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## MEMORANDUM

TO: Commissioners of the Board of Elections in the City of New York

FROM: Douglas A. Kellner, Co-Chair, New York State Board of Elections

DATE: August 4, 2020

*"Success is not final, failure is not fatal. It is the courage to continue that counts."* - Winston Churchill

### Introduction

I appreciate the opportunity to discuss with you several issues that I urge that you consider as priorities for the presidential general election. The coronavirus pandemic has put enormous stress on our voting system. Yet I am confident that we all share the goal of allowing every eligible voter to cast a ballot and have that ballot counted notwithstanding the very significant hurdles that we all have to overcome.

I fully recognize that the tasks that face the New York City Board of Elections are far more challenging than those we face at the State Board—and are perhaps as difficult as the obstacles we had to face after the 9-11 tragedy or Superstorm Sandy. The City Board rose to those occasions, and I believe that it can provide safe, effective voting that will produce a timely, accurate and verifiable result that can assure everyone that our democracy is still viable and functioning.

To those voters who did not have an opportunity to cast their ballots in the primary election, we should apologize for not doing more. Elected officials and others warned that we were not deploying sufficient resources to mail out absentee ballots in a timely manner, and in hindsight we could have done more to address that problem. Indeed, that is why I am reaching out to you now with the hope that we can all learn from the problems faced in the primary to solve them for the general election.

I agree with Governor Cuomo's assessment that "boards of elections had operational issues, some better some worse, and they have to learn from them." We should take to heart our governor's exhortation "to get the lessons and make the system better...for November." Before we say that there is nothing else we can do, we need to take a hard look to reassess the available options to make sure that each and every voter is able to cast a ballot and have that ballot counted. It is especially important that when we need more resources, we make sure that the governor, mayor and our other elected officials know what we need in order to provide this critically essential service to our democracy. So far, I have found that Governor Cuomo, Mayor de Blasio and our legislative leaders have been responsive when we tell them what we need to get the job done.

## **I. Compliance with the "30 Minute Rule" for waiting to vote for the November 2020 presidential general election**

Long lines on election day discourage and disenfranchise voters. To that end, the Voting Systems Regulations include a mandate on the counties that they have adequate staffing at each poll site. 9 NYCRR § 6210.19(c)(1) provides: "County boards shall deploy sufficient voting equipment, election workers and other resources so that voter waiting time at a poll site does not exceed thirty minutes." New York City has never come close to meeting that mandate in presidential general elections, where the turnout is so much greater than any other election events in the four-year cycle.

The City Board took many commendable steps to address poll site voting on June 23 in the face of many challenges locating and sanitizing poll sites and recruiting poll workers. There were only a few sites where voters were required to wait more than thirty minutes. But what worked for the primary is not necessarily enough for the general election, where the turnout will be many times greater. I urge you to take immediate steps to reduce the predictable long lines that will occur on November unless you take dramatic action now to have adequate staff and equipment to serve the voters without excessive waiting.

For example, 2.7 million New York City residents voted in the 2016 presidential election. This is more than three times the 800,000 who voted in the 2020 primary. The lesson from the statistics is that successfully running an election with substantially smaller does not mean that you have enough personnel for the predictable surge in turnout for the presidential election.

New York City has more poll workers than needed for primary and special elections and is understaffed in many locations for the presidential election. It cannot be stressed enough—the turnout in a presidential election is more than three times the turnout in the primary election.

President Obama's Presidential Commission on Election Administration reported detailed recommendations on queuing that I have previously

recommended that the City Board staff review. A key lesson is that once a line becomes long, it takes twice as much effort to recover.

The solution is obvious, albeit not so simple to accomplish. We need more registration check-in tables. That is where the bottlenecks typically occur. Yes, more tables mean that we need more poll-workers to staff these tables, and that means that we need more space. In many poll sites that may mean overflowing into additional rooms, and that means you need to have site diagrams now. In those sites where it is truly impossible to find more space, then we should take the lesson from 9-11 and Superstorm Sandy and move outside. Election Day is already a holiday, and where it is essential to provide voting with proper social distancing, as a last resort, we should ask the mayor to close streets and set up tents for voting outside.

The Legislature has adopted several innovative statutes that can assist New York City in staffing the polls. The most significant in my view is Election Law § 3-500, which authorizes the Board to adopt an alternative poll site staffing plan to more efficiently conduct the election. The City Board should discard the election district model for checking the voter's registration. Now that the City uses electronic poll books, there is no need to divide tables by election districts, where some districts have no lines and others have long lines. Queuing studies have long established that a single line to multiple cashiers moves faster than separate lines for each cashier. (Yes, inspectors need to be trained to give the voter the correct ballot where there are multiple ballot styles at the poll site.)

The Legislature also amended Election Law § 3-400(7) to authorize split shifts. This would allow the Board to recruit additional poll workers for the morning rush, without requiring them to work the entire 17-hour day. There are many, many people who have indicated that they would work at the polls but for the long hours. The Board should take advantage of this provision.

The Legislature has also enacted Election Law § 3-400(8), which authorizes high school students who are seventeen years old to serve as inspectors. This is another potential source of poll workers.

Finally, to the extent that the Board has vacant positions in its poll worker roster, it should publicize the precise vacancies so good government groups and the Mayor's office can assist in finding suitable poll workers. I note that Westchester County Executive George Latimer has asked county employees to volunteer; they will be given time off and will receive poll worker's salary for training and work on the Election Day holiday.

## **II. We need to do better processing absentee ballot applications**

New York City deserves credit for setting up its online absentee ballot application portal. That improved efficiency in processing those applications. I

also recognize that many employees worked long overtime hours trying to deal with the overwhelming tide of applications, and I thank them for those efforts.

We at the State Board also acknowledge that the current deadline for requesting absentee ballots gives voters unrealistic expectations. The State Board has recommended that the Legislature change the deadline for making an application from a postmark seven days before the election to actual delivery of the application to the board fourteen days before the election. Our elected officials have rejected that proposal—and told us to do better. We should accept that message and improve the process for sending out absentee ballots. At the same time we should warn voters that waiting until the deadline puts them at risk of not receiving their ballot in time to meet the statutory deadline for having their ballot count.<sup>1</sup>

So, if the Governor should issue another executive order requiring boards to mail an absentee ballot application to every voter, I recommend that the Board strongly urge voters to use the portal rather than mailing the application, and that the Board warn voters not to wait until the deadline. The Board should also consider whether to highlight the option of early voting. New York City ran a very successful, but underutilized, early voting program.

The lesson from the primary should be obvious—the Board needs more capacity to process absentee applications in a timely manner. This is not a new problem, although the scope has increased by a factor of ten because of the huge volume of absentee applications this year. In 2001, the New York City elections commissioners adopted a policy that the clerks should send applications and ballots *on the same day as they receive the request*, for requests received before 3:00 p.m. or on the next day for requests received after 3:00 p.m. That important guideline was inserted to make it clear that there be no backlog and that staffing overtime would have to be adjusted to keep any backlog from developing.

Please plan now to process double or triple the number of applications for absentee ballots in the general election. Add new capacity to process the applications in a timely manner now. Do not wait for a backlog from which you can never recover.

Also be aware that the Legislature has passed, and the Governor will probably sign, a new law requiring notice and an opportunity to cure when a voter has failed to sign the absentee ballot envelope. I strongly support this

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<sup>1</sup> In 2001, the New York City elections commissioners adopted my proposal to insert in its Absentee Ballot Guidelines the following policy:

The Election Law is ambiguous on how the Board of Elections should handle applications that are mailed to the Board. Election Law 8-400 (2)(c) says that: "All applications must be mailed to the Board of Elections not later than the seventh day before the election for which a ballot is first requested or delivered to such Board not later than the day before such election." It is the policy of the Commissioners that the Board will honor a properly completed application that is actually received until the day before the election even though the application was mailed later than seven days before the election.

legislation even though it makes even more work for the Board. It is necessary to plan now for the staff and procedures to implement the new law.

Voters would have more confidence in the absentee ballot process if they could receive confirmation that their ballot has been sent out and then that the ballot has been received by the Board of Elections. While it may not be possible to implement an online ballot tracking system this year, such a system, already mandated by the City Council, would reassure voters and might further reduce the pressure of voters seeking to vote in person because they are unsure whether their absentee ballots would be counted.

Many have contacted us about providing for dropboxes for voted absentee ballots. In fact, New York already has what effectively amounts to a dropbox program. Anyone can drop off a voted absentee ballot envelope by delivering it to any poll site on Election Day, by delivering it to any early voting site during early voting hours, or to any office of any board of elections. We need to do a better job publicizing these options.

### **III. We need to expand capacity to process the canvass in a timely manner.**

We do not have the luxury to take six weeks to canvass the general election returns. Election Law §§ 9-208(1) and 9-211(1) require the completion of the canvass so that the recanvass and audit can begin no later than November 18, 2020. In any event the Board is required to transmit its canvass to the State Board of Canvassers by November 28, 2020. These deadlines are not arbitrary. The Electoral College meets on December 14, 2020, and New York State must have all of the documentation in place by December 8, 2020 to assure that its 29 electoral votes will be counted in the election for president and vice-president.

We know now that we will have even more absentee ballots to count in November. We have to dramatically scale up the number of tables for reviewing and processing absentee ballots. The Board needs to arrange for space, equipment and personnel now—at a scale many, many times what was used for the primary election.

In the long run, others and I have been explaining to the Governor and the Legislature why the New York process is out of sync with so many other states that have not experienced the same scale of delay in counting absentee ballots. New York law requires that a voter who applied for an absentee ballot because he or she would be absent on election day must vote in person if that excuse should no longer be true on election day; in that case, the absentee ballot would not be processed. Consequently, New York cannot begin to count absentee ballots until the election day and early voting poll records are checked. Ideally, New York should revise its statute to provide that once an absentee ballot is voted, it is logged into the electronic poll book system, and if the voter seeks to vote in person, the voter would vote by affidavit ballot. That would allow the

canvass of absentee ballots to begin on election day, just as early voting counts are now reported with the election night canvass.

Now that there is a cure period, I suggest that the Board consider logging voted absentee ballot envelopes into the poll records as they are received and create a flag when an absentee voter votes in person so the absentee envelope can be located and invalidated. Again, the logistical challenge is enormous and we need to plan now how to meet the challenge.

#### **IV. Let's not forget about ranked choice voting.**

The Board's workload to conduct the general election during the pandemic is overwhelming and comparable to the challenges of 9-11 and Superstorm Sandy. Preparing for the general election has to be the priority. Nevertheless, the date of the first rank choice voting elections is rapidly approaching as we anticipate special elections in March. I hope that the Board will adopt a system like that used by so many other jurisdictions where preliminary, unofficial election RCV returns can be reported on election night.

To the extent that such a system uses software that is part of the voting system, please keep in mind that certification testing and approval is required.

Chair Cabrera and Members of the New York City Council Committee on Governmental Operations. Thank you for inviting the Board of Elections in the City of New York to participate in this important hearing. I am Michael J. Ryan, Executive Director of the Board of Elections in the City of New York. Today, I am joined by the City Board's Deputy Executive Director Dawn Sandow.

The Board, pursuant to New York's Constitutional and statutory mandates is a bipartisan ministerial agency headed by a 10 member Board of Commissioners, and is charged with managing the electoral process within the City of New York. The Board conducts elections and its other activities in accordance with the provisions of the New York State Election Law, State Rules and Regulations, applicable provisions of federal law and several judicial determinations. The Commissioners have authorized Executive Management to provide testimony pursuant to the Notice of Committee on Governmental Operations Public Hearing set virtually for September 25, 2020.

The Board has completed the post-election process of casting and canvassing the votes of over 870,000 voters (over 50,000 of whom voted early and over 326,000 of whom voted by the

absentee ballot process) within the City of New York.

As we all are acutely aware, the spread of COVID-19 has brought with it many challenges. Unfortunately, the Board was not spared from the effects of this virus and tragically suffered the loss of several employees due to the illness. The Board did not close its offices at any time during the COVID-19 emergency and continued to perform the tasks necessary to conduct elections. Board staff (throughout the State) deserves praise, credit and thanks for their dedication to the voting process. The Board will continue to persevere throughout the challenges faced to ensure safe access to the voter franchise.

The State of Emergency Declaration by Governor Cuomo on March 7, 2020 began a series of unprecedented changes to election administration and process. To ensure voters were provided an opportunity to vote safely, two significant changes to the absentee ballot process were authorized: on-line application portals and mailing absentee ballot applications to all eligible voters with postage paid return envelopes.

On April 27, 2020, within three weeks of executive authorization, the Board “went live” with its on-line application portal and began receiving applications. The on-line portal was active for 49 days and 53% of all applications received (over 450,000) were processed through the on-line portal.

An Executive Order issued May 7, 2020 finalized the absentee ballot application mailing process. The mailing of applications commenced on May 18, 2020 and was completed on May 21, 2020 to over 3.6 million eligible voters in New York City. To accomplish this tremendous undertaking, the Board outsourced the printing and mailing of applications. The USPS reported that 99% of the applications were delivered “in home” by May 26, 2020.

As discussions began regarding potential changes to the process, the Board immediately assessed operational needs and necessary changes. Once the orders were finalized the Board implemented significant changes to its absentee ballot process.

Most notably, the Board secured a vendor to work around the clock along with Board staff, scanning all returned applications and to provide data files and two vendors to print and mail absentee ballots to voters.

In fulfilling its statutory obligations, the Board processed and entrusted to the USPS the delivery over 775,000 absentee ballots to eligible voters. In comparison, for the 2016 Presidential Primary the Board processed over 64,000 absentee ballots. The absentee ballots processed for this election are a twelve-fold increase from 4 years ago. To further the comparison, the Board processed a combined total of 335,000 ballots for the 2016 and 2018 General Elections – more than double that total was processed for this election in an 8 week period.

To ensure the accuracy and integrity of elections, New York State has one of the most comprehensive post-election canvass and re-canvass processes in the nation. The Board processed all returned absentee ballots accordingly.

The law pertaining to the canvass and re-canvass applies to absentee ballots and boards of election are mandated to process these ballots according to the law. When assessing the validity of an absentee ballot oath envelope boards cannot ignore the law. While the total number of invalid oaths have been the subject of recent observation, the percentages are in keeping with Board expectation. For example,

2016 Presidential Primary 21% Invalid

2016 Presidential General 13% Invalid

2018 Citywide General 18% Invalid

2020 Presidential Primary 23% Invalid

Boards of Election must follow the law: if we as a society demand election integrity, we must demand nothing less.

The path forward will require significant changes. Some of which are short-term, many of which are long-term. The follow steps can be accomplished short-term.

- Improvements have been online portal and related processes to streamline the

processing of applications;

- The inquiry process has been streamlined to provide voters enhanced information regarding ballot processing/tracking.
- System input threshold has been enhanced to accept paper applications at a faster processing rate
- Worked closely with State Board to improve Absentee Oath envelope to include Color Coding, instructions and readability
- Voter Education Campaign of vote safe Paper, early on eday
- Enhancements have been made to the Board's website and Information notice to maintain consistency with voter education campaign
- Signage for ev sites and eday sites to highlight dropping off absentee ballots

In addition, the Board increased the number of ev sites 30% (18) in the face of the COVID-19 emergency

and opened 95% (almost 1200) of all election day locations. The 5% reduction were locations unavailable due to COVID-19 related issues. The total # of early voting locations has increased to 88 for the general elections (45% increase from the 2019 General Election).

Voting is not possible without Board staff who work long days over a period of months prior to each election planning for each event at risk to their personal health and in did so the face of fear of contracting COVID-19. I must also recognize the poll workers, for their dedication and commitment to elections and for serving during the COVID-19 emergency.

The Board appreciates the outstanding working relationship enjoyed with the New York State Legislature and looks forward to continuing our cooperative work toward improving the electoral process, early voting and increasing voter participation.

As always, we are ready to answer any questions may have.

**TESTIMONY**  
presented by  
**Laura Wood, Senior Advisor and General Counsel, DemocracyNYC**  
**Office of the Deputy Mayor for Strategic Policy Initiatives**  
**Office of the Mayor of the City of New York**  
before the  
**New York City Council Committee on Government Operations**  
on  
Friday, September 25 at 10:00am

My name is Laura Wood, and I am the Senior Advisor and General Counsel to the DemocracyNYC Initiative at the NYC Mayor's Office. Thank you to the Government Operations Committee and Chair Cabrera for holding this hearing and for the opportunity to submit testimony.

The DemocracyNYC Initiative aims to increase access to our electoral system for all New York City residents. From voter registration to the act of voting itself, we believe that participation in our democracy must be as simple as possible. This is particularly important now, given the complex burdens the COVID-19 pandemic has placed on our communities. For that reason, on behalf of the Administration, I thank everyone who played a part in what was a very intense effort this year to run a primary election and gear up for the general election in the middle of a public health crisis.

Of particular note was the implementation of a universal absentee voting system at tremendous scale. The Administration is steadfast in its belief that we cannot force voters to choose between their right to vote and their health. Thus, we were very appreciative of the efforts made in expanding absentee voting for the June primary, and the continuation and improvement upon those efforts for the general election. As we did for June, the Administration is working closely with other City agencies, good government groups, and stakeholders to make sure that there is a robust public education campaign on how to vote by mail, as many New Yorkers will, most likely, be voting by mail for the first time. We will also be encouraging people who want to vote in-person to consider voting early, so that social distancing can be more easily obtained and to reduce wait times on Election Day.

#### Review of the 2020 Primary Election

It goes without saying that the lead up to the June primary election was mired with uncertainty and hardship as New York grappled with the coronavirus pandemic. Ultimately, the progression of the pandemic resulted in a combined State and Presidential primary election in June with expanded absentee voting. Despite tremendous efforts, there were serious problems experienced by voters during the recent primary election, arising both out of absentee voting and in-person voting.

#### *I. Absentee Voting*

The rollout of the absentee ballot application system was largely successful. In total, NYC BOE reported that over 750,000 voters [requested an absentee ballot](#) - over 30 times more than in the last presidential primary.

However, the delivery, receipt and return of absentee ballots had scattershot success in NYC. Many voters received their ballots the day before the primary, or later. The surge in volume and delay in mailing out ballots had the unintended consequence of causing thousands of ballots, mainly in Brooklyn, to be invalidated due to a late or missing postmark. After litigation, some of the ballots without a postmark were ultimately counted. However, the confusing process eroded voters' confidence in the electoral system.

There were also widespread news reports and social media posts of voters requesting absentee ballots, sometimes multiple times, but never receiving one. Although we don't know how many voters were affected, we do know that the City BOE self-reported to the State Board of Elections that more than 750,000 ballots were requested and mailed out, and that of those, about 403,000 or 54% were [returned](#).

This ultimately created a lot of confusion among voters, who last spring did not have the ability to track the status of their absentee ballot request. Voters did not know if they should try to make in-person voting plans, or continue to wait for their ballots. Voters who were out of town were simply hoping their ballot would arrive (and in many cases it did not). Although the NYC BOE offered to look up ballot status inquiries via Twitter messenger, this system was not accessible to or scalable for all voters inquiring. Phone calls and emails to BOE often went unanswered. For the general election, BOE has stood up an [absentee ballot tracker](#), which we hope will mitigate some of these challenges.

Finally, we were very concerned about the high invalidation rates of absentee ballots during the post-election canvass. According to City BOE's [certification](#) of the presidential primary, about 315,000 of the 403,000 mail-in ballots received citywide were counted. In other words, 22% of absentee ballots across the City were thrown out.

Reasons for invalidation vary widely, including a missing or late postmark, failure to sign the ballot envelope, ballot envelopes not being properly sealed, and the voter having voted in-person. Thankfully, the Legislature passed legislation that affords voters whose ballots are invalidated for reasons pertaining to their signature an opportunity to cure. We hope that this will help enfranchise more voters in the general election and increase voter confidence.

## *II. In-Person Voting*

As DemocracyNYC does every election, we closely monitored social media reports during early voting and on Election Day and were in close contact with City BOE to bring local and systemic issues to their attention as they arose and to provide support. We also had representatives from the Mayor's Community Affairs Unit on the ground and ready to visit poll sites as needed. Based on what we observed, in-person voting was also met with mixed success.

In terms of COVID-19 safety precautions, the Board of Elections should be commended for their work in protecting both voters and staff. Poll sites were sanitized daily, social distancing was largely maintained, and voters were provided masks, hand sanitizer, and personal pens with which to sign the e-poll book and fill out the ballot. Thankfully, we did not hear any reports of a voter or poll worker becoming ill after being in a poll site.

Early voting went smoothly, and voters shared that the process was quick and easy. We were pleased that the City BOE operated 79 early voting sites for the primary - 18 more than in the

2019 general election. However, early voting continues to be vastly underutilized. In total, .99% of the eligible voting population voted early in NYC (higher than the outside of NYC average of .54%). Of the 544,336 total in-person turnout, 52,250 voted early, meaning almost 10% of in-person votes were early votes.

NYC experienced challenges and long lines on Election Day, particularly during the first half of the day. Some poll sites opened after the 6 a.m. start time, in some cases as late as 10 a.m. This was in part due to poll workers being late due to MTA system shut downs for cleaning between 1 a.m. and 5 a.m. If the MTA is still closed for cleaning on Election Day, we hope City BOE will plan in advance to secure alternate transportation.

Although voters have the right to return absentee ballots in-person to any early voting or election day poll site, there was widespread reporting on social media and by reporters of voters attempting to drop off absentee ballots, but being told by poll workers that they were not allowed to accept them. For the general election, we are pleased that BOE will have prominent ballot drop boxes at information tables at every poll site, and will ensure proper training of staff.

The most troubling problem we encountered on primary day was the widespread issue of people not being given their correct ballots. Until about 2 p.m., there were regular occurrences citywide of poll workers not giving Democratic primary voters both the Presidential and local ballot. Voters reported receiving either only the Presidential or the local. There were even reports of voters receiving ballots for incorrect districts (including Senate District 25 in Brooklyn). After Election Day, it was reported that hundreds of voters not enrolled in the SAM party received SAM party ballots.

As soon as it was apparent that incorrect issuance of ballots was a widespread issue, DemocracyNYC alerted City BOE. City BOE sent out instructions to poll site coordinators to give out both ballots. However, reports of voters not receiving both ballots continued into the early afternoon. BOE advised DemocracyNYC that unfortunately once voters left the poll site, they were not able to return to cast the second ballot. It is unclear how many voters were affected by this, but it could be estimated if BOE shared data on how many voters checked in at districts that had a local and Presidential race, and how many individual ballots were scanned. It is the Administration's view that this was nothing short of disenfranchisement of potentially thousands of voters, and is an incredibly serious oversight that must not be repeated in future elections. (Fortunately, in the general election voters will only have one ballot.)

#### DemocracyNYC's efforts for the 2020 Primary Election

In light of COVID-19, DemocracyNYC sought to ensure that New Yorkers didn't feel like they had to choose between their safety and their right to vote. Thus, we focused on encouraging all eligible New Yorkers to vote by absentee, and disseminated educational materials on absentee voting.

In early April, in response to the financial and practical limitations of conducting election outreach during COVID-19, DemocracyNYC worked with the Campaign Finance Board to convene good government groups and community advocates. Dubbed the "NYC Elections Consortium," its goal is to produce and disseminate consistent and accurate voting information and respond to the ever-changing elections environment. For the primary election, the

consortium was able to produce PSAs, social media toolkits, and FAQ documents. We shared these materials with the City and State Boards of Elections to ensure accuracy and consistency with their messaging.

Additionally, in partnership with the Civic Engagement Commission, the Mayor's Office of Immigrant Affairs, the Mayor's Public Engagement Unit, and the Campaign Finance Board, DemocracyNYC was able to: hold texting days of action to educate voters on voting by mail; place advertisements and PSAs on social media, LinkNYC kiosks, and streaming services; send a letter with voting information to public school parents via the Department of Education; send Notify NYC texts about voting by mail; and develop reference materials in 13 languages to assist voters with requesting and completing absentee ballots.

### Looking Ahead to the 2020 General Election

The challenges we faced in the primary - especially with regard to voting by mail - have forced New York into the spotlight, and we have a lot of work to do to ensure the general election goes as smoothly as possible. We recognize a lot is being asked of our election administrators, and with no federal monetary support.

We are grateful that the State Legislature acted quickly in July to pass needed election reform measures to address many of the problems outlined above, including continuing to allow temporary illness to be used as an excuse to apply for an absentee ballot; allowing absentee applications to begin earlier than 30 days before election day; giving voters an opportunity to cure absentee ballots; and requiring BOEs to accept absentee ballots that arrive by mail without a postmark until the day after election day.

Additionally, we commend the Governor for issuing Executive Orders that clarify absentee ballots may be dropped off at BOE offices and poll sites, and requiring State BOE to create a uniform and more user-friendly absentee ballot oath envelope, with clear signature instructions, for all counties. It is unfortunate that these actions don't include pre-paid postage for absentee ballot return envelopes, but we are of course mindful of the incredibly challenging fiscal situation the state (and our City) are facing.

### DemocracyNYC's efforts for the 2020 General Election

In the lead up to the general election, we have continued to convene our agency partners and members of the NYC Elections Consortium, and are working on updating our communications materials and FAQ documents.

Thus far, we have partnered with the NYC Civic Engagement Commission to produce new PSAs, including a "Know Your Rights" PSA that covers language and ADA rights for those voting in person, and an "Early Voting" PSA to encourage voters to utilize this option. The PSAs will be offered in 13 languages, shared with our advocacy and elected partners, and promoted on social media and video streaming services. We will also produce PSAs and educational graphics to educate voters on all three voting options, including vote-by-mail, voting early, and voting in-person. In partnership with LinkNYC, DemocracyNYC will showcase a graphic with all three voting options citywide.

Additionally, we held a texting day of action using the peer-to-peer texting tool, Hustle, to encourage people to sign up to become poll workers and language interpreters. Our team of volunteers reached out to voters ages 18-29 in the South Bronx, Belmont, Elmhurst and East New York. Over 300 New Yorkers we texted indicated they applied to be Election Day workers.

Of course, the first step in participating in our democracy is often registering to vote. Due to COVID-19, we've seen a severe drop of almost 40% in voter registrations so far this year. In light of that, we are making a big push to register voters ahead of the general election.

For National Voter Registration Day (September 22), DemocracyNYC partnered with the Mayor's Public Engagement Unit to conduct a week of outreach. With the help of volunteers, we used a peer-to-peer texting tool to reach thousands of unregistered eligible New Yorkers in neighborhoods with low registration, and assist them in registering. We also worked with Small Business Services and the NYC Central Labor Council to partner with small businesses in neighborhoods with low registration to serve as central locations for New Yorkers to register to vote. Later today, we are joining State Senator Zellnor Myrie at Medgar Evers College to conduct in-person voter registration. Lastly, we'll soon roll out a voter registration PSA featuring the Campaign Finance Board's TurboVote platform, which allows users to begin their voter registration online.

After the October 9 voter registration deadline, DemocracyNYC will continue to use phone banking, peer-to-peer texting and relational organizing tools to help New Yorkers make and commit to voting plans, and provide absentee and early voting education. In particular, we will be emphasizing that early voting is a safe, effective and convenient way to vote.

#### General Election Early Voting in Schools and Learning Bridges locations

As the Council may recall, since last fall the Administration has expressed concerns on multiple occasions about the use of DOE schools as early voting sites. For the June primary, we consented to their use because the school buildings were empty. On September 4th, we learned that despite our previous requests to select alternative sites, City BOE is planning on using 20 school buildings and 10 Learning Bridges locations for early voting during the general election.

Despite BOE's argument that they officially designated these sites in March, the 30 sites were finalized very recently, with no opportunity for feedback or consultation with the agencies. On September 11th, DOE Chancellor Carranza and DYCD Commissioner Chung sent a letter to BOE informing them that due to public health concerns directly related to protecting students and staff from COVID-19, these sites should not be used for early voting, and that BOE must find alternative sites. They also noted that more than 700 school buildings are available for BOE's use as poll sites on November 3 (Election Day).

We understand that the City Board of Elections is facing the challenge of running an election during a pandemic. However, there was ample time to prepare early voting operations to run successfully and in appropriate locations. One needs to look no farther than Queens to see that it is possible to have an early voting program without school sites. With large institutions such as Madison Square Garden and the Barclays Center stepping up to serve as early voting sites, it is clear that there are plenty of empty venues and buildings across the City that should be

approached for early voting. Buildings with children that are hosting school instruction should not top the list.

Although the Administration will do everything in our power to ensure that voting happens as smoothly and safely as possible, it is our position that the BOE can and should find alternatives to schools for early voting going forward. We have repeatedly offered our assistance in securing alternative poll sites, and although BOE has never been receptive to these offers, we stand ready and willing to assist them.

### Looking Ahead

After the General Election, DemocracyNYC will continue our work to make elections as accessible as possible for all New Yorkers. As we look towards the implementation of Ranked Choice Voting, special elections in early 2021, and the citywide primaries in June, we plan on working closely with our government and advocate partners to make sure voters have the tools they need to be an informed and active participant in our democracy.

### Conclusion

In conclusion, the Administration again thanks the City Council for acknowledging the importance of our electoral process, and the need to maintain it to the highest degree despite the challenges of a pandemic. We hope this hearing will assist all of us to be as prepared as possible for the critical upcoming general election- often noted as the most important election of our lifetimes.

In all of these efforts, the Administration is prepared to assist and support the BOE.

We are grateful for the opportunity to participate in this hearing, and for the opportunity to hear feedback from all those contributing today. We will be listening closely for ways in which the Administration can continue to assist in ensuring that election administration goes smoothly. I would like to thank the Committee members for their time today, thank Chair Cabrera for his leadership, and thank the City Council for their attention to voting accessibility for New Yorkers.



**New York City Campaign Finance Board**  
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**Testimony of Amy Loprest  
Executive Director  
New York City Campaign Finance Board**

**New York City Council Committee on Governmental Operations  
September 25, 2020**

Good morning, chair Cabrera, and members of the Committee on Governmental Operations. My name is Amy Loprest and I am the Executive Director of the New York City Campaign Finance Board. Thank you for the opportunity to testify on the administration of the June primary election in New York City.

In the middle of the COVID-19 pandemic the New York City Board of Elections (BOE) was tasked with administering an election. Building an absentee ballot infrastructure for all voters in a city where historically votes are mostly cast in person presented a massive administrative burden for the BOE. The BOE had no clear guidance from the federal government about how to safely conduct an election and dealt with last-minute administrative changes from the state legislature, Governor, and NYS BOE. The BOE and its staff should be applauded for their hard work throughout these trying circumstances and for conducting a safe and socially distanced election.

As you know, the CFB is mandated by the New York City Charter to encourage and facilitate voter registration and voting by all eligible residents of New York City, but particularly among underrepresented populations. Since the onset of the COVID-19 pandemic, we have focused on providing New Yorkers with accurate election information, as the date of the election, the voting method, what races would be on the ballot, and other factors were constantly changing to reflect state legislation, breaking court decisions and executive orders issued by Governor Cuomo. In order to respond to these constant changes, the CFB, along with the Mayor's DemocracyNYC initiative formed an elections consortium with good government groups, community-based

organizations (CBOs), and voting advocates to disseminate accurate and consistent election information to voters.

Our analysis shows that communities hardest hit by COVID-19 are the same neighborhoods where turnout is historically lower. We are working to ensure these same communities are engaged for the November election. The CFB projects voter turnout to reach 70% in November, meaning as many as 3.3 million New Yorkers will cast a ballot this fall. With paper-based registration options less viable throughout the pandemic, and no universal online voter registration system for New York City voters, NYC Votes has teamed up with Turbo Vote to create a platform to get more New Yorkers registered to vote, and does not require access to a printer. The Turbo Vote platform is simple and easy to use and we hope it will allow many New Yorkers to register or change their registration ahead of the October 9th registration deadline.

It is essential that we continue to provide New Yorkers with up to date and accurate information, in an election year filled with uncertainty and misinformation. With no end to the pandemic in sight, we can use our experiences from the June primary election and apply them to November and beyond.

### **Improvements Since the June Election**

We heard from voters at our July 1st Voter Assistance Advisory Committee (VAAC) hearing about their experiences voting in June. Many voters noted their frustration regarding the absentee ballot process. Thankfully the BOE and state legislature have already taken steps to improve this process ahead of the November general election.

Many absentee ballots were invalidated due to issues not entirely the fault of a voter, such as postal service delays or inconsistent postmarking procedures. Voters have also indicated on social media that they did not have a way of fixing absentee ballots that were invalidated for not having a signature or being improperly sealed. Others mentioned that election law did not allow

the BOE flexibility to count ballots that were mailed timely but did not have a postmark. The state legislature addressed these concerns by passing legislation requiring the BOE to accept ballots missing a postmark and received the day after the election and permitting voters to fix an invalid absentee ballot. These were vital pieces of legislation that make the absentee ballot process clearer for the BOE, while also helping voters ensure their vote is counted, and we congratulate all the state legislators, many from NYC, who helped make these laws a reality.

Many voters at our VAAC hearing said that they had submitted an application and never received an absentee ballot, or that their ballot arrived too late to send back to the BOE. The BOE has independently taken steps to improve the experience of voting by absentee ballot. Alongside their excellent online absentee ballot request portal, they have recently implemented an online absentee ballot tracking system that allows voters to track the status of their absentee ballot. The tracking website will allow voters to have up to date information about when their absentee ballot application has been received and processed and the date the BOE mailed their absentee ballot. Through the tracking system, voters will now be able to proactively address issues related to their absentee ballot request. Also, as a result of the new state law allowing voters to fix certain invalidated absentee ballots, the BOE's tracking system will also indicate whether a voter's absentee ballot was accepted as "valid" or "invalid". Previously, voters would have to call the BOE's office for this information. Providing this information online is an enormous improvement for the voter and saves time on the phone for BOE staff as well. This level of transparency gives voters information that will help them advocate for themselves and make sure their vote is counted.

The BOE has also introduced specially created absentee ballot boxes that will be located at every early voting and election day poll site and every BOE office. Voters will have more flexibility with regard to transmitting their absentee ballot to the BOE, given that the United States Postal Service (USPS) has indicated they expect a huge volume of election-related mail. Many voters have also voiced their concerns regarding the uncertainty and lack of trust regarding the USPS. Physical absentee ballot boxes allow voters this in-person delivery option while also ensuring limited exposure to other voters and poll workers. These changes make the process more efficient and transparent, which will hopefully limit the number of questions the BOE receives in

the weeks leading up to the election, and vastly improves the absentee ballot process for New Yorkers.

### **Additional Recommendations**

While a record-breaking number of voters chose to vote via absentee ballot in June, a majority still chose to vote in person on election day. The BOE has done a great job of publicizing poll worker recruitment efforts to reflect the increased turnout in November. They are in the process of training these new poll workers. It is vital that poll workers are properly and completely trained on how to interact with voters ahead of election day.

We believe early voting is the safest and most effective way for New Yorkers to cast a ballot in person. The CFB, through our NYC Elections Consortium co-founded with the Mayor's Office DemocracyNYC initiative, are planning a robust advertising and social media campaign to encourage early voting. Early voting provides a chance for voters to properly social distance and minimize the wait time associated with presidential elections.

Ensuring the ballot is accessible to all New Yorkers must remain a priority. In our VAAC hearing, voters with disabilities testified that the accessible absentee ballot was burdensome and required voters to own a printer and obtain legal printing paper. While the June election was the first time an accessible absentee ballot was available, we encourage the State BOE to improve the accessible absentee ballot process for voters with disabilities to better meet voters' needs and allow an accessible means to receive, mark, and submit an absentee ballot privately and independently from home.

To reiterate, the state legislature and BOE have taken significant steps to improve the electoral process ahead of the November election, based on what we saw in June. Under historically difficult circumstances, the BOE has found ways to deliver meaningful administrative solutions to challenges that couldn't have been predicted when 2020 started. The work is not yet done but they've made changes that will make a practical difference for voters this fall. Their work has

not gone unnoticed and we hope to work with them to further improve the absentee voting process for future elections.

While this hearing is dedicated to the June 2020 election, I would like to add that we have fielded many questions about the CFB's plans for ranked choice voting (RCV) voter education and outreach for the 2021 elections. We have created a planning roadmap and have already begun preparing content. Our staff will use 2020 to conduct research and create materials to roll out to our community partners in early 2021, including a train-the-trainer presentation, toolkit, one-pager and voter FAQ, and explainer video about why this new method of voting benefits voters. We will also work with our partners and the NYC Elections Consortium to create a field plan for community outreach to be sure we can effectively educate every community in advance of the first RCV elections.

Thank you for the opportunity to provide testimony today. I'm happy to answer any questions you might have.



# NYC Votes Roadmap for Ranked Choice Voting

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The Campaign Finance Board is charged with educating voters about Ranked Choice Voting, which will be implemented for the first time in 2021. Our staff will use 2020 to conduct research and create materials to roll out to our community partners in early 2021, including a train-the-trainer presentation, toolkit, one-pager and voter FAQ, and explainer video about why this new method of voting benefits voters. We will also work with our partners and the NYC Elections Consortium to create a field plan for community outreach to be sure we can effectively educate every community in advance of the first RCV elections.

## ***Fall 2020***

- Training our internal staff and creating materials to launch in 2021
- Research into other RCV jurisdictions and voter education materials
- Work with the Center for Civic Design on best practices
- Work with the NYC Elections Consortium on creating a field plan

## ***January 2021***

- Launch train the trainer presentations
- Launch toolkit for community organizations and volunteers

## ***February 2021***

- Launch explainer video about why this new voting method benefits voters
- Release a one-pager translated into multiple languages
- Release a voter FAQ on our website for organizations to use

## ***March 2021 (special elections)***

- Launch online Voter Guide with RCV content in early March

## ***April 2021***

- Adjust and refine materials for the June primary

## ***May 2021***

- Release updated materials

## ***June 2021***

- Launch GOTV advertising campaign
- Launch the Voter Guide with RCV content



## **Testimony of the New York Immigration Coalition**

Committee on Governmental Operations  
Election Administration During the COVID-19 Pandemic  
September 25, 2020

Thank you, Chair Cabrera and members of the Committee. I am Paul Westrick, Manager of Democracy Policy at the New York Immigration Coalition.

Despite all the barriers, New Yorkers were determined to cast their ballots in the June Primary. Unfortunately, we cannot say the New York City Board of Elections (BOE) shares their commitment to a functional democracy.

Once again, immigrant voters were disenfranchised because of BOE's inability to run an election.

Each voter was supposed to have been mailed an absentee ballot application. We know that every voter was not. Each voter who requested an absentee ballot was supposed to have received it in time to complete and mail back. We know that every voter did not. Whether absentee or in-person, each voter was supposed to have received a complete ballot. We know that every voter did not, disenfranchising untold numbers by preventing them from voting in certain races.

Poll sites opened late and poll workers who received little or no training did not know the procedure for accepting in-person absentee ballots. Interpreters were not available at some poll sites, and, in a further insult, BOE decided to ignore the legally mandated date to even begin counting ballots.

COVID-19 created hardships for BOE, and we recognize that. But the pandemic alone is not to blame. Poorly run elections have become the norm in New York City. This is not how elections are run in other states, this is not how elections are run in other counties of *this* state. By allowing this to continue, we are undermining our city's democratic process.



It is time to dissolve the current BOE and begin anew. State election law allows that “[a]n election commissioner may be removed from office by the governor for cause.” Repeatedly failing to effectively administer an election, the core function of any BOE, is cause for removal by any reasonable measure.

NYIC asks the City Council to publicly request the Governor remove all 10 New York City BOE commissioners, which will allow the Council to appoint ten new commissioners with subject matter expertise in voting rights, civic engagement, and public administration. The commissioners must pledge to meaningfully - meaningfully- address the problems voters experience election after election and adhere to laws passed by the city.

New Yorkers deserve a functioning BOE that does not make excuses for repeated failures, can competently run an election, and actually empowers voters to cast their ballots. BOE will not reform itself. So it’s time to create a new BOE.

Thank you.

## **DEMOCRACY DOESN'T PAUSE: SECURING OUR NOVEMBER ELECTIONS**

TESTIMONY OF SARAH GOFF, DEPUTY DIRECTOR, COMMON CAUSE NEW YORK

**before the New York City Council Governmental Operations Committee**

**September 25, 2020**

Good morning. I am Sarah Goff, Deputy Director of Common Cause New York. I would like to thank the Committee Chair and its members for convening this important hearing on how we can replicate what worked and improve upon what didn't during the June primaries.

Common Cause New York is a nonpartisan citizens' lobby and a leading force in the battle for honest and accountable government. Common Cause fights to strengthen public participation and faith in our institutions of self-government and to ensure that government and political processes serve the general interest, and not simply the special interests. For 50 years, we have worked at both the state and municipal level to bring about honest, open and accountable government that serves the interests of all residents equally. Consonant with our overall mission we have consistently worked to improve accessibility, accuracy, transparency, and verifiability in our democratic process at the city, state and national level.

In March 2020, four days after Governor Cuomo issued the stay-at-home order, Common Cause released a plan on how to safely hold our elections during a pandemic. We are pleased the Governor adopted many of our recommendations including the consolidation of the presidential and state primaries and a measured expansion of absentee voting in lieu of a whole transition to vote by mail.

It is our position that while there were undoubtedly unforced errors along the way, that overall, the Boards of Elections did a credible job of navigating unprecedented circumstances and did their best to rapidly scale up a previously sleepy absentee voting program. We are pleased to note the State Legislature, the Governor, and the New York State and local Boards of Elections took heed of the numerous problems in June and have responded to our recommendations through legislation, executive orders, and process improvements. While there is more work to be done, it is encouraging to see:

### **AN INVESTMENT IN OUR ELECTIONS INFRASTRUCTURE TO IMPROVE VOTER CONFIDENCE IN ABSENTEE VOTING**

Now that expanded absentee voting has been codified into state law for the duration of the pandemic, the NYC Board of Elections can plan accordingly. The June primary saw record numbers of voters voting absentee across the state and in New York City. New York's historically sleepy absentee voting

program, serving roughly 3-5% of voters each election cycle, rapidly scaled up over six weeks to serve anywhere from an estimated 30-60% in local elections.

The problems we saw during the primary are, unfortunately, not new to our absentee voting program but still have the potential to undermine voter confidence in the safety and security of our elections. Recent national polling of traditionally disenfranchised populations underscores the urgency to restore faith in New York's absentee voting program:

- 75% of voters indicated they would not want to vote in-person during the November election if there is no cure/vaccine for coronavirus.
  - 66% of voters prefer to vote by mail because it would be the safer option.
- Yet 47% are concerned voting by mail would result in lost or uncounted ballots.

New York has disproportionately high rejection rates of absentee ballots. The State Legislature has done its part by eliminating the unduly punitive reasons absentee votes are invalidated including a missing date on the absentee ballot envelope, stray marks on the ballot, and “improperly sealed” ballot envelopes. The NYCBOE has responded to pain points by:

- Investing in the appropriate equipment to count absentee ballots faster
- Increasing public confidence and transparency by adding a new ballot tracking function so voters can track their absentee ballot in real time.
- Prominently displaying absentee ballot drop boxes at early voting and election day poll sites. This will be of particular importance as the Governor and State Legislature declined to mandate prepaid return postage for absentee ballots for the general election through executive order or legislation.

## INCREASED PUBLIC ENGAGEMENT AND VOTER OUTREACH

One of our ongoing and June-specific recommendations was to expand the city government's voter outreach program. We are pleased to note that city agencies have:

- Created and launched a unified public outreach and social media voter education campaign
- Advertised early voting more prominently as it remains an underutilized in-person voting option.
  - We must do more to educate New Yorkers about the nine additional days they now have to vote and where their early voting poll site is located. All too frequently, we heard from voters who did not realize early voting was an option much less where to



vote early.

- Dispersing in-person voters across 10 days, instead of the bulk showing up on Election Day, will allow our elections to run smoothly and safely while minimizing any attendant health risks for voters and poll workers.
- Given the projected turnout for the November election, it is vital New York City aggressively promotes early voting to avoid long lines on Election Day.
- Address pandemic-induced poll worker shortages by specifically recruiting younger poll workers.

### **PRELIMINARY PLANS FOR RANKED CHOICE VOTING IN 2021**

Common Cause New York has been working diligently behind the scenes to ensure candidates, campaigns, community-based organizations and elected officials are up to speed on the upcoming changes to our local elections. We will begin our general public education campaign after the November election to avoid confusing voters. We are working with the New York State and New York City Boards of Elections as well as the New York City Campaign Finance Board on election administration changes and a robust voter education and outreach program.

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**Thank you for your time, and Common Cause New York stands ready to assist in any way to secure our elections in November.**

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BRENNAN  
CENTER  
FOR JUSTICE

*at New York University School of Law*

**Testimony of Hannah Klain  
Fellow, Democracy Program  
Brennan Center for Justice at New York University School of Law  
before the  
New York City Council Committees on Governmental Operations  
Concerning Election Administration during COVID-19 Pandemic.**

**September 25, 2020**

Good morning Chairperson Cabrera, and members of the Committee on Governmental Operations. My name is Hannah Klain and I serve as a Fellow at the Brennan Center for Justice at NYU School of Law in the Democracy Program. I would like to thank the committee for holding this hearing and inviting public testimony regarding election administration during the COVID-19 pandemic.

The Brennan Center is a nonpartisan law and public policy institute based in New York City that seeks to improve our systems of democracy and justice. We work on a range of voting rights and election issues to craft and advance reforms that will make American democracy work, for all. The Brennan Center – as part of the Let New York Vote Coalition – has long advocated for voting reforms in New York, including the creation of an early voting period, online voter registration, and automatic voter registration.

We were pleased to see Governor Cuomo announce changes to New York’s absentee voting laws in response to the COVID-19 pandemic this year.<sup>1</sup> The new measures, which expand protections to allow a voter to vote absentee due to risk or fear of illness and postpone the postmark deadline for absentee ballots, are important and necessary steps to ensure no voter is forced to choose between their fundamental right to vote and their health this fall. Due to concerns about COVID-19, tens of thousands of New Yorkers are expected to vote absentee in the 2020 General Election. We encourage this: voting by mail is a convenient and safe alternative to in-person voting.

Nevertheless, some voters will find vote by mail is not a viable option for them; these voters need healthy in-person voting options for the upcoming General Election. With over 200,000 cases of COVID-19 and nearly 20,000 deaths due to the virus in New York City alone, New Yorkers know too well the dangers posed by the coronavirus pandemic.<sup>2</sup> Accordingly, it is

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<sup>1</sup> Press Release, Governor Cuomo Signs into Law Sweeping Election Reforms, Governor Andrew Cuomo (August 20, 2020), <https://www.governor.ny.gov/news/governor-cuomo-signs-law-sweeping-election-reforms>.

<sup>2</sup> As of September 22, 2020, New York City had a cumulative total of 236,253 reported cases of COVID-19 and 19,153 confirmed deaths, following a positive COVID-19 laboratory test. COVID-19: Data, NYC Health (2020), available at <https://www1.nyc.gov/site/doh/covid/covid-19-data.page>.

critical that voters and election officials take evidence-based measures to minimize the risk of COVID-19 transmission at the polls this year.

The Brennan Center and the Infectious Disease Society of America<sup>3</sup> (IDSA) have partnered to release *Guidelines for Healthy In-Person Voting*, a set of non-partisan recommendations drawn from IDSA's expertise in infectious diseases and public health and the Brennan Center's in election administration.<sup>4</sup> It provides a blueprint for election administrators so they can develop best practices for making polling locations as safe as possible during the pandemic. The following recommendations for safely administering the 2020 General Election are based on guidance from the CDC<sup>5</sup> and the Brennan Center and IDSA guidelines.

First, election administrators must ensure there are enough polling locations to meet voter demand. One account of the New York Primary Election this year indicated voting sites in New York City had to be moved or closed at the last minute due to the COVID-19 pandemic.<sup>6</sup> New York was not the only jurisdiction that faced this problem during the 2020 Primary Elections. In Milwaukee, Wisconsin, 180 polling places were reduced to only 5 open locations for the election in April.<sup>7</sup> A recent report by the Brennan Center found that voters with fewer polling places per voter reported longer wait times to cast their ballots.<sup>8</sup> While in the past, long wait times were disruptive and disenfranchising; now they could also be deadly, as longer wait times can also mean greater risk of exposure to COVID-19.

Second, voting should occur in large, well ventilated areas that can accommodate physical distancing measures. Large arenas are among the optimal types of spaces for voting sites this year. The Brennan Center was encouraged to see the Board of Elections announce that Madison Square Garden and the Barclays Center will serve as polling places for the early voting

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<sup>3</sup> Infectious Disease Society of America (2020), available at <https://www.idsociety.org>.

<sup>4</sup> Our Guidelines for Healthy In-Person Voting draw from the Brennan Center's experience in election administration, and the independent, interdisciplinary knowledge of the more than 12,000 infectious diseases physicians, public health officials, epidemiologists, and researchers that make IDSA one of the nation's preeminent medical organizations. Guidelines for Healthy In-Person Voting, Brennan Center for Justice & IDSA (August 12, 2020), available at <https://www.brennancenter.org/our-work/research-reports/guidelines-healthy-person-voting>.

<sup>5</sup> Considerations for Election Polling Locations and Voters, Centers for Disease Control and Prevention (June 22, 2020), available at <https://www.cdc.gov/coronavirus/2019-ncov/community/election-polling-locations.html>.

<sup>6</sup> Jeffrey C. Mays, Primary Voters in New York City Face Scattered Problems, N.Y. Times (June 23, 2020), available at <https://www.nytimes.com/2020/06/23/nyregion/voting-nyc-primary.html>.

<sup>7</sup> Alison Dirr & Mary Spicuzza, What we know so far about why Milwaukee only had 5 voting sites for Tuesday's election while Madison had 66, Milwaukee Journal Sentinel (April 9, 2020), available at <https://www.jsonline.com/story/news/politics/elections/2020/04/09/wisconsin-election-milwaukee-had-5-voting-sites-while-madison-had-66/2970587001/>.

<sup>8</sup> Hannah Klain, et al, Waiting to Vote, Brennan Center for Justice (2020), available at <https://www.brennancenter.org/our-work/research-reports/waiting-vote>.

period and on Election Day.<sup>9</sup> This is a significant first step towards protecting voters in Manhattan and Brooklyn from COVID-19 exposure at the polls. Voters in other boroughs should also have access to voting locations that are adaptable to distancing between voting booths, individuals, and poll workers, such as school gymnasiums, community recreation centers, or convention centers. For the best possible infection control, voting locations should have one-way flow, with separate points of entry and exit for voters. This will also minimize crowd formation.

Third, if a voting location is changed, voters should immediately be given individualized notice of the change, with a second notice to be given within weeks of the November election. Notice should be provided in multiple languages, including those required under Section 203 of the Voting Rights Act.<sup>10</sup> If polling locations are moved out of senior care facilities or other nursing facilities, plans should be implemented ahead of time to ensure residents of those facilities are able to cast a ballot.

Fourth, inside polling locations, all voters should take proactive steps to remain safe and healthy. This means maintaining appropriate physical distance of at least six feet between individuals, wearing a mask that covers nose and mouth, and practicing good hand hygiene. Polling places must be appropriately cleaned to prevent transmission of the virus, with hand sanitizer provided to voters before and after voting and voting booth surfaces and machines sanitized after each use. High-touch surfaces such as poll worker stations, door handles, and bathrooms, should be cleaned with an FDA-approved disinfectant approximately every four hours. In addition, officials should also avoid recirculation of contaminated air and facilitate increased air flow in these locations, by maximizing the HVAC capacity and using air filtration systems, and should plan to reconfigure locations to ensure there is plenty of space between voting privacy booths.

Fifth, it is critical that the Board of Elections work closely with the City and State Health Departments, and public health officials, to develop systems to support the public during the 2020 general election. This could include free COVID-19 testing for poll workers before and after Election Day, monitoring poll workers to make sure they do not develop signs or symptoms of COVID-19, testing opportunities for individuals who voted in person to prevent community spread of the virus, and should ensure that polling sites have appropriate personal protective equipment.

This fall, we are going to face many difficult choices, but no New Yorker should have to choose between their fundamental right to vote and their health. Voting by mail should be encouraged as the safest option. In addition, thoughtful, advanced planning on the part of the Board of Elections is essential to minimize the risk of COVID-19 transmission during in-person voting. There is lots of work to be done to make sure voting locations in New York City are safe

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<sup>9</sup> Press Release, Board of Elections Announces Madison Square Garden to Serve as Polling Site for Over 60,000 Eligible Voters, Board of Elections for the City of New York (August 28, 2020), *available at* <https://vote.nyc/page/news>. Press Release, Barclays Center to Serve as Polling Site for 2020 General Election, Barclays Center (September 1, 2020), *available at* <https://www.barclayscenter.com/news/detail/barclays-center-to-serve-as-polling-site-for-2020-general-election>.

<sup>10</sup> Voting Rights, New York Attorney General Letitia James (2020), *available at* <https://ag.ny.gov/civil-rights/voting-rights>.

for the November election. Now is the time to implement policies and procedures to make sure all voters can safely exercise their right to vote, however they chose to do so.

Thank you again for your time and consideration. I am happy to answer any questions.

## **Successful Introduction of Ranked Choice Voting in New York City** **Testimony to the Committee on Governmental Operations** **By Rob Richie, President and CEO**

Friday, September 25, at 10am, virtually via Zoom-Webinar entitled,  
“Elections Administration during the COVID-19 Pandemic.”

My name is Rob Richie. I am president and CEO of FairVote, an organization that I have directed for 28 years. We are a nonpartisan electoral reform think tank that has been the nation’s leading resource on ranked choice voting ever since our founding in 1992. We also took a lead role in developing and advocating for other voting changes, including voter pre-registration for 16-year-olds, automatic voter registration and the National Popular Vote plan.

Thank you for this opportunity to testify via live via video conferencing and to submit more detailed testimony in this written form. This critically important election offers unique challenges to election officials in New York and around the country. My focus to is not on the November 2020 elections, however, but on elections that will happen early in 2021: the first uses of ranked choice voting as approved by 74% of New York City voters as a charter amendment in 2019.

***What use of ranked choice voting should look like:*** FairVote has been deeply involved in implementation of ranked choice voting in several jurisdictions, including the first-ever use in a major American city in the modern era in San Francisco in 2004. There is a lot of good news and good lessons associated with this history of introducing ranked choice voting to voters:

- Once you have a good ballot design, ranked choice voting is easy for voters. Sensible poll worker training and timely voter education work will make it all the better for voters.
- In the last three years dating back to November 2016, ranked choice voting has been used: (1) In the state of Maine for all of its congressional primary and general elections; (2) In 17 cities around the country; and (3) in five Democratic presidential primaries and caucuses this past year. In every single one of these RCV elections, voter turnout and voter success in casting RCV ballots exceeded expectations. New York City can expect similar positive results as well if implementation steps occur as they should.
- Ranked choice voting has solved specific problems. It has allowed voters to handle the kind of crowded fields that New York City can anticipate next year. Voters don’t need to see polls to know how to cast an effective vote – they simply need to indicate their honest preferences. Candidates don’t need any special tricks – they just need to engage with voters effectively. The City won’t have to hold costly runoff elections in a pandemic.

That said, steps need to take place The City still has time for these steps but it is critically important to make sure you're on track, especially involving voting equipment certification.

**Your timeline:** New York's first special elections to fill city council vacancies with ranked choice voting will take place by March 2021 – and, with recent news of a vacancy due to an expected resignation, this first RCV election could be as soon as January. The primary elections for a large array of city offices, including mayor and all 51 city council seats, will occur a short time later, in June 2021. The Board of Elections has important work to do, as do other government agencies and civic groups. To provide a sense of that work, I have provided a summary of key topics of report we did after San Francisco's first use of ranked choice voting.

## **Lessons for New York from Bringing Ranked Choice Voting to San Francisco**

In 2001-2004, FairVote led advocacy and civic work on implementation of ranked choice voting in San Francisco, including working with the Board of Supervisors in 2001 to place it on the ballot, supporting the March 2002 ballot campaign, and ultimately helping the City use it successfully in November 2004 -- including assisting community-based organizations that serve people of color and other traditionally under-represented constituencies in promoting effective participation with RCV. FairVote carried out its work in this period primarily through the dedicated and highly effective work of two of its long-term senior staffers who were both based in San Francisco: Steven Hill and Caleb Kleppner.

In 2015, FairVote did a report about this implementation process. Following is a summary of key topics, with a connection to what it may mean for New York City.

1. Advocacy for timely and effective implementation of RCV: This work to keep RCV on track is best done as a partnership between civic groups that care about ranked choice voting and city officials involved in election administration and voter education.
2. Voting equipment readiness for ranked choice voting and ballot design: New York City benefits from the fact that its voting machine vendor has run major RCV elections with the City's equipment and has a ballot design ready to be adapted to the City's needs that is proven to be effective. Choices still must be made, such as ensuring ballots are ready with multiple languages, and are best made transparently.
3. State and federal testing and state certification: New York election officials have suggested that changes to equipment and software may not require state certification. While it is true that the equipment and software to be able to run RCV has been federally tested, there is value in getting firm evidence as soon as possible that these upgrades will not need New York State testing and certification – and if does, start that process.
4. Pre-election voter education by the City and civic groups: City Councilors have suggested appropriation of funds for voter education, the Campaign Finance Board is

engaged on this goal, and civic groups are getting active. While valuable and important, evidence suggests there is plenty of time to do this well after the November elections. .

5. Poll worker training and enforcement of poll worker instructions: This important work will need to be done as the first uses of ranked choice voting approach. If COVID-19 contributes to a large increase in postal voting, sample voter education materials will be important to provide to absentee voters.
6. Release of results in a smart, timely, effective way: Experience in cities using RCV suggests that the best practice is to do the following: (a) Run preliminary tallies with whatever ballots have been processed on election night and do so regularly until the processing of ballots is completed; (b) Present the results in intuitive ways, with good models for this readily available; (c) Release the “cast vote records” in order to allow anyone to confirm the results. We hope that New York City is able to do this approach.
- 8 Evaluation of the election and publicity about evaluation: This learning will be important for the City, and it is valuable to start planning early next year. One component that would be useful is polling of voters before and after the election to gauge their preparation and opinions. Civic groups and local universities can do this well, if needed.



**Testimony to the NYC Council Committee  
On  
Governmental Operations  
Election Administration During the COVID - 19 Pandemic**

**Friday, September 25, 2020**

Good Afternoon, My name is Kate Doran. I serve on the Board of the League of Women Voters of the State of New York, and I am the Elections Specialist at my Local League: the LWVNYC.

As a multi-issue, **non-partisan** political organization we encourage informed and active citizen participation in government, work to increase understanding of major policy issues, and influence public policy through advocacy and education.

For 100 years, voter education, and voter service, have been priorities for the League of Women Voters in New York. Accordingly we appreciate this opportunity to comment.

These are agonizing times for lawmakers and voters in NY.

We have seen challenges and change in the last 7 months that rival, and in some ways exceed the changes in 2010 when NY moved to voting on paper ballots.

First, We thank you, the OMB, and the taxpayers of the City of New York for fully funding the NYC Board of Elections. We know that other jurisdictions in the state have not been so fortunate. There is not much time left before voting begins. What's important now is to educate voters. Lines could be longer than they were in 2016, because of social distancing. Counting unprecedented numbers of absentee ballots will take time. We may not have results on election night. Patience is essential. We urge Council Members to reach out to constituents with these messages. The League is working now to get eligible citizens registered to vote before the October 9 deadline. We will then shift focus to early voting, and reminding voters of how to complete, and return absentee ballots.

We applaud the NYC Board of Elections for the speedy and successful upgrades to its website that have made it the Go-To site for necessary, and voter friendly information.

Thank goodness for Early Voting! We are encouraging voters, who want to vote In-Person, to take advantage of Early Voting. And we note that there are 88 early voting sites in the city, open for 9 days with varying, and convenient hours.



We congratulate the NY State Legislature for all of the changes made in the election law in 2019, and 2020, that we view as genuinely serving voters.

Looking forward, we challenge the Council to imagine, and work with your counterparts in Albany, to create the Voting System of the future that will best serve all voters. Election Day may look more like the Early Voting model with multiple Vote Centers, and ballots printed on demand everywhere. Coupled with No-Excuse Absentee Ballots, New York voters will have the choice, and barrier free opportunities they need, and deserve.

We also challenge you to work with your Democratic and Republican County Leaders to make suggestions for changes at the grass roots level. Specifically we urge you to look at NY State Election Law Section 3-404. “Election inspectors and poll clerks; designation.” Voters deserve to have elections transparently administered by their well-trained, and not necessarily partisan neighbors.

The League of Women Voters stands ready to participate and assist in all of your efforts.

Thank You