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COMMISSIONERS

MARCUS CEDERQVIST
EXECUTIVE DIRECTOR

GEORGE GONZALEZ
DEPUTY EXECUTIVE DIRECTOR

PAMELA GREEN PERKINS
ADMINISTRATIVE MANAGER

BOARD OF ELECTIONS

IN
THE CITY OF NEW YORK
EXECUTIVE OFFICE, 32 BROADWAY
NEW YORK, NY 10004-1609
(212) 487-5300
FAX (212) 487-5349
www.vote.nyc.ny.us

AGENDA COMMISSIONERS' MEETING TUESDAY, MARCH 24, 2009 AT 1:30 P.M.

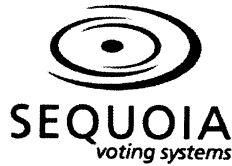
1. Meeting of the Board of Canvassers
 - a) Amend Certification of November 4, 2008 General Election – New York County
2. Minutes
 - a) 03/03/09
 - b) 03/17/09
3. Marcus Cederqvist
 - a) HAVA Update
 - Letter from Sequoia Voting Systems Re: "Best & Final" Offer
 - b) Voter Assistance Commission Meeting, March 25, 2009 from 1:00pm to 3:00pm
4. Steven H. Richman
 - a) Designation Petition and Opportunity to Ballot Petition Rules for the September 15, 2009 Primary Election
5. John O'Grady
 - a) Machine Combines for the Bronx Borough President Special Election – April 21, 2009
6. John Ward
 - a) Comparative Expenditures
7. Executive Session
 - a) Litigation

For Your Information

- Policymakers and Financial Disclosure
- NYS Board of Elections Weekly Status Report for the Week of March 13, 2009 through March 19, 2009
- NYSBOE 2009 Political Calendar
- Schuyler County Legislature, Resolution No. 80
- Letter to Michael Cardozo, Esq. – Corporation Counsel of the City of New York
- Special Term for Election Matters – April 21, 2009 Special Election – Bronx Borough President

News Items of Interest

- *The Daily News*: Term-limit change foes foiled again, but press on
- *The New York Times*: Extension of Term Limits Clears a Key Legal Hurdle



March 16, 2009

Board of Election in the City of New York
32 Broadway, 7th Floor
New York, NY 10004-1609

Frederic M. Umane, President
Julie Dent, Secretary
Jose Miguel Araujo, Commissioner
Juan Carlos "J.C." Polanco, Commissioner
James J. Sampel, Commissioner
Nancy Mottola-Schacher, Commissioner
Naomi C. Silie, Commissioner
J.P. Sipp, Commissioner
Gregory C. Soumas, Commissioner
Judith D. Stupp, Commissioner

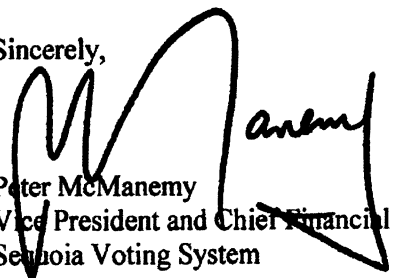
cc: Marcus Cederqvist, Executive Director
George Gonzalez, Deputy Executive Director
Pamela Perkins, Administrative Manager

Dear Commissioners:

Sequoia Voting Systems would like to express its gratitude to the Board of Elections in the City of New York for inviting Sequoia to respond to the Board's Request for Information (RFI). Over the last several months, Sequoia has worked diligently to provide the Board and its evaluation team with specific information regarding the product offering and costs. It is our understanding that the Board of Elections will make a final purchase decision only after the voting system is granted certification by the New York State Board of Elections. The New York State Board of Elections has indicated that the certification process may take several months.

Due to the extended nature of the certification process, Sequoia would like to preserve the right to present a "best and final offer" which is permitted by New York State law. A best and final offer will allow the Board of Elections for the City of New York to take advantage of potential changes afforded by the delay in certification. Sequoia looks forward to continue working with the Board and evaluation team throughout the RFI process. We would be pleased to provide any additional information you may request or address any questions you may have.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter McManemy", is written over the typed name and title. The signature is stylized and cursive.

Peter McManemy
Vice President and Chief Financial Officer
Sequoia Voting System



**CITY OF NEW YORK
VOTER ASSISTANCE COMMISSION**

VAC Bi-Monthly Open Meeting

HOSTED BY: Campaign Finance Board

WELCOME: Chair, Father Joseph P. Parkes, S.J.

Wednesday, March 25th, 2009

1:00 p.m. – 3:00 p.m.

The Office of Administrative Trials & Hearings (OATH)

40 Rector Street, 6th Floor

Chair

Dr. Jeffrey F. Kraus

Vice-Chair

Jane Kalmus

Commissioners:

Robert J. McFeeley
Morshed Alam
Nayibe Nunez-Berger
Glenn D. Magpantay
Loretta E. Prisco

Ex-Officios:

Hon. Carol Robles-Roman
Hon. Marcus Cederqvist
Hon. Betsy Gotbaum
Hon. Michael A. Cardozo
Hon. Mark Page
Hon. Joel I. Klein
Hon. Joseph P. Parkes, S.J.

Executive Director

Onida Coward Mayers

Office Manager

Bibi N. Yusuf

Agenda:

Roll Call

Approval of Minutes (December 11 Hearing)

Executive Director's Report

Onida Coward Mayers

NYC Board of Elections Report

Marcus Cederqvist

Campaign Finance Board

Juhee Suh

Department of Education

Melissa Gendler

Old Business

New Business

Public Comment

Adjournment



Entrance: 40 Rector Street (travel directions are according to OATHS website).

Subways: The 1, 9, N, R, W, 4 and 5 trains all stop within walking distance of OATH.

The 1 and 9 trains stop at Rector Station-Rector Street and Greenwich Street. The N, R and W trains stop at Rector Station-Rector Street and Trinity Place. From any of these, walk west on Rector Street from the subway station to 40 Rector Street, sign in at the lobby desk, and take the elevators on the left side to the sixth floor.

The 4 and 5 trains stop at Wall Street and Broadway. Rector Street is one block south of Wall Street. Walk west on Rector Street from the subway station to 40 Rector Street, sign in at the lobby desk, and take the elevators on the left side to the sixth floor.

By Car: Due to heavy traffic, street closings due to construction, parking difficulties, driving is not recommended.

VAC Monthly Open Meeting Wednesday, March 25, 2009





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JULIE DENT
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STEVEN H. RICHMAN
GENERAL COUNSEL
Tel: (212) 498-5338
Fax: (212) 497-5342
E-Mail:
srichman@boe.nyc.ny.us

March 23, 2009

TO: The Commissioners of Elections

FROM: Steven H. Richman, General Counsel

COPIES: Marcus Cederqvist, George Gonzalez, Pamela Perkins, Joseph LaRocca, John Owens, Charles Webb and Steven Denkberg

RE: DESIGNATING PETITION AND OPPORTUNITY TO BALLOT PETITION RULES FOR THE SEPTEMBER 15, 2009 PRIMARY ELECTION

By memorandum dated February 27, 2009, I provided you with a copy of the Adopted 2008 BOE Rules for Designating and OTB Petitions, which were adopted by the Commissioners on April 1, 2008, submitted for pre-clearance by the Attorney General of the United States on April 7, 2008 and was granted pre-clearance on June 5, 2008.

I requested that you review the same and provide me with any recommendations or amendments you wish to be included in the final draft of the DESIGNATING PETITION and OPPORTUNITY TO BALLOT PETITION RULES FOR THE SEPTEMBER 15, 2009 PRIMARY ELECTION.

Only one response has been submitted by Queens Chief Clerk Barbara Conacchio. It is a suggested addition to Rule H1 and is attached hereto.

By memorandum dated March 16, 2009, I respectfully requested consideration and adoption of the rules for the September 15, 2009 Primary Election at your meeting to be held on Tuesday, March 17, 2009 so that the submission to DOJ can be made by April 1, 2009. That will start the clock running for DOJ action under Section 5 of the Voting Rights Act (60 days from the date of submission). This will ensure that the rules are in effect prior to the commencement of the petitioning period. At the request of Commissioner Soumas, you tabled this matter at the March 17, 2009 meeting. I renew that request.

I have attached another copy of the Adopted 2008 Rules for your convenience.

As always, if you have any questions or require additional information, please contact me.

Thank you for your consideration of this matter.

Attachments

March 23, 2009

PROPOSED ADDITION TO RULE H 1

DESIGNATING PETITION AND OPPORTUNITY TO BALLOT PETITION RULES FOR THE SEPTEMBER 15, 2009 PRIMARY ELECTION

Upon the recommendation of Barbara Conacchio, Chief Clerk, Queens

Rule H1 is amended by adding the following underlined sentence:

- H1. Specifications of objections shall state the name and address of the objector and the candidate and public office on the petition to which the objection is addressed and shall be signed by the objector. **The specifications of objections shall be prepared using either blue or black ink.** The specifications of objections shall be securely fastened together in one or more volumes. The specifications of objections in each and every volume shall be numbered sequentially at the bottom of each page of the specifications.

JAMES J. SAMPEL
PRESIDENT

FREDERIC M. UMANE
SECRETARY

ANTHONY COMO
JULIE DENT
NERO GRAHAM, JR
TERRENCE C. O'CONNOR
J.C. POLANCO
NANCY MOTTOLA-
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E-MAIL:
srichman@boe.nyc.ny.us

DESIGNATING PETITION AND OPPORTUNITY TO BALLOT PETITION RULES FOR THE SEPTEMBER 2008 PRIMARY ELECTION

Adopted: April 1, 2008

These Rules are adopted by the Board of Elections in the City of New York pursuant to Election Law § 6-154 (2). Everyone is urged to consult the Election Law and Regulations of the New York State Board of Elections, 9 NYCRR §6215, as well as these Rules.

DEFINITIONS:

- Petition:*** A "petition" is all of the sheets which may be filed with the Board in one or more volumes, together with any required cover sheet, which designate the same candidate for a particular public office or party position.
- Petition Volume:*** A "petition volume" is the securely fastened grouping of petition sheets for one or more candidates or group of candidates.
- Cover Sheet:*** A "cover sheet" is the form (as set forth in Rule C of these Rules) to be filed with the Board which summarizes what petition volume or volumes comprise the Petition for each candidate for a particular public office or party position.

A. GENERAL REQUIREMENTS

- A1. Sheets of a designating petition shall be securely fastened together in one or more petition volumes. The sheets in each petition volume shall be numbered sequentially at the bottom of each sheet
- A2. All papers required to be filed pursuant to Section 1-106 of the Election Law shall, unless otherwise provided, be filed between the hours of 9:00 a.m. and 5:00 p.m. at the Executive Office of the Board of Elections, 32 Broadway, 7th Floor, New York, N.Y. 10004. If the last day for filing shall fall on a Saturday, Sunday, or legal holiday, the next business day shall become the last day for filing. The Board of Elections shall be open for the receipt of any document from 9:00 a.m. until Midnight on the last day to file any such document. Failure of any person or entity to deliver any such document to the Board of Elections on or before the last day to file same shall be a fatal defect.

B. IDENTIFICATION NUMBERS

- B1. No one is required to apply for a petition volume identification number before filing any petition volume. However, any person may apply for a petition volume identification number by submission of an Identification Number Application Form. Identification Number Application Forms are available at the Candidate Records Unit, 32 Broadway, 7th Floor, New York, NY 10004. If a petition Volume identification number has been assigned before the petition volume is filed, the petition volume identification number must appear prominently on the top of the petition volume. The Board requests that petition volume identification numbers **not** be placed on the petition volume's binding.
- B2. The Board will inscribe petition volume identification numbers on all application forms. These forms will be retained in a binder for public inspection.
- B3. A pre-assigned petition volume identification number shall be used only by the candidate/s or applicant/s named in the application. Petition volume identification numbers are not transferable or assignable.
- B4. A pre-assigned petition volume identification number shall be used only for the election event for which the application is made.

B5. Whenever a petition volume is filed without a pre-assigned petition volume identification number, the Board will assign a petition volume identification number at the time the petition volume is filed.

C. COVER SHEET

C1. A cover sheet must be filed for all petitions containing ten or more sheets in one volume or consisting of more than one volume. The cover sheet **SHALL BE FILED SEPARATELY** from the petition volume(s). It shall not be attached to any petition volume.

C2. A cover sheet shall contain the following information:

- a) the office, the political party's name and district number (where appropriate) for which each designation and nomination is being made;
- b) the name and complete residence address of each candidate;
- c) the total number of volumes comprising each petition;
- d) an identification of the volumes comprising the petition; when multiple volumes are filed, a single cover sheet may be filed consistent with the Regulations of the New York State Board of Elections, 9 NYCRR §6215.2 (a) (2), with the volumes identified by listing the identification number of each volume, either individually or cumulatively;
- e) a statement that the petition contains the number, or in excess of the number, of valid signatures, required by the Election Law;
- f) a place for the optional designation of a contact person to be notified to correct noncompliance with the Rules and to receive copies of any specifications of objections (a candidate may be designated as the contact person);
- g) when more than one candidate is designated or nominated on the same petition volumes, the candidates may be grouped together on a cover sheet so that the number of volumes comprising the petition need not be repeated;
- h) a cover sheet may consist of more than one page.

C3. The names and addresses of candidates for county committee may be set forth by election district of candidacy on a schedule to be annexed to the cover sheet. Such cover sheet/schedule for the position of county committee shall include all the information required by Rule C2, and in addition, a list by

election district of the identification numbers or the volume number, and page number where such signatures appear for each election district.

- C4. An amended cover sheet must clearly identify the original cover sheet which it is amending or attach a copy of the original cover sheet which it is amending. The amended cover sheet must contain all the information required of a cover sheet. Amended cover sheets must contain the following authentication: "This is to certify that I am authorized to file this amended cover sheet." Said authentication must be signed and dated and shall include the printed name, address, and may include the office telephone number and fax number of said candidate or representative.
- C5. An amended cover sheet must be filed on or before the last day to file the petition unless the amended cover sheet is filed to cure a failure to comply with the Rules after the Board has made a determination of non-compliance with these Rules.

D. DETERMINATIONS; CURES PURSUANT TO §6-134 (2) OF THE ELECTION LAW

- D1. Within two (2) business days of the receipt of a petition, the Board will review the petition to determine whether the petition complies with the cover sheet and binding requirements of these Rules. Such review shall be limited to matters apparent on the face of the cover sheet, the binding of each petition volume, and the number of petition volumes. Such review and such determination shall be without prejudice to the Board's determination of objections and specifications of objections filed pursuant to the provisions of the Election Law and these Rules.
- D2. In the event that the Board determines that a petition does not comply with these Rules, the Board shall forthwith notify the candidate or candidates named on the petition of its determination and the reasons therefore.
- D3. Notification of a determination of noncompliance shall be given by written notice by depositing such notice on the day of such determination with an overnight delivery service, for overnight delivery, on the next business day after the determination to the candidate or contact person, if designated, at the address stated on the petition. Notification shall be given by overnight delivery unless the candidate shall have filed with the Board written authorization, signed by the candidate, for the Board to give notification by facsimile transmission. In the event that the candidate shall have authorized notification by facsimile

transmission, then the Board shall notify the candidate or the contact person, if designated, by facsimile transmission on the day of the determination to the number set forth by the candidate and shall, in addition, mail a copy of the determination to the candidate.

- D4. A candidate may, within three (3) business days of the date of a determination that the petition does not comply with these Rules, cure the violation of these Rules. Cover sheet deficiencies may be corrected by the filing of an amended cover sheet. Such cure or correction must be received by the Board of Elections no later than the third business day following such determination. Such cure or correction will be reviewed by the Board to determine if it is in compliance with the Election Law and these rules.
- D5. If the petition is one for an opportunity to ballot, then the first named person on the committee to receive notices or applicant(s) for the identification number or numbers under which the petition was filed shall be deemed to be the "candidate" for purposes of these Rules.
- D6. If the Board determines that an attempt to cure a defect does not comply with these Rules or the Election Law, the Board shall upon expiration of the (3) business days set forth in Rule D4, notify the candidate or candidates named on the petition/cover sheet of its determination and the reasons therefore. The Board shall give written notice of such determination and the fact that the candidate (s) will not appear on the ballot by depositing such notice on the day of such determination with an overnight delivery service, for overnight delivery, on the next business day after the determination to the candidate or contact person, if so designated, at the address stated on the petition, cover sheet and/or amended cover sheet, as applicable. Notification shall be given by overnight delivery unless the candidate shall have filed with the Board written authorization, signed by the candidate for the Board to give notification by facsimile transmission. In the event that the candidate shall have authorized notification by facsimile transmission, then the Board shall notify the candidate or the contact person, if designated, by facsimile transmission on the day of the determination to the number set forth by the candidate and shall, in addition, mail a copy of the determination to the candidate by first class mail.

E. PRIMA FACIE MATTERS

- E1. The Board of Elections reviews each Cover Sheet and Petition to insure compliance with the New York State Election Law. On occasion, the Board determines that it appears that a Cover Sheet and/or Petition, on its face, fails to comply with the requirements of the New York State Election Law and is not subject to a cure under Section 6-134(2) of the Election Law. In that event, the Board shall notify the candidate or designated contact person in writing, of the Board's preliminary finding of a Prima Facie defect and advise the candidate/contact person that he/she may appear at the commencement of the Board's hearings on said petitions to contest such preliminary finding. Such review, preliminary finding and final determination shall be without prejudice to the Board's subsequent determination of objections and specifications of objections filed pursuant to the provisions of the Election Law and these Rules.

F. EXAMINATION AND COPYING OF PETITIONS

- F1. The Commissioners of the Board, or in their absence, the Executive Director, Deputy Executive Director, the Chief Clerks, Deputy Chief Clerks or such other staff as may be designated by the Executive Director, shall control the requisition, examination and copying of any document filed with the Board in order to assure that candidates, objectors or potential objectors and their representatives have an equal and fair opportunity to examine or copy such documents consistent with the needs of the Board to process petitions and specifications of objections.
- F2. Any person may obtain a copy of any document filed with the Board upon written application and payment of 25¢ per page.
- F3. No document shall be unfastened or taken apart (except by authorized employees of the Board of Elections) while examining the document; nor shall pen and ink or indelible pencil be used while examining documents. Red pencil only is to be used while examining any document. No other writing instrument may be used while examining any filed document.

G. GENERAL OBJECTIONS

- G1. A general objection to a petition must be filed at the Executive Office of the Board of Elections, 32 Broadway, New York, N.Y. 10004, 7th Floor. The last day for filing general objections shall be three days after the latest date on which any part of such petition or cover sheet was filed, even if said petition or cover sheet is subsequently not claimed by the candidate(s) appearing thereon.
NOTE: The Board reserves the right to conduct an inquiry into the facts and circumstances of the filing of any document and the application of Rule G1.
- G2. In the event an amended cover sheet is filed to cure noncompliance with these Rules after the last day to file a petition, the general objection and specifications filed in support of such general objection shall address only issues raised by the amended cover sheet. Such a general objection and specifications are without prejudice to any other issues addressed in any timely filed general objection and supporting specifications which are addressed to the petition. In order to expedite a determination by the Board, objectors are urged to file specifications of an objection addressed to an amended cover sheet filed to cure after a determination of noncompliance at the time when the general objection is filed.
- G3. The general objection shall state the name and address of the objector and candidate, party name and public office or party position on the petition to which the objection is addressed and shall be signed by the objector. If the objection is directed to a petition for opportunity to ballot the objection shall identify the public office or party position and petition volume identification number.
- G4. The general objection shall include a place for the optional designation of a contact person to receive notice of any rulings on the objection. The general objection should include any telephone numbers and fax numbers which can be used to provide notice regarding rulings on the objection.

H. SPECIFICATIONS OF OBJECTIONS

- H1. Specifications of objections shall state the name and address of the objector and the candidate and public office on the petition to which the objection is addressed and shall be signed by the objector. The specifications of objections shall be securely fastened together in one or more volumes. The specification

of objections in each and every volume shall be numbered sequentially at the bottom of each page of the specification.

- H2. The specifications shall include the name and mailing address of any contact person other than the objector to receive notice of any rulings on the specifications designated in the general objection. The specifications should include any telephone numbers and fax numbers which can be used to provide notice regarding rulings on specifications. The specifications may indicate separate numbers to be used on the Saturday and Sunday prior to the date scheduled for Commissioners' hearings.
- H3. When an objector files an objection which presents a factual issue which cannot be determined from documents on file with the Board, the specifications must set forth the factual allegations with particulars. The objector shall submit with the specifications, copies of any documents or affidavits that are required in order for the Board to rule on the issue.
- H4. If the specifications of objections claim that there are an insufficient number of valid signatures, the specifications must state the total number of signatures contained in the petition and the total number of signatures which the objector claims to be invalid.
- H5. Any specific objection to an individual signature or witness statement shall set forth the Board-assigned petition volume identification number, page number and line number and shall set forth with specificity the nature of each objection to that signature or witness statement.
- H6. The following abbreviations are acceptable:

AI	Address illegible or so abbreviated it cannot be identified.
ALT	Alteration (date/signature)
DI	Date incomplete
DUP v._p._l._	Duplicate of same signature located in the petition at volume identification # ____, page ____, line __
DSP	Date of witness statement is prior to date of signature
F	Forgery
ILLS	Illegible signature
ILLD	Illegible date
NA	No address stated
ND	No date stated
NE	Not enrolled in the party for which the petition is filed

NFN	No first name\name is so abbreviated it cannot be identified
NPN	No page number –petition page not sequentially numbered
NR	Not registered as stated in BOE records
OD	Out of the district of the contest
P	Pencil or not in ink
PR	Signature is printed or not handwritten
SH	Similar handwriting
TE	Date of signature is prior to first day for circulating petitions
TL	Date of signature is subsequent to last day for circulating petitions or subsequent to date of witness signature
SAP v. _ p. _ l. _	Signed another petition for the same office on same or prior date designating another candidate, at petition volume identification # _____ page ____, line ____.
SW	Signature is that of the subscribing witness to the page
SWALT	Subscribing Witness information altered (not initialed)
SWNE	Subscribing witness is not enrolled in the party for which the petition is filed
SWNQ	Subscribing witness not qualified
SWNR	Subscribing witness not registered, as stated
SWDI	Date incomplete in subscribing witness statement
SWA	No address or wrong address stated in subscribing witness statement
SWND	No date stated in subscribing witness statement
SWNN	Name of subscribing witness omitted from body of subscribing witness statement
SWNS	Signature of subscribing witness omitted
SWNSO	Number of signatures omitted from subscribing witness statement
SWWNS	Wrong number of signatures stated in subscribing witness statement
SWTE	Date of signature is prior to first day for circulating petitions
SWTL	Date of signature is subsequent to last day for circulating petitions
WA	Wrong address stated on petition

Objectors may use other abbreviations or symbols as long as they are clearly defined in the specifications.

- H7. Objectors are warned not to include in the specifications broad, non-specific or generic claims or claims which are not supported by documents filed with the Board. The Board may dismiss the entire objections as frivolous if specifications include such claims.
- H8. Because the Board believes that the appropriate forum for determination of allegations of forgery or fraud is in an invalidating proceeding commenced in the Supreme Court pursuant to Election Law §16-102, the Board does not ordinarily rule on such allegations. In the rare case where an objector seeks to obtain a ruling from the Board on an issue of fraud, or on a factual issue which cannot be determined from documents already filed with the Board (such as petitions, registration records, party call, party rules, etc.), the specifications must set forth the factual allegations with particularity. The objector should submit with the specifications copies of any documents or affidavits that are required in order for the Board to rule on the issue. Notwithstanding such a submission, the Board will generally decline to rule on any allegation of fraud.
- H9. (a) For petitions designating a candidate for public office, the objector must serve a copy of the specifications personally or by certified mail upon the candidate for public office before filing such specifications with the Board.
- (b) For petitions designating a candidate for party position, the objector must serve a copy of the specifications personally or by certified mail upon the first person listed under the committee to fill vacancies or the contact person before filing such specifications with the Board.

For petitions designating a candidate for party position for which no committee to fill vacancies or contact person has been designated, copies of the specifications, clearly labeled "copy one" and "copy two" on the face of the specifications must be filed with the Board. The Board shall be deemed the agent for service of specifications of objections for all candidates for whom neither a committee to fill vacancies appears on the petition nor a contact person appears on the cover sheet. The second copy shall be available at the Executive Office for inspection or copying.

- H10. Specifications of objections must be filed within six (6) days after the filing of general objections, in person, at the Executive Office, Board of Elections, 32 Broadway, 7th Floor, New York, N.Y. 10004. The Executive Office will be open during the period for filing objections and specifications until midnight of each day (except Saturday and Sunday) to permit the filing of such papers in person.

The Election Law does not authorize the extension of time for filing objections or specifications.

- H11. Proof of service of specifications (which must identify the specification it is related to by including the borough and General Objection/Specification number or attaching a copy of the first page of the specification) must be filed in person at the Executive Office, Board of Elections, 32 Broadway, New York, N.Y. 10004, no later than the day after specifications are filed. The Board will issue a receipt for proof of service upon filing.
- H12. Upon receipt of Specifications of Objection in a borough office, the Chief Clerk and Deputy Chief Clerk (or their designees) shall review said specifications of objections on their face and determine if said specifications appear to be frivolous or if the objectors lack standing to file such specifications. Upon such a preliminary determination by the Chief Clerk and Deputy Chief Clerk, they shall refer their preliminary determination to the Executive Director and General Counsel of the Board for review. If the Executive Director and General Counsel confirm that the specifications of objection appear to be frivolous or that the objector(s) lack standing to file such specifications, they shall confirm the preliminary determination of the Chief Clerk and Deputy Chief Clerk and direct that the specifications of objections not be worked by the borough office staff. Such findings and confirmation thereof shall be reported to the Commissioners at the commencement of the hearings for their review.

I. CLERKS'/COUNSEL'S REPORT

- 11. The Chief Clerk and Deputy Chief Clerk of each borough shall assign staff to examine the specifications of objections and to prepare a report to the Commissioners on the objections.
- 12. As soon as the borough office has prepared the report to the Commissioners, the borough office shall fax copies of the summary report (without line-by-line rulings) to the contact persons designated on the petition cover sheet and on the specifications to receive notices at the fax number indicated. Candidates or objectors who are unable to receive faxes must check with the Chief Clerk or Deputy Chief Clerk of the respective borough office if the candidate or objector wishes to review the Clerks' Report prior to the Commissioners' hearing.
- 13. At least twenty-four hours before each date for Commissioners' hearings, each borough office shall prepare a list of Clerks' Reports, which have not been completed and shall immediately transmit a copy to the Executive Office and

shall make the list available to the public. The Commissioners' hearing on Clerks' Reports included on the list will be automatically postponed from the immediate hearing date to the next hearing date scheduled by the Commissioners unless there is consent from the objector and the candidate to rule on the Clerks' Report as scheduled.

14. Once the borough office has prepared the report to the Commissioners, the original specifications of objections with the line by line rulings of the clerks will be made available for examination or copying by the objector, candidate or representative, provided that the specification is not being used by the clerks for the review of any other specifications of objections.
15. The rules regarding examination and copying of petitions shall also apply to specifications of objections showing the clerks' line by line rulings. The use of nominating or designating petitions and specifications by the clerks for the preparation of their report shall have priority over any request for examination or copying by any objector, candidate or their representative.
16. In the event that the specifications of objection present legal rather than or in addition to factual issues, said specifications of objections shall be referred to the Office of the General Counsel of the Board who shall assign staff to examine such specifications of objections and prepare a report to the Commissioners on the legal issues raised in the specifications. The notice and inspection provisions found in Sections 12, 14 and 15 of these Rules shall apply to such Counsel's Report.

J. HEARINGS

- J1. The Commissioners shall render a ruling on specifications of objections after they receive the Clerks' or Counsel's Report. Candidates or objectors who wish to be heard by the Commissioners should review the Clerks'/Counsel's Report and individual line-by-line rulings prior to the Commissioners' hearing. Candidates or objectors are encouraged to present to the Commissioners a list of exceptions which identifies with specificity each ruling by the clerks which is claimed to be erroneous. In view of the short deadlines and urgency of obtaining final rulings by the Board, the Board may reject any application for an extension of time to review the Clerks'/Counsel's Report when the candidate or objector received notice of the Clerks' Report at least 24 hours prior to the hearing (*including* weekends and holidays), or the candidate or objector failed to designate a fax number for the receipt of notice.

- J2. Attorneys appearing on behalf of a candidate or objector must file a Notice of Appearance on the Board prepared form, which shall include the current address, telephone number and fax number of the attorney.
- J3. An individual, other than an attorney (including a candidate or objector), representing a candidate or an objector must file a Notice of Authorization that must be signed by said candidate or objector. Notices of Appearance and/or Authorization can be obtained from the Candidate Records Unit.
- J4. The hearings held by the Board shall be transcribed by a professional reporter and/or tape recorded and preserved in the Board's permanent records. Any person may obtain a copy of the transcript or tape recording by making a written request to the Executive Director or Deputy Executive Director (or their designees) and paying the applicable fee.
- J5. Whenever there is not a quorum of Commissioners present on any day scheduled for Commissioners' hearings, a committee of the Commissioners shall rule on the Clerks' or Counsel's Reports. The committee is constituted pursuant to Election Law §3-212 (5). The committee shall consist of the largest equal number of Commissioners from each of the political parties represented on the Board who are available and designated by the President and Secretary of the Board, who may make such designation by telephone. In the absence of the President or the Secretary, the Commissioner of the same political party with the greatest length of service on the Board who is available shall make such designation. The President and Secretary, or senior Commissioners present shall attempt to confer with the other Commissioners of the same political party before making such designation. The committee shall serve only for that hearing date, or until a quorum of the full Board is present, whichever is shorter, unless the full Board shall provide otherwise.
- J6. The Board may reconsider any determination or the determination of any committee of the Board. In such event, the Board will provide notice to any objector, candidate and representative.

NOTICE:

The sample forms listed below (prepared by the New York State and or City Board of Elections) follows these rules:

- ❑ Designating Petition Sheet;
- ❑ Opportunity To Ballot Petition Sheet;
- ❑ Cover Sheet;
- ❑ Amended Cover Sheet;
- ❑ General Objection;
- ❑ Specifications Of Objection;
- ❑ Certificate Of Acceptance;
- ❑ Certificate Of Declination;
- ❑ Certification Of Authorization;
- ❑ Certificate Of Substitution By Committee To Fill Vacancies After Declination, Death Or Disqualification;
- ❑ Certificate of Substitution by Party Committee after Declination, Death or Disqualification.
- ❑ Notice of Appearance and/or Authorization for Petition Hearings, Death or Disqualification.
- ❑ Sample Specification of Objection Worksheet

Copies of the:

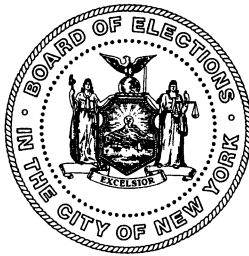
- ❖ **Election Law of the State of New York and**
- ❖ **the Rules and Regulations of The State Board of Elections**

are available for purchase at the Reception Desk at 32 Broadway, 7th floor, New York, N.Y. 10004.

The Election Law and State Board Rules and Sample Forms can also be viewed and downloaded from the State Board of Elections website:

<http://www.elections.state.ny.us/law/elaw.pdf>

Please note that these Rules were adopted unanimously by the Commissioners of Elections in the City of New York, at their public meeting held on Tuesday, April 1, 2008.



FREDERIC M. UMANE
PRESIDENT

JULIE DENT
SECRETARY

JOSE MIGUEL ARAUJO
JUAN CARLOS "J.C." POLANCO
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COMMISSIONERS

BOARD OF ELECTIONS

IN
THE CITY OF NEW YORK
EXECUTIVE OFFICE, 32 BROADWAY
NEW YORK, NY 10004-1609
(212) 487-5300
www.vote.nyc.ny.us

MARCUS CEDERQVIST
EXECUTIVE DIRECTOR

GEORGE GONZALEZ
DEPUTY EXECUTIVE DIRECTOR

PAMELA GREEN PERKINS
ADMINISTRATIVE MANAGER

JOHN J. WARD
FINANCE OFFICER

DATE: March 24, 2009

TO: Commissioners

FROM: John J. Ward
Finance Officer

RE: Comparative Expenditures

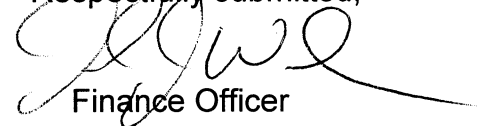
FY09	P.S. Projection through 3/20/09 Payroll:	\$14,955,500
FY09	P.S. Actual through 3/20/09 Payroll:	<u>\$20,120,461</u>
	Difference	(\$ 5,164,961)

Overtime pays two weeks ending 3/06/09

OVERTIME USAGE

General Office	40,598
Brooklyn	14,091
Queens	21,303
Bronx	835
New York	458
Staten Island	<u>10,488</u>
Total	\$87,773

Respectfully submitted,


Finance Officer

Commt
ry

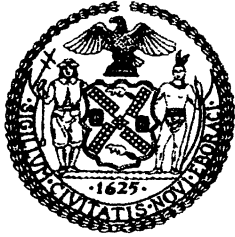
Steven H. Richman

From: Veronica Garcia [garcia@coib.nyc.gov]
Sent: Monday, March 23, 2009 3:31 PM
Subject: Policymakers and Financial Disclosure

Please see attached. Thank you.

Veronica Martinez Garcia
Administrative Assistant
Financial Disclosure Unit
NYC Conflicts of Interest Board
2 Lafayette Street, Suite 1010
New York, NY 10007
(212) 442-1401 tel.
(212) 442-1407 fax

This message is intended only for the use of the Addressee and may contain information that is PRIVILEGED and CONFIDENTIAL. If you are not the intended recipient, you are hereby notified that any dissemination of this communication is strictly prohibited. If you have received this communication in error, please permanently delete all copies of the message and its attachments and notify us immediately at 212-442-1400. Thank you.



CITY OF NEW YORK
CONFLICTS OF INTEREST BOARD

2 Lafayette Street, Suite 1010
New York, New York 10007
(212) 442-1400

Fax: (212) 442-1407 TDD: (212) 442-1443

Steven B. Rosenfeld
Chair/Board Member

Monica Blum
Board Member

Kevin B. Frawley
Board Member

Angela Mariana Freyre
Board Member

Andrew Irving
Board Member

Mark Davies
Executive Director

Wayne G. Hawley
*Deputy Executive Director
& General Counsel*

Carolyn Lisa Miller
Director of Enforcement

Julia Davis
*Special Counsel &
Director of Financial
Disclosure*

Alex Kipp
*Director of Training &
Education*

Ute O'Malley
*Director of
Administration*

Derick Yu
*Director of Information
Technology*

March 23, 2009

Dear Agency Counsels and Financial Disclosure Liaisons:

The Conflicts of Interest Board ("COIB" or "the Board") has received inquiries asking whether City employee designees to City boards and commissions - that is, employees who are designated to sit on a board or commission in the place of another employee who is a member of the board or commission - are required to file financial disclosure reports. This letter addresses that question.

Section 12-110(b)(3)(a)(3) of the Administrative Code of the City of New York requires the filing of a financial disclosure report by each city employee "who holds a policymaking position . . . , as defined by rule of the conflicts of interest board and as annually determined by the head of his or her agency, subject to review by the conflicts of interest board." Under the rules promulgated by the Board, employees are deemed to hold policymaking positions when they are charged with substantial policy discretion within the meaning of the rules. (53 RCNY 1-14.) A public servant is deemed to have substantial policy discretion "if he or she has major responsibilities and exercises independent judgment in connection with determining important agency matters." (53 RCNY 1-02(a).) The list of public servants who exercise substantial policy discretion includes compensated members of boards and commissions. (53 RCNY 1-02(a).)

Oftentimes, a City employee who is a member of a board or commission ("board member") designates another employee to represent him or her on that board or commission ("board designees").¹ The question has arisen as to whether board designees are required to file a financial disclosure report based on this designation.²

¹ Board designees most often serve in the place of elected officials and agency heads.

² Note that a board designee is not required to file a financial disclosure report if his or her designating board member is not required to file.

Visit our home page at <http://nyc.gov/ethics>

A board designee whose duties only involve reporting the board's activities to the board member who designated him or her but do not include voting on matters before the board, voicing the opinion of either the board designee or the board member, or performing any other task that requires major responsibilities or the independent judgment of the board designee is not required to file a financial disclosure report.

A board designee who participates in discussions concerning board matters, whether or not he or she voices the opinion of the board designee or the board member, who votes on any matter before the board, or who otherwise has major responsibilities or exercises independent judgment as a result of the designee's service on the board is required to file a financial disclosure report. Accordingly, any employee in your agency who fits in the latter group is required to file a financial disclosure report.

We wish to advise you that, consistent with the law, the board designee has the right to seek review of the determination that he or she is required to file. (See Ad. Code 12-110(c)(3).)

I thank you in advance for your attention to this matter. If you have any questions, please call me at 212-442-1445.

Sincerely,



Julia Davis,
Special Counsel and
Director of Financial Disclosure

George Gonzalez

From: PAUL COLLINS [PCOLLINS@elections.state.ny.us]
Sent: Friday, March 20, 2009 4:49 PM
Cc: Douglas Kellner; KIMBERLY GALVIN
Subject: Emailing: March 20, 2009 Status Report and Cover Letter

COMM
FYI
GA

The message is ready to be sent with the following file or link attachments:

March 20, 2009 Status Report and Cover Letter

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

Paul M. Collins
Special Deputy Litigation Counsel
New York State Board of Elections
40 Steuben Street
Albany, New York 12207-2108
(518) 473-5088
(518) 486-4546 (fax)
pcollins@elections.state.ny.us



State of New York
STATE BOARD OF ELECTIONS

James A. Walsh
Chair
Douglas A. Kellner
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Gregory P. Peterson
Commissioner
Evelyn J. Aquila
Commissioner

40 STEUBEN STREET
ALBANY, N.Y. 12207
Phone: 518/474-6367 Fax: 518/486-4546
website: www.elections.state.ny.us

Todd D. Valentine
Executive Director
Stanley L. Zalen
Executive Director
Kimberly A. Galvin
Special Counsel
Paul M. Collins
Deputy Counsel

March 20, 2009

Honorable Gary L. Sharpe
United States District Court
for the Northern District of New York
James T. Foley U.S. Courthouse
445 Broadway, Room 441
Albany, New York 12207

Re: *United States v. New York State Board of Elections, et al.*
Civil Action No. 06-CV-0263 (GLS)

Dear Judge Sharpe,

We enclose herewith Status Report of the Defendant New York State Board of Elections for the week ending March 19, 2009.

Respectfully submitted,

s/ _____
Kimberly A. Galvin (505011)
Special Counsel

s/ _____
Paul M. Collins (101384)
Deputy Special Counsel

HAVA COMPLIANCE UPDATE
Activities & Progress for the Week of 03/13/09 – 03/19/09

Following is a detailed report concerning the previous week's progress in implementing the terms of the Court's Orders.

PLAN A

Overall Compliance Status Summary

Overall, activities and progress toward HAVA compliance are in jeopardy and behind schedule per the project timeline for Plan A.

Contracting with Voting System Vendors

Status of tasks in this category: *on schedule*

- SBOE is finalizing the contract language to reflect the recently held contract discussions.

Testing, Certification, and Selection of Voting Systems & Devices

Status of tasks in this category: *in jeopardy and behind schedule*

- Weekly status meetings were held with NYSTEC to review progress with regard to Plan A.
 - Overall progress of testing :
 - NYSTEC identified a list of outstanding issues that the vendors and SysTest will need to have resolved before testing can resume. A meeting is schedule for 3/20/09 to discuss the key issues.
 - NYSTEC, SysTest and SBOE have all agreed to the following detailed project plan:
 - All test cases will be in vendor hands by 3/31/09.

NYSTEC, SysTest and SBOE held a conference call on 3/18/09 to discuss a new timetable for concluding certification testing. As a result of that information Counsel for the SBOE, with the consent of all other counsel, has, on March 20, 2008, made a

NEW YORK STATE BOARD OF ELECTIONS

request to the Court for a Conference subsequent to the March 26th Board meeting.

- The Board directed the SBOE staff to rescind the stop work order issued to SysTest on October 28, 2009 and same has been rescinded.
- Conference calls between vendors, SBOE, NYSTEC and SysTest continue to discuss outstanding issues.
- SBOE staff is internally discussing the testing timeline recently provided to them by SysTest.

Delivery and Implementation of Voting Systems & Devices

Status of tasks in this category: *on schedule*

HAVA COMPLAINT PROCESS

NYC HAVA Complaint

SBOE is still awaiting a response from NYC.

copy
KZI
99

VOTER REGISTRATION
PRIMARY ELECTION

MAIL REGISTRATION Sec. 5-210(3)

Application must be postmarked not later than August 21st and received by a board of elections not later than August 26th to be eligible to vote in the Primary Election.

IN PERSON REGISTRATION

Secs. 5-210, 5-211, 5-212

You may register at your local board of elections or any state agency participating in the National Voter Registration Act, on any business day throughout the year but, to be eligible to vote in the Fall primary, your application must be received no later than August 21st.

CHANGE OF ADDRESS

Sec. 5-208(3)

Notices of change of address from registered voters received by August 26th by a county board of elections must be processed and entered in the records in time for the primary election.

GENERAL ELECTION

MAIL REGISTRATION

Sec. 5-210(3)

Applications must be postmarked not later than October 9th and received by a board of elections not later than October 14th to be eligible to vote in the General Election.

IN PERSON REGISTRATION

Secs. 5-210, 5-211, 5-212

You may register at your local board of elections or any state agency participating in the National Voter Registration Act, on any business day throughout the year but, to be eligible to vote in the November general election, your application must be received no later than October 9th except, if you have been honorably discharged from the military or have become a naturalized citizen since October 9th, you may register in person at the board of elections up until October 23rd.

CHANGE OF ADDRESS

Sec. 5-208(3)

Notices of change of address from registered voters received by October 14th by a county board of elections must be processed and entered in the records in time for the general election.

VOTING BY ABSENTEE BALLOT

FOR PRIMARY

Sec. 8-400

Sept. 8 Last day to postmark application for ballot. Sec. 8-400(2)(c)

Sept. 14 Last day to apply in person for ballot. Sec. 8-400(2)(c)

Sept. 14 Last day to postmark ballot. Must be received by the county board no later than Sept. 22nd. Sec. 8-412(1)

Sept. 15 Last day to deliver ballot in person to the county board. Sec. 8-412(1)

FOR GENERAL

Sec. 8-400

Oct. 27 Last day to postmark application or letter of application for ballot. Sec. 8-400(2)(c)

Nov. 2 Last day to apply in person for ballot. Sec. 8-400(2)(c)

Nov. 2 Last day to postmark ballot. Must be received by the board of elections no later than Nov. 10th. Sec. 8-412(1)

Nov. 3 Last day to deliver ballot in person to the board of elections. Sec. 8-412(1)

MILITARY VOTERS FOR PRIMARY

Sec. 10-106

Aug. 21 Last day for a board of elections to receive application for ballot if not previously registered.

Sept. 8 Last day for a board of elections to receive application if previously registered.

Sept. 14 Last day to apply personally if previously registered.

MILITARY VOTERS FOR GENERAL

Sec. 10-106

Oct. 23 Last day for a board of elections to receive application if not previously registered.

Oct. 27 Last day for a board of elections to receive application for general election if previously registered.

Nov. 2 Last day to apply personally for general election ballot if previously registered.

FINANCIAL DISCLOSURE **

DATES FOR FILING:

PRIMARY ELECTION

32 Day Pre-Primary Aug. 14
11 Day Pre-Primary Sept. 4
10 Day Post Primary Sept. 25
Sept. 1st thru Sept. 14th *

GENERAL ELECTION

32 Day Pre-General Oct. 2
11 Day Pre-General Oct. 23
27 Day Post General Nov. 30
Oct. 20th thru Nov. 2nd *

*During this time period any contribution or loan which exceeds \$1,000 must be reported within 24 hours of receipt. This same contribution or loan must also be reported in the Post-Election report.

Periodic Reports

January 15
July 15

****NOTE:**

For complete information on the manner, time and place for filing campaign financial disclosure reports, contact the State Board of Elections at 1-800-458-3453, your county board of elections, or see Article 14 of the NYS Election Law and Part 6200 of the Rules and Regulations.



Primary Election - September 15

General Election - November 3

This political calendar contains ready reference to the significant dates pertaining to elections to be held in this state. It constitutes a valuable guide to the proper administration of our election process. For complete information be sure to consult the applicable Election Law and Regulations.

All dates are based on statutory provisions in effect on the date of publication. Final confirmation should be obtained from your county board of elections.

NEW YORK STATE
BOARD OF ELECTIONS
40 STEUBEN STREET
ALBANY, NEW YORK 12207

(518) 474-6220

TDD 1-800-533-8683 (Hearing Impaired)

www.elections.state.ny.us

March 19, 2009

ELECTION DATES

CERTIFICATION Sec. 4-110
Aug. 10 Certification of primary ballot by State Board of Election of designations filed in its office.

PRIMARY ELECTION Sec. 8-100(1)(a)
SEPTEMBER 15

HOURS: In New York City and the counties of Nassau, Suffolk, Westchester, Rockland, Orange, Putnam and Erie, POLLS OPEN AT 6 AM and CLOSE AT 9 PM, In all other counties POLLS OPEN AT 12 NOON and CLOSE AT 9 PM.

CERTIFICATION Sec. 4-112(1)
Sept. 28 Certification of general election ballot by State Board of Elections of nominations filed in its office.

GENERAL ELECTION Sec. 8-100(1)(c)
NOVEMBER 3

HOURS: POLLS OPEN AT 6 AM and CLOSE AT 9 PM

BECOMING A CANDIDATE

PARTY DESIGNATIONS

PARTY CALLS Sec. 2-120
May 26 Last day for State & County party chairs to file a statement of party positions to be filled at the Primary Election.

DESIGNATING PETITIONS Secs. 6-132 & 6-134

June 9 First day for signing designating petitions.
Sec. 6-134(4)
July 13 - July 16 Dates for filing designating petitions.
Sec. 6-158(1)
July 20 Last day to authorize designations.
Sec. 6-120(3)

July 20 Last day to accept or decline a designation
Sec. 6-158(2)
July 24 Last day to fill a vacancy after a declination.
Sec. 6-158(3)
July 28 Last day to file authorization of substitution.
Sec. 6-120(3)

OPPORTUNITY TO BALLOT PETITIONS Sec. 6-166

June 30 First day for signing. Sec. 6-164
July 23 Last day to file petitions. Sec. 6-158(4)
July 30 Last day to file an OTB petition if there has been a declination by a designated candidate.
Sec. 6-158(4)

PARTY NOMINATIONS OTHER THAN PRIMARY

May 19 - June 9 Dates for holding state committee meeting to nominate candidates for statewide office. Sec 6-104(6)

June 9 First day for holding a town caucus. Sec. 6-108

Sept. 22 Last day for filing nominations made at a town or village caucus or by a party committee. Sec. 6-158(6)

Sept. 22 Last day to file certificates of nomination to fill vacancies created pursuant to Secs. 6-116 & 6-158(6)

Sept. 25 Last day to accept or decline a nomination
Sec. 6-158(7)

Sept. 28 Last day to file authorization of nomination
Secs. 6-120 & 1-106

Sept. 29 Last day to fill a vacancy after a declination. Sec. 6-158(8)

INDEPENDENT NOMINATIONS

INDEPENDENT PETITIONS Secs. 6-138 & 6-140
July 7 First day for signing nominating petitions.
Sec. 6-138(4)

Aug. 11 thru 18 Dates for filing independent nominating petitions. Sec. 6-158(9)

Aug. 21 Last day to accept or decline nomination.
Sec. 6-158 (11)

Aug. 24 Last day to fill a vacancy after a declination. Sec. 6-158(12)

Sept. 18 Last day to decline after acceptance if nominee loses party primary.
Sec. 6-158(11)

SIGNATURE REQUIREMENTS FOR INDEPENDENT NOMINATING PETITIONS
Sec. 6-142

5% of the total number of votes, excluding blank and void, cast for the office of governor at the last gubernatorial election in the political unit, except that not more than 3,500 signatures shall be required on a petition for any office to be filled in any political subdivision outside the City of New York, and not more than the following for any office to be voted for by all the voters of:

- the entire state (with at least 100 from each of one-half of the congressional districts)15,000
- any county or portion thereof outside the city of New York1,500
- the City of New York7,500
- any county or borough or any two counties or boroughs within the City of New York4,000
- a municipal court district3,000
- any city council district within New York City2,700
- any congressional district3,500
- any state senatorial district3,000
- any assembly district1,500
- the office of trustee of the Long Island Power Authority500
- any political subdivision contained within another, except as provided otherwise herein, the number required is not to exceed the number required for the larger subdivision.

SIGNATURE REQUIREMENT FOR DESIGNATING AND OPPORTUNITY TO BALLOT PETITIONS
Sec. 6-136

5% of the enrolled voters of the political party in the political unit (excluding voters in inactive status) or the following, whichever is less:

For any office to be filled by all the voter of:

the entire state15,000
(with at least 100 or 5% of enrolled voters from each of one-half of the congressional districts)

New York City7,500

any county or borough of New York City4,000

a municipal court district within New York City...1,500

any city council district within New York City.....900

cities or counties having more than 250,000 inhabitants2,000

cities or counties having more than 25,000 but not more than 250,000.....1,000

any city, county, councilmanic or county legislative districts in any city other than New York City.....500

any congressional district1,250

any state senatorial district1,000

any assembly district500

any political subdivision contained within another political subdivision, except as herein provided, requirement is not to exceed the number required for the larger subdivision; a political subdivision containing more than one assembly district, county or other political subdivision, requirement is not to exceed the aggregate of the signatures required for the subdivision or parts of subdivision so contained.

JUDICIAL DISTRICT CONVENTIONS
Sec. 6-124 & 6-126

Sept. 22 thru 28 Dates for holding J.D. conventions.
Sec. 6-158(5)

Sept. 29 Last day to file certificates of nomination.
Sec. 6-158(6)

Oct. 2 Last day to decline nomination.
Sec. 6-158(7)

Oct. 6 Last day to fill vacancy after a declination.
Sec. 6-158(8)

Minutes of a convention must be filed within 72 hours of adjournment. Sec. 6-158(6)

FYI

Resolution No. 80
SCHUYLER COUNTY LEGISLATURE

Regular Meeting
March 9, 2009

Intro. No. 16
Approved by Committee DAF
Approved by Co. Atty. DJM

Motion by Fagan
Seconded by Field
Vote: 6 Ayes to 0 Noes
Name of Noes _____

RE: RESOLUTION URGING THE NEW YORK STATE ASSEMBLY, SENATE AND GOVERNOR AND THE NEW YORK STATE BOARD OF ELECTIONS TO ENACT LAWS, RULES AND REGULATIONS THAT SPECIFICALLY AUTHORIZE THE CONTINUED USE OF LEVER STYLE VOTING MACHINES AS A SOLUTION TO UNWARRANTED EXPENSES TO THE CITIZENS OF SCHUYLER COUNTY RELATIVE TO HAVA – BOARD OF ELECTIONS – **AS AMENDED**

WHEREAS, for many decades Schuyler County has successfully used mechanical lever-style voting machines, with very few problems, and is desirous of continuing to do so, and

WHEREAS, New York State enacted the Election Reform and Modernization Act of 2005 (ERMA) and other laws that require all lever machines to be replaced and prohibit the use of any lever machines in any future elections in New York State, and

WHEREAS, said New York State legislation relating to voting machines far exceeds the federal requirements of Help America Vote Act (HAVA), and

WHEREAS, while Schuyler County has been the recipient of federal funds to implement HAVA, the state's additional requirements and method of allocating funds has created undue financial hardship with mandated expenses far exceeding formula based revenues , and

WHEREAS, said HAVA funding formula is not equitable to the smaller counties in that after purchasing the necessary voting machines and a minimal amount of training there are no funds left for the remainder of training and purchasing of the hardware and software necessary to operate the machines and the hiring of additional personnel to program machines, do the necessary quarterly testing, ballot definition, etc. as there is for the larger counties, and

WHEREAS, this inequitable formula is placing a severe burden on counties that have a smaller population and tax base with less ability to raise the funds necessary to purchase the hardware, software and additional training which in Schuyler County's case, are in excess of \$100,000, and

WHEREAS, both in terms of efficacy and cost efficiency, Schuyler County believes that the continued used of lever-style voting machines is in the best interest of the public and should be permitted to be used in future elections, and

WHEREAS, the State's statutorily required elimination of lever-style voting machines is unnecessary, inappropriate, and costly to Schuyler County taxpayers, and in these difficult economic times the cost to implement elections with these new machines will not be paid for by New York State and is an unfunded mandate.

NOW, THEREFORE, BE IT RESOLVED, that the Schuyler County Legislature hereby urges the New York State Assembly, Senate and Governor and the New York State Board of Elections to enact laws, rules, and regulations that specifically authorize the continued use of lever-style voting machines, as a solution to the unwarranted expenses to the citizens of Schuyler County relative to HAVA and ensuring New York State continued maintenance of a transparent, secure, accurate and reliable electoral system using lever-style voting machines, and

BE IT FURTHER RESOLVED, that the Clerk of the Schuyler County Legislature shall forward copies of this resolution to Governor David Paterson, New York State Comptroller's Office, Senate Majority Leader Dean O. Skelos, Senate Minority Leader Malcolm Smith, Assembly Speaker Sheldon Silver, Assembly Majority Leader Ron Canestrari, Senator George H. Winner, Jr., Assemblyman Thomas F. O'Mara, the New York Sate Association of Counties (NYSAC), and the Inter-County Association of Western New York.



FREDERIC M. UMANE
PRESIDENT

JULIE DENT
SECRETARY

JOSE MIGUEL ARAUJO
JUAN CARLOS "J.C." POLANCO
JAMES J. SAMPSEL
NANCY MOTTOLA-SCHACHER
NAOMI C. SILIE
J.P. SIPP
GREGORY C. SOUMAS
JUDITH D. STUPP
COMMISSIONERS

BOARD OF ELECTIONS

IN
THE CITY OF NEW YORK
EXECUTIVE OFFICE, 32 BROADWAY
NEW YORK, NY 10004-1609
(212) 487-5300
www.vote.nyc.ny.us

MARCUS CEDERQVIST
EXECUTIVE DIRECTOR

GEORGE GONZALEZ
DEPUTY EXECUTIVE DIRECTOR

PAMELA GREEN PERKINS
ADMINISTRATIVE MANAGER

STEVEN H. RICHMAN
GENERAL COUNSEL
Tel: (212) 498-5338
Fax: (212) 497-5342
E-Mail:
srichman@boe.nyc.ny.us

March 17, 2009

Michael A. Cardozo, Esq.
Corporation Counsel of the City of New York
New York City Law Department
100 Church Street
New York, NY 10007

Dear Mr. Cardozo:

The Commissioners of Elections in the City of New York in an Executive Session held on Tuesday, March 3, 2009 directed that I communicate the following request for the New York City Law Department to commence the litigation outlined below on behalf of the Board of Elections in the City of New York, pursuant to the provisions of Section 394 of the New York City Charter.

As you are aware, the Help America Vote Act of 2002 (HAVA) required each state to establish a statewide voter registration list to serve as the official listing of eligible voters within each state. HAVA requires that each State's list comply with the applicable federal and state requirements regarding voter registration.

The Board of Elections in the City of New York believes that the New York State Board of Elections seeks to operate and maintain a Statewide Voter Registration List and the procedures for its operation in a manner

inconsistent with 42 USC §§ 15483 & 15485 and the Constitution and Laws of the State of New York. The Board believes that the State Board of Elections has sought to compel the Board of Elections in the City of New York to take actions which are contrary to the Constitution and Laws of the State of New York as well as the Constitution and Laws of the United States of America.

Specifically, the ability of local Board employees to enter data into the statewide data base without a review by employees of the other political party creates a scenario where an employee affiliated with one party can improperly add voters of their party or delete voters of another party without bipartisan review. Bipartisan action is the basic tenet of the New York's system of election administration and is reflected throughout the New York State Election Law which governs the conduct of the State and local Boards of Elections.

The Board has sought to address this problem through the Administrative Complaint Procedures administered by the State Board of Elections, pursuant to the provisions of Section 3-105 of the New York State Election Law. Enclosed herewith are copies of the relevant documents.

The City Board was the subject of a HAVA Complaint (No. 08-01) filed by an individual Robert McFeeley which was determined in a decision adopted by the State Board on July 22, 2008. That determination directed the City Board to use the interactive features of the NYS Voter System, notwithstanding the City Board's concerns that such features fail to comply with the constitutional and statutory requirements.

The City Board responded to that determination by filing its own HAVA Complaint (No. 08-02), originally on August 12, 2008. The State Board rejected that filing in that it was not on the printed forms provided by the State Board. The same complaint was re-submitted on August 26, 2008 using the State Board's pre-printed form.

That complaint sets forth with specificity the claims of the City Board, based on HAVA, the New York State Constitution and the New York State Election Law. In that complaint, the Board sought the following relief:

A determination directing the New York State Board of Elections to:

- (1) cease and desist from any attempts to operate or implement a Statewide Voter Registration List that does not comply with the Constitutional and Statutory requirements (i.e. – NYSVoter as it currently exists);
- (2) promulgate rules and regulations governing the Statewide Voter Registration List that is consistent with New York State's Constitutional and Statutory requirements for the bipartisan administration of that process and the creation and maintenance of appropriate records of those bipartisan actions;
- (3) obtain pre-clearance pursuant to Section 5 of the Voting Rights Act of 1965, as amended, before seeking to implement any change in practice or procedure relating to the eligibility of persons to register and vote within the State of New York.

In addition, given the fact that the relief sought was against the State Board of Elections, The City Board requested that the State Board of Elections immediately refer this complaint to the alternative dispute resolution agency, pursuant to Section 3-105(8) of the Election Law, for a final determination.

On November 6, 2008, the State Board determined that the Complaint should be dismissed because the requested relief "immediately refer this Complaint to the alternative dispute resolution agency" has no support in law.

The staff of the City Board and the State Board has met in an effort to resolve this matter. Those efforts have proved to be unsuccessful.

Therefore, the Commissioners unanimously determined that the next step should be the commencement of a proceeding to obtain the relief sought in our HAVA complaint:

- that the Statewide Voter Registration List be operated in a manner that is consistent with New York State's Constitutional and Statutory requirements for the bipartisan administration of that process and the creation and maintenance of appropriate records of those bipartisan actions; and

- that the State Board of Elections obtain pre-clearance under Section 5 of the Voting Rights Act of 1965, as amended, before it implements the operation of the Statewide Voter Registration List.

The Commissioners would appreciate the Law Department's advice and guidance as to the appropriate forum to commence this proceeding, the New York State Courts under Article 78 of the CPLR or a declaratory judgment action, in a U.S. District Court under the Voting Rights Act or both.

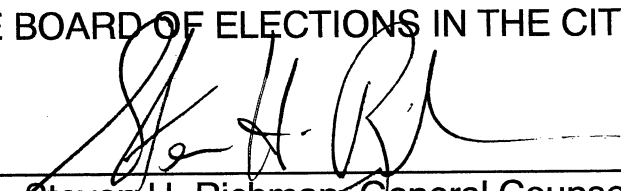
The Commissioners would appreciate the opportunity to speak directly to you or the appropriate staff of the Law Department so that the proceeding will be commenced in the immediate future.

I want to thank you in advance for your cooperation, understanding and assistance in this matter. The Commissioners look forward to the Law Department's prompt and professional response.

Very truly yours,

THE BOARD OF ELECTIONS IN THE CITY OF NEW YORK

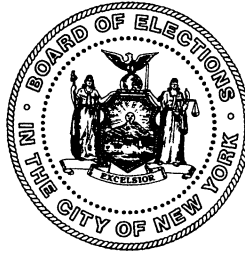
By: _____


Steven H. Richman, General Counsel

Copies: The Commissioners of Elections in the City of New York
Marcus Cederqvist, Executive Director
George Gonzalez, Deputy Executive Director
Pamela Perkins, Administrative Manager
Steve Ferguson, Director, Management Information Systems
Charles Webb, III, Esq., Counsel to the Commissioners
Steven Denkberg, Esq., Counsel to the Commissioners
John Owens, Esq., Director of Campaign Finance
Reporting Enforcement

Enclosures:

- (1) State Board of Elections letter dated July 23, 2008 transmitting the State Board's Determination in the McFeeley Complaint (No. 08-01) together with a copy of the Determination;
- (2) State Board of Elections letter dated August 7, 2008 to the Commissioners of Elections in the City of New York;
- (3) City Board letter dated August 12, 2008 transmitting to the State Board our HAVA Complaint along with a copy of that Complaint;
- (4) City Board letter dated August 26, 2009 transmitting to the State Board the HAVA Complaint (on the SBOE form) along with a copy of the August 12, 2008 letter and Complaint;
- (5) State Board of Elections letter dated August 29, 2008 transmitting the Notice of Acceptance of the City Board's Complaint (as No. 08-02);
- (6) November 17, 2008 Memorandum of the City Board's General Counsel to the Commissioners transmitting the State Board of Elections Determination of HAVA Complaint No. 08-02, with a copy of the State Board of Elections November 13, 2008 letter of transmittal and the State Board's November 6, 2008 Determination of HAVA Complaint No. 08-02.



FREDERIC M. UMANE
PRESIDENT

JULIE DENT
SECRETARY

JOSE MIGUEL ARAUJO
JUAN CARLOS "J.C." POLANCO
JAMES J. SAMPEL
NANCY MOTTOLA-SCHACHER
NAOMI C. SILIE
J.P. SIPP
GREGORY C. SOUMAS
JUDITH D. STUPP
COMMISSIONERS

BOARD OF ELECTIONS

IN
THE CITY OF NEW YORK
EXECUTIVE OFFICE, 32 BROADWAY
NEW YORK, NY 10004-1609
(212) 487-5300
www.vote.nyc.ny.us

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srichman@boe.nyc.ny.us

March 23, 2009

TO: The Commissioners of Elections,

FROM: Steven H. Richman, General Counsel

**COPY: Marcus Cederqvist, George Gonzalez, Pamela Perkins,
Roseanna Rahmouni, Valerie Vasquez-Rivera, Charles
Webb, Steven Denkberg, John Owens,
Deputy Chief Clerks – Bronx
Stephen Kitzinger, Esq., Assistant Corporation Counsel,
NYC Law Department
Lester Paverman, Esq., Legal Bureau, NYC Police
Department**

**RE: SPECIAL TERM FOR ELECTION MATTERS – APRIL 21,
2009 SPECIAL ELECTION – BRONX BOROUGH
PRESIDENT**

Attached is a copy of Administrative Transfer Order 43 issued by Hon. Fern A. Fisher, Deputy Chief Administrative Judge of the State of New York for New York City Courts, on March 18, 2009, establishing a Special Election Matters Term to hear and determine all cases arising under the Election Law relating to the eligibility for voting in the April 21, 2009 Special Election in Bronx County.

This Special Term for Election Matters will convene from 6 AM to 9 PM at the Bronx Office of the Board of Elections.

Notes to the Deputy Chiefs:

PLEASE MAKE THE APPROPRIATE ARRANGEMENTS TO ACCOMMODATE THE JUSTICES OF THE SUPREME COURT AND THEIR SUPPORT PERSONNEL.

If the assigned Justice does not appear at the scheduled time, please contact my office immediately so that appropriate notifications to the Deputy Chief Administrative Judge's office can be made and the situation addressed forthwith.

Thank you for your cooperation in this matter. If you have any questions, please call me.

Attachment



NEW YORK STATE
UNIFIED COURT SYSTEM
111 CENTRE STREET
NEW YORK, NEW YORK 10013
646-386-4200

ANN PFAU
CHIEF ADMINISTRATIVE JUDGE

FERN A. FISHER
DEPUTY CHIEF ADMINISTRATIVE JUDGE
NEW YORK CITY COURTS

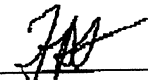
ADMINISTRATIVE TRANSFER ORDER 43

Pursuant to the authority vested in me, I hereby temporarily designate a Special Term, of the Supreme Court, Civil Branch, Bronx County, Twelfth Judicial District, for Election Matters, Relative to a Special Election to be held on Tuesday, April 21, 2009, to hear and determine all cases arising under the Election Law relating to eligibility for voting, and do assign the following Supreme Court Justices to hold such Special Term for Election Matters, in addition to their other assignments:

BRONX COUNTY
Board of Elections
1780 Grand Concourse, Bronx, New York 10457

7:00 A.M. to 2:00 P.M. HON. JOHN A. BARONE
2:00 P.M. to 9:00 P.M. HON. MARYANN BRIGANTTI-HUGHES

Dated: New York, New York
 March 18, 2009



FERN FISHER
Deputy Chief Administrative Judge
New York City Courts

2009 MAR 20 PM 6:53

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GENERAL COUNSEL
BD. OF ELECTIONS
IN THE CITY OF NEW YORK

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Term-limit change foes foiled again, but press on

BY KATHLEEN LUCADAMO
and ERIN EINHORN
DAILY NEWS CITY HALL BUREAU

OPPONENTS OF Mayor Bloomberg's stunning term limits extension vowed to fight on yesterday after the U.S. Justice Department handed them another defeat.

"The long struggle for voting rights has been full of setbacks like this, but time and again the principles of democracy have defeated the politics of the moment," said city controller and mayoral contender Will

iam Thompson.

The Justice Department must approve all changes to voting rules in cities covered by the 1965 Voting Rights Act.

Its ruling yesterday signed off on the City Council vote that gave Bloomberg a chance to seek a third term — rejecting claims from opponents who said the move will discourage minority candidates for office.

Opponents also lost their first round of a federal lawsuit, but they are pursuing an

appeal.

"Our fight continues," said Randy Masfro, an attorney for the opponents and a former deputy mayor under Rudy Giuliani.

Bloomberg said he was "pleased" by the ruling and looks forward to convincing New Yorkers to reelect him.

Rep. Anthony Weiner, who last week signaled he may drop his mayoral bid, issued a statement criticizing the ruling, but did not address his status in the race. His filings with the city's campaign

nance board, however, showed he returned more money to donors than he collected in the past two months.

The Queens Democrat spent \$130,000 over that period, compared with Mayor Bloomberg's \$3 million. Thompson raised \$70,000, but spent \$125,000.

Weiner gave back \$61,150 to deep-pocketed donors since January, while collecting only \$47,840 in campaign contributions, records show. With Adam Lisberg

Extension of Term Limits Clears a Key Legal Hurdle

By FERNANDA SANTOS

The Justice Department announced on Tuesday that it would not block the term limits extension signed into law by Mayor Michael R. Bloomberg in November, essentially agreeing that it does not hurt minority voters or candidates who will be running for office next fall.

The decision concludes a process known as preclearance, a provision of the Voting Rights Act of 1965 meant to ensure that changes in election law do not make it harder for an ethnic or racial group to win political representation. It also represents a decisive victory for Mayor Bloomberg, who put his political reputation on the line to push for a law that undoes the two-term limit established by voters.

In a two-paragraph letter, Christopher Coates, chief of the voting section in the department's civil rights division, said that Attorney General Eric H. Holder Jr. "does not interpose any objection to the specific changes" imposed by the term limits legislation. The law allows the mayor and all other elected city officials who are serving their second four-year term in office to compete for a third term.

"This approval ensures that the city can move forward with timely implementation of the law in preparation for upcoming elections," the city's corporation counsel, Michael A. Cardozo, said

in a statement.

Speaking to reporters, Mr. Bloomberg said that he was pleased with the ruling, but that "it doesn't change anything," at least not for him. "I've got 290 days to work as hard as I can, to do the best job I can and to tell the public what I would do if they gave me another four years," he said.

The term limits extension, passed in a narrow vote by the City Council, has already survived a series of challenges: boisterous protests, behind-the-scenes maneuvering by opponents and proponents to try to sway local legislators and a federal lawsuit that, though rejected in January, is under appeal.

But the Justice Department's decision was the last significant hurdle the law had to clear before it was implemented, as most legal experts agree that the appeal, which is scheduled to be heard this month, is unlikely to succeed.

In their submission to the Justice Department, opponents argued that the term limits extension would make it harder for minority candidates to beat entrenched incumbents.

The Justice Department refused the argument.

"We are obviously disappointed," said Randy M. Mastro, the lawyer who represented the opponents, including Councilwoman Letitia James of Brooklyn and some minority Council candidates. "But our fight continues." *

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