

An Executive Summary of Citizens Union Foundation's
Report and Recommendations

NEW YORK NEEDS ELECTION REFORM NOW:

Industrial Age Patronage to
Information Age Accountability



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I. EXECUTIVE SUMMARY

Voting is the foundation of our democracy. It is how we choose who will govern us and decide how our government functions.

Voting is a powerful act that results in electing to office those who will decide how much we pay in taxes, how well we educate our children, how carefully we attend to those who are in need, how well we maintain and program our parks, how we dispose of our garbage, and countless other decisions that affect our lives as New Yorkers.

But voting in New York has become an arcane and often dysfunctional process, overseen by an outdated and ineffective patronage-driven system. The New York Boards of Elections, both at the state and local levels, reward partisanship and resist modernization. They have become obstacles to the ideal of open, informed, democracy.

New York needs election reform now to ensure that every citizen's vote is counted fairly. We need to instill accountability through nonpartisan governance. We need to improve access to information and voter participation through the implementation of new technology. With the following plan of action, New York can achieve long-overdue election reforms. We can create the open, accessible and accountable election system that the citizens of New York deserve.

A. The Impetus for a 21st Century Election Administration and Voting System

The record voter turnout in 2008 was a wake-up call. New York's arcane election laws and structure are too rigid to allow for substantive and timely reforms. After extensive research and analysis of other models of election administration, Citizens Union Foundation's recommendations present the first comprehensive roadmap for reforming New York's election system.

Elections should be organized to ensure integrity in the process and instill confidence in the belief that every vote counts and is in fact counted. But New Yorkers who have long been accustomed to getting cash from automated teller machines (ATMs) still vote on lever machines which were first introduced in New York State in 1892 – even though the Help America Vote Act of 2002 initially mandated that all states replace their machines in 2004 and New York is now under court order to do so by 2010, six years later. And although New Yorkers can go online and see how to drive from New York City to Buffalo, we cannot go online to see a sample ballot before we walk into the voting booth on Election Day.

Too many New Yorkers have interacted with untrained poll workers who are unable to assist them when their name does not appear on the roll even though they filled out and submitted a registration form months earlier. Instead, these voters had to cast their votes on complicated provisional ballots that, if not properly filled out, are invalidated. Even if the ballots are counted, in many counties these ballots do not count as registration forms for the next election. Additionally, a little known fact about elections is that it is common for poll workers to be designated as a representative of a party that is different from the one in which they are not registered on Election Day to give the appearance of bipartisan equity at the poll site.

It has become apparent to New Yorkers that the voting status quo in the Empire State is not the experience of voters throughout the nation. New Yorkers watched residents of dozens of states take advantage of early voting, while we had but one Tuesday in November to cast a ballot. Regardless of who was responsible, New Yorkers were rightfully outraged when thousands of voter registration forms were found abandoned in a City Board of Elections stairway, evidence of not just inconvenienced voters but disenfranchised voters.

New York is the third largest state in the nation but it is among the lowest in voter-turnout. This is a result of many factors, including a lack of competitive races which results from New York's partisan gerrymandering – but it is also attributable to the institutional barriers that exist in providing a simple, efficient and accountable voting process.

New York, once a state of innovation, can no longer lay claim to being the Empire State when it comes to voting. Those who run our elections are not accountable to our elected officials, but rather to the political party leaders who place them there. Even-numbered bipartisan boards of election are now only present at the state level in two states in the nation: New York and Illinois. New York also is one of only two states that provides in its state constitution a role for political parties in its elections. This needs to change.

The State of New York is overdue for election reform. Not only do age-old barriers to casting our votes need to be removed, but the current system of election administration run by the political parties needs to be scrapped and New York needs to start over.

Citizens Union Foundation believes that the time has come for fundamental reforms that create a nonpartisan system that is responsive and accountable to the people of New York, and not the political parties. Registering to vote and voting should be as easy, if not easier, than getting a marriage license or a driver's license. Bipartisan party involvement is necessary to verify registrations and count the actual vote, but not to the extent that it ensures party patronage in the running of an agency to administer elections.

It is with this view in mind that Citizens Union Foundation spent the past several years examining this issue and researching how other states and cities not only conduct their elections, but also encourage higher voter participation by making it easier to cast a ballot.

B. Summary of Research and Findings

Citizens Union Foundation has closely monitored the boards' operations and identified the following institutional flaws which necessitate significant reform:

- i. the dominance of the two-party system and resulting partisan gridlock that stymies meaningful board action;
- ii. lack of accountability;
- iii. inconsistent standards and policies;
- iv. insufficient public information and voter education;
- v. poorly trained poll workers which often results in mismanaged poll sites; and
- vi. weak campaign finance enforcement.

Our recommendations for reforming the boards' structures seek to eliminate the boards' general inefficiencies and promote a system that is accountable and better serves the citizens of New York.

1. Partisan Gridlock Created by the Two-Party Structure

The two-party structure of the boards of election in New York State needs to be reformed to eradicate the partisan gridlock that has been all too common in New York. Under state law, only the parties that receive the highest and second highest vote tallies are granted the authority to appoint board commissioners and provide lists of poll workers to local boards. Achieving this parity has been difficult to accomplish given the imbalance of registered voters throughout the state. Investigations into violations of either the election or campaign finance law are often stymied when the vote occurs along party lines preventing the investigation from going forward.

2. Lack of Accountability

The current election administration structure is unaccountable to voters. This system does not allow elected officials - and, more importantly, the public - to measure the boards' productivity and instill voters' trust in the integrity of the system. The major parties' role in appointing commissioners and a large portion of the boards' staff gives the parties too much authority in election administration, especially given their inherent self-interest in the outcome of elections. Moreover, the current system shields the boards from public scrutiny when there are problems at the polls. The boards are not monitored by any state or local entity to track their performance and therefore do not have to meet criteria in order to ensure that it will continue to receive limited government resources and spend taxpayer dollars well. Given that local boards are funded through their respective counties, instituting some type of performance standard would provide a necessary incentive for the boards to be more efficient in administering elections in order to ensure they maintain their funding. Finally, the boards are not forthcoming with information about their operations, which further prevents any oversight of whether the boards are run effectively and efficiently.

3. Inconsistent Standards

The current election administration structure lacks standardization. The current structure is decentralized and substantially empowers localities in administering elections.

Decentralization may result in local administrators who do not follow the law and therefore are not accountable to voters. Inconsistent standards may also create conflicts between local and state officials, leading to discrepancies among counties. For example, Citizens Union found in 2006 that affidavit ballots were being used and counted differently among the five boroughs. The organization worked to ensure that uniform standards were put in place for the entire city, to guarantee that voters using affidavit ballots in Queens were voting under the same rules as those voting in Brooklyn. Discrepancies like these are present in scenarios across the state, which demonstrates why there needs to be greater standardization in election administration in New York State

4. Weak Campaign Finance Enforcement

The State Board has shown that it is ill-equipped to simultaneously administer elections and enforce the campaign finance laws. Moreover, New York has a very weak campaign finance system of high contribution limits and lax disclosure requirements which provides a weak foundation for enforcement.

5. Poll Workers

The current poll worker placement process is too heavily dependent on the two-party system, which makes it difficult to adequately staff elections. The law's bipartisan requirements also exclude minor party registrants and non-affiliated voters from serving on Election Day in the same capacity as party appointed poll workers. Poll workers also do not receive adequate or standardized training, which is particularly distressing given the new technology and can lead to confusion at the polls which may affect voters' ability to cast a valid ballot.

6. Voter Education

New York's voter education requirements are not only deficient, but, more importantly, detrimentally harm the state's voters. Despite advances in technology, New York has not significantly updated the way in which it provides services to voters and disseminates information. Many counties do not even post information regarding elections online. Implementing simple, voter-friendly solutions that harness information-age technologies would mitigate the common election-related problems that voters face.

While it may be easy to attribute these problems with New York's current election administration structure to the uniqueness of the state's elections, politics, policy, history or geography, it is clear from Citizens Union Foundation's analysis of many different models of election administration in other states and countries that New York's distinct system fails to serve its voters.

The most common model of state election administration in the United States is assigning a chief elections officer as the most senior election administrator. In thirty-one states, the chief elections officer is elected in a partisan election, which creates the unhealthy potential for partisanship in the running of elections.

Wisconsin employs a unique model, however, in which there is a chief elections officer who is appointed by a nonpartisan board of elections composed of former judges nominated by the governor and confirmed by its state senate.

In contrast, elections in New York are currently operated solely by even-numbered bipartisan boards, only one of two states to do so. Therefore, while states with more nimble election administrations systems have implemented reforms designed to improve election administration and increase voter participation, New York's two-party structure has impeded any progress.

Despite Citizens Union Foundation's consistent and persistent calls for change, many of the election reforms for which it has long advocated remain unimplemented. Furthermore, despite research and recommendations proposing major election administration and voter participation reforms by previous administrations at the state and city levels – including former Mayor Ed Koch, former Mayor Rudy Giuliani, former Attorney General Eliot Spitzer, former Governor George Pataki and Mayor Michael Bloomberg – their major reform recommendations remain ignored.

Citizens Union Foundation's report – the full copy of which will be available at the end of May - examines in depth the roles of the boards in administering New York's elections, the problems that are associated with the current structure of the boards, and the laws that establish them. The report also analyzes different models of election administration both internationally and nationwide with the goal of presenting alternatives to New York's current structure. It describes the voting process from the perspective a voter, starting with registration to casting a ballot, as well as some of the barriers that the voter may face in trying to participate in the election process.

The report proposes a series of substantial reforms to improve the quality of our elections and create a trustworthy and accountable system to ensure that every vote counts, including proactive solutions to increase voter participation and make voting more accessible through measures such as Election Day registration (EDR) and early voting.

C. Summary of Recommendations

With the forthcoming full release of Citizens Union Foundation's report "**New York Needs Election Reform Now: From Industrial Age Patronage to Information Age Accountability**," Citizens Union recommends the following actions to bring election reform to New York:

1. Dismantle the Current Board of Elections

- A. Abolish the Two-Party Control and Patronage-Driven Operation of Both the State and City Boards of Election.
- B. End the Partisan Appointment of Election Boards and Officers who Administer our Elections.

2. Create a New System of Election Administration at the State and Local Levels

A. Chief Election Officer and State Elections Board:

- 1. Create a Nonpartisan Statewide Election Board comprised of nine members, four appointed by the Governor, four by the legislative leaders, and one chosen by the eight to serve as Chair.
- 2. The board would recommend five candidates to the Governor, who alone would appoint a new Chief Elections Officer (CEO) from among the five candidates.
- 3. The CEO would be accountable to the Governor and serve a fixed term of five years but would report to the board regarding all operations, including canvassing and procedures for county officials. The board would sign off on reports and recommendations to the Election Assistance Commission, Governor, and Legislature.
- 4. The Board would perform some of the policy-making and quasi-judicial functions of the current State Board of Elections but also assume some of the responsibilities of the local boards of elections.

B. Chief Local Election Officer and City Board of Canvassers

- 1. Create a Local Board of Canvassers in New York City and in each county outside the City appointed by the local legislative body and local executive, with the local executive designating a chair on the advice and consent of local legislature.
- 2. In New York City there would be eleven commissioners – ten appointed on a bipartisan basis and the eleventh member would be from a third party or be an unaffiliated voter. In all other counties there would be five board members – four appointed on a bipartisan basis and one unaffiliated or third-party member.

3. The Chief Local Election Officer (CLEO) and his or her deputy CLEO would be appointed by the local county executive, or in the case of New York City, the Mayor, with the advice and consent of the local legislature.
4. The CLEO will implement state policy decisions while the local Board of Canvassers will check ballots and voter registration to ensure bipartisan oversight and counting of votes.
5. The CLEO would answer only to the appointing authority, but would work with the local Board of Canvassers.

3. Improve, Standardize and Ensure Greater Efficiency of Election and Campaign Finance Operations at the State and Local Levels

- A. End patronage hiring and implement merit-based hiring for most administrative and poll worker positions.
- B. Until such time as the new structure has been changed in the State Constitution, add a fifth nonpartisan commissioner to the State Board or an eleventh at the City Board to end the gridlock and improve decision-making, or create a quasi-judicial forum to resolve election disputes and penalize election law offenses in a strictly neutral manner.
- C. Improve public education and access to information through system modernization and better use of improved technology so voters can see sample ballots on the board websites prior to Election Day and receive email notifications of election dates, deadlines and other useful information.
- D. New York State should fund development of its own scanner system if it fully adopts optical scan technology instead of relying upon private companies that are finding it difficult to do so.
- E. Improve poll worker recruitment by increasing pay and allowing non-party workers to serve in their own neighborhood poll sites.
- F. Improve poll worker training through uniform standardization, required testing and stronger management.
- G. Ensure that the Attorney General and local district attorneys can independently investigate and prosecute alleged violations of the Election Law.
- H. Create greater accountability by requiring that the local boards provide information, on performance, similar to how it is tracked as part of the preliminary and final Mayor's Management Report in New York City.
- I. Encourage the City to own its own vote tabulating system.

- J. Strengthen Campaign Finance Enforcement by transferring the responsibilities for campaign finance enforcement and disclosure to the Commission on Public Integrity or a new integrated ethics authority, or create a discrete election enforcement unit within the State Board with adequate resources and independence to conduct investigations.

4. Remove Barriers to Voter Participation and Increase Access to Voting

- A. Amend the State Constitution to remove the ten-day advance voter registration requirement to allow for Election Day voter registration.
- B. In the absence of a constitutional amendment, statutorily reduce to ten days the period allowed for New Yorkers to register to vote.
- C. Amend the State Constitution to allow no-excuse absentee voting by removing the requirement that one must be ill, physically disabled, or out of the jurisdiction to cast an absentee ballot.
- D. Institute early voting to allow voters greater opportunities within a defined period of time to cast their ballots earlier than Election Day.
- E. Remove the full-face ballot requirement.
- F. Standardize absentee ballot format and procedures across the state.
- G. Improve voter enfranchisement efforts by directing state and local agencies to fully comply with the mandates of the National Voter Registration Act (NVRA) and New York City's Pro-Voter Law.
- H. Use affidavit ballots to create and update voter registration records.
- I. Close schools by state law on Election Day to increase availability of accessible poll sites.
- J. Translate election materials into additional languages.

D. Executive Summary Conclusion

New York needs election reform now. The time for excuses is over. The administration of our elections has become an embarrassment due to the inherent inefficiencies of a patronage-driven system and institutional resistance to modernization.

Citizens Union Foundation is recommending a clear course of action based on national best practices that can bring election reform to New York. It will increase accountability and instill nonpartisan governance. It will increase access to voter information and improve voter participation through the implementation of new technology. Most importantly, it will help New York move much closer to the ideal of an open, direct democracy. The citizens of New York deserve nothing less.