

MEETING OF THE COMMISSIONERS OF ELECTIONS  
IN THE CITY OF NEW YORK  
HELD ON TUESDAY, AUGUST 27, 2024 AT 1:00 P.M.  
42 BROADWAY, 6<sup>th</sup> FLOOR, COMMISSIONERS' HEARING ROOM  
NEW YORK, NY 10004

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PRESENT: President Rodney L. Pepe-Souvenir  
Secretary Frederic M. Umane

Commissioners Jose M. Araujo, Carol R. Edmead, Gino A. Marmorato, \*Jodi Morales, Simon Shamoun, Michele A. Sileo

Michael J. Ryan, Executive Director  
Vincent M. Ignizio, Deputy Executive Director  
Georgea Kontzamanis, Operations Manager  
Michael D. Corbett, Administrative Manager  
Raphael Savino, Deputy General Counsel  
Steven B. Denkberg, Counsel to the Commissioners  
Kenneth Moltner, Counsel to the Commissioners

GUESTS: Ralph Yozzo  
Alan Flacks  
Emily Y. Miller

\*Commissioner Morales appeared remotely, but not at a publicly accessible location, and therefore did not cast any votes.

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Mr. Ryan opened the meeting with item #1 of the meeting agenda, the approval of the minutes of the July 30, 2024 Commissioners Meeting.

Hearing no objections, the minutes of the July 30, 2024 Commissioners Meeting were adopted as submitted.

Mr. Ryan stated that in addition to the items listed on the agenda, there is one item to be presented by Raphael Savino, Deputy General Counsel, regarding a candidate for Assembly, Awadhesh Gupta that has “Dr.” in front of their name under which they petitioned and that is not legally acceptable.

Mr. Ignizio suggested that Mr. Savino continue with the matter and address the Commissioners.

Mr. Savino stated that there is a candidate by the name of Dr. Gupta, Republican Candidate in the 73<sup>rd</sup> Assembly, and there is case law that says that the “Dr.” title cannot be on the ballot. In the case of Toigo v. Board of Elections, “Dr.” should be removed, it is a 1966 case and is still good case law.

Commissioner Shamoun noted that he has not reviewed the case law and memo and would like to defer this to another date or abstain.

Mr. Ryan stated that we have received notification from the State Board of Elections that they are not going to list the candidate using the name “Dr.” on their certified list of candidates. Usually, we don’t get that involved in a local matter but since it is a Presidential election they give the certification of the entire ballot. Mr. Ryan noted that we do have to build ballots and do need a resolution with respect to this matter. The Commissioners will not meet again until mid-September.

President Pepe-Souvenir asked if there are any other salutations that cannot be used. Mr. Savino stated that “Grandpa” was one of them which was brought before this Board, “Dr.”, “Ph.D.”, the case specifically mentions “Dr.”. Mr. Savino confirmed that that is the only issue with this candidate, the use of the “Dr.” salutation, otherwise she would remain on the ballot and as indicated it is still good case law from 1966, the Toigo v. Board of Elections case. Mr. Ryan noted that that was also the position of the State Board of Elections when they provided guidance in that regard.

President Pepe-Souvenir moved to follow the guidance that we are being given and remove the “Dr.” salutation before the name of the candidate and allow the candidate’s name to appear on the ballot as Awadhesh Gupta, as opposed to “Dr.”. Commissioner Araujo seconded the motion, with two abstentions, Secretary Umane and Commissioner Shamoun, the motion did not carry.

President Pepe-Souvenir confirmed that the motion did not pass, Commissioner Shamoun noted that the Commissioners just received the memo, and he would like to take time to read it.

Mr. Ryan continued with item #2 of the meeting agenda, an Update on the November 5, 2024 General Election.

Mr. Ryan provided the following update:

The Board is well into the preparations for the November General Election. The Early Voting period will run from Saturday, October 26, 2024 through Sunday, November 3, 2024. Election Day is on Tuesday, November 5, 2024.

The Board will open 155 Early Voting locations across the five boroughs. This is the most amount of early voting locations, not only in the State, but that the City Board of Elections has ever utilized. This is an increase of 12 sites from the Presidential Primary, and an increase of 67 sites from the 2020 Presidential Election. On Election Day, there will be 1,211 Poll Sites.

This election will include ballot proposals, five from the NYC Charter Revision Commission and one from the State. Ballots will be double-sided, candidates on one side of the page and proposals on the other. Proposals and candidates cannot be on the same page, they would have to be irrespective, even if there was room. Early drafts of the ballots show a requirement of a 19-inch ballot citywide, and a two-page ballot in both Brooklyn and Queens thus far. The ballot will be front and back, and an additional page in both Brooklyn and Queens. Mr. Ryan noted that Brooklyn in particular has quite a few Judge contests on the ballot as well. Ballots need to be finalized at our September 10<sup>th</sup> meeting to meet

statutory requirements, so the earlier question regarding the candidate in the 73<sup>rd</sup> Assembly District can be tabled. The Board will begin mailing ballots on Friday, September 20<sup>th</sup>, and that includes Military, Overseas, etc.

Poll Worker training began on July 19<sup>th</sup> and is ongoing for both election day and early voting. To date, we have trained 12,052 poll workers with 19,466 assigned to classes. We have received 3,494 new poll worker applications since August 1<sup>st</sup>. The Poll Worker recruitment campaign began with a soft launch almost two weeks ago and will continue until October 4<sup>th</sup>. Anyone who wishes to serve as a poll worker please visit [vote.nyc](http://vote.nyc).

Mr. Ryan continued with item #3 of the meeting agenda, the Local Registration Sites.

Mr. Ryan stated that in February the Board verified the dates and hours of Local Registration, which the Board is required to conduct in Presidential years. To meet statutory requirements for days and hours the Board chose Saturday, September 28, 2024 from 1:00 P.M. to 9:00 P.M., and Thursday, October 10, 2024 from 3:00 P.M. to 8:00 P.M. The Board further voted to approve two sites per Assembly District plus Board Offices, a total of 125 sites. This was repetitive from what was conducted in 2016, the last time Local Registration was held in New York State as it was suspended in 2020 due to the COVID-19 emergency.

The Board registered 2,503 voters in a total of 125 sites in 2016. In contrast, in the 15 months since the BOE went live with our voter registration portal, we have registered 51,225 voters. As such, with the advances in the voter registration since 2016, we respectfully request approval to move one site per Assembly District, plus the Borough Offices. This would be a total of 73 sites citywide, which would meet the statutory obligations of the Board under (NYSEL §5-202, subds. 5) allowing for the consolidation of election districts.

Secretary Umane moved to approve the requested changes for Local Registration, President Pepe-Souvenir seconded the motion, which was adopted unanimously.

President Pepe-Souvenir reminded everyone that there is a Golden Day; a person can register to vote on the first day of Early Voting and still be allowed vote. Mr. Ryan confirmed that as long as the law doesn't change and remains that way, the first day of Early Voting will be the last day to register to vote to be eligible for the upcoming election, irrespective of the contest. That is true in all contests across the board, and certainly is true for the Presidential election.

Mr. Ryan continued with item #4 of the meeting agenda, an Update on the Early Voting Hours for the November 5, 2024 General Election.

Mr. Ryan stated that Executive Management has consulted with the Chiefs and Deputies and the Operational Team and are requesting an expansion of the early voting hours to meet additional demand, in addition to the increase in the early voting locations. The recommended hours are 8:00 A.M. to 8:00 P.M., Monday to Friday and 8:00 A.M. to 5:00 P.M. on the weekends. That would be uniform throughout the week and the weekends and would give some predictability to the process. This will give voters a total of 96 early voting hours; that would be 20 hours in addition to what is currently done, which is also the most in the State, and 33 additional hours than were utilized in the 2020 Presidential election, and again that would be the most in the State.

Mr. Ryan stated that if the Commissioners approve the 8:00 A.M. to 8:00 P.M., Monday through Friday and 8:00 A.M. to 5:00 P.M., on the weekends for all four weekend days we would need a motion for such approval.

Commissioner Araujo moved to adopt the Early Voting hours as provided by our Chiefs and Deputies, and Executive Management. President Pepe-Souvenir seconded the motion, with one opposed, Secretary Umane, the motion was adopted unanimously.

Secretary Umame stated that he thinks that our current early voting hours are sufficient. Our poll workers, we are adding on significant additional hours and there is no real allocation potentially for payment for all of the additional hours, which is ok from a fiscal standpoint but is not really fair to the poll workers. The early voting hours are currently sufficient and does not see a need to add on. For those reasons, the Commissioner stated that he respectfully voted no.

Commissioner Edmead stated that one of the things that was put in place to offset that was the bonus on election day, so they could get a benefit even though they were putting in more hours. Mr. Ryan stated that Operational staff is still working with the Chiefs and Deputies to determine what the consensus recommendation would be to come back to the Commissioners, and it is in the pathway of Executive Management's plan to do that on September 10<sup>th</sup> with the rest of the election clean up items.

The motion carries, with a negative from Secretary Umame.

Mr. Ryan continued with item #5 of the meeting agenda, Ballot Matters Pertaining to State Senate Candidate Woodrow Hines in the 31<sup>st</sup> Senatorial District and Member of Assembly Candidate Kenneth Burgos in the 85<sup>th</sup> Assembly District for the November 5, 2024 General Election.



Mr. Ryan acknowledged Mr. Savino, to present the matter.

Mr. Savino stated that the candidates that were just mentioned have filed paperwork with the Board asking to be removed from the ballot, indicating that they do not qualify based on residency. Candidates for State Senate and Assembly are supposed to live in the district for a year. The State Senate candidate has not resided in the district, and that is Mr. Hines. Mr. Burgos has moved to New Rochelle apparently and has also submitted paperwork. There is case law where a County Board removed the candidates and validated substitutions and that was challenged in court, there was an action to invalidate those, and the court ruled that someone can be disqualified based on residency, it is not to be confused with a declination which the deadline has long passed. If they are disqualified, a substitution can be made for that vacancy. The case is Justice v. Gamache, the court stated that if the nominated candidate who seeks to disqualify themselves must present a legal basis for doing so, such basis may be that the candidate will not satisfy the residency requirement at the time of the General Election. Not to be confused with a declination, both candidates have requested removal.

Secretary Umame stated that you can do it, but they couldn't do it in that case because there wasn't sufficient evidence of the fact that they would be disqualified. Mr. Savino stated that he thinks the issue was the way in which the substitution itself was filed. Secretary Umame stated that his concern, which he raised initially,

had to do with the issue of whether you needed to go to court to get a determination of disqualification, and understands that someone is not qualified to run if they don't live in the district. The question was what the procedural position of accomplishing that, and it was always his understanding that you had to go to court to get the determination, and that a mere filing of a document with the County Board or the City Board was not sufficient. The Commissioner also stated that he is not sure if the case cited stands for that proposition, the focus in that case was more on what you had to do in order to substitute and believes that's cited in (NYSEL §6-148) but did not find anything that talked about filing a certificate of disqualification as being a methodology for removing a candidate. The Commissioner stated that he did not think that that one case that was cited specifically dealt with that issue, and the focus really was on the substitution section rather than the process, and thinks that in that case there was a statement of disqualification that was filed but doesn't think, at least in one of the cases that was cited, the court found that the basis was not good enough and not sure if we are in a position to do the fact finding on that. In a case where the candidate has passed away, that is another disqualifying factor, but that is something that if someone provides a death certificate we can rely on. Commissioner Shamoun asked has either candidate provided any proof that they have relocated or do not live in the district. Mr. Savino responded that none was provided that he is aware of, other than Mr. Hines' residency is reflected in the voter registration database which will

show that he never was in the district, and Mr. Burgos has moved out of the district.

There was discussion on how this was not picked up by the Board or was not subject to a challenge or candidate enrollment issue. Mr. Ryan stated that it apparently did not get caught in that process. Secretary Umane stated that as to Mr. Hines, that may be a Board error and based on that we could knock Mr. Hines out because it is something that he thinks we should have picked up probably in CRU when the original petitions were filed. On that basis, the Commissioner stated that he would support and make a motion to have Mr. Hines removed based on potential Board error in not picking up on the fact that he was not a resident of the district in which he was running.

Commissioner Shamoun stated that these are cases of first impression for the Commissioners and will err on the side of accepting whatever letters or documents that they have provided but thinks that in the future they should have to state and prove their case, and it can be a simple lease or deed to a house, to show I used to live here, but now I live here and now I'm disqualified. A simple letter could be self-serving. Secretary Umane stated that particularly in the case of public office, we have in cases of County Committee allowed people who didn't even know they were running on the ballot to come and knock themselves off the ballot, but these are public offices. We've been very "liberal" in those sorts of situations but have

not been that liberal necessarily with candidates for public offices. Commissioner Shamoun also noted that we don't want to necessarily open up an avenue where candidates feel there's a different avenue to try to swap candidates on a ballot. So, in the future whatever submission is made to the Commissioners should be accompanied with an affidavit, supporting documentation to prove their case. President Pepe-Souvenir asked that Mr. Savino confirm regarding Mr. Burgos, he is no longer in the district and has since moved to New Rochelle. Mr. Savino confirmed that Mr. Burgos has submitted a notarized document.

Secretary Umame suggested that the Commissioners rule on these two matters separately.

Secretary Umame moved for Mr. Hines' disqualification based on potential Board error. Commissioner Shamoun seconded the motion, with one abstention, Commissioner Araujo, the motion was adopted unanimously.

Mr. Ryan inquired of Mr. Savino, attached to that memo was a third document; there was the two documents of Mr. Hines and Mr. Burgos, and there was a third document regarding Emerita Torres. Mr. Savino confirmed that Emerita Torres is the substitution. Mr. Ryan stated that we can move on to Mr. Burgos and Ms. Torres would potentially be the substitution. If the Commissioners were to rule that Mr. Burgos is off the ballot, the substitution of Ms. Torres would

be as of right and would not require Board action. Mr. Savino provided (NYSEL §6-148, subds. 1 and 3). Secretary Umane asked that Mr. Savino confirm if the certification of nomination and certificate of acceptance, which is the fourth document, comply with (NYSEL §6-148). Mr. Savino confirmed that it appears to do so and there has been no objections.

Commissioner Shamoun moved to accept the documents and statement submitted and filed by Mr. Burgos removing him from the ballot. Commissioner Edmead seconded the motion, with two abstentions, Commissioner Araujo and Secretary Umane.

Secretary Umane stated that he will change his vote to vote in favor with the understanding that it doesn't have precedential value, and that we are doing it in this case based upon the information provided to us. The Commissioner further noted that he will vote in favor so we can move ahead with the ballots.

The motion carries, with the abstention of Commissioner Araujo.

Commissioner Edmead inquired about Commissioner Shamoun's comments in regard to the Commissioners requesting more authoritative documentation to support, and if he is asking that it be something that the Commissioners make sure goes into place, if this does not set precedent what then

is the next circumstance. Commissioner Shamoun stated that it was a way of him saying that the next time he votes on a matter such as this, he will take that into consideration. Commissioner Edmead asked if that will be a requirement, that they submit sufficient documentation. Commissioner Shamoun stated that the Commissioners will always have a fresh vote on a new matter anyway, that is how he will be voting next time, whether or not it has to be adopted as a formal policy it can go either way. Secretary Umane stated that it makes sense to require appropriate proof rather than just a letter or even a notarized letter from the person without any backup of any kind at all. Even a voter registration form filed at a different location would be additional evidence, and we would look at each one on an individual basis; the Commissioners should establish a policy that it has to be more than a letter. Commissioner Edmead and Commissioner Shamoun continued discussion on the matter of establishing such a policy and considered how specific the policy should be.

Mr. Ryan instructed Mr. Savino to make a notation that this is an item that should be considered for addition into the guidelines that are published in advance of each election, and then we can have a conversation with the Commissioners about what that language should look like and what the requirements might be. Secretary Umane stated that we might consider adding the matter to our legislative agenda to clarify that as a matter of law as to really what's required, or at least a

statement that there has to be proof submitted in connection with that sort of application.

Mr. Ryan stated that before moving on to agenda item #6, Executive Session for personnel matters, there are two individuals that have submitted documentation to address the Commissioners.

Mr. Ryan acknowledged the first guest, Ralph Yozzo.

Mr. Yozzo stated that he is a poll worker and has always clicked the boxes on the website saying yes, he's available, but it turns out that it doesn't matter that you clicked those boxes on the website, you have to talk to a district leader. Mr. Yozzo asked how do you contact the district leader, and why is it not on the website. Mr. Ryan informed Mr. Yozzo that we have to keep the politics separate from the operations of the Board of Elections and the district leaders are party positions and we are not integrated with them in that regard. Mr. Ryan also noted that it's also not entirely true that that is the only way that it happens, because the overwhelming majority of the poll workers no longer come through the party process, that ratio has been decreasing every year since he has been here.

Mr. Ryan stated that the Board has replaced [electiondayworker.com](http://electiondayworker.com), Ms. Kontzamanis confirmed that it has been replaced with [pollworker.vote.nyc](http://pollworker.vote.nyc), and it

is accessible through vote.nyc. It is an updated version of electiondayworker.com and it is much more user friendly than it had been in the past. If you go on to vote.nyc and you look to become a poll worker, the new version of that application will be much better.

Mr. Yozzo had a third item to address and stated that while working the polls has noticed that if a person signs and then accidentally hits menu, their signature goes away. Mr. Ryan stated that there is a regimented process for that so that there are no accidental check-ins. The State Board of Elections certifies some aspects of the elections and approves other aspects of the elections, and poll pads fall into the approval category. The NYC Board does not get to make changes to how they operate, they come to us the way they are approved and then they are utilized that way. Mr. Ryan stated that the State Board of Elections communicates regularly with the poll pad vendors and other vendors to always look to improve the process. Mr. Ryan stated that his recollection is that it is not an accident, that it is done so the entire check in process is an end-to-end process so that someone is not accidentally checked in. If you accidentally check someone in, and then have to check them out, that is a bigger problem than having their signature disappear and having to have them re-sign it.

Mr. Ryan thanked Mr. Yozzo for his input.



Mr. Ryan acknowledged the second guest, Alan Flacks.

Mr. Flacks stated that he wished to address two things. 1) If a member of the public wants to speak on a particular item on the agenda, they should be allowed to speak on that, as it may be relevant to the Commissioners' discussion. 2) Mr. Flacks also addressed the hours of early voting and stated that he feels the hours should be the same for each and every day to avoid confusion. Secretary Umare stated that sometimes there are exterior events that come up, the Board did increase the hours but there is some flexibility. Mr. Ryan stated that the Board did make a stride towards uniformity today by doing 8:00 A.M. to 8:00 P.M. during the week and 8:00 A.M. to 5:00 P.M. on the Saturdays and Sundays, so that is more uniformity than we have done in the past. Mr. Ryan stated that it's an evolutionary process and we'll continue to look at it. The Board also has 155 early voting locations, which is up from 62 when we first started this in 2019. Mr. Ryan stated that the Board is trying to constantly make improvements, but we certainly hear what he was suggesting, and we made efforts in that regard today. Mr. Flacks stated that the Board should also keep in mind the military and overseas as well and the 45-day deadline. Mr. Ryan stated that we have met that deadline even during COVID-19 and every year since he has been here and is not aware of any misses before that, but it is a matter that we are very sensitive to.

Mr. Ignizio noted to the Commissioners that we shouldn't snatch defeats from the jaws of victory. The Board has the most hours ever, and the most hours in the State, and the most sites in the State. We are no longer the kick us around Board in this State, we are proud of the work that is being done to increase voter participation across the city. We have 155 sites, more than the legal mandate, and the hours we have which is more than the legal mandate. We take pride in that, and New York City will be open for many hours this year with many sites, voters will have the opportunity to cast their vote as they deem fit.

Mr. Ryan acknowledged a third guest, Emily Miller.

Ms. Miller had a question regarding the voter's guide and stated that she will contact the NYS Campaign Finance Board.

Commissioner Marmorato moved to set the date of the next meeting for Tuesday, September 10, 2024 at 1:00 P.M., President Pepe-Souvenir seconded the motion, which was adopted unanimously.

Commissioner Marmorato moved to adjourn the open meeting and convene an Executive Session to discuss litigation and personnel matters. Commissioner Shamoun seconded the motion, which was adopted unanimously.

Following the Executive Session the open meeting resumed.

Mr. Ryan stated that there were three personnel matters that were resolved in Executive Session, and they will be reported in the minutes as required by law.

The meeting was adjourned.

The next stated meeting of the Commissioners of Elections is scheduled for Tuesday, September 10, 2024, 2024 at 1:00 P.M.