



Testimony to the New York Legislature
In Connection with Its Hearing Entitled
Elections in a Pandemic: A Review of the 2020 Primaries
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On behalf of the National Association of Latino Elected and Appointed Officials (NALEO) Educational Fund, I appreciate the opportunity to share the following testimony with Members of the Legislature regarding voting during our state's June 2020 primary election.

My name is Juan Rosa, and I currently serve as Northeast Director of Civic Engagement with NALEO Educational Fund. NALEO Educational Fund is the leading non-profit, non-partisan organization that facilitates full Latino participation in the American political process, from citizenship to public service. Our constituency encompasses the more than 6,800 Latino elected and appointed officials nationwide, including 169 from New York, and includes Republicans, Democrats, and Independents. For more than 25 years we have maintained an office in New York City through which we have conducted a broad range of voter assistance and education initiatives.

For several decades, NALEO Educational Fund has been at the forefront of efforts to increase Latino voter participation by ensuring efficiency, accuracy, and non-discrimination in election administration. We conduct non-partisan activities to mobilize Latinos to be fully engaged as voters, and we promote other civic engagement opportunities, including service as a poll worker or poll monitor. We have advocated enactment of federal, state, and local measures to lower barriers to voting and increase access to the electoral process, including the reauthorization of key provisions of the Voting Rights Act of 1965 and voter registration modernization. We have also provided information and assistance to voters through our year-round, bilingual hotline, 888-VE-Y-VOTA, and through local and nationwide dissemination of bilingual voting rights public service announcements, palm cards, and other materials.

NALEO Educational Fund recognizes the unprecedented and severe difficulty that the COVID-19 pandemic has imposed upon those responsible for administering and safeguarding the integrity of elections in New York. We appreciate the attention and extraordinary efforts that local and State Boards of Elections have invested in navigating unique challenges and ensuring that voting is safe and accessible to all our citizens. At the same time, we believe there is more that officials could have done, and must do before November 2020, to secure the vote of each New Yorker who desires to have their voice heard.

Wherever possible, we are urging administrators to accept online voter registration requests from any resident, regardless of whether they have a signature already on file with

the state Department of Motor Vehicles or any other state agency. We very strongly urge the Assembly to enact A8473, a bill that would support this effort by authorizing New York City to implement its online voter registration system and accept registration requests from voters without state-issued IDs or driver licenses. In addition, given the pandemic, we anticipate that there will be a significant increase in the electorate's interest in absentee voting, and election administrators must thus prepare by securing additional balloting materials and ballot processing machines. Many New Yorkers have never voted by mail and are unfamiliar with procedures that were, until this year, available only to a fraction of the electorate. Thus, Boards of Elections must intensify efforts to encourage and assist people to vote absentee in the interest of minimizing crowds at polling places. Latinos and other voters who are members of language minority communities will have particular need for accessible information about absentee voting that helps them obtain voting materials in their preferred languages. During a typical election, many of these voters would have voted in person where they could speak with poll workers in their preferred language and easily obtain in-language materials.

To minimize lines, waiting times, and confusion, Boards of Elections should publicize widely, in multiple languages and outlets, the fact that elections will be different this year and that voters should double-check their registration records and polling place locations well in advance of Election Day. Boards must also accelerate hiring immediately to ensure that there are sufficient personnel to secure appropriate polling place locations and train temporary poll workers.

Many Latino Voters Encountered Obstacles to Voting in the June Primary

In view of the enormous challenges New York residents and public officials have faced since the onset of the COVID-19 pandemic, NALEO Educational Fund appreciates the effort that ensured that this year's primary election took place, and the dedication that millions of New Yorkers demonstrated by casting ballots in spite of the hurdles to doing so. Even under perfect conditions, New York struggles to achieve levels of voter participation that other states routinely achieve. In 2016, just 57.2 percent of eligible New Yorkers voted, compared to 61.4 percent of eligible Americans; similarly, in 2012 New York's turnout percentage was several points behind the national average of 61.8 percent, at 58.7 percent. In both presidential elections, New York Latino turnout lagged behind that of New Yorkers overall, with 50.6 percent of eligible Latinos casting ballots in 2016, and 53.9% casting ballots in 2012.

In 2020, postponement of the election, followed by disputes in late April and early May about whether the state would hold a Presidential primary, complicated preparations and voter mobilization. Even after a federal court resolved outstanding questions, and Governor Andrew Cuomo extended access to absentee ballots to all eligible voters by Executive Order, the lingering effects of one of the nation's worst outbreaks of COVID-19 interfered with the ability of election administrators to prepare for a major federal election. Moreover, the pandemic created barriers to participation for voters themselves, many of whom were focused on the day-to-day concerns of keeping safe and taking care of their families. Polls have shown that Latino voters, who have been disproportionately sickened by or impoverished because of COVID-19, were less enthusiastic about voting after the pandemic hit than they were at the beginning of 2020.

New Voter Registration Has Slowed

NALEO Educational Fund has been chagrined that officials have not received the typical volume of new voter registration applications that would arrive in a normal federal election year. Unfortunately, two of the most common modes of registration have been unavailable for significant and crucial periods of time in 2020: since 2014, transactions with Departments of Motor Vehicles (DMV) have produced the largest numbers of new voter registrations nationwide, but all of New York's DMV locations were closed to the public by Executive Order in mid-March. Offices in many areas of the state have continued to limit in-person transactions and refuse walk-ins even after reopening to provide certain services that require physical presence. In addition, voter registration drives that target attendees at festivals, concerts, and other large public gatherings are an effective method of engaging potential members of the electorate, but have become impossible at this time when it is imperative that strangers avoid close contact with one another. As a result, it has become more important than ever that as many New Yorkers as possible are encouraged and able to register, or update their registration records, online.

We are concerned that too many Latino New Yorkers cannot use our state's current online voter registration system, because the system only accepts electronic submissions from people who have a current and valid New York driver license or state identification card. In our anecdotal experience, and according to numerous studies conducted over time, underrepresented voters of color are less likely than non-Hispanic white residents to possess state-issued identification. For example, a 2015 research memorandum by Dr. Vanessa Perez found that 13 percent of African Americans and 10 percent of Latinos, but just 5 percent of non-Hispanic whites, lacked a state-issued photo-bearing ID. Similarly, a summary of several national and state-based surveys published in 2018 in American Politics Research found that, after controlling for factors other than race and ethnicity, just 82.0 percent of Latinos eligible to vote and 81.2 percent of African Americans eligible to vote possessed IDs they could use for that purpose, compared to 90.5 percent of non-Hispanic white eligible voters. Thus, the combined effects of state agency closures, the sudden end of public gatherings, and limited access to New York's online registration system are likely to have impaired Latino voter registration particularly severely in the months leading up to the June primary.

Barriers to Registration Impaired Absentee Voting

It has never been more important that New Yorkers' voter registration records were accurate and complete than it was in the lead up to the June primary, as the quality of citizens' registration records determined, in part, whether they received an absentee ballot application and other essential information about safe voting in the midst of a pandemic. With good reason, many officials encouraged people to opt for absentee ballots, and invited registered voters to request them by proactively mailing application forms. However, in spite of being timely registered in a jurisdiction that committed to sending ballot applications, a member of our staff who lives in New York City did not receive an application, and we are aware of other Latino voters who also had this experience. In addition, Latinos not registered, or whose registration records listed incorrect addresses, were excluded from mailings meant to facilitate absentee voting. This includes the enormous number of New Yorkers affected by COVID-19 who have lost housing or moved for work or to care for family or friends.

People who did not receive an absentee ballot application could request a ballot online, but according to a 2019 report from the New York City Comptroller's office, "[a]bout 30 percent of Hispanic and Black New Yorkers lack broadband internet access, compared to 20 percent of White New Yorkers." Statewide, American Community Survey 2018 1-year data show that more than 9.6 percent of Latino residents say that they lack any internet access at home, compared to 8.0 percent of non-Latinos. For these reasons, we are concerned that New York Latinos may once again have made less use of absentee voting than New Yorkers of other ethnicities in this election, even though absentee voting would have been the best option for promoting personal and public health. For example, the Bronx is the only one of New York City's boroughs whose population is majority-Latino, but residents of the county submitted the second-lowest ratio of absentee ballot applications to registered voters of all the boroughs in the June election.

Officials Did Not Timely Deliver Absentee Ballots, Frustrating and Alienating Many Voters

Latinos who overcame barriers and attempted to vote absentee, and far too many New Yorkers of all races and ethnicities, were disappointed in June 2020 when absentee ballots arrived too late for use, or never arrived at all. Administrative failure to deliver ballots that voters have taken pains to request diminishes trust in our elections and may dissuade more New Yorkers from voting by mail in the future. Our democracy would suffer if people declined to vote out because they were uncertain they would receive a ballot, and public health would suffer if more people bypassed absentee voting in favor of voting in person. Either result is undesirable. It is crucial that election administrators regain voters' confidence in their ability to conduct reliable mail voting operations in the coming months.

We are concerned that people who did not timely receive absentee ballots also do not seem to have made robust use of the option to vote early. Early voting is a welcome new feature of New York elections, especially for voters with demanding work and family care schedules who need flexible voting options. NALEO Educational Fund was pleased that though the concept was new, more than 250,000 New Yorkers voted early in the 2019 General Election, with the largest shares of all participants opting to vote early in jurisdictions that offered more early voting locations than required by law. We would have expected the availability of early voting in 2020 to serve as an important backstop to the backlogged absentee voting system, and as an attractive alternative to joining potential Election Day polling place crowds for those who did not request or timely receive a ballot by mail.

However, there are indicators that New Yorkers did not make robust use of early voting periods, such as a small decline in the absolute number of New York City voters who checked in at early voting locations in June as compared to last November, in spite of the fact that overall voter turnout is likely to have been higher in June 2020 than in November 2019. We fear that many voters decided to wait for mail ballots they had requested in lieu of voting early, and that this phenomenon may have artificially increased Election Day crowds at some polling places. In the future, it would be helpful for officials to promote early voting in the interest of persuading voters to make in-person visits to polling places over the course of multiple days.

Election Day Logistical Challenges Were Avoidable

NALEO Educational Fund is disappointed that in New York City, transportation challenges and inadequate poll worker training hampered in-person voting on Election Day, and prevented too many New Yorkers from having their voices heard in this primary election. As you know, there were many reports of polling places opening late, due in part to an issue about which the City's Board of Elections had ample advance notice: since early May 2020, the subway system has been closing nightly to permit thorough sanitation of trains and facilities. As a result, some poll workers reliant on public transit could not get to polling locations on Election Day in time to set up and open to the public at 6am. In spite of general public awareness and concern that interruptions of the transportation system might affect poll workers traveling to their duty stations, officials do not seem to have made sufficient alternative arrangements to ensure on-time operations on Election Day.

In addition, widespread reports indicated that many poll workers failed to adhere to election rules and procedures. Most troublingly, a number of voters reported being wrongfully turned away when they attempted to drop off completed absentee ballots at polling places; in addition, many people who attempted to vote in-person did not receive complete ballots with all pages. These problems demonstrate that poll workers missed or forgot important components of training, and that personnel – many of whom are likely new to this work – need more training time and reinforcement in advance of the November election.

Recommendations

NALEO Educational Fund looks forward to working with Members of the Legislature and Boards of Elections staff to capitalize on the lessons learned in the June primary and prepare for a safe November election with strong voter participation. We urge our partners in government to implement the following recommendations in the coming months.

Expand Online Registration and Enact A8473

Although online registration is unlikely, in the short term, to take the place of the most successful voter registration mechanisms that are temporarily unavailable, it is the best means we have at our disposal of ensuring that New Yorkers are qualified and ready to vote in November. It is crucial that as many New York residents as possible be able to register to vote from their homes by going online, but that imperative is further complicated by the fact that DMVs have limited capacity to issue new IDs and driver licenses, which New Yorkers who do not already have a current and valid state-issued ID would need to use online registration mechanisms. We urge officials to adapt online registration portals to accept digital signature submissions in lieu of the transfer of signatures on file with the DMV, as this change, which is authorized by applicable state law, would enable election administrators to process electronic voter registration applications from people without current state IDs and driver licenses.

The legislature can take a crucial step forward in this regard immediately by enacting A8473 to authorize implementation of the expanded online registration system that the New York City Campaign Finance Board (NYCCFB) has developed. A significant number of New York City residents do not have any DMV-issued ID, but those of them who are qualified to vote would be able to register online through the NYCCFB's system by

submitting a digitally-created signature which the agency would transmit to the State Board of Elections. Importantly, the NYCCFB system is available in every language in which the City's boroughs are required to provide election materials pursuant to the federal Voting Rights Act, while the State's present system operates only in English. This makes the system user-friendly for many or most of the nearly 900,000 New York City residents who are eligible to vote but not yet fully fluent in English. The NYCCFB online registration portal has undergone months of testing and has been designed to minimize security risks, so it is ready for immediate use upon the legislature's assent. Assemblymembers must act now to preserve as much opportunity as possible for New Yorkers to register and update their registration records in preparation for the November election.

Secure More Absentee Voting Materials and Ballot Processing Capacity

It is encouraging that nearly 40 percent of voters in the June 2020 primary election cast absentee ballots. At the same time, we know that it was difficult for Boards of Elections to keep up with the volume of requests. Because of the enactment of S8015D and extension of the right to vote absentee based on fear of contracting COVID-19 or other communicable disease, a much higher absolute number of voters are likely to request mail ballots in November. Voter interest and participation reach their zenith in general elections during which voters elect a President, and in spite of the pandemic, many polling firms and academic experts continue to expect turnout to be particularly high in 2020. Officials must begin immediately to secure contracts for the printing of a significantly increased number of absentee voting packages, and ideally, to purchase more equipment to verify signatures on absentee ballot envelopes and to count verified ballots. We encourage elected and elections officials to inform the public of efforts to increase capacity, and to consider setting goals or making commitments to timely respond to absentee ballot requests, to secure voters' confidence that their votes will be counted if they opt to vote absentee.

Expand and Tailor Voter Education Efforts

It is extremely important to the success of the November 2020 election that administrators do as much as they can to help guide and inform voters as they cast ballots in the midst of unprecedented change to institutions and daily activities. Even without the strains imposed by the pandemic, election rules have changed in recent years in New York, and officials must do more to encourage voters to take advantage of new early voting options. With absentee voting available to all New Yorkers in November, many will need significant education about how to avail themselves of the opportunity to vote from home. Efforts to promote these forms of voting will be crucial to guarding against dangerous crowding at polling places on Election Day, but not sufficient on their own. For New Yorkers to vote absentee successfully, their registration records must be up-to-date, containing correct addresses, and aspiring early voters must have access to accurate information about polling locations and hours. Outreach to voters should emphasize that this November's election will be different from voters' perspectives; therefore, it is imperative that voters inform themselves well in advance of Election Day about voting options and locations, which may have changed, and ensure that they are correctly registered. Boards of Elections must – as always – fully comply with federal and state requirements to communicate with voters in languages they understand. In our diverse and vibrant State, it is indispensable that voter education advertisements and materials are disseminated in Spanish and other commonly-spoken languages, and via in-language media and through partnerships with community organizations that are familiar with the needs and concerns of Latino voters and others not

fluent in English. Voters must know whether they can obtain in-language materials and how to request them, and they should also be reminded that they have the right to the assistance with voting of any person they choose other than an employer or union representative.

Staff Up and Enhance Poll Worker Training

Finally, we urge officials to accelerate recruitment of both temporary and permanent staff to handle the shifting administrative burdens of conducting elections in the midst of a pandemic. It is already clear that many more people than usual will be needed to manage some of the elements of administering this fall's election, including the processing of what is likely to be a very high volume of absentee ballot requests and returns, and the identification and staffing over an extended period of new polling locations that have enough space to accommodate social distancing protocols. Moreover, throughout the nation and State, poll workers have tended to be older Americans who are today at heightened risk of serious illness, and who have stepped back from working in elections in large numbers. A larger election workforce this fall is likely to include a relatively large number of employees who are new to staffing elections. These conditions mean that effective and intensive training – particularly in aspects of election protocols that are new or that have changed for 2020 – must be a high priority. Administrators should concentrate, in particular, on ensuring that new workers understand rules around return and validation of absentee ballots, and that employees have a quick and accessible means of getting reliable answers to questions that may arise as they encounter and assist voters.

Conclusion

Thank you for your attention to the fundamentally important issues you are reviewing during this hearing. Like you, NALEO Educational Fund is committed to ensuring that all Latinos and New Yorkers have their voices heard in our State's elections, and we stand ready to contribute to efforts to implement the recommendations we have submitted here. If we work collaboratively and take quick action, the goal of holding a successful election with robust participation is within our reach.

