

Originally published in

New York Law Journal

Government and Election Law

February 13, 2019

New York Election Reform Needs Improvement



By [Jerry Goldfeder](#) and [Myrna Pérez](#)

In their Government and Election Law column, Jerry H. Goldfeder and Myrna Pérez write: Albany passed two reforms that were a long time coming: “early voting” and a June (rather than September) primary election. Unfortunately, when enacting a June primary, the legislature did not take into account how it would impact other election laws, and created a bizarre and confusing election calendar this year.

Albany is being applauded for enacting several popular pro-voter reforms, including taking the first step in amending the state constitution to allow voters to register and vote on Election Day without a waiting period, and permitting New Yorkers to vote by mail without restrictions or conditions. These changes require passage by two successive legislatures and a voter referendum. If all goes according to plan, then by 2022 New Yorkers will enjoy convenient voting procedures that many voters across the country already have.

Albany passed two additional reforms that were also a long time coming: “early voting” and a June (rather than September) primary election.

Early voting in New York is way overdue—three dozen other states permit it. In fact, New York was recently embarrassed by that bastion of restrictive voting procedures, North Carolina. In

defending itself in federal court for imposing a new round of voting obstacles, North Carolina noted the fact that New York lacked early voting opportunities. Albany finally has rectified this.

With respect to moving primary elections from September to June, this change has been advocated by the New York City Bar Association and others for many years. Primaries right after Labor Day, when school is starting and many voters are celebrating religious holidays, interfere with turnout. It is hoped that a June primary will reverse that trend.

Unfortunately, when enacting a June primary, the legislature did not take into account how it would impact other election laws, and created a bizarre and confusing election calendar this year. Consider the upcoming special election for New York City's Public Advocate, a position that became vacant upon incumbent Letitia James being sworn in as the state's Attorney General.

The special election is on Feb. 26, 2019. This date was chosen pursuant to the New York City Charter that requires a special election to be held 45 days after the Mayor's proclamation of a vacancy. (There are no primaries for special elections.) The winner will serve through Dec. 31, 2019. The Charter also requires that the remainder of the Public Advocate's term—from Jan. 1, 2020 through Dec. 31, 2021—must be filled at the general election this November. Because of the new law, primaries for the general election ballot are now slated for June 25th. And to run in the June primary, a candidate must circulate petitions to appear on the ballot, the first day being February 26th—the very same day of the special election.

Thus, on the day voters go to the polls to elect a new Public Advocate for the remainder of this year, they will be asked to sign petitions for candidates for Public Advocate who will take office on January 1st of next year.

The election calendar may get further complicated if the candidate elected on February 26th happens to be one of the four City Council members running for the post. In this scenario, there will be a vacancy in his council seat—requiring yet another special election to be held sometime at the end of April. And petitions for this special election will be circulated in the beginning of March—during the same period during which petitions are being circulated for the June primary for Public Advocate.

Thus, New Yorkers may be asked to vote in February, April, June and November. Moreover, if no candidate for Public Advocate wins the June primary with at least 40 percent of the vote, there will be a run-off election at the end of July. (There are no run-offs in special elections.) It is entirely unclear why the legislature did not take all of this into consideration when enacting recent election reforms.

Beyond the irrational election calendar Albany has imposed, it also did not address the manner by which vacancies are filled and the way New York conducts special elections—a topic that the New York City Charter Revision Commission has been asked to address. In the meantime, however, voters are stuck with multiple elections this year, and, to make matters more

confusing, no candidate in a special election may use his or her actual political affiliation. Instead, fabricated party names appear above the names of the candidates. Thus, the ballot itself is confusing. Take a look at this sample ballot provided by the NYC Board of Elections:

OFFICIAL BALLOT FOR THE SPECIAL ELECTION - City of New York - County of New York - February 26, 2019 See Instructions on the Other Side							New York ELE Style: 0001
Papeleta Oficial para la Elección Especial Ciudad de Nueva York - Condado de Nueva York 26 de Febrero del 2019 Vea las Instrucciones en el Otro Lado				補選官方選票 紐約市 紐約郡 - 2019年2月26日		選舉說明詳見背頁	
Public Advocate Vote for one Defensor Público Vote por uno 公益維護人 請任選一名	Fix the MTA 整頓MTA黨	For The People 人民黨	No More Delays 不再延誤黨	Common Sense 常識黨	Unite Immigrants 團結移民黨	Equality For All 平等黨	WRITE-IN CANDIDATO POR ESCRITO 寫入未列名候選人
	<input type="radio"/> MELISSA MARK -VIVERITO 馬麗桃	<input type="radio"/> MICHAEL A. BLAKE 邁克 A. 布萊克	<input type="radio"/> DAWN L. SMALLS 彤恩 L. 斯莫爾斯	<input type="radio"/> ERIC A. ULRICH 艾利克 A. 歐瑞曲	<input type="radio"/> YDANIS RODRIGUEZ 耶丹尼斯 羅德里格斯	<input type="radio"/> DANIEL J. O'DONNELL 丹尼爾 J. 歐唐諾	<input type="radio"/> WRITE-IN 寫入未列名候選人 CANDIDATO POR ESCRITO
	Fix the MTA	For The People	No More Delays	Common Sense	Unite Immigrants	Equality For All	
	Better Leaders 更好領導者黨	Community Strong 社區強大黨	No Amazon 禁止Amazon黨	It's Time Let's Go 是時候行動黨	Power Forward 前進黨	Livable City 宜居城市黨	
	<input type="radio"/> A. MANNY ALICANDRO A. 曼尼 亞力肯卓	<input type="radio"/> BENJAMIN L. YEE 余炳文	<input type="radio"/> RON KIM 金兌錫	<input type="radio"/> JUMAANE D. WILLIAMS 祖曼尼 D. 威廉斯	<input type="radio"/> LATRICE M. WALKER 樂翠絲 M. 沃克	<input type="radio"/> RAFAEL L. ESPINAL JR. 拉斐爾 L. 艾斯畢諾 小.	
	Better Leaders	Community Strong	No Amazon	It's Time Let's Go	Power Forward	Livable City	
	Pay Folks More 提高工資黨	Stop REBNY 禁止REBNY黨	Jared Rich for NYC Jared Rich為 NYC黨	Residents First 居民優先黨	Friends of Helal 海勞之友黨		
<input type="radio"/> NOMIKI D. KONST 諾米琪 D. 康斯特	<input type="radio"/> DAVID EISENBACH 大衛 艾森巴赫	<input type="radio"/> JARED RICH 傑瑞德 瑞曲	<input type="radio"/> ANTHONY TONY HERBERT 安東尼 湯尼 赫伯特	<input type="radio"/> HELAL A. SHEIKH 海勞 A. 謝克			
Pay Folks More	Stop REBNY	Jared Rich for NYC	Residents First	Friends of Helal			

This sample ballot was provided by the NYC Board of Elections.

A voter who does not know in advance for whom to vote may, therefore, be hard pressed to make any sense of the ballot.

It is laudable that New York took a step forward, but there is obviously more to do. In an era when the public is so attentive to voting restrictions in states across the country, it behooves the bar to focus on reforming our own state's election law to make it easier for candidates to

run and New Yorkers to vote. At the very least, Albany should pass automatic voter registration, public financing, better ballot design, and voting rights restoration for community members with past convictions—and the legislature should keep in mind related provisions of election laws so that the result is a coherent, rational process for voters.

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