhattan, Queens, and Staten Island) who responded to BOE's ITC Notices to determine whether they were listed on the November 8, 2016 General Election registration rolls. For the 31 voters who were not on the registration rolls, we reviewed records in AVID to determine whether they were eliminated for valid reasons.

The results of the above tests, while not projectable to the respective populations, provided us with a reasonable basis to assess the BOE's controls over its operating activities.

### **Poll Worker Positions and Functions**

**Coordinators** — Oversight of the poll sites, including placing any necessary calls to BOE; reassigning poll workers as needed; making sure that the poll workers' time sheets are accurate; confirming that scanners are opened and closed on time, ensuring that the results of the tapes are printed after polls close and that election results are transmitted to BOE; confirming that ED inspectors have accounted for all ballots; and overseeing the election process, including the closing protocols.

**Information Clerks** — Posting inside signage, greeting voters, looking up voters Election District (ED)/Assembly District (AD) information if unknown, and directing the voters to the correct ED/AD table or poll site as necessary.

**Accessibility Clerks** — Posting external signage prior to opening of the polls, monitoring accessible entrance to election site and assisting those voters with disabilities.

**Interpreters** — Assisting non-English speaking voters by translating information and the ballot in a designated language.

**ED Table Inspectors** — Bipartisan teams at each ED/AD table who verify that voters are voting in the correct district. The teams are also responsible for obtaining voter signatures on the Voter Registration List, providing ballots and privacy sleeves to voters; assisting voters in special situations; and account for ballots and packing materials during closing.

**Scanner Inspectors** — responsible for setting up the scanners, assisting voters if necessary, trouble shooting and maintaining the scanners as necessary, and closing and packing up the scanners at the end of election night.

**Ballot Marking Device (BMD) Inspectors** — Setting up the BMD machines, assisting voters who need to use the BMD machine, and closing the BMD.

**Relief Workers** — Poll workers who have been trained and assigned to a poll site to provide relief to other poll workers who are on break.

**Standbys** — Poll workers who have been trained but are not preassigned to a poll site, and can be sent to poll sites to fill vacancies and perform various duties.

**Technicians** — Roving technicians who respond to technical issues reported at poll sites during the elections.

**Police Officers (Non BOE Employee)** — Deliver poll site envelopes containing keys to poll site machines to the Coordinator; be on duty at the site polls until 9 p.m. closing; return scanners Portable Memory Device (PMDs) which contains the election night results to the precinct to be read by BOE staff, and return paper ballots to BOE.

**AD Monitors** — Bipartisan teams of two sent from each borough office to provide assistance and troubleshooting to a group of poll sites within an AD. Monitors may also be sent from the General Office.

## APPENDIX II

### Number of Poll Sites with Issues for the Three Elections

# of Poll Sites Observed	Poll Site Name and Location	Borough	Number of Poll Sites with Issues		
			Lack of Compliance with Guidelines	Insufficient Staffing	Accessibility
<b>June 28, 2016 Federal Congressional Primary Election Poll Site Observations</b>					
1	PS72: 131 East 104 Street, New York, NY 10029	Manhattan	X		X
2	Jackie Robinson Complex: 1573 Madison Avenue, New York, NY 10029	Manhattan	X	X	
3	Dewitt Clinton Center: 120 East 110 Street, New York, NY 10029	Manhattan	X		
4	PS38 or 121-232 East 103 Street, New York, NY 10029	Manhattan	X		
5	PS146: 421 East 106 Street, New York, NY 10029	Manhattan	X	X	
6	PS170: 619 72 Street, Brooklyn, NY 11209	Brooklyn	X		
7	Our Lady of Perpetual Help: 552 59 Street, Brooklyn, NY 11220	Brooklyn	X		
8	PS234 (Independence): 292 Greenwich Street, New York, NY 10007	Manhattan	X	X	X
9	HS For Leadership: 90 Trinity Place, New York, NY 10006	Manhattan		X	
10	St Margaret's House: 49 Fulton Street, New York, NY 10038	Manhattan	X	X	
11	PS41: 116 West 11 Street, New York, NY 10011	Manhattan			X
12	PS161 Arthur Ashe School: 101-33 124 Street, South Richmond Hill, NY 11419	Queens			
13	PS55 Maure: 131-10 97 Avenue, South Richmond Hill, NY 11419	Queens			
14	PS54 Hillside: 86-02 127 Street, Richmond Hill, NY 11418	Queens			
15	PS90 Horace Mann: 86-50 109 Street, Richmond Hill, NY 11418	Queens			
16	PS62 Chester Park: 97-25 108 Street, South Richmond Hill, NY 11419	Queens			
17	PS234: 30-15 29 Street, Astoria, NY 11102	Queens	X		
18	PS17 Henry David Thoreau: 28-37 29 Street, Astoria, NY 11102	Queens	X		
19	PS171 Peter G. Van Alst: 14-14 29 Avenue, Astoria, NY 11102	Queens	X	X	
20	PS112 Dutch Kills: 25-05 37 Avenue, Long Island City, NY 11101	Queens		X	X
21	PS166 Henry Gradstein: 33-09 35 Avenue, Astoria, NY 11106	Queens	X	X	
22	PS305 Learners & Leaders: 378 Seneca Avenue, Ridgewood, NY 11385	Queens	X	X	X
23	Greater Ridgewood Youth Center: 59-03 Summerfield St., Ridgewood, NY 11385	Queens		X	
24	PS239: 17-15 Weirfield Street, Ridgewood, NY 11385	Queens	X		
25	Grover Cleveland: 21-27 Himrod Street, Ridgewood, NY 11385	Queens			
26	PS81 Jean Paul Richter: 599 Cypress Avenue, Ridgewood, NY 11385	Queens		X	
27	Hostos Community College: 120 East 149 Street, Bronx, NY 10451	Bronx	X	X	

# of Poll Sites Observed	Poll Site Name and Location	Borough	Number of Poll Sites with Issues		
			Lack of Compliance with Guidelines	Insufficient Staffing	Accessibility
28	MS203 (PS183): 339 Morris Avenue, Bronx, NY 10451	Bronx		X	X
29	PS/MS 29 Melrose School: 758 Courtlandt Avenue, Bronx, NY 10451	Bronx	X	X	X
30	Melrose IHAD-Literacy: 277 East 153 Street, Bronx, NY 10451	Bronx		X	X
31	Michelangelo Apartments: 255 East 149 Street, Bronx, NY 10451	Bronx			
32	Bronx County Supreme Court House: 851 Grand Concourse, Bronx, NY 10451	Bronx			X
33	777 Concourse Village East: 777 Concourse Village East, Bronx, NY 10451	Bronx	X		
34	Walker Memorial Church Hall: 120 East 169 Street, Bronx, NY 10452	Bronx			X
35	PS73 Bronx: 1020 Anderson Avenue, Bronx, NY 10452	Bronx			
36	PS64 Pura Belpre: 1425 Walton Avenue, Bronx, NY 10452	Bronx	X		
37	PS35 Nathaniel Woodhull: 191-02 90 Avenue, Hollis, NY 11423	Queens			
38	St. Thomas Senior Center: 725 Evergreen Avenue Brooklyn, NY 11207	Brooklyn		X	X
39	Rheingold Gardens: 555 Bushwick Avenue, Brooklyn, NY 11206	Brooklyn			
40	IS33: 70 Tompkins Avenue Brooklyn, NY 11206	Brooklyn		X	
41	Bushwick Campus: 400 Irving Avenue, Brooklyn, NY 11237	Brooklyn		X	X
42	Bushwick Branch Public Library: 340 Bushwick Avenue, Brooklyn, NY 11206	Brooklyn			
43	PS177: 346 Avenue P, Brooklyn, NY 11204	Brooklyn	X		
44	PS230: 1 Albemarle Road, Brooklyn, NY 11419	Brooklyn	X	X	
45	PS179: 202 Avenue C, Brooklyn, NY 11218	Brooklyn	X	X	
46	PS62 JHS: 700 Cortelyou Road, Brooklyn NY 11218	Brooklyn	X		
47	PS130: 70 Ocean Parkway, Brooklyn NY 11218	Brooklyn	X		X
<b>Total</b>	<b>47</b>		<b>24</b>	<b>20</b>	<b>13</b>
<b>September 13, 2016 State Primary Election Poll Site Observations</b>					
1	Tweed Court: 52 Chambers Street, New York, NY 10007	Manhattan	X		
2	Civil Court: 111 Centre Street, New York, NY 10013	Manhattan	X		
3	Confucius Plaza: 33 Bowery, New York, NY 10002	Manhattan	X	X	
4	PS131: 100 Hester Street, New York, NY 10002	Manhattan	X	X	
5	PS2 (Meyer London): 122 Henry Street, New York, NY 10002	Manhattan	X	X	
6	UASBYW: 81 New Street, New York, NY 10004	Manhattan		X	X
7	Yeshiva University-Cardozo School of Law: 55 5th Avenue, New York, NY 10003	Manhattan	X	X	
8	Lesbian And Gay Center: 208 West 13 Street, New York, NY 10011	Manhattan		X	
9	Westbeth Housing: 155 Bank Street, New York, NY 10014	Manhattan		X	X
10	NYU Wash Square Village 2: 2 Washington Square Village, New York, NY 10012	Manhattan		X	X

# of Poll Sites Observed	Poll Site Name and Location	Borough	Number of Poll Sites with Issues		
			Lack of Compliance with Guidelines	Insufficient Staffing	Accessibility
11	NYU Wash Square Village 3: 3 Washington Square Village, New York, NY 10012	Manhattan		X	X
12	Lefferts Library: 103-34 Lefferts Boulevard, South Richmond Hill, NY 11419	Queens		X	
13	PS108 Captain Vincent G. Fowler: 108-10 109 Avenue, South Ozone Park, NY 11420	Queens		X	
14	JHS 226 Virgil I. Grissom: 121-10 Rockaway Boulevard, South Ozone Park, NY 11420	Queens		X	
15	PS121 Queens: 126-10 109 Avenue, South Ozone Park, NY 11420	Queens		X	
16	PS/IS 270 Gordon Parks School: 233-15 Merrick Boulevard, Rosedale, NY 11422	Queens	X	X	
17	PS206 Horace Harding School : 61-02 98 Street, Rego Park, NY 11374	Queens		X	
18	JHS 157 Stephen A Halsey: 63-55 102 Street, Rego Park, NY 11374	Queens	X	X	
19	PS175 Lynn Gross Discovery School: 64-35 102 Street, Rego Park, NY 11374	Queens	X	X	
20	PS139 Rego Park: 93-06 63 Drive, Rego Park, NY 11374	Queens	X	X	
21	JHS190 Russell Sage: 68-17 Austin Street, Forest Hills, NY 11375	Queens	X	X	X
22	PS69 Jackson Heights: 77-02 37 Avenue, Jackson Heights, NY 11372	Queens	X		
23	PS223: 125-20 Sutphin Boulevard, Jamaica, Queens	Queens	X	X	
24	IS166 Bronx Early College Academy: 250 East 164 Street, Bronx, NY 10456	Bronx		X	X
25	JHS145 Arturo Toscanini: 1000 Teller Avenue, Bronx, NY 10456	Bronx		X	X
26	PS53 Annex Basheer Quisim: 360 East 168 Street, Bronx, NY 10456	Bronx		X	X
27	PS90 The Family School: 1116 Sheridan Avenue, Bronx, NY 10456	Bronx		X	X
28	William H. Taft High School: 240 East 172 Street, Bronx, NY 10457	Bronx		X	
29	Glad Tidings Academy: 2 Van Cortlandt Ave. Bronx, NY 10468	Bronx		X	
30	PS179 (PS40): 468 East 140 Street, Bronx, NY 10454	Bronx		X	
31	Gilbert Ramirez Apartments: 455 East 138 Street, Bronx, NY 10454	Bronx	X	X	
32	Mitchell Community Center: 210 Alexander Avenue, Bronx, NY 10454	Bronx		X	
33	Mott Haven Community Room: 375 East 143 Street, Bronx, NY 10454	Bronx	X	X	X
34	Carmen Parsons Senior Center: 441 East 155 Street, Bronx, NY 10455	Bronx			
35	Gorman Houses: 1381 Linden Boulevard, Brooklyn, NY 11212	Brooklyn		X	
36	Betsy Head Pool: 694 Thomas Boyland Street, Brooklyn, NY 11212	Brooklyn		X	
37	PS284: 220 Watkins Street, Brooklyn, NY 11212	Brooklyn		X	
38	New Hope Family Worship: 817 Livonia Avenue, Brooklyn, NY 11207	Brooklyn		X	
39	PS/IS 202: 982 Hegeman Avenue, Brooklyn, NY 11208	Brooklyn		X	
40	Marlboro Community Center: 2298 West 8 Street, Brooklyn, NY 11223	Brooklyn	X	X	X

# of Poll Sites Observed	Poll Site Name and Location	Borough	Number of Poll Sites with Issues		
			Lack of Compliance with Guidelines	Insufficient Staffing	Accessibility
41	St. Marks School: 2602 East 19 Street, Brooklyn, NY 11235	Brooklyn		X	X
42	PS254: 1801 Avenue Y, Brooklyn, NY 11235	Brooklyn	X	X	
43	Shorefront YM-YWHA: 3300 Coney Island Avenue, Brooklyn, NY 11235	Brooklyn	X	X	
44	PS23 Richmondtown: 30 Natick St., Staten Island, NY 10312	Staten Island	X	X	X
45	PS42 Eltingville: 380 Genesee Avenue, Staten Island, NY 10312	Staten Island	X	X	X
46	IS7 Elias Bernstein: 1270 Huguenot Avenue, Staten Island, NY 10312	Staten Island	X		
47	IS75 Frank D. Paulo: 455 Huguenot Ave, Staten Island, NY 10312	Staten Island		X	X
48	PS55 Henry M. Boehm: 54 Osborne Street, Staten Island, NY 10312	Staten Island	X	X	
49	PS36 J.C. Drumgoole: 255 Ionia Avenue, Staten Island, NY 10312	Staten Island		X	X
<b>Total</b>	<b>49</b>		<b>22</b>	<b>44</b>	<b>16</b>
<b>November 8, 2016 General Election Poll Site Observations</b>					
1	Amalgamated Dwelling: 504A Grand Street, New York, NY 10002	Manhattan	X	X	
2	PS140: 123 Ridge Street, New York, NY 10002	Manhattan	X	X	
3	Mott Street Senior Center: 180 Mott Street, New York, NY 10012	Manhattan	X	X	X
4	PS130: 143 Baxter Street, New York, NY 10013	Manhattan	X	X	
5	PS134: 293 East Broadway, New York, NY 10002	Manhattan		X	X
6	Holy Cross Church: 61-21 56 Road, Maspeth, NY 11378	Queens	X	X	
7	PS290 (Manhattan New School): 311 East 82 Street, New York, NY 10028	Manhattan		X	
8	Robert Wagner Middle School: 225 East 75 Street, New York, NY 10021	Manhattan	X	X	
9	Lenox Hill Senior Center: 343 East 70 Street, New York, NY 10021	Manhattan		X	
10	Continental East: 353 East 83 Street, New York, NY 10028	Manhattan			
11	PS170: 619 72 Street, Brooklyn NY 11209	Brooklyn			
12	Lincoln Guild Housing: 303 West 66 Street, New York, NY 10023	Manhattan	X	X	X
13	Lincoln Square Neighborhood Center: 250 West 65 Street, New York, NY 10023	Manhattan	X	X	
14	LaGuardia High School: 100 Amsterdam Avenue, New York, NY 10023	Manhattan	X	X	X
15	HS Environment Studies: 444 West 56 Street, New York, NY 10019	Manhattan	X	X	
16	JHS210 Elizabeth Blackwell: 93-11 101 Avenue, Ozone Park, NY 11416	Queens	X	X	
17	PS254 Rosa Parks School: 84-40 101 Street, Richmond Hill, NY 11418	Queens		X	
18	Allen AME Senior Center: 112-04 167 Street, Jamaica, NY 11433	Queens	X	X	X
19	Queens Academy / PS142 - Queens Transition Center: 142-10 Linden Boulevard, Jamaica, NY 11436	Queens		X	X
20	PS100 Glen Morris: 111-11 118 Street, South Ozone Park, NY 11420	Queens		X	X



# of Poll Sites Observed	Poll Site Name and Location	Borough	Number of Poll Sites with Issues		
			Lack of Compliance with Guidelines	Insufficient Staffing	Accessibility
21	Meadowbrook Apartments: 77-15 113 Street, Forest Hills, NY 11375	Queens		X	
22	PS101 School in the Gardens: 2 Russell Place, Forest Hills, NY 11375	Queens		X	
23	PS144 Col. Jeromus Remsen: 93-02 69 Avenue, Forest Hills, NY 11375	Queens	X	X	
24	PS174 William Sidney Mount: 65-10 Dieterle Crescent, Rego Park, NY 11374	Queens		X	
25	IS230: 73-10 34 Avenue, Jackson Heights, NY 11372	Queens	X	X	
26	PS107 Thomas A Dooley: 167-02 45 Avenue, Flushing, NY 11358	Queens	X	X	X
27	Francis Lewis High School: 58-20 Utopia Parkway, Fresh Meadows, NY 11365	Queens	X	X	X
28	PS26 Rufus King: 195-02 69 Avenue, Fresh Meadows, NY 11365	Queens	X	X	
29	PS173 Fresh Meadows: 174-10 67 Avenue, Fresh Meadows, NY 11365	Queens	X		
30	PS64: 1425 Walton Avenue, Bronx, NY 10452	Bronx		X	
31	Antonia Diaz Houses: 1454 Shakespeare Avenue, Bronx, NY 10452	Bronx		X	
32	PS11 Highbridge: 1257 Ogden Avenue, Bronx, NY 10452	Bronx	X	X	
33	Highbridge Gardens Community Center: 1155 University Avenue, Bronx, NY 10452	Bronx		X	
34	PS85 Great Expectations: 2400 Marion Avenue, Bronx, NY 10458	Bronx		X	X
35	IS144 Michelangelo: 2545 Gunther Avenue, Bronx, NY 10469	Bronx	X	X	
36	PS97: 1375 Mace Avenue, Bronx, NY 10469	Bronx	X	X	X
37	Holy Rosary Church: 2950 Eastchester Road, Bronx, NY 10469	Bronx		X	X
38	PS276: 1070 East 83 Street, Brooklyn, NY 11236	Brooklyn	X	X	
39	PS272: 101-24 Seaview Avenue, Brooklyn, NY 11236	Brooklyn	X		
40	PS279: 1070 East 104 Street, Brooklyn, NY 11236	Brooklyn	X	X	
41	PS66 IS: 845 East 96 Street, Brooklyn, NY 11236	Brooklyn	X	X	
42	PS155: 1355 Herkimer Street, Brooklyn, NY 11233	Brooklyn	X	X	X
43	PS73: 241 Mac Dougal Street, Brooklyn, NY 11233	Brooklyn	X	X	
44	PS137: 121 Saratoga Avenue, Brooklyn, NY 11233	Brooklyn		X	
45	Brooklyn Museum: 200 Eastern Parkway, Brooklyn, NY 11238	Brooklyn		X	
46	Trump Village Building: 12940 Ocean Parkway, Brooklyn, NY 11235	Brooklyn	X	X	
47	Wm Grady Voc High School: 25 Brighton 4 Road, Brooklyn, NY 11235	Brooklyn	X	X	X
48	Bay Academy-IS 98: 1401 Emmons Avenue, Brooklyn, NY 11235	Brooklyn	X	X	X
49	Seacoast Towers: 1311 Brightwater Avenue, Brooklyn, NY 11235	Brooklyn	X	X	X
50	JASA Community Center: 161 Corbin Place, Brooklyn, NY 11235	Brooklyn	X	X	
51	Susan E. Wagner High School: 50 Brielle Avenue, Staten Island, NY 10314	Staten Island		X	
52	Moore Catholic High School: 100 Merrill Avenue, Staten Island, NY 10314	Staten Island	X	X	

# of Poll Sites Observed	Poll Site Name and Location	Borough	Number of Poll Sites with Issues		
			Lack of Compliance with Guidelines	Insufficient Staffing	Accessibility
53	PS 29 Bardwell: 1581 Victory Boulevard, Staten Island, NY 10314	Staten Island		X	
54	Todt Hill Community Center: 255 Westwood Avenue, Staten Island, NY 10314	Staten Island	X	X	
55	PS60 Alice Austen: 55 Merrill Avenue, Staten Island, NY 10314	Staten Island		X	
56	PS54 Charles W. Leng: 1060 Willowbrook Road, Staten Island, NY 10314	Staten Island	X	X	
57	PS32 The Gifford School: 232 Barlow Avenue, Staten Island, NY 10308	Staten Island			
58	New Dorp High School: 465 New Dorp Lane, Staten Island, NY 10306	Staten Island	X		
59	IS2 George L. Egbert: 333 Midland Avenue, Staten Island, NY 10306	Staten Island		X	
60	Saint Christophers: 136 Midland Avenue, Staten Island, NY 10306	Staten Island		X	
<b>Total</b>	<b>60</b>		<b>36</b>	<b>54</b>	<b>16</b>
<b>Grand Total</b>	<b>156</b>		<b>82</b>	<b>118</b>	<b>45</b>

FREDERIC M. UMANE  
PRESIDENT

ROSANNA VARGAS  
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ADMINISTRATIVE MANAGER

GEORGEA KONTZAMANIS  
OPERATIONS MANAGER

## BOARD OF ELECTIONS

IN  
THE CITY OF NEW YORK  
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NEW YORK, NY 10004-1609  
(212) 487-5300  
FAX (212) 487-5349  
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October 30, 2017

Ms. Majorie Landa  
Deputy Comptroller for Audit  
Office of the Comptroller  
1 Centre Street  
New York, NY 10007-2341

**Re: Audit Report on the Board of Elections'  
Controls over the Maintenance of Voters'  
Records and Poll Access**

Dear Ms. Landa:

Please be advised that the Board of Elections in the City of New York (the Board) is in receipt of the Draft of the above report dated October 16, 2017. The Board has worked diligently and cooperatively with the Office of the Comptroller in completing this process. As you are aware, the Board is the process of preparing for the citywide elections to be conducted on November 7, 2017.

During the exit interview conducted by audit staff on October 12, 2017, the Board indicated the challenges faced in comprehensively responding to the audit findings given the proximity of the release of the report to the date of the general election and requested that the response to the audit be addressed post-election. In any event, your letter indicated that any written comments are to be provided no later than October 30, 2017 (one week and one day before the general election).

The Board is sensitive to the professional responsibilities of all of our respective government partners (especially in this case the Office of the Comptroller) and the Board respectfully requests concomitant sensitivity to the Board's professional responsibilities. Much of the audit report is dedicated to poll sites and poll workers. As such, the majority of the staff that is required to assist in preparing a response to the issues raised is assigned to the Election Day Operations Unit (EDO), Voting Equipment Operations Unit (VEOU) and the various borough offices.

Under the circumstances, it is not possible for staff to cease election-day preparation to assist in the audit response. Consequently, the Board asks that this reply be accepted

with the understanding that a more comprehensive response is not possible at this time. The Board will accordingly respond to the audit in the sequence set forth therein. For ease of reference this reply will utilize the corresponding section titles, enumerated paragraphs and page numbers set forth in the draft report.

### **Executive Summary (page 1)**

Page 1, third paragraph – the description asserting that the Board “canceled” or “purged” the registrations of “over 117,600 voters which prevented them from voting during the April 19, 2016 Presidential Primary Election” (Presidential Primary) is inaccurate with respect to certain key points.

Prior to addressing the issues it is important to assert unequivocally that the process of identifying the voters and the notices sent to the voters were both done in error; however, it is equally important to evaluate the issue in the proper context. To do otherwise would permit the false narrative to stand that 117,600 voters in the Borough of Brooklyn were prevented from voting in the Presidential Primary.

In December 2013 the New York City Department of Investigation (DOI) released a report regarding the Board wherein more than 10 pages of the report was dedicated to the issue of voters whom were not removed from the voter rolls and the potential for poll site issues as a result. DOI made a series of recommendations to Board. The clear implication was to encourage the Board to remove more voters from the rolls.

Keeping and maintaining accurate voters rolls is challenging for boards of elections nationally. Such a challenge is even greater in large cities, like New York City, where the populace has a tendency to be more transient. This matter was comprehensively address in the January 2014 report published by the Presidential Commission on Election Administration (See Attachment # 1).

The process of identifying voters commenced in March 2014 and concluded in May 2015. The Brooklyn Borough managers instructed staff to identify voters for possible removal from the voter rolls if the voter had not voted using a cut-off year of 2008. This process was completed utilizing a manual flagging process. That this process was completed manually explains the duration of the flagging process. It must be noted that “flagging” a voter made no official change to a voter’s record or in any way removed the voter from the voter rolls. This process merely identified the voter for potential future action. It must be further noted that this instruction was not within Board policies and should not have been given.

On May 26, 2015 Intent to Cancel (ITC) notices were mailed to 111,372 voters (a process expressly authorized by NYS Election Law § 5-402(2)). On June 18, 2015 107,350 voters were removed from the rolls. On June 8, 2015 ITC notices were mailed to 11,082 voters. On July 5, 2015 10,311 voters were removed from the rolls. This activity was discussed during a public meeting of the Board of Commissioners on July 7, 2015. This information is imparted to dispel the notion that this activity occurred secretly and/or without notice to the voters.

At the time the voters were removed it was understood that voters could not be removed from the rolls for “not voting.” In the intervening time, a challenge under the

National Voting Rights Act (NVRA) was brought regarding a process in the State of Ohio (Ohio) whereby voters who failed to vote for two (2) years are mailed a Confirmation Notice and are made inactive for failing to respond. Ohio's process was upheld at the federal trial court level. The plaintiffs appealed and the circuit court reversed. Ohio has appealed and the matter has been granted *certiorari* by the Supreme Court of the United States (SCOTUS).

The United States Department of Justice (DOJ) submitted an *amicus curiae* brief (Attachment # 2) reversing its long held instruction that voters could not be removed from the voter rolls for not voting. In a detailed analysis DOJ now concludes that a voter cannot be removed "solely" for not voting. This may appear to the untrained reader to be a subtle distinction; however, it is not. Rather it is a significant departure from prior NVRA compliance instructions promulgated by DOJ since the NVRA was adopted in 1992.

This information is offered as an illustrative example that elections are conducted in a highly regulated and scrutinized environment and even matters that appear facially to be well-settled may be the subject of significant changes on an on-going basis. This reality presents challenges for elections administrators with respect to all aspects of the elections process. Given the recent change in DOJ's position, assuming *arguendo* that SCOTUS concurs, had the Board sent confirmation notices to the voters the entire process may now be deemed appropriate.

To further contextualize the reference of the number of affected voters and the assertion that "over 117,600 voters" were "prevented" from voting during the presidential primary (without in any way minimizing the actions of the Brooklyn Borough managers), over 110,000 of those voters had not voted in ten (10) years and of those over 61,000 voters had no history of voting whatsoever.

In addition, the Board of Commissioners directed all five (5) boroughs to comprehensively review the voter records of any voter in the Presidential Primary that voted by affidavit ballot. The Board of Commissioners further instructed that any discrepancy with respect to voters who were previously removed from the rolls must be resolved in favor of the voter and such votes were counted. This process ensured that any negative effect of the removal of the voters would be mitigated to the extent possible. 104 voters who were on the list of 117,600 submitted affidavit ballots in the Presidential Primary and each vote was both counted and included in the certified results.

### **Audit Findings and Conclusions (page 2)**

The restoration of the voters was completed on June 6, 2016 (approximately 1 month after the certification of the Presidential Primary election and upon completion of crediting voter history) prior to the Federal Primary conducted on June 28, 2016.

### **Background (page 4)**

The first partial paragraph indicates that the poll workers are assigned by EDO. Poll workers are assigned by the borough offices. EDO administers the list of the poll workers.

The first full paragraph reiterates statements asserted in the Executive Summary the majority of which are addressed above. The characterization that "BOE subsequently agreed to restore these voters to the rolls" gives the false impression that the Board restored the



voters in response to an investigation and/or litigation. The Board restored the voters entirely on its own volition and upon independently acknowledging the necessity to take remedial action. The comprehensive affidavit ballot review process was instituted immediately after the Presidential Primary and was incorporated into the post-election canvass process to ameliorate potential disenfranchisement of voters. The lawsuit was not commenced against the Board until November 2016, approximately five (5) months after the voters were restored to the rolls.

The second full paragraph indicates in footnote 7 that the Board declined to discuss the details of the agreement during the course of the audit. As there is no "agreement" such a reference is not accurate. In any event, the Board averred that such an inquiry is beyond the proper scope of an audit. To the extent the Board wishes to discuss this matter, such discussion would be conducted between the Board and the Office of the Mayor, not in the context of an audit response.

### **Findings and Recommendations (page 6)**

The Board appreciates the audit finding that the extensive remediation efforts undertaken *vis á vis* removed voters were "effective". While the Board clearly would have preferred that the issue had never arisen, confirmation that the remedial process was performed effectively is welcome.

### **Erroneously Purged Brooklyn Voters Were Restored to the November 2016 Election Rolls**

While this heading is technically accurate, it remains misleading. The voters were restored to the voter rolls prior to the Federal Primary in June 2016, immediately after the certification of the Presidential Primary and upon the completion of voter history.

#### *Cancellation of Voter Registration*

In addition to the provisions of NYS Election Law § 5-400 set forth the additional provisions not referenced in summary are as follows:

- (a) moved outside of City or county
- (d) refused to take a challenge oath
- (f) after being placed in inactive status did not vote in two (2) successive federal general elections
- (g) personally requested to have name removed
- (h) for any other reason is no longer qualified to vote

#### *Removal of a Registered Voter from the Registration Rolls*

The second full paragraph correctly indicates that inactive voters are eligible to vote; however, it incorrectly indicates that inactive voters are "removed from the registration roll". If the voters were removed from the registration roll they would not be eligible to vote. More accurately, pursuant to NYS Election Law § 5-213 such voters are removed from the poll ledgers, in other words the poll list books. While they remain in the computer records maintained by the Board, Election Law § 5-213 precludes including the names of inactive voters in the poll list books on election day.



### *The 2015 Brooklyn Purge for the Registration Rolls*

The details set forth in the first full paragraph are discussed above and as such will not be addressed repeated here.

The second full paragraph should have asserted that the voters were restored “in time” for the Federal Primary conducted on June 28, 2016.

### **Deficiencies at Poll Sites (pages 9 to 13)**

This section references a series of anecdotal references. Such references are lacking in sufficient detail and/or specificity. Thus, the Board is unable to refute or concur with such claims. These references do not provide an opportunity for the Board to engage in subsequent remedial measures. In addition, a diligent search of the Board’s call logs from these election events does not reveal that audit staff contacted the Board during the election to provide information regarding the existence of a problem (a system search was conducted using the term “comptroller” and the known names of audit staff). Such an alert would have provided the Board an opportunity to remediate any problem on election day and may have prevented such circumstances from future occurrence. The call logs are voluminous and available upon request.

Commencing with a special election conducted on May 5, 2015, the Board began a phased in utilization of tablets in the field and at the poll sites for the tabulation of the unofficial election night results. The Board fully implemented the utilization of the tablets for unofficial results tabulation in the Primary Election Conducted on September 10, 2015.

Upon the close of polls during the Presidential General Election, the Board processed 92% of over 2,6000,000 votes cast by 11:00 p.m. For a reference point it is worth noting that at 10:30 p.m. that evening, the only results that were reported into the NYS Board of Elections public results portal and displayed on the website were from New York City. While it is understood that audits often focus primarily on shortcomings, such a significant achievement must be acknowledged. For further reference purposes and to demonstrate the significant progress made by the Board, the Election Night Results (ENR) reports for each General Election, commencing with November 8, 2011 (the year ENR began) and running through November 8, 2016 (the last General Election) are attached (See Attachment # 3).

The Board will be phasing in expanded use of the tablets for a myriad of tasks and functions according to an internally adopted plan. The focus of the plan to is to ensure that available technology is effectively utilized to promote accuracy and efficiency.

### **Insufficient Staffing (Page 13 to 16)**

The Board acknowledges that recruitment of poll workers is an issue. Unfortunately, this issue is part of a national downward trend. This issue is addressed in detail in the Presidential Commission Report (See Attachment # 1). This section of the report also contains additional anecdotal references that do not permit an effective response.

The Board has engaged in extensive poll worker recruitment efforts including subway and bus advertising in the amount of approximately \$600,000.00 annually (depending on the needs for the particular election cycle) to ensure sufficient staffing for election events.

During the exit interview on October, 12, 2017, the Board explained in detail the manner in which poll sites are determined to require language assistance. At the interview the audit staff was unaware of the Board's Chinese and Korean Language Assistance Program (is currently conducted pursuant to a consent decree which established a Language Assistance Plan (LAP) which was pre-cleared by the DOJ and a policy adopted by the Commissioners on February 11, 2014 relating to the Asian-Indian Language Assistance Program (See Attachment # 4). The Board fully explained that poll site interpreter assistance is offered at designated sites in Bengali, Chinese, Korean and Spanish, pursuant to federal law. Chinese and Korean language assistance is offered pursuant to the provisions of the pre-cleared LAP. Asian-Indian language assistance is offered under the adopted policy of the Board of Commissioners in accordance with the Voting Rights Act designation based on the most recent census data. Spanish language assistance is offered under § 203 of the federal Voter Rights Act (VRA) and/or relevant court order.

The Board also explained in detail the reasons why it is unable to exceed the scope of § 203 of the VRA and related court orders. Were the Board to move beyond the scope of the mandates of § 203 of the VRA for another particular language group or groups, the specter of an Equal Protection Clause violation would be raised. Under such circumstances, the validity of an election could be called into question. Further, the Board could face the unmanageable and prohibitively costly requirement of providing language assistance across the broad spectrum of individual languages present in New York City.

The first partial paragraph on page 15 indicates that interpreters are not provided "in the language required by the majority of voters at the site." Simply, this is not the standard by which such determinations are made under § 203 of the VRA, and the relevant provisions of the LAP, adopted Board policy or judicial determinations. (See Attachment # 4).

The report indicates that during the "November 8, 2016 General Election [the Board] began a pilot program to implement half-day shifts." This representation is inaccurate, the pilot program for half-day shifts (or "split" shifts) was directed by the Brooklyn Borough Commissioners and conducted during the General Election on November 4, 2014. The results and or observations thereof are as follows:

- Two medium size sites were chosen, B0090, PS 321, 180 7<sup>th</sup> Avenue in the 52<sup>nd</sup> AD and 10058, IS 390/MS 334/MS 354 (MS 354), 1224 Park Place in the 56<sup>th</sup> AD.
- At PS 321 four EDs, 68, 69, 72 and 101, were targeted to have split shift workers as well as the Accessibility and Information Clerks of the site. In MS 354 has three EDs, 73, 74 and 78 were targeted to have split shift workers as well as the Accessibility and Information Clerks of the site.
- Shifts were divided into an AM and PM shift. Each shift was 9 hours, 5 AM to 2 PM for the AM shift and 1 PM to the completion of closing for the PM shift.
- The poll workers were paid \$119.97 for the nine hour shift was determined by dividing the rate of pay for poll workers (\$200/day) by the average number of hours a poll

worker logs on election day (15) for an hourly rate of \$13.33.

- AM and PM positions were created in the Boards' S-elect poll worker database and a 2 to 3 hour split shift class was created for the workers.
- As with any new initiative the results were mixed. At the direction of the Brooklyn Borough Commissioners the Brooklyn office was asked to implement a split shift pilot for poll workers again in October of 2015 for the November 3, 2015 General Election.
- Modifications were made to the pilot for 2015 based on the integration of experience from the 2014 election.
- Two additional sites were chosen for 2015, PS 48 and PS 172 and all workers that were contact said that they wished to work the full day; however, due to a lack of poll worker interest, the Board was unable to expand the pilot into these additional sites.
- The Brooklyn Borough staff worked diligently to expand the pilot program, including making personal calls to poll workers seeking volunteers to work a half-day shift. Ultimately, these efforts proved unsuccessful as the poll workers opted to work full days rather than be placed in a half-day shift assignment.

The Board consistently evaluates the poll worker process and has made demonstrable efforts in this regard. As stated in the Presidential Commission report (See Attachment #1) poll worker recruitment and retention is a national problem. The Board has recommended the creation of a municipal poll worker program (as done in other large municipalities) to supplement the poll workers already in place. This recommendation has been made to both the New York State and New York City Legislatures as well as several Mayoral Administrations. To date, the proposal has not received the requisite approval from the aforementioned entities.

It must be stressed that the issues with poll worker recruitment cannot be solved by the singular efforts of the Board; rather they can only be solved through the collective efforts of all interested parties. Further, such efforts require resources and there must be a commitment to dedicate significant financial and personnel resources to ensure improvement and success. The Board remains open to exploring all aspects of improving this process.

### **Inadequate Provisions of Assistance for Voters with Disabilities**

The Board does not own and/or maintain any poll sites. The vast majority of poll sites are public schools (approximately 700) and other city-owned sites. As such, permanent resolutions for the accessibility of these sites must be addressed by other City agencies and/or private entities. The Board is fully cognizant of its responsibilities to ensure that the poll sites utilized for election events are accessible for voters with disabilities.

The Board takes its responsibilities with respect to accessibility very seriously and dedicates extensive resources (both personnel and financial) to meeting such responsibilities. Under both State (Election Law §4-104) and Federal Law, all poll sites must be accessible and meet the standards set forth in the U.S. Department of Justice Guidelines for Poll Site Accessibility, promulgated pursuant to the Americans with Disabilities Act (ADA).

In 2014, the Board began working with Evan Terry Associates, Inc. (ETA), the federal court-appointed third-party expert responsible for completing surveys for each of approximately 1,200 locations used for poll sites throughout New York City. The Board, in conjunction with the Mayor's Office of Operations, began regular meetings with various City agencies to discuss and ameliorate accessibility issues present at poll site locations.

In 2015, the Board began receiving surveys from ETA. In addition to the requirements of the court order, the Board requested the following additional information be included in the reports:

- Video of accessible pathway to the poll room
- Exterior directional signage on photos
- Status of Site
  - Accessible as is
  - Accessible with temporary solutions
  - Not Accessible – No Solution found
- Custom solutions to be drawn in CAD format (Turbo CAD)
- Turbo CAD drawings for floor plan (previously Visio) for a more detailed and exact scale of poll room
- Dimensions on floor plan to assist in room set up

The following was also implemented in 2015:

- Pilot Ramp Program implemented in Manhattan and a unit formed for election day ramps
- In addition to the court-ordered training, the Board implemented a half-hour session regarding ADA Accessibility to the Poll Site Coordinator training.
- The Board developed an ADA Supply Envelope containing the following:
  - 5 foot chain to measure BMD and ADA Privacy Booth distance
  - Floor Plan (showing location of equipment)
  - Schematic (showing pathway to polling room and signage location)
  - ADA directional arrows
  - Pre-printed alternative entrance (if required) on weather resistant paper
  - Blank alternative entrance signs – in the event that poll site conditions change
- Modified Call Center to include a category "Accessibility Issues" for accessibility calls
- Poll Site Detail Package – sent to all poll site contacts at least 4 weeks prior to Election containing the following:
  - Detail letter
  - Equipment for Election
  - Floor plan
  - Schematic
- CIDNY was provided with a direct communication to Board staff member (dedicated to take their calls) on Election Day to report ADA Accessibility issues immediately.



- Trainings:
  - Per Board request, ETA conducted training for BOE surveyors on how to assess poll site accessibility.
  - Board purchased Turbo CAD (Computer Aided Design) trained staff on application to record various journals for facility management
  - Board provides staff training on installation, troubleshooting and repair of ramps and platforms
  - Board trains lead surveyor trained on how to review ETA survey
- Board implemented a procedure for reviewing, tracking and implementing ETA surveys and solutions.
- Board of Elections reviewed 356 final surveys from ETA, 217 of which were received prior to the September Election. Resolution to these barriers included accessibility clerks, door stop, mats cone and ramps systems.
- September 2015:
  - Board of Elections deployed accessibility clerks, doors stops and cones to resolve ADA barriers
  - Board of Elections contracted with 10 vendors to install temporary ramping and mats at 44 poll sites.
  - Board of Elections deployed AD Monitoring Teams and General Office Monitoring Teams on Election Day to continue to assess the accessibility of poll sites.

In 2016 and 2017, the Board made the following further progress in the area of accessibility:

- Per Board's request, ETA conducted training for Board surveyors on how to assess poll site accessibility. This training included a test which resulted in surveyors in becoming ETA certified.
- September 2016:
  - Board deployed accessibility clerks, doors stops and cones to resolve ADA barriers
  - Board contracted with 13 vendors to install temporary ramping and mats at 181 poll sites.
  - Board also deployed AD Monitoring Teams and General Office Monitoring Teams on Election Day to continue to assess the accessibility of poll sites.
- October 2016: Board hired two permanent Americans with Disabilities Act Coordinators.
- December 2016: ETA provided Turbo CAD training for Board staff.
- Per Board request, going beyond the court order, ETA produces seven new videos for poll sites Coordinators and Accessibility Clerks. Topics of videos include disability etiquette, accessibility maintenance and verifying voting equipment.

- As of 10/26/17, ETA submitted 1060 Final Reports (including revision/resurveys) to the Board

July 2017

- Board facilitated training for the ramp installation vendors, conducted by EZ Access (ramp manufacturer) and ETA.

August 2017

- Per Board request, ETA conducted training for BOE surveyors on how to assess poll site accessibility. This training included a test which resulted in ETA certified.
- Board facilitated training for the ramp installation vendors, conducted by National Ramp (ramp manufacturer) and ETA.

September 2017:

- Of the 1,215 poll sites used for the 2017 Primary, the Board sent temporary ADA equipment (e.g. cones, directional signage, door bell, mats and ramp systems) to 1,065 sites. The barriers identified at these sites were determined by both ETA and BOE surveyors.
- Of the 1,215 poll sites used for the 2017 Primary, the Board deployed 1,561 accessibility clerks.
- Board deployed AD Monitoring Teams and General Office Monitoring Teams on Election Day to continue to assess the accessibility of poll sites.
- Board is in contract with 18 ramp installation vendors to install temporary ramping and mats at 353 poll sites
- Of the 1,215 poll sites used for the 2017 Primary, the following are owned by government entities:

County	Total Active Sites	DOE	Public Buildings	NYCHA
Bronx	184	114	2	17
Kings	397	223	29	35
Manhattan	271	104	12	28
Queens	283	202	13	8
Richmond	80	52	2	7
TOTAL	1,215	695	58	95

- Following the September 2017 Primary, the Board facilitated additional refresher training for the ramp installation vendors, conducted by EZ Access (ramp manufacturer) to prepare for the November 2017 General Election.



In September 2015, the Board began using vendors to assist in the temporary ramp installation at the poll sites. This process began with six (6) vendors. The Board now has a total of eighteen (18) vendors with an annual cost of approximately \$3,000,000.00 (depending upon the number of election events). Many of the temporary remedial measures implemented by the Board would be alleviated by permanent solutions implemented by the various host agencies. Some remediation requires significant capital expense; however, other remediation, such as appropriate permanent external signage for accessible entrances, could be accomplished relatively easily.

### **Recommendations**

1. The first bullet point is beyond the scope of the Board's authority. The rate of poll worker pay may be increased in either of two ways, an amendment to the NYS Election Law by the NYS Legislature and Governor or an Executive Order of the Mayor of the City of New York. The rate of pay for poll workers in New York City already exceeds the NYS Election Law requirement; however, the current compensation for poll workers was set in 2001 by Mayoral Executive Order issued by Mayor Giuliani. The Board consistently urges the NYS Legislature and the Mayor of the City of New York to act expeditiously to raise the rate of poll worker pay.

It appears that the second bullet point should have been properly included in the recommendations for the following section.

2. The efforts the Board have made in this regard is fully set forth above.
3. The Board makes every effort to fully staff poll sites for each election event, including establishing standby pools for each borough as set forth above.
4. This recommendation is addressed above.
5. This recommendation is addressed above.
6. This recommendation is addressed above.

### **Deficiencies on BOE's Training Provided to Poll Workers**

The Board's efforts to improve the training process are on-going and are a significant focus of the Board's work in between election events. Over the past several years, the Board has been working very closely with its consultant, Election Center (a nationally recognized elections administration consultant). The following is a summary of recent efforts and information regarding the training process and will address the concerns in the mastheads referenced:

*Not all relevant areas were covered during the training*

*Little, if any, hands-on training provided*

*The training of persons charged with overseeing the Election Day Processes at the polling sites does not include all aspects of that process*

*The exam used to test poll workers knowledge is of questionable value:*

- During 2016, 4,078 poll worker training classes were held in 92 sites citywide. The Board employed 402 trainers/trainer assistants and trained 48,818 workers. The number of potential poll workers in our data base that were scheduled for training was 79,097. There is a very high no-show rate for training classes, even though poll workers registered in ElectionDayWorker.com (EDW) and are able to schedule their preferred class time.
- Poll Worker no-show rate for scheduled training classes was 39% in 2016 (meaning that often the Board must re-schedule poll workers several times to complete the training and/or a person who initially expresses interest decides not to participate). The Poll Worker no-show rate for the November 8, 2017 election was 14% citywide.
- Training facility parameters: Training is conducted earlier than most jurisdictions since the BOE needs to use public schools which are available July and August. The state primary election schedule in September requires training occur in the summer months. Additional classes are scheduled in October prior to the General Election as needed. Sites other than schools prove difficult to secure for training. As a result, training is done weeks ahead of the actual work day (Election Day) adding to the difficulty for poll workers to retain information and knowledge regarding the numerous tasks that must be accomplished.
- The training strategy was developed to create and encourage use of a new comprehensive set of manuals for each of the specific jobs (Basic Poll Worker, which includes 4 separate responsibilities; Coordinator; Accessibility Clerk; Interpreter; and AD Monitor).
- A detailed curriculum was developed for each job group with a timed agenda and PowerPoint presentation. The 14 lead trainers from across the 5 boroughs were trained in an in depth one (1) week training session for the past three (3) years with professional outside trainers. They were also brought back in for two (2) days to review the Coordinator and AD Monitor curriculum and PowerPoint presentations. In 2016, they were also brought in for two (2) days to review the refresher class for Coordinators and AD Monitors scheduled prior to the General Election. A one (1) day refresher is being conducted in 2017 for this purpose. A program review has been completed each year.
- Sessions were timed to provide reasonable learning capabilities for each job group based on reviewing by the professional trainers of over 100 individual sessions; the maximum that could be done given individual attention spans was four (4) hours for Basic Poll Worker and six (6) hours for Coordinator and AD monitors. Given the above constraints for facilities and adult learning, the focus of the training effort was to push familiarity with, and use of, the manual which covered every detail from the beginning of the day to the end and included an expanded glossary.
- The exams for each job group were designed specifically to force participants to use the manual, even directing them to particular pages where information was located. Test questions were developed with significant input from lead trainers about the most important dimensions of the responsibilities for each position. The methodology also provided the ability to determine reading comprehension as well as to develop

and understanding for the poll workers that comprehensive information is available at their fingertips.

- The training and training materials (including the Basic Poll Worker Manual) have been reviewed annually and updated. In 2017 as a result of these reviews the time for training for Basic Poll Workers was realigned to provide concentrated hands on experiences at the end of the course (See Attachment # 5).

### **Recommendations**

7. As stated, the Board evaluates the training process on an on-going basis. As this is a significant undertaking, it is not possible to implement all improvements in a single training year. The Board is working closely with Election Center to continue to implement its plan to improve the training process.
8. This recommendation runs counter to the best practices advice provided by election administration experts.
9. This recommendation runs counter to the best practices advice provided by election administration experts.

The Board has accepted, implemented or plans to implement the following recommendations of Election Center:

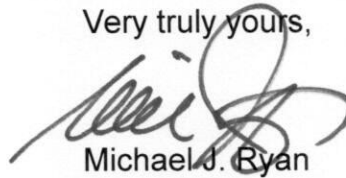
- Continued observation and evaluation of adjunct trainers in each borough to ensure their ability to effectively present training material.
- In the 2017 training cycle adjunct trainers received one (1) additional training day (in addition to the one week training they receive each year by lead trainers in each borough). These one (1) day sessions were taught by outside professionals.
- Evaluation forms were developed to be used by borough staff in evaluating the adjuncts, as they conduct training and these were reviewed by the adjuncts during these sessions.
- A two-hour refresher classes for Coordinators and AD Monitors and that these be given closer to the event (Election Day); which was done in 2016 and will be done again in 2017 and beyond as these refresher sessions were very valuable.
- Recommendation made that Information Clerks be added to the group that receives refresher training as it provides additional training time for using the tablets.
- In 2017 pilot programs were conducted in Staten Island for separate training for Information Clerks and an enhanced class for experienced poll workers. The point of the enhanced class for experienced workers is to separate out new (inexperienced) poll workers and train them separately. A review by consultants found both programs to be very good and recommend that these should continue to be piloted in the other boroughs.

- Consultants have reviewed over 100 poll sites in the last three years, during a wide range of types of elections including the 2016 Presidential election, and including the City's largest polling places and have made additional observations on staffing.

It should be noted that the consultant team is made up of election professionals and academics who collectively have over 150 years of election administration experience, and who have worked with dozens of election jurisdictions across the United States as well as hundreds of election officials. The consultant team understands the issues and the fact that poll worker recruitment is a national problem. The Board and the consultant team are committed to working together to develop new methods to alleviate the problem.

I trust that the foregoing is satisfactory for your purposes; however if you have any questions or require additional information, please do not hesitate to contact me.

Very truly yours,



Michael J. Ryan

MJR:ks

**Copy without Attachments**

Board of Commissioners  
Dawn Sandow, Deputy Executive Director  
Sherwin Suss, ACCO  
Gerald Sullivan, Director of Finance

**List of Attachments:**

1. *The American Voting Experience: Report and Recommendations of the Presidential Commission on Election Administration*, January 2014
2. *Husted v. A. Philip Randolph Institute, et al.* – United States Supreme Court Case # 16-980 (*Amicus Curiae* Brief submitted by the United States Department of Justice)
3. The Board's Election Night Results Process Reports from November 8, 2011 through November 8, 2016
4. The Language Assistance Plan (LAP) approved under Pre-Clearance Submission # 2008 CW 01 – dated January 11, 2008 and Excerpt from the Minutes of the Commissioners' Meeting Relating the Asian Indian Language Assistance Program – dated February 11, 2014
5. Basic Poll Worker Manual 2017/2018