



NYPIRG

NEW YORK PUBLIC INTEREST RESEARCH GROUP

**TESTIMONY
OF THE
NEW YORK PUBLIC INTEREST RESEARCH GROUP
BEFORE A
JOINT HEARING OF THE NEW YORK STATE
SENATE COMMITTEE ON ELECTIONS, SENATE COMMITTEE ON LOCAL
GOVERNMENT, ASSEMBLY COMMITTEE ON ELECTION LAW, AND ASSEMBLY
COMMITTEE ON LOCAL GOVERNMENTS
AUGUST 11th, 2020**

Good afternoon. My name is Megan Ahearn and I am the Program Director for the New York Public Interest Research Group (NYPIRG). NYPIRG is a non-partisan, not-for-profit, research and advocacy organization. Consumer protection, environmental preservation, health care, higher education, and governmental reforms are our principal areas of concern.

This past June, during the coronavirus pandemic, New York State held its primary elections. In response to COVID, all eligible New York voters were mailed an application to request an absentee ballot. So how did New York's first effort at mail-in voting go? Not great.

Unsurprisingly, the role absentee ballots played in the election was large. 1.7 million New Yorkers requested a ballot statewide, more than ten times the number requested in 2016, the last year for a presidential primary.¹ In at least five primary races, absentee ballots swung the vote.

But a fair number of races took more than a month of ballot counting to call, including two Congressional races. In parts of the state, alarmingly high amounts of absentee ballots were initially invalidated – oftentimes through no fault of the voter. In Brooklyn, a quarter of absentee ballots were disqualified.²

The compressed timetable, added workload from absentee ballot requests, and additional logistical, training, and material needs highlighted new issues – as well as big flaws in New York's election system that existed pre-pandemic. This fall's Presidential General Election is going to have an even higher turnout than the primaries. Much work will be needed to ensure that these elections are run safely, and issues exposed in the primary are addressed.

¹ New York Senate, Joint Public Hearing: Elections in a Pandemic: A Review of the 2020 Primaries, <https://www.nysenate.gov/calendar/public-hearings/august-11-2020/joint-public-hearing-elections-pandemic-review-2020>.

² NY Post, "Over 80,000 mail-in ballots disqualified in NYC primary mess," August 5, 2020, https://nypost.com/2020/08/05/84000-mail-in-ballots-disqualified-in-nyc-primary-election/?mc_cid=ed64cdd31b&mc_eid=534d3b4e0f

It is imperative that the state and local Boards of Election and the U.S. Postal Service are pressed to provide answers on issues with absentee voting and at the polls on Election Day. Thank you for the opportunity to provide testimony today.

Voting by Absentee

Not only is mail-in voting a way to protect voters, but it reduces the workload for poll workers – thus reducing their risk too. The single biggest complaint we heard from voters was that they did not receive their ballots in time and thus had to go to the polling place to cast their vote – exactly what they were trying to avoid in the first place.

New York voters had to have their absentee request in the mail no later than June 16th for an election on June 23rd. This timeline, while tight, is neither unreasonable or out of line with many states across the country.³ However it is clear that the timeline created difficulties for both the postal service to deliver the mail and found some local boards unprepared to process those requests and get ballots back out the door in time for voters to cast and mail their ballots out in time.

Given the global pandemic, the Board faced additional challenges in meeting New York's deadline for applications for Absentee Ballots. However, even before the Governor's Executive Order it was clear that there would be a sharp increase in absentee requests. It is clear that some Boards dramatically failed to prepare for this increase and failed to send out ballots in time for their timely return.

This created a series of issues:

1. **Absentee ballots arrived with timing that had no rhyme or reason.** Queens voters Armando and Ada Moritz-Chapelliquen applied for their respective absentee ballots on the same day in late May. Armando received his ballot on June 22, but Ada's had not arrived by June 23. As a new mother of an infant, Ada was not keen on increasing her exposure risk but was left with no other option than to vote in-person at her poll site.
2. **Absentee ballots arriving with little or no time to spare.** Way too many stories were shared with us from long-time voters, voter advocacy organization staff, volunteers working on NYPIRG's democracy project, and others about absentee ballots arriving on or close to Election Day. Even worse, some absentee ballots arrived after Election Day or not at all. A Hunter College student reached out to us the day after Election Day, after still not yet receiving his absentee ballot, unaware that he had no recourse at that point. He expressed great disappointment in missing out. His partner had applied for an absentee ballot a month after him, but received it a week before Election Day.

The public should know how long it took to open and process a mailed in application once received. The BOE's response that voters should just vote in-person if their absentee ballot got screwed up is unacceptable, especially for people who are or live with immuno-compromised or

³ Vote.org, Absentee Ballot Deadlines, <https://www.vote.org/absentee-ballot-deadlines/>.

high-risk folks, or voters who are out-of-town and cannot reasonably travel to their poll site. The Legislature should press the state and local Boards of Election to answer these questions:

1. Why didn't folks get their ballots? Were there disparities based on the different operations by different Board offices? What were the turn around times for absentee requests made through the web site as opposed to mailed in applications or written requests?
2. What are the increased personnel, hardware and/or fiscal needs for printing and processing applications to meet the State Board's goal of having applications sent back to applicants within 24 hours?
3. What are the increased needs for processing ballots?
4. What would be needed to move to a full Vote By Mail system?

Voting At Poll Sites

Every year, boards of election have to recruit, train, and deploy poll workers to cover every polling place. It is always difficult and there can be shortages. NYPIRG salutes and appreciates the New Yorkers who made this commitment, particularly this year. Poll workers must dedicate an entire day to watching the polls, checking voters in, and dealing with whatever snafus develop. It's a long day and while poll workers are paid, they are not paid a lot. Who has the time to spend all day at a polling site? Usually older adults, often retirees. And who is most at risk in the pandemic?

You got it, that same group.

New COVID-related challenges surely stressed the system on Election Day. There were also challenges that surface year after year – long lines, malfunctioning machines, names missing from poll books, and confusing information provided to voters from poll workers.

These issues were reported to NYPIRG:

1. Reports surfaced that some districts were handing out ballots for incorrect districts, and many reports surfaced that local ballots were not being handed out in error. Brooklyn voter Mike A. had to request his local ballot multiple times – something he knew to look out for as a long-time electoral campaign staff person. How many others were unaware that they had not received their complete ballot until it was too late?
2. Reports surfaced on Election Day that some poll workers were unaware that absentee ballots could be dropped there instead of in the mail.
3. Some voters experienced perplexing issues with the voter poll book. When Bronx voter Mohamed Alharbi first went to cast his ballot, he was told he was not registered to a party – something he knew to be wrong as he had voted in multiple previous elections. He followed up by calling his county's BOE and was told that "in an update to their systems earlier this year, his last name was accidentally changed and misspelled." He was instructed to return to the voting site and vote under the misspelled name. In Brooklyn, first-time voter Freya Rosenstein registered in May, had her address mis-entered by the Board, sent in a second form that failed to correct the address mis-entry. A phone call to the Board updated her address correctly, verified on the state's online database in advance of early-voting. Unfortunately, the new address data was not available at her early-voting location

on the tablets supplied by the Board which listed the incorrect address. As a result, she was forced to vote by affidavit ballot.

Registering to Vote

The Coronavirus pandemic has also contributed to a troubling voter registration trend. With in-person voter registration drives all but cancelled, New York's requirement for ink signatures on paper voter registration forms is causing major voter disenfranchisement across New York State. In New York City during the 2016 presidential primaries, there were over 155,000 new registered voters. By this past June's primary, a mere 79,000 new voters had registered. Ahead of the October 9 voter registration deadline, tens of thousands more new voters would typically be expected to join the rolls. While some new voters may have been able to access the Department of Motor Vehicles' voter registration tool, NYC has the lowest drivers license and non driver ID rates in the country, putting city voters at a disadvantage for registering online. Other solutions must be advanced.

Recommendations

We applaud the Legislature's leadership in passing bills to address some absentee balloting issues, on early voting sites, and providing automatic voter registration at select agencies. We urge the Governor to sign these bills. In addition, we urge the following steps be taken:

- **Establish Online Voter Registration.** Legislation (S.6463/A.8473) has been introduced that would require the New York City Board of Elections to accept registration forms submitted online. NYPIRG urges your support.
- **Absentee Ballots**
 - The State and localities should fund publicity campaigns urging voters to request their absentee ballot as early as possible to help ensure adequate time for the ballot to make it to voters.
 - While decisions on ballot access frequently delay the finalization of ballots, the Board must detail the staff and hardware resources they need to print, process and mail out ballots within 24 hours of their being received.
 - Allow voters to track their ballots – in the same way as mail delivery purchases are tracked now. This provides confidence in the system and allows for additional time to make alternative plans if needed.
 - Boost transparency by requiring reporting that allows everyone to know how many absentees were requested, how many were mailed out, and how many votes cast through the mail. A full accounting of why Affidavit Ballots were rejected and accepted should also be demanded of the Board. These metrics should be broken down County and Assembly District (AD).
- **Overhaul the way in which poll workers are recruited and trained.** The Board should continue their pilot programs exploring split-shifts for poll workers. A well designed program could welcome a broad new set of recruits, including students who often cannot miss a full day of class. The Board must also press for the city to establish a program granting non-essential workers comp-time for working poll sites. Such a program would open up a vast new pool of poll workers, many of whom would have a guaranteed time

commitment in future years of elections. Finally, outside non-patronage trainers should be used for training to ensure quality, transparency and high standards.

- **Enhance early voting participation.** Since voting is a habit that must be ingrained and supported in the early years of eligibility—which coincide with typical college years—New York should cultivate this habit by supporting voting by students on campus. This legislation would promote student access to the polls by having a polling site on campuses located in communities with election districts where students are a majority of the voters. The bill covers both the traditional primary/general elections and the early voting period. (S.4378-A/A.5661-A)
- **Increase funding of elections.** Voting is the cornerstone of our representative democracy, it should be funded to ensure that elections are run smoothly. New York State should add needed resources. In the past, New York City has offered additional resources in return for improvements in the Board’s operations. We believe that continues to be a good model for localities to follow.
- **Audit BOE performance.** The New York State Comptroller should commence an audit of the State and County Boards of Elections and their performance on absentee ballots and the administration of this years’ elections.
- **End patronage staffing of BOE.** Ultimately, New York should get rid of an elections system run by the two major political parties. The state Constitution requires that the board of elections be run by the two major political parties, but it does not require that the staff must be chosen due to their party registration.

Thank you for the opportunity to testify today.