



Voting Rights in an Election Year

Civil rights lawyers on what you need to know BY MARISA BOWE

Some people were shocked when a voting rights scandal broke out during the New York primary last April. But not Randolph McLaughlin.

"Business as usual," says the co-chair of the civil rights practice group at Newman Ferrara and professor at The Elisabeth Haub School of Law at Pace University.

While attempting to verify their voter registration status before and during the elections, more than 125,000 voters—many of them active—discovered that they'd been listed as inactive, unaffiliated or with the wrong party. Worse, because New York's "closed" primary system required that voters be registered by March 25, 2016, and, if they wanted to switch parties, signed on with their party of choice months earlier—by Oct. 9, 2015—these folks couldn't vote.

On June 21, public radio station WNYC reported that most of the voters affected lived in Hispanic-majority election districts.

Civil rights litigator Fred Brewington, principal at The Law Offices of Frederick K. Brewington, says it's a pattern he's seen before: "Those in power often look for excuses to invalidate the votes of previously defined minorities. ... We have to get past the point in New York City where we find it so easy to take away someone's right to vote."

What should the state do to protect and promote that right? McLaughlin would make it far easier to stay registered.

"How bad is it in New York?" he asks rhetorically. "I had to re-register when I moved to a different apartment *on the same floor of my building*. I shouldn't have to re-register if I move within the same district. If the Board of Elections sends me mail and it's returned to them, boom, I'm removed. That shouldn't happen."

He also wants New York to adopt same-day registration with any form of ID, early voting and weekend—rather than workday—voting. He notes that the "motor voter" act (which registers people to vote when they get their driver's licenses) doesn't help most people in New York City, because they don't drive. "The result is people being

denied the right to vote," he says.

Brewington would like to see schools bring back classes on citizenship, among other concrete steps. "For example, I was at the Board of Elections, and a high school teacher was bringing in registrations and I asked him about it. He explained that, 'On their 18th birthday, we get all of our students to register and I bring them here for them,'" he says. "If every district did that, we'd increase turnout by 25 percent."

So what can you do if you go to vote and are told you're not eligible?

"You have to insist," says Brewington. "Be the most inquisitive person you can be. Ask all the questions that are in your head."

Those questions could include a request to see books from other districts, to confirm your registration hasn't been assigned to the wrong district. Make sure a poll worker calls the local board of elections to determine why you aren't in the poll books.

Poll workers are instructed never to turn people away because their names are not on the voter registration list. Instead, they're required to show you a "notice to voters," which informs you of your two options: affidavit ballot or court order.

If you want to cast a regular, not a provisional, vote, you must get a court order. "There are three or four judges who are on-site at the Board of Elections," Brewington says. If the judge decides your claim is credible, he or she will give you a document to bring back to the polling place. "Normally, judges are fairly lenient in that regard."

If you decide to fill out an affidavit ballot, be very careful in the process. Elections commissioners from both parties will scrutinize it for mistakes, and all it takes for your vote to be thrown out is for one of them to say it doesn't look legit. Of the 121,000 affidavit ballots cast by voters who couldn't be found on voter lists during the April presidential primary, the city Board of Elections discounted about 90,000. [SL](#)

