



**TESTIMONY
OF THE
NEW YORK PUBLIC INTEREST RESEARCH GROUP
BEFORE THE
NEW YORK STATE SENATE AND ASSEMBLY COMMITTEES ON ELECTIONS
REGARDING THE
IMPLEMENTATION OF EARLY VOTING IN THE 2019 ELECTION
November 20, 2019
New York, N.Y.**

Good morning. My name is Blair Horner and I am executive director of the New York Public Interest Research Group (NYPIRG). NYPIRG is a non-partisan, not-for-profit, research and advocacy organization. Consumer protection, environmental preservation, health care, higher education, and governmental reforms are our principal areas of concern.

There can be no doubt that New York State can be considered “progressive” in many areas, with constitutional protections for labor, the poor, the environment, and legal rights. But when it comes to its democracy, New York is anything but progressive. From anemic voter participation rates to essentially unfettered campaign contributions, from widespread corruption to ineffective government watchdogs, New Yorkers suffer greatly from the state’s flawed democracy. And while laws alone cannot fix all that ails New York’s democracy, reforms are needed.

Thus, it is important that the Legislature hold hearings on how best to strengthen the state’s democracy. A key aspect that warrants your attention is the state’s system for choosing our elected representatives; it is a step that is enshrined in the state Constitution:

Every citizen shall be entitled to vote at every election for all officers elected by the people and upon all questions submitted to the vote of the people provided that such citizen is eighteen years of age or over and shall have been a resident of this state, and of the county, city, or village for thirty days next preceding an election.¹

The Constitution clearly grants the power to *implement* that right to state lawmakers, but it is a “right,” not a privilege. And policymakers must, from time to time, ensure that obstacles to the exercise of that right are as few as possible to guarantee that right is realized and isn’t being infringed upon by outdated laws and/or the failure to implement technologies that could better enfranchise voters.

¹ New York State Constitution, Article II, Section 1.

New York State’s Anemic Democracy.

In the 2018 general election, a stunningly low percentage of registered New Yorkers – an estimated 45.2 percent – voted. A review of the U.S. Elections Project analysis, showed New York to be among the worst in the nation in terms of eligible voter turnout.²

Too many of New York’s beleaguered voters stand in line for hours and face problems at the polls in order to exercise their right to vote. To be fair, it’s important to recognize that the majority of voters across the city and state do not have significant problems when casting their vote. However, even when things go smoothly on Election Day, New York still has many unnecessary barriers that impede voter participation.

Early Voting – An Election “Best Practice” Across The Nation

Thirty-seven states and the District of Columbia had acted to allow in-person early voting in one form or another prior to New York’s action. The laws are different and New York attempted to follow best practices based on the rest of the nation’s experiences. In terms of accessibility, many states allowed longer early voting periods than New York does. As seen below, the time period for early voting varies from state to state³:

- The date on which early voting begins may be as early as 45 days before the election, or as late as the Friday before the election. The average starting time for early voting is 22 days before the election.
- Early voting typically ends just a few days before Election Day.
- Early voting periods range in length from four days to 45 days; the average length is 19 days.
- Of the states that allow early in-person voting, 24 and the District of Columbia allow some weekend early voting.
 - Saturday: 20 states, plus the District of Columbia provide for voting on Saturday. Four additional states (California, Kansas, Vermont and Massachusetts) leave it up to county clerks who may choose to allow Saturday voting. Delaware and Virginia will also include Saturday voting when the laws go into effect.
 - Sunday: Five states (Alaska, Illinois, Maryland, New York and Ohio) allow for Sunday voting. Five states (California, Georgia, Michigan, Nevada and Massachusetts) leave it up to county clerks who may choose to be open on Sundays. Florida mandates early voting must begin, including Sunday, the 10th day and end the third day prior to the election for state and federal elections. Local election officials also have the discretion to allow early voting the Sunday prior to the election. Delaware will also include Sunday voting when the law goes into effect in 2022.

² United States Elections Project, *2018 November General Election Turnout Rates*:

<http://www.electproject.org/2018g>. Percentage of “Voter Eligible Population, Estimated or Actual 2018 Total Ballots Counted.” Arkansas, Hawaii, Louisiana, Mississippi, Oklahoma, South Carolina, Tennessee, West Virginia, all had lower turnouts. The national average was 50.3 percent.

³ National Conference of State Legislatures, “State Laws Governing Early Voting,”

<http://www.ncsl.org/research/elections-and-campaigns/early-voting-in-state-elections.aspx>. NOTE: Beyond the 39 states and the District of Columbia, two additional states, Delaware and Virginia, have enacted early voting but it will not be in place until 2020 and 2022, respectively.

Like New York, these states typically offer local officials flexibility in terms of how to run early voting in their municipality.

Early Voting Comes To New York State.

In January of this year, a new law was enacted that added New York State to the vast majority of states that allow early voting. The new law was focused on making voting easier and implemented the new system for the 2019 elections – an election in which voter turnout is relatively light and elections officials could implement the program with the least number of obstacles.

Under the law, local boards of elections were given discretion in the number of early voting sites that would be allowed and where they would be located. The new law stated that there should be at least one early voting polling place for 50,000 registered voters in each county. Counties with voting populations less than 50,000 should have at least one early polling place. However, the number of early voting polling places in a county shall not be required to be greater than *seven*. Thus, the largest counties had a lot of room in deciding the number of early voting locations.

A Look At The Experience In 2019

About 256,000 people chose to cast their vote ahead of Election Day this year. According to the state Board of Elections that means nearly 2% percent of registered voters turned out statewide.

As seen later, Erie County offered the largest number of early voting polling locations (37). In that county, 4.5% of the county's registered voters, significantly higher than the state average. New York City, on the other hand, despite having *five times* the number of registered voters, offered only 61 sites. Not surprisingly, less than 2 of the City's eligible voters utilized early voting (less than the statewide average).⁴

Not unexpectedly, there were some glitches as the system came online, but overall the voting went smoothly. There were some concerns expressed over security in schools that were used to house early voting sites.⁵

Wide Variation In Polling Sites

As mentioned above, counties were given wide discretion on how to implement the new law. Recently, NYPIRG released an in-depth analysis featuring data on early-voting sites across New York State. The data displays the number of active voters, early voting poll sites, and average number of voters per site within each county. As a result of county discretion, there was a wide disparity in both the overall number and number of voters per site in counties across the state. Some counties were limited to only one early voting site, while others averaged over or almost over 100,000 active voters per site. The analysis below illustrates issues in the roll out of early voting that should be addressed before the 2020 elections.

⁴ Calder, R., Garger, K., "Turnout abysmal in New York's first early voting period," New York Post, November 4, 2019, <https://nypost.com/2019/11/04/turnout-abysmal-in-new-yorks-first-early-voting-period/>.

⁵ Slattery, D., "Lawmakers will look at impact and rollout of New York's first ever early voting period ahead of 2020 races," New York Daily News, November 15, 2019, <https://www.nydailynews.com/news/politics/ny-early-voting-election-day-new-york-lawmakers-democrats-albany-20191115-dqrrv7qgvzhkzirqgamvmb4lt4-story.html>.

As seen below, sixteen counties had a ratio *greater* than one early voting location per 50,000 voters. And while it was not illegal to do so, a wide variation does not make sense. For example, the borough of Manhattan had a ratio in excess of one early voting site for each 100,000 voters – double what was the goal in the law. Not illegal, but unfair to Manhattan voters. In contrast, Erie County had 37 early voting sites with a ratio of about 16,000 voters per location.

NUMBER OF NEW YORK VOTERS PER EARLY VOTING SITE

County	Number of Sites	Active Voting Population	Average Number of Voters Per Early Voting Site
Albany	6	183,529	30,588
Allegany	1	25,136	25,136
Bronx	11	721,734	65,612
Brooklyn	18	1,460,396	81,133
Broome	3	115,918	38,639
Cattaraugus	2	44,741	22,370
Cayuga	3	45,559	15,186
Chautauqua	3	76,459	25,486
Chemung	1	50,215	50,215
Chenango	1	28,262	28,262
Clinton	1	46,558	46,558
Columbia	3	44,496	14,832
Cortland	1	27,490	27,490
Delaware	1	27,053	27,053
Dutchess	5	182,782	36,556
Erie	37	597,592	16,151
Essex	1	24,035	24,035
Franklin	1	25,343	25,343
Fulton	1	31,046	31,046
Genesee	1	36,950	36,950
Greene	1	30,063	30,063
Hamilton	1	4,179	4,179
Herkimer	1	37,737	37,737
Jefferson	1	56,351	56,351
Lewis	1	16,742	16,742
Livingston	1	39,000	39,000
Madison	1	41,110	41,110
Manhattan	9	1,016,771	112,974
Monroe	7	460,283	65,754
Montgomery	1	27,359	27,359
Nassau	15	949,987	63,332
Niagara	2	131,758	65,879
Oneida	3	128,649	42,883
Onondaga	6	289,064	48,177
Ontario	3	72,162	24,054
Orange	6	220,262	36,710

Orleans	1	23,085	23,085
Oswego	1	69,635	69,635
Otsego	1	33,978	33,978
Putnam	1	63,507	63,507
Queens	14	1,180,052	84,289
Rensselaer	2	97,154	48,577
Rockland	4	194,263	48,566
Saratoga	3	154,480	51,493
Schenectady	4	93,776	23,444
Schoharie	1	18,489	18,489
Schuyler	1	11,812	11,812
Seneca	1	19,357	19,357
St. Lawrence	1	59,370	59,370
Staten Island	9	293,348	32,594
Steuben	1	57,553	57,553
Suffolk	10	977,134	97,713
Sullivan	1	46,700	46,700
Tioga	1	30,759	30,759
Tompkins	2	54,631	27,315
Ulster	7	118,268	16,895
Warren	1	42,163	42,163
Washington	1	35,054	35,054
Wayne	1	54,412	54,412
Westchester	17	593,559	34,915
Wyoming	1	23,510	23,510
Yates	1	13,466	13,466

A Deeper Look At The Numbers In Onondaga County

The local media outlet, syracuse.com, analyzed early voting data from the Onondaga County Board of Elections. According to its review, “the numbers showed early voting was most popular among older voters, the most reliable group. But the new option attracted an intriguing number of lapsed voters.

- Early voting did not capture the age group most likely to skip voting because they are working two jobs and hauling kids to soccer practice.
- A lot of the early voters were retirement age. Forty-seven percent were 65 and older. Only 11 percent of early voters were between 18 and 40, records show.
- About 21 percent of early voters were people who were registered to vote but did not show up for the 2017 or 2018 elections. A handful of those people hadn’t voted in so long they were at risk of being purged from the rolls.
- The percent of registered voters who came to vote early was only slightly higher in the suburbs vs. the city of Syracuse. About 3 percent of town voters cast ballots early; compared to 2.5 percent of city voters.
- Not surprisingly, turnout was strongest in suburbs that hosted polling places.

Last year's ballot had statewide races, including governor. Turnout was high last year in Onondaga County – 62 percent. The 2017 election, with an open seat for Syracuse mayor, had 37 percent turnout. In 2015 – the last local election year like this one – had only 27 percent turnout.”⁶

Syracuse.com concluded that its analysis “would suggest that early voting was more driven by convenience than a necessity for a big chunk of the voters. That could change as more people become aware of this option.”⁷

Obviously, the conclusions drawn in upstate New York do not necessarily mean that the rest of the state's voters had similar turnouts. Upstate New York tends to be older in terms of its inhabitants. But the data does follow what one would have expected in advance of the early voting “experiment.”

Conclusion: Early Voting Makes It More Convenient For Voters

Of course, it's not surprising that those who are most familiar with voting and for whom potential physical inconveniences or barriers are important considerations (older voters) would be most likely to cast their ballot early. And while it is far too early to tell, convenience was the most likely benefit of early voting.

Recommendation: Require A More Standardized Number of Early Voting Sites In Each County

The law obliged local boards of elections to *consider*, but did not *require*, certain factors when deciding where to locate early polling locations. The law stated that factors like “population density, travel time to the polling place, proximity to other early voting poll sites, public transportation routes, commuter traffic patterns.” Yet, “consideration” is not a mandate. In the county of Rensselaer, the city of Troy (population is about 50,000) had no early voting locations in its boundaries.⁸

New York should require that no county is allowed to have ratios of voters to early voting polls of more than 50,000 to one. And that every local community in which the people rely heavily on mass transportation, or ones that have dense population centers, or rural areas in which distances are far, must have reasonable access.

In-Depth Recommendation: Take Steps To Help New, or Currently Underrepresented, Voters To Participate in Early Voting – Young Adults

“This common-sense legislation will increase voter participation and strengthen our democracy.” Lt. Governor Hochul⁹

⁶ Breidenbach, M., “From 18 to 100 years old (2 of them!): Inside Syracuse's history-making early voters,” [syracuse.com](https://www.syracuse.com/news/2019/11/from-18-to-100-years-old-2-of-them-inside-syracuses-history-making-early-voters.html), November 5, 2019, <https://www.syracuse.com/news/2019/11/from-18-to-100-years-old-2-of-them-inside-syracuses-history-making-early-voters.html>.

⁷ Ibid.

⁸ Eliopoulos, P., “No early voting location coming to Troy after legislators vote down proposal for third time,” News 10, <https://www.news10.com/news/local-news/no-early-voting-location-coming-to-troy-after-legislators-vote-down-proposal-for-third-time/>.

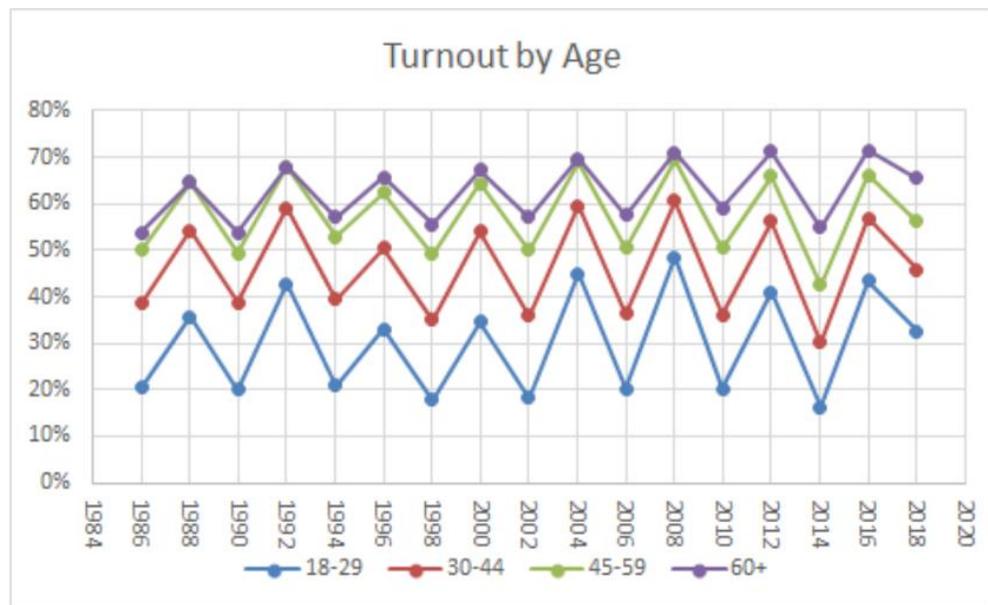
⁹ FingerLakes1.com, “Cuomo signs ‘transformative’ bill bringing early-voting to NYS for 2019,” January 24, 2019, <https://fingerlakes1.com/2019/01/24/cuomo-signs-transformative-bill-bringing-early-voting-to-nys-for-2019/>.

As mentioned earlier, it appears that the major benefit of early voting is convenience. Given that voting is a constitutionally protected right, *convenience* is more than enough justification for implementation of the system.

However, it has been an expectation of reformers that early voting would increase voter *participation* as well. As mentioned in the above recommendation, additional steps need to be taken if that promise is to be realized.

NYPIRG recommends that an important factor in the location of early voting polling sites is that they be in areas where voters are least likely to vote. Once such obvious group are young adults. Nationally, the younger the adult, the less likely one is to vote.¹⁰

Turnout Rates: Age



Young adults are a voting bloc whose residence is more easily identified. Across New York, colleges are filled with students who are less likely to vote yet have a common community. The unfortunate history of college student voter participation has been one in which officials seek to suppress participation instead of enhancing it.

Year after year, students have faced discriminatory obstacles to registration and/or voting in various counties around the state. Some counties target students by further splitting campus populations into multiple election districts and/or removing the campus poll site.¹¹

¹⁰ United States Elections Project, “Voter Turnout Demographics,” <http://www.electproject.org/home/voter-turnout/demographics>.

¹¹ Examples of college students being unfairly targeted in elections; <http://www.nyclu.org/news/nyclu-dutchess-county-protect-college-students%E2%80%99-voting-rights> and <http://www.nbcnews.com/news/asian-america/ny-attorney-general-raises-concerns-over-challenges-chinese-american-voters-n453801>.

However, students live in their college towns anywhere from nine to 12 months of the year, for at least four years. This means that students are no more transient than the average American family, which typically moves once every five years.¹² Moreover, the U.S. Census Bureau considers students to be residents of their college community for the purposes of the decennial census. Thus, federal funds are distributed to municipalities based on figures that include the student population. Students contribute to the college community in many valuable ways. They work as volunteers in a host of civic organizations, help to create jobs in the community, bolster the local economy, and pay sales and gasoline taxes.

The courts have weighed in and defended the rights of college students to register and vote from the college addresses. Like all other adults, college students can designate their residence for the purposes of voting. College students are allowed to choose to vote from their college address or their family's address.

Despite that right and their concentrated numbers, we found few examples in which a college was used as an early voting location this election.

County	College Campus
Bronx	Monroe College
Cattaraugus	Jamestown Community College Olean Campus
Manhattan	John Jay College
Monroe	SUNY Empire State College
Monroe	Monroe Community College Downtown Campus
Queens	LaGuardia Community College
Queens	York College
Richmond	College of Staten Island

A recent report by the Andrew Goodman Foundation studied the impact of Early Voting Sites for college students. Not surprisingly, it found that locating polls on campus led to considerably higher rates of participation by students, people of color and infrequent voters.¹³ Because many students have less access to private transportation options and convenient access to Early Voting sites located off-campus, on-campus sites improved turnout. Campus sites might also serve as alternative in areas where public school access is a problem. and in some cases in other towns or areas of the county pose more of a barrier than for other voters.

Require The State Board Of Elections To Commission A Detailed Report On The Implementation Of Early Voting And The Strategies Adopted By Individual County Boards Of Elections.

¹²Green, J., “How Often Do Americans Move And Why?” My Moving Reviews, <https://www.mymovingreviews.com/move/how-often-and-why-americans-move/>.

¹³ The Andrew Goodman Foundation, “On-Campus Early In-Person Voting in Florida in the 2018 General Election,” August 9, 2019, <https://andrewgoodman.org/on-campus-early-voting-fl/>.

As previously noted in our testimony, an analysis by Syracuse.com revealed that the distance to a voter's poll site appeared to impact on their use and participation in Early Voting. This raises serious questions regarding the potential impact of early voting siting decisions on different populations made by county boards of elections. The report on the positive impact of student voting conducted by the Andrew Goodman Foundation clearly demonstrates the benefits of on-campus voting sites would have in counties like Rensselaer. And our own analysis of sites and active voting statistics shows the disparity of early voting opportunities present in counties across the state.

A full and comprehensive study should be conducted to explore the possible impacts of early voting implementation. At a minimum, census tract data should be compared with data file demographics and turnout numbers to try and ascertain if voters in certain counties or within counties are facing barriers to participation their fellow New Yorkers are not. Early Voting goals are to help enfranchise the electorate, New York policymakers must make sure it is not doing so for one voting bloc to the advantage of another.

Thank you for the opportunity to testify.