

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION, SECOND JUDICIAL DEPARTMENT

LEAGUE OF WOMEN VOTERS OF THE MID-
HUDSON REGION, TANEISHA MEANS, and
MAGDALENA SHARFF,

Petitioners/Plaintiffs-Appellees-Movants,

-against-

ERIK HAIGHT, in his capacity as Commissioner
of the Dutchess County Board of Elections,

Respondent/Defendant-Appellant.

-and-

THE DUTCHESS COUNTY BOARD OF ELECTIONS,
and HANNAH BLACK, in the capacity as Commissioner
of the Dutchess County Board of Elections,

Respondents/Defendants.

Appellate Division Case No.

Supreme Court, Dutchess
County Index No. 2022-53491

AFFIRMATION OF
RICHARD A. MEDINA IN
SUPPORT OF ORDER TO
SHOW CAUSE TO
VACATE STAY

Richard Alexander Medina, an attorney admitted to practice law before the Courts of the State of New York, and not a party to the within action, affirms the following to be true under the penalties of perjury under CPLR § 2106:

1. I am an attorney for the Petitioners/Plaintiffs-Respondents (“Petitioners”) in this proceeding, and as such I am fully familiar with the facts and circumstances contained herein.
2. I submit this affirmation in support of the Petitioners’ request for an order to show cause why an order should not be entered vacating any automatic stay of Supreme Court’s decision, order, and judgment under CPLR 5519(a), or confirming that there is no such stay in place.
3. A copy of the November 3, 2022 decision, order, and judgment of the Supreme Court is attached hereto as Exhibit A.

FACTUAL AND PROCEDURAL BACKGROUND

4. This is a hybrid special proceeding under CPLR Article 78 and declaratory judgment action under CPLR § 3001. It seeks to compel the Dutchess County Board of Elections (the “Board”) to designate a polling location on the campus of Vassar College pursuant to Election Law § 4-104 [5-a] (the “College Polling Place Law”), which provides: “Whenever a contiguous property of a college or university contains three hundred or more registrants who are registered to vote at any address on such contiguous property, the polling place designated for such registrants shall be on such contiguous property or at a nearby location recommended by the college or university and agreed to by the board of elections.” The Board has not been able to designate such a location because one of the Board’s two members, Commissioner Erik Haight, refuses to cooperate in doing so. He has not offered any legal or factual justification for his refusal to allow the Board to comply with the College Polling Place Law.

5. The College Polling Place Law took effect on July 8, 2022. *See* Part O of Chapter 55 of the Laws of 2022.

6. As explained in the Verified Petition ([NYSCEF Doc. No. 3](#)), there are over 1,000 voters registered to vote in the State of New York at residential addresses located on the Vassar College campus. Notwithstanding that fact, the Board has failed to designate and provide for a polling place on the Vassar College campus as required by the College Polling Place Law. A true and correct copy of the Verified Petition is attached hereto as Exhibit B.

7. Commissioner Erik Haight has resisted the attempts of Vassar College officials to designate a polling location for Vassar College voters, while Commissioner Hannah Black has supported such attempts.

8. In August 2022, Wesley Dixon, special assistant to the president of Vassar College, sent an email to the Dutchess County Board of Elections in which he requested a polling site for voters at Vassar College and provided a location on campus that could be used as a polling place. ([NYSCEF Doc. No. 7. Ex. 4-B](#)).

9. On September 15, 2022, Commissioner Black emailed Commissioner Haight proposing a public meeting to address the possibility of a poll site at Vassar. Commissioner Haight responded that holding such a meeting would be “premature.” *Id.*

10. On October 5, 2022, Mr. Dixon again followed up. ([NYSCEF Doc. No. 7, Ex. 4-E](#)). No action was taken.

11. On October 25, 2022, a coalition of non-profits and student organizations sent a letter to, *inter alia*, the Commissioners of the Dutchess County Board of Elections (the “Demand Letter”) ([NYSCEF Doc. No. 7](#)). The letter demanded that County leadership insist that Commissioner Haight either (a) agree to a suitable polling location selected by Vassar College or (b) demonstrate at a public hearing that another location either on campus or nearby would be more suitable, by the end of the week, *i.e.*, Friday, October 29, 2022. Demand Letter at 6.

12. To allow the Board to comply with the law without the expense of public and judicial resources required by litigation, Plaintiffs gave the Board until October 29, as provided in the letter, to designate a polling place on the Vassar College campus before bringing this litigation. The Board was allowed a full and fair opportunity to comply with the plain requirements of the College Polling Place Law and has failed to do so.

13. Petitioners, the League of Women Voters of the Mid-Hudson Region and two voters who reside on Vassar’s campus, Professor Taneisha Means and Magdalena Sharff, sought a writ of mandamus against the Board, compelling the designation of a polling site on the Vassar

College campus in accordance with the College Polling Place Law. The Petition was brought on by Order to Show Cause on November 1, 2022 (the “Order to Show Cause”). A true and correct copy of the signed Order to Show Cause, is attached hereto as Exhibit C.

14. The Order to Show Cause (1) set a hearing for November 3 at 2:00 p.m., with personal appearances required; (2) ordered that serving a copy of the Order to Show Cause and associated papers by email to the official government email addresses of the Board of Elections’ two Commissioners by no later than November 2 at 10:00 a.m. shall be deemed good and sufficient service; and (3) ordered Respondents-Defendants to file any written opposition by November 2 at 3:00 p.m.

15. As directed by the Order to Show Cause, Petitioners served the Order to Show Cause, the Verified Petition, and associated papers upon Commissioner Haight by email before 10:00 a.m. on November 2.

16. Supreme Court held a hearing on November 3 on Petitioners’ requested relief. Commissioner Haight appeared at that hearing at the appointed time, at 2:00 p.m. He announced his presence on the record and explained that his attorney was running late. The Court then recessed to allow time for Commissioner Haight’s counsel to appear. Commissioner Haight exited the courtroom but left personal belongings behind.

17. Commissioner Haight’s counsel arrived at approximately 2:30 p.m. When asked if Commissioner Haight would be joining the hearing, his counsel answered that he would not. Counsel explained there was a “service issue,” and he did not want Petitioners to “cure” the issue by personally serving Commissioner Haight in court. Counsel indicated that Commissioner Haight would appear in the courtroom only if the Court ordered that Commissioner Haight could not be personally served.

18. Commissioner Haight never returned to the courtroom.

19. At the hearing, counsel for Commissioner Haight attempted to serve a notice of motion to dismiss this Article 78 proceeding. The Court informed counsel that the Order to Show Cause set a deadline of November 2 at 3:00 p.m. for any responsive papers and that the motion was therefore untimely.¹ Commissioner Haight's counsel nonetheless made an oral application to dismiss the Petition on several grounds, including (1) lack of service, (2) laches, (3), failure to state a claim, and (4) failure to join a necessary party. Commissioner Haight's counsel never disputed that the College Polling Place Law requires the designation of a polling place on or near the campus of Vassar College.

20. Supreme Court denied that oral application, specifically observing that, due to the exigency of this matter, the Court had previously determined that email service was the most appropriate and expedient method of service. The Court further observed that Commissioner Haight had appeared on the record at the hearing and that his counsel fully participated in the hearing.

21. The Court granted the Verified Petition in its entirety, concluding that "[t]he plain language of Election Law § 4-104[5-a] which includes the word 'shall' (as opposed to 'may' or 'should') specifically mandates the designation of a voting polling place on a college or university campus where, as here, the petitioner demonstrated that the college or university campus contains three hundred or more registrants to vote at an address on such college or university campus." (the "November 3 Order," [NYSCEF No. 21](#), attached as Exhibit A).

22. At or around 9:31 PM on November 3, Wesley Dixon, Special Assistant to the President of Vassar College, sent an email to both Commissioners of the Board of Elections

¹ In contrast, the court noted that Commissioner Black *did* file a timely answer.

reiterating Vassar's willingness to host a polling location on campus, and describing the site that Vassar reserved for this purpose—the Aula at Ely Hall. Mr. Dixon offered to host the Board of Elections for a site visit at the Aula at 3:00 p.m. on November 4. A true and correct copy of Mr. Dixon's affidavit, attaching this correspondence, is attached as Exhibit D.

23. Upon information and belief, the site visit took place as planned at 3:00 p.m. on November 4, with Commissioner Black as well as Republican Board of Elections staff attending. Commissioner Haight did not attend. Commissioner Black confirmed that the Aula satisfies all requirements for a polling location.

24. Just before 5:00 p.m. on November 4, 2022, Petitioners received notice via NYSCEF that Commissioner Haight had noticed an appeal from Supreme Court's November 3 Order. The Notice of Appeal and supporting documents were uploaded to NYSCEF by a court user, and as of this filing is still listed as "pending." ([NYSCEF Doc. No. 29](#)). The attached affidavit of service indicates that Petitioners were served with the Notice of Appeal via mail. A true and correct copy of the Notice of Appeal with attachments, including the affidavit of service, is attached hereto as Exhibit E.

25. Attached hereto as Exhibit F is, upon information and belief, a true and correct copy of Commissioner Black's email correspondence with Commissioner Haight detailing her efforts to comply with this Court's November 3 Order.

26. At 8:01 PM on November 4, Commissioner Haight finally responded to Commissioner Black regarding her proposal for the Vassar poll site. Incredibly, Commissioner Haight claimed that Commissioner Black's suggestions were "premature" and that her proposal had unspecified "gaps." *See* Exhibit F.

27. Yesterday evening at approximately 9:05 p.m., Commissioner Haight emailed Commissioner Black concerning parking at the Aula. *See* Exhibit F. Commissioner Haight's email wrongly says: "The court didn't authorize Vassar as a satellite location but rather **the** poll site for those election districts," suggesting that *all* voters from the three election districts that touch Vassar's campus must vote at the Vassar poll site. (emphasis added).

28. On Saturday November 5, at 9:43 AM, Commissioner Haight emailed Commissioner Black again, suggesting that establishing a polling place at Vassar under the Court's order would entail closing existing polling sites. *Id.*

29. Commissioner Haight is incorrect. The November 3 Order granted the Verified Petition in its entirety. The Verified Petition specifically sought an order compelling Respondents "(a) to designate and operate **a** polling place to be used on the day of the general election on November 8, 2022 on the campus of Vassar College;" and (b) "to assign all voters **registered at a residential address on the Vassar College campus** to that on-campus polling place." (emphasis added).

30. Accordingly, Petitioners earlier today sought an emergency order from Supreme Court clarifying its November 3, Order (*see* NYSCEF nos. 30-34). That application is currently pending as of this filing.

31. I have made a good faith effort to contact Respondents. Specifically, I emailed Mr. Jensen, counsel for Commissioner Haight, copying all counsel of record, this morning at 9:02 a.m. In that email, I requested that Mr. Jensen, by 10:00 a.m.: (1) confirm that Commissioner Haight will comply with Justice D'Alessio's order by designating the Aula at Ely Hall as an additional poll site for voters registered on Vassar's campus and directing BOE staff to move forward with

the necessary preparations, as requested by Commissioner Black, or (2) explain his basis for refusing to do so.

32. As of the time of this filing, Mr. Jensen has not responded to my 9:02 a.m. email.

33. Nor has Commissioner Haight offered any explanation for his unilateral decision to ignore the November 3 Order. In his 9:43 a.m. November 5 email to Commissioner Black, Commissioner Haight vaguely referenced “The pending appeal and stay on the order.” Exhibit F.

34. Petitioners therefore surmise that Commissioner Haight, or his counsel, has taken the unspoken position that the November 3 Order is automatically stayed under CPLR 5519(a)(1) by virtue of his eleventh-hour notice of appeal. That section provides that an order is automatically stayed upon service of a notice of appeal where the appellant “is the state or any political subdivision of the state or any officer or agency of the state or of any political subdivision of the state.”

ARGUMENT

35. Commissioner Haight is wrong. He is not an “the state or any political subdivision of the state or any officer or agency of the state or of any political subdivision of the state,” and his filing of a notice of appeal therefore does not trigger an automatic stay. But even if it did, this Court should vacate any such automatic stay and compel Commissioner Haight to comply with Supreme Court’s order.

36. Accordingly, Petitioners hereby move this Court for an order (1) confirming that there is, in fact, no automatic stay in place or, in the alternative, (2) vacating any automatic stay that might be in place. In order to ensure that Commissioner Haight complies with his statutory duty and Vassar College has a polling location in time for the November 8 election as required by New York law, Petitioners request that this Court do so immediately.

There is no Automatic Stay in Place

37. There is no automatic stay in place under CPLR 5519(a)(1). The text of that provision limits the automatic stay to the following categories of appellants: (1) the state, (2) any political subdivision of the state, (3) any officer of the state, (4) any officer of any political subdivision of the state, (5) any agency of the state, or (6) any agency of any political subdivision of the state. When interpreting a statute, “[g]enerally, courts look first to the statutory text, which is the clearest indicator of legislative intent.” *People ex rel. Negron v. Superintendent, Woodborne Corr. Facility*, 36 N.Y.3d 32, 36 (2020) (quotations omitted).

38. Plainly, Commissioner Haight is not “the state.” Nor is he “a political subdivision.” Nor is he an “agency.” Nor is he an officer of the state or of a political subdivision of the state.² He is instead an officer of the Dutchess County Board of Elections.

39. The Board of Elections can only act by majority vote of its two Commissioners. *See* N.Y. Elec. Law § 3-212 [2]. Commissioner Haight cannot unilaterally block the Board of Elections from complying with a clear court order that directs the Board to discharge its mandatory duty under the Election Law. That would allow a single commissioner to effectively hijack the Board, forcing it into noncompliance with a court order and a clear statute.

40. There is therefore no automatic stay in place and this Court should enter an order confirming as much.

The Court Should Vacate any Automatic Stay

² *See, e.g.* N.Y. Elec. Law § 17-204 [4] (“‘Political subdivision’ means a geographic area of representation created for the provision of government services, including, but not limited to, a county, city, town, village, school district, or any other district organized pursuant to state or local law.”) N.Y. Exec. Law § 331 [3] (“‘Political subdivision’ means a city or town with a population in excess of fifty thousand, and every county not wholly included within a city, and any combination of the foregoing having at least one common boundary.”).

41. Even if there *is* an automatic stay in place—and this Court should reject that argument for the reasons stated above—this Court should vacate the stay and compel Commissioner Haight to comply with the November 3 Order. This Court, in its discretion, may vacate an automatic stay upon a showing of “a reasonable probability of ultimate success in the action, as well as the prospect of irreparable harm.” *DeLury v. City of New York*, 48 A.D.2d 405, 405 (1st Dep’t 1975).

42. Both factors are met here. Commissioner Haight’s appeal is meritless. He has, to date, failed to offer any credible legal or factual basis for his opposition to the proposed poll site. And Petitioners, along with hundreds of Vassar College voters, will suffer immediate, irreparable harm if this Court does not act promptly. Commissioner Haight should not be allowed to claim the advantage of an automatic stay by filing an eleventh-hour appeal at the close of business and thereby claim victory by effectively mooting Supreme Court’s order granting Petitioners’ requested relief.

43. On the merits, Supreme Court correctly found that mandamus lies in this case. A writ of mandamus is available where a government “body or officer failed to perform a duty enjoined upon it by law.” CPLR § 7803(1). It has long been established that mandamus lies in an action to compel election commissioners to perform ministerial acts. *E.g. Matter of Mansfield v. Epstein*, 5 N.Y.2d 70, 73 (1958). “The use of the verb ‘shall’ throughout the pertinent provisions illustrates the mandatory nature of the duties contained therein.” *Nat. Res. Def. Council, Inc. v. N.Y.C. Dep’t of Sanitation*, 83 N.Y.2d 215, 220 (1994). And an action may be brought under Article 78 to “compel acts that officials are duty-bound to perform” by such mandatory statutory language. *Id.* at 221.

44. Section 4-104 of the Election Law is written in mandatory terms. In Section 4-104, the legislature commands: “Every board of elections **shall** . . . designate the polling places in each election district.” N.Y. Elec. Law § 4-104 [1] (emphasis added). And § 4-104 [5-a] commands: “Whenever a contiguous property of a college or university contains three hundred or more registrants who are registered to vote at any address on such contiguous property, the polling place designated for such registrants **shall** be on such contiguous property or at a nearby location recommended by the college or university and agreed to by the board of elections.” (emphasis added).

45. Respondents therefore *must* designate a polling place for individuals registered to vote on Vassar’s campus that is either (1) “on such contiguous property” (i.e., on campus), or (2) “at a nearby location recommended by the college or university and agreed to by the board of elections.” N.Y. Elec. Law § 4-104 [5-a].

46. The New York State Board of Elections released specific guidance on this issue entitled, “Guidance on College Pollsite Designation 2022” that states the following:

Because election districts have not been redrawn to conform to the rule college campuses cannot generally be divided between election districts, boards should at least assign election districts to a poll site on the relevant college campus (or nearby location recommended by the college and approved by the board of elections) when an existing election district meets two criteria:

- 1) the election district includes contiguous college property, **and**
- 2) there are three hundred or more registrants in the election district with an address on such college property;

This guidance was entered into evidence by Mr. Haight’s counsel at the November 3 hearing. A true and correct copy of the Guidance is attached hereto as Exhibit G.

47. Despite repeated requests from Vassar College, Commissioner Black, and community stakeholders, Commissioner Haight has, without explanation, failed to discharge this mandatory, nondiscretionary duty.

48. Indeed, to date, Commissioner Haight has never offered any legal or policy rationale for his continued opposition to designating a polling place on Vassar's campus.

49. The arguments made in support of Commissioner Haight's oral application for dismissal of the Verified Petition, which are the only arguments he is entitled to press on appeal, have no merit. Specifically, Commissioner Haight argued the following defenses at the hearing of this matter: (1) insufficient service; (2) failure to state a claim; (3) laches; and (4) failure to join a necessary party (Vassar College). None of these arguments stand up to scrutiny—and none dispute the requirements of the College Polling Place Law.

50. *First*, Commissioner Haight was properly served in accordance with the Order to Show Cause entered by Supreme Court. Further, the undersigned made a good faith effort to contact Commissioner Haight regarding this matter *before* filing on November 1 by emailing copies of the Verified Petition, proposed Order to Show Cause, and supporting papers to both Commissioners of the Board of Elections, at the email addresses published on the website of the Dutchess County Board of Elections.

51. In time-sensitive Election Law matters, courts routinely authorize alternative and expedited methods of service—including email service—in accordance with the Election Law, the CPLR, and controlling case law. *See, e.g., Aarons v. Bd. of Elections in the City of N.Y.*, Index No. 507128/20, 2020 WL 2789911, at *2 (N.Y. Sup. Ct., May 29, 2020) (“The order to show cause provided for same day service on the Board via email, which was effectuated by Petitioner.”); *McGrath v. New Yorkers Together*, 55 Misc. 3d 204, 206-07 (N.Y. Sup. Ct. 2016) (“Justice Dillon

directed that copies of the order to show cause, together with all of the ancillary papers upon which the order was granted, be served upon respondents in person, or alternatively, at the option of petitioner, served upon any party herein by electronic transmission on or before the close of business on November 7, 2016 at an email address or fax number maintained by such respondents.”).

52. Indeed, the Saratoga County Supreme Court recently entered an Order to Show Cause allowing for alternative service via email in an Election Law matter *in which Commissioner Haight was himself a plaintiff. Amedure v. State of New York*, Saratoga County Index No. 20222145, Order to Show Cause, Doc. No. [6](#) (Sup. Ct. Oct. 6, 2022) (“at the option of the Petitioners, same may be served by electronic transmission thereof to the said Defendant-Respondents at an email or fax number maintained for such purposes.”).

53. Further, Commissioner Haight personally appeared at the hearing in this matter and his counsel participated fully. “A defendant may waive the issue of lack of personal jurisdiction by appearing in an action, either formally or informally, without raising the defense of lack of personal jurisdiction in an answer or pre-answer motion to dismiss.” *Eastern Sav. Bank, FSB v. Campbell*, 167 A.d.3d 712, 714 (2d Dep’t 2018). Here, despite having undisputed actual notice of this action, Commissioner Haight failed to file either an answer or a pre-answer motion to dismiss. His personal appearance in court, on the record, at the hearing in this matter, and his counsel’s active participation in the hearing, precludes him from claiming he lacked actual notice of these proceedings.

54. *Second*, this is the paradigmatic case for mandamus. The College Polling Place Law plainly imposes a mandatory, non-discretionary duty upon the Board to designate a polling place on the Vassar College Campus (or, if requested by Vassar College, nearby). Commissioner Haight

argued below that, because the statute allows for some discretion in determining precisely *where* the on-campus polling place must be placed, mandamus cannot lie. But the College Polling Place Law imposes a nondiscretionary duty to designate a polling place *somewhere* on (or near) campus. It is well-established that it is the “function of mandamus to compel acts that officials are duty-bound to perform, *regardless of whether they may exercise their discretion in doing so.*” *Klostermann v. Cuomo*, 61 N.Y.2d 525, 540 (1984) (emphasis added). The Court of Appeals has clearly distinguished “those acts the exercise of which is discretionary from those acts which are *mandatory but are executed through means that are discretionary.*” *Id.* at 539 (emphasis added). This case involves the latter.

55. *Third*, this action cannot be barred by the equitable doctrine of laches because Commissioner Haight made no showing of prejudice, and because Commissioner Haight is himself the cause of delay in bringing this matter to the Court.

56. Laches is “an equitable doctrine which bars the enforcement of a right where there has been an unreasonable and inexcusable delay that results in prejudice to a party.” *Skrodelis v. Norbergs*, 272 A.D.2d 316, 316 (2d Dep’t 2000). “The mere lapse of time without a showing of prejudice will not sustain a defense of laches.” *Id.* Laches is a fact-intensive affirmative defense, on which Commissioner Haight bears the burden of proof. *E.g. Dwyer v. Mazzola*, 171 A.D.2d 726, 727 (2d Dep’t 1986). In particular, courts must “examine and explore the nature and subject matter of the particular controversy, its context and the reliance and prejudicial impact on defendants and others materially affected.” *Matter of Schulz v. State of New York*, 81 N.Y.2d 336, 347 (N.Y. 1993).

57. Here, Commissioner Haight has made no attempt at a showing of prejudice. The record is replete with unrebutted sworn testimony from Commissioner Black and Vassar College

officials that, even at this late date, the Board can still take the steps necessary to establish a polling site on Vassar's campus. Indeed, Commissioner Haight presented no evidence at all in this matter. Although he could have testified at the November 3 hearing to rebut Commissioner Black's testimony, he chose not to—apparently in an attempt to evade further service of process.

58. Further, Petitioners brought this action only after Commissioner Haight rebuffed multiple good faith attempts to persuade him to comply with his mandatory statutory duties. Despite repeated overtures—and later, demands—Commissioner Haight has at each turn responded with delay tactics. He rejected Commissioner Black's proposal for a public meeting, over a month *after* the statutory deadline for designating a polling place, as “premature.” Incredibly, as recently as November 4—*four days before the election and one day after Supreme Court's order*—Commissioner Haight again rejected Commissioner Black's plan for establishing a polling site at Vassar as “premature.” If there has been any delay in this matter, it is laid squarely at the feet of Commissioner Haight.

59. *Finally*, Commissioner Haight's argument that Vassar College is a “necessary party” is meritless. Vassar College is not a necessary party because its participation is not necessary to afford full relief to Petitioners and Vassar will not be inequitably affected by a judgment in favor of Petitioners. *See* CPLR 1001(a) (defining necessary parties as “[p]ersons who ought to be parties if complete relief is to be accorded between the persons who are parties to the action or who might be inequitably affected by a judgment in the action.”). The record shows that Vassar would like to host a polling location and has made a satisfactory space available to that end. The only barrier to their doing so is Commissioner Haight's refusal to abide by the law.

60. Commissioner Haight's appeal is therefore meritless.

61. Moreover, if Commissioner Haight is allowed to further shirk his responsibilities under the plain language of the College Polling Place Law, Petitioners, along with the entire Vassar College community, will face immediate irreparable harm. This Court must act immediately to ensure that the voting rights of hundreds of Vassar students, plus faculty and staff, are not erased by Commissioner Haight's intransigence.

62. The prospect of irreparable injury is severe. The "predictable effect of government action," i.e., failing to provide student voters access to an on-campus polling site as required by state law, is that some voters will be deterred from voting altogether. *Dep't of Com. v. New York*, 139 S. Ct. 2551, 2566 (2019). Petitioners are merely a few of the Vassar College voters who risk irreparable harm in the form of disenfranchisement if they are unable to access a convenient polling place on election day. Courts routinely find that disenfranchisement is irreparable harm. *See Obama for Am. v. Husted*, 697 F.3d 423, 436 (6th Cir. 2012); *League of Women Voters of N.C. v. North Carolina*, 769 F.3d 224, 247 (4th Cir. 2014); *Williams v. Salerno*, 792 F.2d 323, 326 (2d Cir. 1986) (noting that student applicants "would certainly suffer irreparable harm if their right to vote were impinged upon").

63. For similar reasons, the balance of equities also tips in Petitioners' favor. "The right of suffrage is one of the most valuable and sacred rights which the Constitution has conferred upon the citizen of the state." *People ex rel. Stapleton v. Bell*, 119 N.Y. 175, 178 (1889). It "shall be given the highest respect, especially by our courts, and shall not be compromised, or allowed to be diminished." *Held v. Hall*, 190 Misc.2d 444, 459 (Sup. Ct. Westchester Co. 2002) (internal citations omitted) (noting where a preliminary injunction involves the disenfranchisement of voters, "the equities might weigh" in favor of upholding the right to vote). Vassar College students and faculty, particularly those who lack access to automobiles, will face substantial barriers to

voting without the on-campus (or near-campus) voting location guaranteed to them by statute. Undoubtedly, some will be disenfranchised altogether.

64. On the other side of the ledger, Commissioner Haight cannot credibly claim an interest in continuing to ignore clear provisions of the Election Law. To date, Commissioner Haight has not offered *any* rationale—legal, policy, or otherwise—for his opposition to the placement of a polling site on Vassar’s campus.

65. Commissioner Haight is, once again, trying to run out the clock. This Court should not allow him to do so.

66. Because time is of the essence, Petitioners also request leave to effect service of a copy of the annexed Order to Show Cause, together with a copy of the papers upon which it is granted, upon Respondent as indicated in the accompanying Order to Show Cause: by email to the official government email addresses of the Board’s two commissioners, and by email to their counsel.

67. As discussed above, in time-sensitive matters related to the administration of elections under the Election Law, courts routinely authorize alternative and expedited methods of service in accordance with the Election Law, the CPLR, and controlling case law.

68. I have emailed copies of these papers to counsel of record for both Commissioners of the Board of Elections, and to the Commissioners themselves at the email addresses published on the website of the Dutchess County Board of Elections. *See* Dutchess County Board of Elections, <https://elections.dutchessny.gov/> (last accessed November 5, 2022).

WHEREFORE, it is respectfully requested that this Court entertain this emergency Order to Show Cause, and grant the relief sought herein.

Dated: November 5, 2022



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RETRIEVED FROM DEMOCRACYDOCKET.COM

Exhibit A

RETRIEVED FROM DEMOCRACYDOCKET.COM

To commence the statutory time period for appeals as of right (CPLR 5513 [a]), you are advised to serve a copy of this order, with notice of entry, upon all parties.

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF DUTCHESS**

PRESENT: HON. CHRISTIE L. D'ALESSIO, J.S.C.

-----X
LEAGUE OF WOMEN VOTERS OF THE
MID-HUDSON REGION, TANEISHA MEANS, and
MAGDALENA SHARFF,

Petitioners-Plaintiffs

-against-

THE DUTCHESS COUNTY BOARD OF ELECTIONS,
and ERIK J. HAIGHT in his capacity as Commissioner of
the Dutchess County Board of Elections,

Respondents-Defendants.
-----X

**DECISION, ORDER,
AND JUDGMENT**
Index No. 2022-53491

The following papers were read on the petition filed in connection with this hybrid special proceeding under CPLR Article 78 and declaratory judgment action under CPLR § 3001, seeking, inter alia, the designation of a polling location on the campus of Vassar College in accordance with Election Law § 4-104 [5-a]: NYSCEF Documents no. 1-19.

Upon review of the petition filed by Order to Show Cause, all other written submissions filed to NYSCEF, and upon due consideration of the arguments, testimony and exhibits presented on the record in court on November 3, 2022, by the parties and/or their respective counsel, it is hereby

1. ORDERED that, upon application of the proposed intervenor, Hannah Black in the capacity as a Commissioner of Dutchess County Board of Elections, and with the written consent of petitioner, this case caption is amended to include the proposed intervenor as a named Respondent-Defendant. It is further

2. ORDERED that, the case caption is amended as follows:

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF DUTCHESS

-----X
LEAGUE OF WOMEN VOTERS OF THE
MID-HUDSON REGION, TANEISHA MEANS, and
MAGDALENA SHARFF,

Petitioners-Plaintiffs

-against-

THE DUTCHESS COUNTY BOARD OF ELECTIONS,
ERIK J. HAIGHT in his capacity as Commissioner of
the Dutchess County Board of Elections, and
HANNAH BLACK in the capacity as Commissioner of the
Dutchess County Board of Elections,

Respondents-Defendants.
-----X

3. ORDERED that, this Court grants Dutchess County Attorney's unopposed application to recuse itself from representing either or both named Commissioners of the Board of Elections based upon the conflict arising from each Commissioner's adverse position on the merits of the petition. It is further
4. ORDERED that, insofar as the proposed Intervenor's application included a request for reimbursement of attorney fees associated with private representation incurred as a result of the aforementioned conflict, the Dutchess County Attorney's letter submission dated November 2, 2022 states that "County Attorney has no objection to the County's payment of attorney fees associated with private representation of Commissioner Black as a Respondent-Defendant, to the extent such fees are in accord with Dutchess County Local Law No. 4 of 1988". Private counsel may follow the appropriate protocols to submit any such request to the County. That issue is resolved accordingly. It is further
5. ORDERED that, the oral application of counsel for Respondent/Defendant Erik J. Haight in his capacity as Commissioner of the Dutchess County Board of Elections for dismissal of this matter is denied. It is further
6. ORDERED that, this Court grants the petition in its entirety. The plain language of Election Law § 4-104[5-a] which includes the word "shall" (as opposed to "may" or "should") *specifically mandates* the designation of a voting polling place on a college or university campus where, as here, the petitioner demonstrated that the college or university campus contains three hundred or more registrants to vote at an address on such college or university campus.

Any other applications for further relief not specifically granted herein are denied.

The foregoing constitutes the decision, order and judgment of this court.

Dated: November 3, 2022
Poughkeepsie, New York

ENTERED :



HON. CHRISTIE L. D'ALESSIO, J.S.C.

TO:

Filed to NYSCEF

Pursuant to CPLR Section 5513, an appeal as of right must be taken within thirty days after service by a party upon the appellant of a copy of the judgment or order appealed from and written notice of its entry, except that when the appellant has served a copy of the judgment or order and written notice of its entry, the appeal must be taken within thirty days thereof.

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Exhibit B

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF DUTCHESS

LEAGUE OF WOMEN VOTERS OF THE MID-
HUDSON REGION, TANEISHA MEANS, and
MAGDALENA SHARFF,

Petitioners-Plaintiffs,

-against-

THE DUTCHESS COUNTY BOARD OF ELECTIONS,
and ERIK J. HAIGHT in his capacity as Commissioner of
the Dutchess County Board of Elections,

Respondents-Defendants.

Index No. _____

VERIFIED PETITION

Petitioners respectfully allege, upon information and belief, as follows:

1. This is a hybrid special proceeding under CPLR Article 78 and declaratory judgment action under CPLR § 3001, seeking the designation of a polling location on the campus of Vassar College, which must have such a polling location under Election Law § 4-104 [5-a] (the “College Polling Place Law”). That provision provides: “Whenever a contiguous property of a college or university contains three hundred or more registrants who are registered to vote at any address on such contiguous property, the polling place designated for such registrants shall be on such contiguous property or at a nearby location recommended by the college or university and agreed to by the board of elections.”

2. The Dutchess County Board of Elections has failed to comply with this clear statute, refusing to designate an on-campus polling location for the November 8, 2022 general election on the Vassar College campus or at a nearby location recommended by the college. Vassar College has made available several sites that would be suitable for this purpose, but the Board of Elections has unreasonably and unlawfully refused to comply with the clear requirements of the

law. The nearest early voting sites to the Vassar College campus each require an hour's walk to reach and return, and are not accessible by public transportation from Vassar College. The refusal of the Board to designate an on-campus polling location for the November 8 general election not only violates New York law, but further abridges the voting rights of voters who reside on the Vassar College campus, including but not limited students, faculty, staff, and their families.

3. Petitioner League of Women Voters of the Mid-Hudson Valley (the "League") is a non-profit, non-partisan organization dedicated to promoting the informed and active participation of citizens in government. As part of its mission to empower citizens and strengthen public participation in democracy, the League works to increase voter turnout and encourages its members and the people of New York to exercise their right to vote as guaranteed by the Constitutions of the State of New York and of the United States. The League is a membership organization and its members include people who are registered to vote at residential addresses on the Vassar College campus, including Kirsten Menking and Lydia Murdoch.

4. Petitioner Taneisha Means is a Professor at Vassar and a registered voter in Dutchess County. Taneisha Means resides on the campus at Vassar College with her family. Taneisha Means is registered to vote at her residential address on campus. Taneisha Means has not yet voted in the November 8, 2022 general election.

5. Magdalena Sharff is a student at Vassar and a registered voter in Dutchess County. Magdalena Sharff resides on campus at Vassar College. Magdalena Sharff is registered to vote at her residential address on campus. Magdalena Sharff has not yet voted in the November 8, 2022 general election.

6. Respondent Dutchess County Board of Elections is the local board of elections for Dutchess County, responsible for administering voting sites in the County. *See* N.Y. Elec. Law § 4-104.

7. Election Law § 4-104 [5-a] provides: “Whenever a contiguous property of a college or university contains three hundred or more registrants who are registered to vote at any address on such contiguous property, the polling place designated for such registrants shall be on such contiguous property or at a nearby location recommended by the college or university and agreed to by the board of elections.”

8. The current text of Election Law § 4-104 [5-a] was adopted in Chapter 55 of the Laws of 2022, signed into law by the Governor on April 9, 2022.

9. Part O of Chapter 55 of the Laws of 2022, provide the effective date for Election Law § 4-104 [5-a]. Section 3 of Part O of the Laws of 2022 stated: “This act shall take effect on the ninetieth day after it shall have become a law; provided, however, that the deadline for boards of elections to designate polling places pursuant to this act shall be extended to August 1, 2022[.]” Section 4-104 [5-a] thus became effective on July 8, 2022 with the deadline to designate polling places on college campuses just over three weeks later.

10. Vassar College is an independent, coeducational, residential liberal arts college, located in Poughkeepsie, New York.

11. There are approximately 2,500 students enrolled at Vassar College.

12. Approximately 98% of Vassar students live on campus in residential housing or on-campus apartments. Many members of the Vassar faculty and administration also reside on campus.

13. According to publicly available voter registration records for Dutchess County, there are over 1,000 voters who are registered to vote at residential addresses on the campus of Vassar College.

14. There are two early voting sites in Poughkeepsie. Walking from the Vassar campus to either early voting site would be approximately a one-hour round trip. Neither site is available by public transportation from Vassar College.

15. There are three election districts that include voters with residential addresses on the Vassar College campus. One election district includes over 350 active registered voters with residential addresses on the Vassar College campus and those voters are assigned to a polling place at the United Methodist Church located at 2381 New Hackensack Rd, which is a 2.4 mile round-trip from campus and is not accessible by public transportation. Two election districts are assigned to a polling place at the Dutchess County Water and Wastewater Authority that is approximately a one-mile round trip walk. That polling place serves over 750 active registered voters with a residential address on the Vassar College campus.

16. The Dutchess County Board of Elections did not designate a polling place on the Vassar College campus prior to August 1, 2022.

17. In August 2022, Wesley Dixon, special assistant to the president of Vassar College, sent an email to the Dutchess County Board of Elections in which he requested a polling site for voters at Vassar College and provided a location on campus that could be used as a polling place. *See* Affidavit of Wesley Dixon (“Dixon Affidavit”), attached to the Affirmation of Richard A. Medina as Exhibit 3.

18. Dixon proposed that the on-campus polling place be located in the Villard Room, which is in the Main Building on campus. Dixon Affidavit ¶ 6. The college also suggested several other potential on-campus locations for a polling place.

19. The *Poughkeepsie Journal* has reported that Respondent Commissioner Erik Haight has resisted the attempts of Vassar College officials, which attempts were supported by Commissioner Hannah Black, to designate a polling location for Vassar College voters. *See Saba Ali, As Vassar seeks voting site under new law, Dutchess Board of Elections argues, Poughkeepsie Journal* (Oct. 19, 2022), <https://www.poughkeepsiejournal.com/story/news/politics/elections/2022/10/19/vassar-voting-site-delayed-dutchess-board-of-elections/69563348007/> (attached to the Affirmation of Richard A. Medina as Exhibit 1). The reporting in the *Poughkeepsie Journal* Article is confirmed by the Affidavit of Hannah Black (attached to the Affirmation of Richard A. Medina as Exhibit 2).

20. On October 25, 2022, a coalition of non-profits and student organizations sent a letter to, *inter alia*, the Commissioners of the Dutchess County Board of Elections (the “Demand Letter”) (attached to the Affirmation of Richard A. Medina as Exhibit 4). The letter identifies erroneous advice given by the Dutchess County Attorney’s office to the Board of Elections. In particular, the County Attorney’s office told the Board of Elections the wrong effective date for the College Polling Place Law and failed to inform the Board of Elections of the correct deadline to designate a polling place. The letter demanded County leadership insist that Commissioner Haight either (a) agree to a suitable polling location selected by Vassar College or (b) demonstrate at a public hearing that another location either on campus or nearby would be more suitable, by the end of the week, *i.e.*, Friday, October 29, 2022. Demand Letter at 6.

21. To date, the Dutchess County Board of Elections has not designated a poll site on the Vassar College campus.

22. The Dutchess County Board of Elections could easily designate and implement the use of an election day polling place on the Vassar College campus for the November 8, 2022 general election if ordered to do so before November 4, 2022. That includes assigning all voters who are registered to vote at a residential address on the Vassar College campus to the on-campus poll site. As explained in Commissioner Black's Affidavit, the last possible time that the Board of Elections could implement an on-campus poll site at Vassar College for the November 8, 2022 general election is the morning of November 4, 2022.

23. The preparations required for the Dutchess County Board of Elections to provide for a polling place on the Vassar College campus are minimal. The Dutchess County Board of Elections would need to program three electronic poll books for a polling place on the campus for those election districts and program two voting machines to reflect the proper ballot styles for those election districts. The Dutchess County Board of Elections could continue to maintain the polling places off-campus to continue to serve the off-campus voters assigned to those poll sites to ensure minimal disruption.

24. The Dutchess County Board of Elections has in the past designated Election Day polling locations within five days of Election Day pursuant to stipulated orders. *See Bard Coll. v. Dutchess Cnty. Bd. of Elections*, 198 A.D.3d 1014, 1017-18 (2d Dep't 2021) ("The Board most recently designated both the Campus Center and the Church as simultaneous polling locations for District 5 in accordance with a stipulated order of the Supreme Court dated October 30, 2020.")

25. Petitioners submit this Petition in support of their application for relief pursuant to CPLR § 6301, and declaratory judgment pursuant to CPLR § 3001 together with such other and further relief as this Honorable Court may deem just and proper.

Venue

26. Petitioners are registered voters who reside in Dutchess County and organizations whose members include registered voters who reside in Dutchess County. Respondents are the Dutchess County Board of Elections and one of its commissioners (in his official capacity), with an office located at 112 Delafield Street, Poughkeepsie, New York 12601.

Undertaking Pursuant to CPLR § 6312

27. Petitioners are prepared to satisfy any undertaking obligation the court may impose when granting the TRO. However, Petitioners submit to the court that the nature of this action deems an undertaking unnecessary.

AS AND FOR FIRST CAUSE OF ACTION
PETITION FOR WRIT OF MANDAMUS AGAINST RESPONDENTS

Failure to Fulfill Statutory Duties Under N.Y. Elec. Law § 4-104 [5-a]

28. Petitioners reallege and reincorporate by reference all prior paragraphs of this Verified Petition as though fully set forth herein.

29. A writ of mandamus is available where a government “body or officer failed to perform a duty enjoined upon it by law.” CPLR § 7803(1). It has long been established that mandamus lies in an action to compel election commissioners to perform ministerial acts. *E.g. Matter of Mansfield v. Epstein*, 5 N.Y.2d 70, 73 (1958).

30. Respondents have failed to perform a duty enjoined upon them by Election Law § 4-104 [5-a].

31. Election Law § 4-104 [5-a] provides: “Whenever a contiguous property of a college or university contains three hundred or more registrants who are registered to vote at any address on such contiguous property, the polling place designated for such registrants shall be on such contiguous property or at a nearby location recommended by the college or university and agreed to by the board of elections.”

32. The Dutchess County Board Elections has failed to provide a polling place on the Vassar College campus to serve the registered voters whose residential addresses are on the Vassar College campus.

AS AND FOR SECOND CAUSE OF ACTION
REQUEST FOR TEMPORARY RESTRAINING ORDER (TRO) PURSUANT TO CPLR
§ 6301
Request for Temporary Restraining Order

33. Under CPLR Article 63, a preliminary injunction may be granted when Petitioners demonstrate:

1. a likelihood of ultimate success on the merits;
2. the prospect of irreparable injury if the provisional relief is withheld; and
3. a balance of equities tipping in the moving party’s favor.

See Doe v. Axelrod, 73 N.Y.2d 748, 750 (1988). Petitioners meet this standard.

34. CPLR § 6301 states that “A temporary restraining order may be granted pending a hearing for a preliminary injunction where it appears that immediate and irreparable injury, loss or damage will result unless the defendant is restrained before the hearing can be had.”

35. Petitioners are likely to succeed on the merits. Election Law § 4-104 [5-a] clearly requires that Vassar College have a polling place on campus: “the polling place designated for such registrants shall be on such contiguous property or at a nearby location recommended by the

college or university and agreed to by the board of elections.” Respondents have not satisfied their mandatory obligation to provide a polling place on the Vassar College campus.

36. The prospect of irreparable injury is severe. The “predictable effect of government action,” i.e., failing to provide student voters access to an on-campus polling site as required by state law, is that some voters will be deterred from voting altogether. *Dep’t of Com. V. New York*, 139 S. Ct. 2551, 2566 (2019). Petitioners are merely a few of the Vassar College voters who risk irreparable harm in the form of disenfranchisement if they are unable to have access to a convenient polling place for Election Day voting. Courts routinely find disenfranchisement to constitute irreparable harm. *See Obama for Am. v. Husted*, 697 F.3d 423, 436 (6th Cir. 2012); *League of Women Voters of N.C. v. North Carolina*, 769 F.3d 224, 247 (4th Cir. 2014); *Williams v. Salerno*, 792 F.2d 323, 326 (2d Cir. 1986) (noting that student applicants “would certainly suffer irreparable harm if their right to vote were impinged upon”).

37. A balance of equities also tips in the Petitioners’ favor. New Yorkers’ interest in exercising their right to vote is substantial. “The right of suffrage is one of the most valuable and sacred rights which the Constitution has conferred upon the citizen of the state.” *People ex rel. Stapleton v. Bell*, 119 N.Y. 175, 178 (1889). It “shall be given the highest respect, especially by our courts, and shall not be compromised, or allowed to be diminished.” *Held v. Hall*, 190 Misc.2d 444, 459 (Sup. Ct. Westchester Co. 2002) (internal citations omitted) (noting where a preliminary injunction involves the disenfranchisement of voters, “the equities might weigh” in favor of upholding the right to vote). While there is a meaningful burden in failing to provide access to a convenient election day polling place, there is a barely a cognizable administrative burden in setting up a single election day polling place on the Vassar College campus. Indeed, half of the Dutchess County Board of Elections as well as Vassar College have already conceded that relief

is appropriate—and as set out in the affidavit of Commissioner Black filed concurrently herewith, the measures proposed here would place little additional cost on the Dutchess County Board of Elections or the College.

AS AND FOR THIRD CAUSE OF ACTION
DECLARATORY JUDGMENT PURSUANT TO CPLR § 3001

38. Petitioners reiterate the facts and arguments set forth above and move this court for a declaratory judgment pursuant to CPLR § 3001 declaring Respondents have violated their obligations under Election Law § 4-104 [5-a].

39. No prior application has been made for the relief requested herein.

WHEREFORE, it is respectfully requested that the court issue an Order as follows:

- (i) Pursuant to CPLR § 3001, declaring Respondents have violated their obligations under Election Law § 4-104 [5-a] to provide a polling place on the campus of Vassar College, which has over 1,000 voters who are registered to vote at residential addresses located on the Vassar College campus.
- (ii) Pursuant to CPLR Article 78, Election Law § 4-104 [5-a], and CPLR § 6301, compelling Respondents: (a) to designate and operate a polling place to be used on the day of the general election on November 8, 2022 on the campus of Vassar College; (b) to assign all voters registered at a residential address on the Vassar College campus to that on-campus polling place and (c) to publicize the new on-campus polling place and assignments to those voters who are assigned to the Vassar College on-campus polling place.

DATED: November 1, 2022

Respectfully Submitted,

DREYER BOYAJIAN LLP

By: /s/ James R. Peluso
James R. Peluso
75 Columbia Street
Albany, NY 12210
Tel.: (518) 463-7784
jpeluso@dblawny.com

ELIAS LAW GROUP LLP

By: /s/ Aria C. Branch
Aria C. Branch*
Justin Baxenberg*
Richard Alexander Medina
Renata O'Donnell
10 G St NE, Ste 600
Washington, DC 20002
Tel.: (202) 968-4490
abbranch@elias.law
jbaxenberg@elias.law
rmedina@elias.law
rodonnell@elias.law

**Pro hac vice application forthcoming*

ATTORNEY VERIFICATION

STATE OF NEW YORK)
) ss.:
 COUNTY OF NEW YORK)

RICHARD A. MEDINA, an attorney duly admitted to practice in the Courts of the State of New York, states:

I am an attorney at ELIAS LAW GROUP LLP, the attorneys for the Petitioners herein. I have read the foregoing PETITION and know the contents thereof; the same is true to my own knowledge, except as to those matters therein alleged to be on information and belief and, that as to those matters, I believe them to be true.

The reason this verification is made by me and not by the Petitioners is that the Petitioners are presently outside the county in which I maintain my office.

The grounds of my belief as to all matters not stated upon my own knowledge are information, books, records, data and correspondence contained in deponent's file and conversations had with the Petitioners herein, as well as the affidavits filed concurrently herewith.

I affirm that the foregoing statements are true under the penalty of perjury.

Dated: November 1, 2022



Richard A. Medina

Sworn to before me this
 1st day of November, 2022



Notary Public or Commissioner of Deeds



This remote notarial act involved the use of communication technology.

Exhibit C

RETRIEVED FROM DEMOCRACYDOCKET.COM

At a n I.A.S. part of the Supreme Court of the State of New York, held in and for the County of Dutchess, at 10 Market Street Poughkeepsie, NY 12601 on the 1st day of November 2022

PRESENT: **HON. CHRISTIE L. D'ALESSIO, J.S.C.**

J.S.C.

LEAGUE OF WOMEN VOTERS OF THE MID-HUDSON REGION, TANEISHA MEANS, and MAGDALENA SHARFF,

Petitioners-Plaintiffs

-against-

THE DUTCHESS COUNTY BOARD OF ELECTIONS, and ERIK J. HAIGHT in his capacity as Commissioner of the Dutchess County Board of Elections,

Respondents-Defendants

Index No. 2022-53491

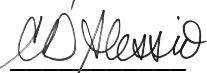
ORDER TO SHOW
CAUSE

Upon the reading and filing of the Affirmation of Richard A. Medina, dated November 1, 2022, the annexed Verified Petition, duly verified on November 1, 2022; the Affidavits and Affirmations submitted herewith; and upon all the papers and proceedings herein, it is hereby:

ORDERED, that the Respondents named above show cause before this Court at **Courtroom 106** Part I.A.S. to be held at the Courthouse located at 10 Market Street Poughkeepsie, NY 12601, on the 3rd of November 2022 at 2:00p.m. - **PERSONAL APPEARANCES REQUIRED** of that day, or as soon thereafter as counsel can be heard, why an Order should not be made and entered herein:

- (i) Pursuant to CPLR § 3001, declaring Respondents have violated their obligations under Election Law § 4-104 [5-a] to provide a polling place on the campus of Vassar College, which has over 1,000 voters who are registered to vote at residential addresses located on the Vassar College campus.
- (ii) Pursuant to CPLR Article 78, Election Law § 4-104 [5-a], and CPLR § 6301, compelling Respondents: (a) to designate and operate a polling place to be used on the day of the general election on November 8, 2022 on the campus of Vassar College; (b) to assign all voters registered at a residential address on the Vassar College campus to that on-campus polling place and (c) to publicize the new on-campus polling place and assignments to those voters who are assigned to the Vassar College on-campus polling place.

OMITTED:


J.S.C.

~~IT IS FURTHER ORDERED, that pursuant to Article 78 of the CPLR, Election Law § 4-104 [5-a] and CPLR § 6301, Respondents-Defendants are temporarily restrained and ordered, pending the hearing and determination of the Verified Petition: (a) to designate and operate a polling place to be used on the day of the general election on November 8, 2022 on the campus of Vassar College; (b) to assign all voters registered at a residential address on the Vassar College campus to that on-campus polling place and (c) to publicize the new on-campus polling place and assignments to those voters who are assigned to the Vassar College on-campus polling place.~~

IT IS FURTHER ORDERED that service of a copy of this Order to Show Cause *and the court notice providing the Microsoft Teams access information for the pre-hearing conference (see below)* and Verified Petition, together with the papers upon which it is granted, upon Respondents-

Defendants by email to the official government email addresses of the Board of Elections'


J.S.C.

two Commissioners, ~~or by personal service upon a person of suitable age and discretion at~~
by no later than November 2, 2022 at 10:00a.m.
the office of the Board of Elections, shall be deemed good and sufficient service thereof.



J.S.C.

IT IS FURTHER ORDERED that any requirement that the affidavits of service be filed with the Clerk of the Court be extended to the return date of this motion, and such affidavits shall be filed with the Clerk of the Part on the return date, and that any requirement that substituted service be preceded by due diligence attempt(s) at personal delivery upon Respondent-Defendant be and is hereby waived, and that the ten day completion of service provision be and is hereby waived by this Order.

IT IS FURTHER ORDERED that Respondent-Defendant shall file any written opposition by November 2, 2022 by no later than 3:00p.m.

ENTER:

IT IS FURTHER ORDERED that a virtual (remote) pre-hearing conference with the Judge's Principal Court Attorney is scheduled for November 2, 2022 at 4:00p.m.


J.S.C.

HON. CHRISTIE L. D'ALESSIO, J.S.C.

The virtual (remote) pre-hearing conference log in/access information will be provided shortly by separate court notice filed to NYSCEF.

Exhibit D

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF DUTCHESS

LEAGUE OF WOMEN VOTERS OF THE MID-
HUDSON REGION, TANEISHA MEANS, and
MAGDALENA SHARFF,

Petitioners-Plaintiffs

-against-

THE DUTCHESS COUNTY BOARD OF ELECTIONS,
and ERIK J. HAIGHT in his capacity as Commissioner of
the Dutchess County Board of Elections, and HANNAH
BLACK in her capacity as Commissioner of the Dutchess
County Board of Elections,

Respondents-Defendants

Index No. 2022-53491

Hon. Christie D'Alessio

STATE OF NEW YORK)
) ss:
COUNTY OF NEW YORK)

AFFIDAVIT OF WESLEY DIXON

I, Wesley Dixon, being duly sworn, say:

1. I am over 18 years old and a citizen of the United States.
2. I am the special assistant to the President of Vassar College.
3. As part of my job responsibilities, I have represented Vassar College in conversations with the Dutchess County Board of Elections to enable Vassar to host a polling place on campus to serve our students, faculty members, administration, and their families who are registered to vote at their on-campus residential address, consistent with the New York State Election Law.
4. After this Court issued its Order on November 3, 2022, I emailed Commissioners Haight and Black at 9:31 PM. A true and correct copy of my e-mail is enclosed as Exhibit 1. In the email, I stated that I understood that the hearing resulted in this Court mandating that the

Dutchess County Board of Elections establish a polling site at Vassar for the election and that Vassar is ready to establish the polling site.

5. Vassar has already reserved a properly equipped space to serve as the polling site.

This space is the Aula in Ely Hall. As I told the Commissioners in my email, this space offers

- a. Standing room capacity of 300; sitting room capacity of 150
- b. Three separate entrances into the space
- c. ADA accessible and compliant
- d. Attached kitchen space
- e. Bathrooms nearby
- f. Several electrical outlets throughout
- g. Tables and chairs to use as you see appropriate
- h. Parking for about 15-20 outside

6. In my email, I invited both Commissioners to meet me on campus today, November 4, at 3:00 PM so that they could see the space.

7. Vassar stands prepared to do anything it can to support the efforts of the Dutchess County Board of Elections in establishing a polling site on Vassar's campus.

8. Vassar has already prepared an email that will go to the entire Vassar community to publicize the location and accessibility of the polling site.



Wesley Dixon

Sworn to before me this

4 day of November, 2022



This remote notarial act involved the use of communication technology.

Exhibit 1

RETRIEVED FROM DEMOCRACYDOCKET.COM

From: [Wesley Dixon](#)
To: [Renata O'Donnell](#)
Subject: Fwd: Polling Site at Vassar College
Date: Friday, November 4, 2022 11:16:23 AM

----- Forwarded message -----

From: **Wesley Dixon** <wdixon@vassar.edu>
Date: Thu, Nov 3, 2022 at 9:31 PM
Subject: Polling Site at Vassar College
To: Haight, Erik <ehaight@dutchessny.gov>, Black, Hannah <hblack@dutchessny.gov>

Dear Commissioners Haight and Black,

I am writing to follow-up on the hearing today regarding the lawsuit filed by the League of Women Voters of the Mid-Hudson Region. My understanding is that the hearing resulted in the judge mandating that the Dutchess BOE establish a polling site at Vassar for the election on Tuesday, November 8th, 2022. Vassar is willing and prepared to respond appropriately to this ruling.

Earlier this evening, I was in communication with Commissioner Black and she informed me that she and others would like to see the space on campus that was reserved in the event that a polling site was established at Vassar. We agreed to meet on campus at 3:00pm tomorrow (November 4th). The designated space is the Aula in Ely Hall.

In advance of tomorrow's site visit, I wanted to give you some background on the space:

1. Standing room capacity of 300; sitting room capacity of 150
2. Three separate entrances into the space
3. ADA accessible and compliant
4. Attached kitchen space
5. Bathrooms nearby
6. Several electrical outlets throughout
7. Tables and chairs to use as you see appropriate
8. Parking for about 15-20 outside

Please let me know if there is anything else the College can do to support the efforts of the Dutchess BOE.

Thanks,

Wes

--

Wesley Eugene Dixon • Special Assistant to the President and Secretary of the Board of Trustees

Vassar College • Box 1 • 124 Raymond Ave • Poughkeepsie, NY 12604

phone: (954) 655-2887

VASSAR COLLEGE

--

Wesley Eugene Dixon • Special Assistant to the President and Secretary of the Board of Trustees

Vassar College • Box 1 • 124 Raymond Ave • Poughkeepsie, NY 12604

phone: (954) 655-2887

VASSAR COLLEGE

RETRIEVED FROM DEMOCRACYDOCKET.COM

Exhibit E

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**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF DUTCHESS**

----- X
LEAGUE OF WOMEN VOTERS OF THE MID-
HUDSON REGION, TANEISHA MEANS, and
MAGDALENA SHARFF,

Index No. 2022/53491

Petitioners-Plaintiffs,

-against-

NOTICE OF APPEAL

THE DUTCHESS COUNTY BOARD OF ELECTIONS,
ERIK J. HAIGHT in his capacity as Commissioner of the
Dutchess County Board of Elections, and HANNAH
BLACK in her capacity as Commissioner of the Dutchess
County Board of Elections

Respondents-Defendants.
----- X

PLEASE TAKE NOTICE that Respondent Erik J. Haight does hereby appeal from the decision, order and judgment of the Supreme Court, D'Alessio, J., in the above-captioned matter entered on or about November 3, 2022, which granted relief on Petitioners' Article 78 claim. This appeal is from each and every portion thereof which ruled adversely to Respondent or by which Respondent Erik Haight is aggrieved, and is to the Appellate Division, Second Department, of the Supreme Court of the State of New York.

Dated: Beacon, New York
November 4, 2022



David D. Jensen
DAVID JENSEN PLLC
33 Main Street
Beacon, New York 12508
(212) 380-6615 phone

TO:

SERVED BY MAIL

James R. Peluso
Dreyer Boyajian LLP
75 Columbia Street
Albany, NY 12210

Aria C. Branch
Justin Baxenberg
Richard Alexander Medina
Renata O'Donnell
Elias Law Group LLP
10 G St NE, Ste 600
Washington, DC 20002

Michael Treybich
Treybich Law, P.C.
272 Mill Street
Poughkeepsie, New York 12601

Caroline Blackburn
Dutchess County Department of Law
22 Market Street
Poughkeepsie, NY 12601

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Supreme Court of the State of New York

Appellate Division: Second Judicial Department

Informational Statement (Pursuant to 22 NYCRR 1250.3 [a]) - Civil

Case Title: Set forth the title of the case as it appears on the summons, notice of petition or order to show cause by which the matter was or is to be commenced, or as amended.

LEAGUE OF WOMEN VOTERS OF THE MID.HUDSON REGION,
TANEISHA MEANS, and MAGDALENA SHARFF.

- against -

THE DUTCHESS COUNTY BOARD OF ELECTIONS, ERIK J. HAIGHT in
his capacity as Commissioner of the Dutchess County Board of Elections,
and HANNAH BLACK in the capacity as Commissioner of the Dutchess

For Court of Original Instance

Date Notice of Appeal Filed

For Appellate Division

Case Type

- ☐ Civil Action
☐ CPLR article 75 Arbitration
☐ Action Commenced under CPLR 214-g
- ☒ CPLR article 78 Proceeding
☐ Special Proceeding Other
☐ Habeas Corpus Proceeding

Filing Type

- ☒ Appeal
☐ Original Proceedings
☐ CPLR Article 78
☐ Eminent Domain
☐ Labor Law 220 or 220-b
☐ Public Officers Law § 36
☐ Real Property Tax Law § 1278
- ☐ Transferred Proceeding
☐ CPLR Article 78
☐ Executive Law § 298
☐ CPLR 5704 Review

Nature of Suit: Check up to three of the following categories which best reflect the nature of the case.

<input type="checkbox"/> Administrative Review	<input type="checkbox"/> Business Relationships	<input type="checkbox"/> Commercial	<input type="checkbox"/> Contracts
<input type="checkbox"/> Declaratory Judgment	<input type="checkbox"/> Domestic Relations	<input checked="" type="checkbox"/> Election Law	<input type="checkbox"/> Estate Matters
<input type="checkbox"/> Family Court	<input type="checkbox"/> Mortgage Foreclosure	<input type="checkbox"/> Miscellaneous	<input type="checkbox"/> Prisoner Discipline & Parole
<input type="checkbox"/> Real Property (other than foreclosure)	<input type="checkbox"/> Statutory	<input type="checkbox"/> Taxation	<input type="checkbox"/> Torts

Appeal			
Paper Appealed From (Check one only):		If an appeal has been taken from more than one order or judgment by the filing of this notice of appeal, please indicate the below information for each such order or judgment appealed from on a separate sheet of paper.	
<input type="checkbox"/> Amended Decree <input type="checkbox"/> Amended Judgement <input type="checkbox"/> Amended Order <input type="checkbox"/> Decision <input type="checkbox"/> Decree	<input type="checkbox"/> Determination <input type="checkbox"/> Finding <input type="checkbox"/> Interlocutory Decree <input type="checkbox"/> Interlocutory Judgment <input checked="" type="checkbox"/> Judgment	<input type="checkbox"/> Order <input type="checkbox"/> Order & Judgment <input type="checkbox"/> Partial Decree <input type="checkbox"/> Resettled Decree <input type="checkbox"/> Resettled Judgment	<input type="checkbox"/> Resettled Order <input type="checkbox"/> Ruling <input type="checkbox"/> Other (specify):
Court: Supreme Court		County: Choose County	
Dated: 11/3/2022		Entered:	
Judge (name in full): Christie L. D'Alessio		Index No.:	
Stage: <input type="checkbox"/> Interlocutory <input checked="" type="checkbox"/> Final <input type="checkbox"/> Post-Final		Trial: <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes: <input type="checkbox"/> Jury <input type="checkbox"/> Non-Jury	
Prior Unperfected Appeal and Related Case Information			
Are any appeals arising in the same action or proceeding currently pending in the court? <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, please set forth the Appellate Division Case Number assigned to each such appeal.			
Where appropriate, indicate whether there is any related action or proceeding now in any court of this or any other jurisdiction, and if so, the status of the case: Not applicable			
Original Proceeding			
Commenced by: <input type="checkbox"/> Order to Show Cause <input type="checkbox"/> Notice of Petition <input type="checkbox"/> Writ of Habeas Corpus			Date Filed:
Statute authorizing commencement of proceeding in the Appellate Division:			
Proceeding Transferred Pursuant to CPLR 7804(g)			
Court: Choose Court		County: Choose County	
Judge (name in full):		Order of Transfer Date:	
CPLR 5704 Review of Ex Parte Order:			
Court: Choose Court		County: Choose County	
Judge (name in full):		Dated:	
Description of Appeal, Proceeding or Application and Statement of Issues			
Description: If an appeal, briefly describe the paper appealed from. If the appeal is from an order, specify the relief requested and whether the motion was granted or denied. If an original proceeding commenced in this court or transferred pursuant to CPLR 7804(g), briefly describe the object of proceeding. If an application under CPLR 5704, briefly describe the nature of the ex parte order to be reviewed. Appellant Erik Haight appeals from a final decision, order and judgment entered on November 2, 2022 and every part of the order or judgment from which the appealing party is aggrieved.			

Informational Statement - Civil

Issues: Specify the issues proposed to be raised on the appeal, proceeding, or application for CPLR 5704 review, the grounds for reversal, or modification to be advanced and the specific relief sought on appeal.

The Supreme Court erred in granting the petition, and in denying Appellant's motion to dismiss, because:

- (1) The purported service of papers on Appellant by email was defective and the Supreme Court lacked jurisdiction;
- (2) The doctrine of laches mandated dismissal of this proceeding due its filing on November 1, 2022, one week prior to the election at issue;
- (3) The Petition failed to state a claim for mandamus because the act complained of (the selection and designation of polling places) is not a ministerial action; and
- (4) A necessary party (Vassar College, which owns the property at issue) was not joined.

Party Information

Instructions: Fill in the name of each party to the action or proceeding, one name per line. If this form is to be filed for an appeal, indicate the status of the party in the court of original instance and his, her, or its status in this court, if any. If this form is to be filed for a proceeding commenced in this court, fill in only the party's name and his, her, or its status in this court.

No.	Party Name	Original Status	Appellate Division Status
1	League of Women Voters of the Mid-Hudson Region	Petitioner	Respondent
2	Taneisha Means	Petitioner	Respondent
3	Magdalena Sharff	Petitioner	Respondent
4	Erik Haight	Respondent	Appellant
5	Hannah Black	Intervenor	None
6	Dutchess County Board of Elections	Respondent	None
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			

Attorney Information

Instructions: Fill in the names of the attorneys or firms for the respective parties. If this form is to be filed with the notice of petition or order to show cause by which a special proceeding is to be commenced in the Appellate Division, only the name of the attorney for the petitioner need be provided. In the event that a litigant represents herself or himself, the box marked "Pro Se" must be checked and the appropriate information for that litigant must be supplied in the spaces provided.

Attorney/Firm Name: David Jensen/David Jensen PLLC

Address: 33 Henry Street

City: Beacon

State: NY

Zip: 12508

Telephone No: 212-380-6615

E-mail Address: david@djensenpllc.com

Attorney Type: ☒ Retained ☐ Assigned ☐ Government ☐ Pro Se ☐ Pro Hac Vice

Party or Parties Represented (set forth party number(s) from table above) Erik Haight

Attorney/Firm Name: James Peluso/Dreyer Boyajian LLP

Address: 75 Columbia Street

City: Albany

State: NY

Zip: 12210

Telephone No: 518-463-7784

E-mail Address: jpeluso@dblawny.com

Attorney Type: ☒ Retained ☐ Assigned ☐ Government ☐ Pro Se ☐ Pro Hac Vice

Party or Parties Represented (set forth party number(s) from table above):

Attorney/Firm Name: Michael Treybich/Treybich Law, P.C.

Address: 272 Mill Street

City: Poughkeepsie

State: NY

Zip: 12601

Telephone No: 845-554-5295

E-mail Address: michael@treybichlaw.com

Attorney Type: ☒ Retained ☐ Assigned ☐ Government ☐ Pro Se ☐ Pro Hac Vice

Party or Parties Represented (set forth party number(s) from table above) Hannah Black

Attorney/Firm Name: Caroline Blackburn/Dutchess County Department of Law

Address: 60 Market Street

City: Poughkeepsie

State: NY

Zip: 12601

Telephone No: 845-486-3051

E-mail Address: cblackburn@dutchessny.gov

Attorney Type: ☐ Retained ☐ Assigned ☒ Government ☐ Pro Se ☐ Pro Hac Vice

Party or Parties Represented (set forth party number(s) from table above) Dutchess County Board of Elections

Attorney/Firm Name:

Address:

City:

State:

Zip:

Telephone No:

E-mail Address:

Attorney Type: ☐ Retained ☐ Assigned ☐ Government ☐ Pro Se ☐ Pro Hac Vice

Party or Parties Represented (set forth party number(s) from table above):

Attorney/Firm Name:

Address:

City:

State:

Zip:

Telephone No:

E-mail Address:

Attorney Type: ☐ Retained ☐ Assigned ☐ Government ☐ Pro Se ☐ Pro Hac Vice

Party or Parties Represented (set forth party number(s) from table above):

To commence the statutory time period for appeals as of right (CPLR 5513 [a]), you are advised to serve a copy of this order, with notice of entry, upon all parties.

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF DUTCHESS**

PRESENT: HON. CHRISTIE L. D'ALESSIO, J.S.C.

LEAGUE OF WOMEN VOTERS OF THE
MID-HUDSON REGION, TANEISHA MEANS, and
MAGDALENA SHARFF,

**DECISION, ORDER,
AND JUDGMENT**
Index No. 2022-53491

Petitioners-Plaintiffs

-against-

THE DUTCHESS COUNTY BOARD OF ELECTIONS,
and ERIK J. HAIGHT in his capacity as Commissioner of
the Dutchess County Board of Elections,

Respondents-Defendants.

The following papers were read on the petition filed in connection with this hybrid special proceeding under CPLR Article 78 and declaratory judgment action under CPLR § 3001, seeking, inter alia, the designation of a polling location on the campus of Vassar College in accordance with Election Law § 4-104 [5-a]; NYSCEF Documents no. 1-19.

Upon review of the petition filed by Order to Show Cause, all other written submissions filed to NYSCEF, and upon due consideration of the arguments, testimony and exhibits presented on the record in court on November 3, 2022, by the parties and/or their respective counsel, it is hereby

1. ORDERED that, upon application of the proposed intervenor, Hannah Black in the capacity as a Commissioner of Dutchess County Board of Elections, and with the written consent of petitioner, this case caption is amended to include the proposed intervenor as a named Respondent-Defendant. It is further

2. ORDERED that, the case caption is amended as follows:

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF DUTCHESS

-----X
LEAGUE OF WOMEN VOTERS OF THE
MID-HUDSON REGION, TANEISHA MEANS, and
MAGDALENA SHARFF,

Petitioners-Plaintiffs

-against-

THE DUTCHESS COUNTY BOARD OF ELECTIONS,
ERIK J. HAIGHT in his capacity as Commissioner of
the Dutchess County Board of Elections, and
HANNAH BLACK in the capacity as Commissioner of the
Dutchess County Board of Elections,

Respondents-Defendants.
-----X

3. ORDERED that, this Court grants Dutchess County Attorney's unopposed application to recuse itself from representing either or both named Commissioners of the Board of Elections based upon the conflict arising from each Commissioner's adverse position on the merits of the petition. It is further
4. ORDERED that, insofar as the proposed Intervenor's application included a request for reimbursement of attorney fees associated with private representation incurred as a result of the aforementioned conflict, the Dutchess County Attorney's letter submission dated November 2, 2022 states that "County Attorney has no objection to the County's payment of attorney fees associated with private representation of Commissioner Black as a Respondent-Defendant, to the extent such fees are in accord with Dutchess County Local Law No. 4 of 1988". Private counsel may follow the appropriate protocols to submit any such request to the County. That issue is resolved accordingly. It is further
5. ORDERED that, the oral application of counsel for Respondent/Defendant Erik J. Haight in his capacity as Commissioner of the Dutchess County Board of Elections for dismissal of this matter is denied. It is further
6. ORDERED that, this Court grants the petition in its entirety. The plain language of Election Law § 4-104[5-a] which includes the word "shall" (as opposed to "may" or "should") *specifically mandates* the designation of a voting polling place on a college or university campus where, as here, the petitioner demonstrated that the college or university campus contains three hundred or more registrants to vote at an address on such college or university campus.

Any other applications for further relief not specifically granted herein are denied.

The foregoing constitutes the decision, order and judgment of this court.

Dated: November 3, 2022
Poughkeepsie, New York

ENTERED:


HON. CHRISTIE L. D'ALESSIO, J.S.C.

TO:

Filed to NYSCEF

Pursuant to CPLR Section 5513, an appeal as of right must be taken within thirty days after service by a party upon the appellant of a copy of the judgment or order appealed from and written notice of its entry, except that when the appellant has served a copy of the judgment or order and written notice of its entry, the appeal must be taken within thirty days thereof.

DAVID JENSEN PLLC

BEACON ♦ MANHATTAN

33 HENRY STREET
BEACON, NEW YORK 12508

111 JOHN STREET, SUITE 420
NEW YORK, NEW YORK 10038

4 November 2022

Attn. Clerk
Supreme Court of the State of New York
County of Dutchess
22 Market Street
Poughkeepsie, New York 12601

Re: *League of Women Voters of the Mid-Hudson Region, et al. v. Dutchess County Board of Elections, et al.*
Index No. 2022/53491

Dear Sir or Maam:

I represented Erik J. Haight in his official capacity as Election Commissioner of Dutchess County. I submit this "No Fee Authorization Letter" because Commissioner Haight exempt from fees pursuant to § 8017(a) of the Civil Practice Law and Rules.

Please don't hesitate to contact me with any questions or concerns.

Respectfully submitted,

DAVID JENSEN PLLC



David D. Jensen

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DAVID JENSEN PLLC

ATTORNEY AND COUNSELOR AT LAW
NEW YORK PROFESSIONAL LIMITED LIABILITY COMPANY
ADMITTED TO PRACTICE IN NEW JERSEY AND NEW YORK

+ 1.212.380.6615 TEL
+ 1.917.591.1318 FAX
david@djensenpllc.com

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF DUTCHESS**

- - - - - X

LEAGUE OF WOMEN VOTERS OF THE MID-
HUDSON REGION, TANEISHA MEANS, and
MAGDALENA SHARFF,

Index No. 2022/53491

Petitioners-Plaintiffs,

-against-

**AFFIRMATION OF
SERVICE**

THE DUTCHESS COUNTY BOARD OF ELECTIONS,
ERIK J. HAIGHT in his capacity as Commissioner of the
Dutchess County Board of Elections, and HANNAH
BLACK in her capacity as Commissioner of the Dutchess
County Board of Elections

Respondents-Defendants.

- - - - - X

DAVID D. JENSEN, an attorney being duly licensed to practice before the Courts of the
State of New York, hereby affirms the following under the penalties of perjury:

1. I am an attorney practicing via David Jensen PLLC, a professional limited liability
company organized under New York law. I represent Respondent Election Commissioner Erik J.
Haight in this Article 78 proceeding.

2. On the 4th day of November, 2022, I served true copies of the annexed Notice of
Appeal by mailing the same in a sealed envelope, with postage prepaid thereon, in a post office
or official depository of the U.S. Postal Service within the State of New York, addressed to the
last known addressee(s) as indicated below:


James R. Peluso
Dreyer Boyajian LLP
75 Columbia Street
Albany, NY 12210

Aria C. Branch
Justin Baxenberg
Richard Alexander Medina
Renata O'Donnell
Elias Law Group LLP
10 G St NE, Ste 600
Washington, DC 20002

Michael Treybich
Treybich Law, P.C.
272 Mill Street
Poughkeepsie, New York 12601

Caroline Blackburn
Dutchess County Department of Law
22 Market Street
Poughkeepsie, NY 12601

Dated: Beacon, New York
November 4, 2022



David D. Jensen
DAVID JENSEN PLLC
33 Main Street
Beacon, New York 12508
(212) 380-6615 phone

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Exhibit F

RETRIEVED FROM DEMOCRACYDOCKET.COM

From: [Michael Treybich](#)
To: [Rich Medina](#)
Subject: Fwd: Poll pads and machines
Date: Saturday, November 5, 2022 1:35:00 PM

----- Forwarded message -----

From: **Black, Hannah** <hblack@dutchessny.gov>
Date: Sat, Nov 5, 2022, 1:23 PM
Subject: Fwd: Poll pads and machines
To: Michael Treybich <michael@treybichlaw.com>

Hannah Black
Democratic Elections Commissioner
Dutchess County Board of Elections
(845) 486-2480- Office
elections.dutchessny.gov

From: Haight, Erik <ehaight@dutchessny.gov>
Sent: Saturday, November 5, 2022 9:43:05 AM
To: Black, Hannah <hblack@dutchessny.gov>; Reverri, Erin <ereverri@dutchessny.gov>; Nash, Diane <dnash@dutchessny.gov>
Subject: RE: Poll pads and machines

An ADA inspection

Notice to voters

Posting the change at closed sites

Moving the equipment from WWA and the church to campus

Advising inspectors, coordinators, result couriers, vmts, NYSE voter

The pending appeal and stay on the order

From: Black, Hannah <hblack@dutchessny.gov>
Sent: Friday, November 4, 2022 8:10 PM
To: Haight, Erik <ehaight@dutchessny.gov>; Reverri, Erin <ereverri@dutchessny.gov>; Nash, Diane <dnash@dutchessny.gov>
Subject: Re: Poll pads and machines

Can you explain why the plan is both premature and incomplete? Can you suggest gaps to fill in?

Hannah Black

Democratic Elections Commissioner

Dutchess County Board of Elections

(845) 486-2480- Office

elections.dutchessny.gov

From: Haight, Erik <ehaight@dutchessny.gov>

Sent: Friday, November 4, 2022 8:01:20 PM

To: Black, Hannah <hblack@dutchessny.gov>; Reverri, Erin <ereverri@dutchessny.gov>; Nash, Diane <dnash@dutchessny.gov>

Subject: RE: Poll pads and machines

That's likely to be premature and also an incomplete plan. Please fill in the gaps. Thank you,

Erik

From: Black, Hannah <hblack@dutchessny.gov>

Sent: Friday, November 4, 2022 4:41 PM

To: Haight, Erik <ehaight@dutchessny.gov>; Reverri, Erin <ereverri@dutchessny.gov>; Nash, Diane <dnash@dutchessny.gov>

Subject: Poll pads and machines

Good afternoon,

To move forward on the Vassar College campus site- Jen, Tim, Shannon and Eli can get together the items for the Vassar poll site tomorrow. This would include burning the machine cards and keys, testing the machines, programming the poll pads, and getting together the other ancillary equipment (cones, signs, booths). Can we move forward with this plan?

Hannah Black

Democratic Board of Elections Commissioner

Dutchess County Board of Elections

Office: (845) 486-2480

hblack@dutchessny.gov

www.elections.dutchessny.gov

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From: [Michael Treybich](#)
To: [Rich Medina](#)
Subject: Fwd: Aula room at Vassar College
Date: Saturday, November 5, 2022 12:41:28 PM

----- Forwarded message -----

From: Black, Hannah <hblack@dutchessny.gov>
Date: Sat, Nov 5, 2022, 12:38 PM
Subject: Aula room at Vassar College
To: Michael Treybich <michael@treymbichlaw.com>

See below.

From: Haight, Erik <ehaight@dutchessny.gov>
Sent: Friday, November 4, 2022 9:05 PM
To: Black, Hannah <hblack@dutchessny.gov>; Reverri, Erin <ereverri@dutchessny.gov>;
Nash, Diane <dnash@dutchessny.gov>; Ptasnick, Jessica <jptasnick@dutchessny.gov>;
Tkazyik, John <jtkazyik@dutchessny.gov>
Subject: RE: Aula room at Vassar College

Hannah,

Are you certain there's enough parking? I'm expecting 1,800 voters throughout the course of the day on Tuesday. The court didn't authorize Vassar as a satellite location but rather the poll site for those election districts.

Erik

From: Black, Hannah <hblack@dutchessny.gov>
Sent: Friday, November 4, 2022 5:04 PM
To: Haight, Erik <ehaight@dutchessny.gov>; Reverri, Erin <ereverri@dutchessny.gov>;
Nash, Diane <dnash@dutchessny.gov>; Ptasnick, Jessica <jptasnick@dutchessny.gov>;
Tkazyik, John <jtkazyik@dutchessny.gov>

Subject: Aula room at Vassar College

Good afternoon Commissioner,

After today's site visit, I would like to propose the Aula room in Ely Hall as the designated poll site for Vassar College campus. The room was all on one level making it easier for voters to navigate, it had a good wheelchair ramp with accessible door, plenty of outlets for the machines and poll pads, a large space with kitchen and ADA compliant bathrooms along with parking that would be strictly used for voters. Vassar College campus has given our needs for a poll site into great consideration and the Aula room certainly meets those needs.

Thank you,

Hannah Black

Democratic Board of Elections Commissioner

Dutchess County Board of Elections

Office: (845) 486-2480

hblack@dutchessny.gov

www.elections.dutchessny.gov

RETRIEVED FROM DEMOCRACYDOCKET.COM

From: [Michael Treybich](#)
To: [Rich Medina](#)
Subject: Fwd: Poll pads and machines
Date: Saturday, November 5, 2022 12:41:02 PM

----- Forwarded message -----

From: Black, Hannah <hblack@dutchessny.gov>
Date: Sat, Nov 5, 2022, 12:39 PM
Subject: Poll pads and machines
To: Michael Treybich <michael@treybichlaw.com>

See below.

From: Haight, Erik <ehaight@dutchessny.gov>
Sent: Friday, November 4, 2022 8:01 PM
To: Black, Hannah <hblack@dutchessny.gov>; Reverri, Erin <ereverri@dutchessny.gov>; Nash, Diane <dnash@dutchessny.gov>
Subject: RE: Poll pads and machines

That's likely to be premature and also an incomplete plan. Please fill in the gaps. Thank you,
Erik

From: Black, Hannah <hblack@dutchessny.gov>
Sent: Friday, November 4, 2022 4:41 PM
To: Haight, Erik <ehaight@dutchessny.gov>; Reverri, Erin <ereverri@dutchessny.gov>; Nash, Diane <dnash@dutchessny.gov>
Subject: Poll pads and machines

Good afternoon,

To move forward on the Vassar College campus site- Jen, Tim, Shannon and Eli can get together the items for the Vassar poll site tomorrow. This would include burning the machine cards and keys, testing the machines, programming the poll pads, and getting together the other ancillary equipment (cones, signs, booths). Can we move forward with this plan?

Hannah Black

Democratic Board of Elections Commissioner

Dutchess County Board of Elections

Office: (845) 486-2480

hblack@dutchessny.gov

www.elections.dutchessny.gov

RETRIEVED FROM DEMOCRACYDOCKET.COM

From: [Michael Treybich](#)
To: [Rich Medina](#)
Subject: Fwd: FW: NY Election Law Section 4-104
Date: Friday, November 4, 2022 12:28:41 PM
Attachments: [2022_53491_LEAGUE_OF_WOMEN_VOTERS_v_LEAGUE_OF_WOMEN_VOTERS_NOTICE_OF_ENTRY_22.pdf](#)

----- Forwarded message -----

From: **Black, Hannah** <hblack@dutchessny.gov>
Date: Fri, Nov 4, 2022, 12:24 PM
Subject: FW: NY Election Law Section 4-104
To: Michael Treybich <michael@treymbichlaw.com>

From: Black, Hannah
Sent: Friday, November 4, 2022 10:43 AM
To: Haight, Erik <ehaight@dutchessny.gov>
Cc: Cullen, Christian <ccullen@dutchessny.gov>; Reverri, Erin <ereverri@dutchessny.gov>; 'Todd Valentine' <Todd.Valentine@elections.ny.gov>; Zebrowski.Stavisky, Kristen (ELECTIONS) <Kristen.Zebrowski.Stavisky@elections.ny.gov>; Lovullo, Brendan (ELECTIONS) <Brendan.Lovullo@elections.ny.gov>; Thomas.Connolly@elections.ny.gov; Nash, Diane <dnash@dutchessny.gov>; Blackburn, Caroline <cblackburn@dutchessny.gov>
Subject: RE: NY Election Law Section 4-104

Commissioner Haight,

As you're well aware, I suggested there be a public hearing 7 weeks ago. The court order is clear. The court order and the truncated timeframe obviate the need for a public hearing. It is our charge to **comply** with the court order and the election law and designate a poll site on Vassar College campus. As you know, there is a site visit today at Vassar College at 3pm, please confirm who from the Republican side will be attending.

Thank you,

Hannah Black

Democratic Board of Elections Commissioner

Dutchess County Board of Elections

Office: (845) 486-2480

hblack@dutchessny.gov

www.elections.dutchessny.gov

From: Haight, Erik <ehaight@dutchessny.gov>

Sent: Friday, November 4, 2022 9:47 AM

To: Black, Hannah <hblack@dutchessny.gov>

Cc: Cullen, Christian <ccullen@dutchessny.gov>; Reverri, Erin <ereverri@dutchessny.gov>; 'Todd Valentine' <Todd.Valentine@elections.ny.gov>; Zebrowski, Kristen (ELECTIONS) <Kristen.Zebrowski.Stavisky@elections.ny.gov>; Lovullo, Brendan (ELECTIONS) <Brendan.Lovullo@elections.ny.gov>; Thomas.Connolly@elections.ny.gov; Nash, Diane <dnash@dutchessny.gov>; Blackburn, Caroline <cblackburn@dutchessny.gov>

Subject: RE: NY Election Law Section 4-104

Importance: High

Commissioner,

You already disclosed this privileged correspondence to the press and your democratic cohorts without my consent so there is no additional harm by including additional colleagues. You have been adamant during your tenure here that the designation of poll sites profoundly effects the public and as a result the determinations of where people vote is subject to the Open Meetings Laws. You have been successfully persuasive on this subject and I have conceded this step is necessary since we have comprised the Board of Elections. Based on the Open Meetings Laws, when would you like to hold a public meeting to designate a poll site(s) on the Vassar College Campus? We should review Public Officers Law (100-111), Article 7 for guidance on the soonest we can legally meet. The hasty decision made by Judge D'Alessio which ignores the CPLR, the case law and common sense also provides zero guidance to us as administrators of the election law as to where to designate the poll sites for the 3 election districts that encompass this particular campus. Once we have an agreement, we also need to review the laws regarding changes to poll sites, the notices we need to provide to the effected voters, and the timelines for these notices prescribed by the law. I've not seen the transcript or alleged bench decision but once it's filed with the County Clerk I would be eager to comply with it.

Are there any other administrative processes I'm missing to adhere with this vague court

order?

Thank you,

Erik J. Haight

Republican Commissioner of Elections

Dutchess County Board of Elections

O (845) 486-2475

D (845) 486-2482

M (845) 392-2881

Fax: (845) 486-2485

ehaight@dutchessny.gov

<https://www.elections.dutchessny.gov/>

From: Black, Hannah <hblack@dutchessny.gov>

Sent: Thursday, September 15, 2022 10:51 AM

To: Haight, Erik <ehaight@dutchessny.gov>

Cc: Cullen, Christian <ccullen@dutchessny.gov>

Subject: RE: NY Election Law Section 4-104

Good morning Commissioner,

I would like to propose holding a public meeting to designate a poll site on Vassar College campus on September 22nd at 11am. If this does not work for you, please propose some dates and times that do.

Thank you,

Hannah Black

Democratic Board of Elections Commissioner

Dutchess County Board of Elections

Office: (845) 486-2480

hblack@dutchessny.gov

www.elections.dutchessny.gov

From: Cullen, Christian <ccullen@dutchessny.gov>

Sent: Tuesday, August 23, 2022 4:11 PM

To: Haight, Erik <ehaight@dutchessny.gov>; Black, Hannah <hblack@dutchessny.gov>

Subject: NY Election Law Section 4-104

FYI—

NY Election Law Section 4-104 was revised effective July 8, 2022 to provide as follows:

5-a. Whenever a contiguous property of a college or university contains three hundred or more registrants who are registered to vote at any address on such contiguous property, the polling place designated for such registrants shall be on such contiguous property or at a nearby location recommended by the college or university and agreed to by the board of elections.

Effective: July 8, 2022

McKinney's Election Law § 4-104

§ 4-104. Registration and polling places; designation of

1. Every board of **elections** shall, in consultation with each city, town and village, designate the polling places in each **election** district in which the meetings for the registration of voters, and for any **election** may be held. The board of trustees of each village in which general and special village **elections** conducted by the board of **elections** are held at a time other than the time of a general **election** shall submit such a list of polling places for such village **elections** to the board of **elections**. A polling place may be located in a building owned by a religious organization or used by it as a place of worship. If such a building is designated as a polling place, it shall not be required to be open for voter registration on any Saturday if this is contrary to the religious beliefs of the religious organization. In such a situation, the board of **elections** shall designate an alternate location to be used for voter registration. Such polling places must be designated by March fifteenth, of each year, and shall be effective for one year thereafter. Such a list required to be submitted by a village board of trustees must be submitted at least four months before each general village **election** and shall be effective until four months before the subsequent general village **election**. No place in which a business licensed to sell alcoholic beverages for on premises consumption is conducted on any day of local registration or of voting shall be so designated. If, within the discretion of the board of **elections** a particular polling place so designated is subsequently found to be unsuitable or unsafe or should circumstances arise that make a designated polling place unsuitable or unsafe, then the board of **elections** is empowered to select an alternative meeting place. In the city of New York, the board of **elections** shall designate such polling places and alternate registration places if the polling place cannot be used for voter registration on Saturdays.

1-a. Each polling place shall be accessible to citizens with disabilities and comply with the accessibility guidelines of the Americans with Disabilities Act of 1990. The state board of **elections** shall publish and distribute to each board of **elections** with the power to designate poll sites, a concise, non-technical guide describing standards for poll site accessibility, including a polling site access survey instrument, in accordance with the Americans with Disabilities Act accessibility guidelines (ADAAG) and methods to comply with such standards. Such guide and procedures shall be developed in consultation with persons, groups or entities with knowledge about public access as the state board of **elections** shall determine appropriate.

1-b. The county board of **elections** shall cause an access survey to be conducted for every polling site to verify substantial compliance with the accessibility standards cited in this section. Completed surveys shall be submitted to the state board of **elections** and kept on file as a public record by each county. Each polling site shall be evaluated prior to its designation or upon changes to the facility. A site designated as a polling place prior to the effective date of this subdivision shall be evaluated within two years of the effective date of this subdivision by an individual qualified to determine whether or not such site meets the existing state and federal accessibility standards. Any polling place deemed not to meet the existing accessibility standards must make necessary changes and/or modifications, or be moved to a verified

accessible polling place within six months.

1-c. The state board of **elections** shall promulgate any rules and regulations necessary to implement the provisions of this section.

2. If the board of **elections**, after designating a polling place, and after sending written notice of such polling place to each registered voter, designates an alternative polling place, it must, at least five days before the next **election** or day for registration, send by mail a written notice to each registered voter notifying him of the changed location of such polling place. If such notice is not possible the board of **elections** must provide for an alternative form of notice to be given to voters at the location of the previous polling place.

3. A building exempt from taxation shall be used whenever possible as a polling place if it is situated in the same or a contiguous **election** district, and may contain as many distinctly separate polling places as public convenience may require. The expense, if any, incidental to its use, shall be paid like the expense of other places of registration and voting. If a board or body empowered to designate polling places chooses a public school building for such purpose, the board or agency which controls such building must make available a room or rooms in such building which are suitable for registration and voting and which are as close as possible to a convenient entrance to such building and must make available any such room or rooms which the board or body designating such building determines are accessible to physically disabled voters as provided in subdivision one-a. Notwithstanding the provisions of any general, special or local law, if a board or body empowered to designate polling places chooses a publicly owned or leased building, other than a public school building, for such purposes the board or body which controls such building must make available a room or rooms in such building which are suitable for registration and voting and which are as close as possible to a convenient entrance to such building, and must make available any such room or rooms which the board or body designating such building determines are accessible to physically disabled voters unless, not later than thirty days after notice of its designation as a polling place, the board or body controlling such building, files a written request for a cancellation of such designation with the board or body empowered to designate polling places on such form as shall be provided by the board or body making such designation. The board or body empowered to so designate shall, within twenty days after such request is filed, determine whether the use of such building as a polling place would unreasonably interfere with the usual activities conducted in such building and upon such determination, may cancel such designation.

3-a. Any person or entity which controls a building for which a tax exemption, tax abatement, subsidy, grant or loan for construction, renovation, rehabilitation or operation has been provided by any agency of the state or any political subdivision thereof on or after the effective date of this subdivision shall agree to make available for registration and voting purposes the room or rooms in such building which the board or body empowered to designate polling places determines are suitable for registration and voting, are accessible to physically disabled voters and are as close as possible to a convenient entrance to such building. Notwithstanding any other provision of law, any agency of the state or any political subdivision thereof may deny a tax exemption, tax abatement, subsidy, grant or loan for construction, renovation, rehabilitation or operation to a building which is otherwise eligible for such exemption, abatement, subsidy, grant or loan if the person or entity which controls such building refuses to agree to make available for registration and voting purposes the room or rooms in such building which the board or body empowered to designate polling places determines are suitable for registration and voting, are accessible to physically disabled voters

and are as close as possible to a convenient entrance to such building. The provisions of this subdivision shall not apply to buildings used solely for residential purposes which contain twenty-five dwelling units or less.

3-b. Any person or entity conducting any program, activity or service for which a loan, grant, contract, subsidy or reimbursement has been provided by any agency of the state or a political subdivision thereof on or after the effective date of this subdivision shall make available for registration and voting purposes the room or rooms under the control of such person or entity in a building in which such program, activity or service is conducted which the board or body empowered to designate polling places determines are suitable for registration and voting, are accessible to physically disabled voters and are as close as possible to a convenient entrance to such building. Any such person, organization or entity shall agree to facilitate the use of such room or rooms, to the maximum extent possible, by making efforts to obtain the permission and cooperation of any person or entity which controls the building in which such room or rooms are located. Notwithstanding any other provision of law, any agency of the state or any political subdivision thereof may deny a loan, grant, contract, subsidy or reimbursement to any such person or entity otherwise eligible for such loan, grant, contract, subsidy or reimbursement unless such person or entity agrees to make available for registration and voting purposes the room or rooms in such building which the board or body empowered to designate polling places determines are suitable for registration and voting, are accessible to physically disabled voters as provided in subdivision one-a of this section and are as close as possible to a convenient entrance to such building and agrees to facilitate the use of such room or rooms, to the maximum extent possible, by making efforts to obtain the permission and cooperation of any person or entity which controls the building in which such room or rooms are located.

3-c. Notwithstanding the provisions of subdivisions three-a and three-b of this section, no person, board, agency, body or entity shall be required to make available for registration or voting by persons other than the residents of such building, any room or rooms in a building, other than a publicly owned building, which contains correctional, health, mental hygiene, day care, drug or addiction treatment, or emergency services or other services for the public safety, or in a building used for religious services.

3-d. Notwithstanding any inconsistent provision of [section 3-506](#) or [section 4-134](#) of this chapter, and in the absence of a specific written agreement to the contrary, if the board or body empowered to designate polling places has authorized the use of a portable ramp, or ramp and platform, at a polling site for purposes of compliance with subdivision one-a of this section, the person or entity in control of a building or portion thereof in which such polling site is designated shall install, remove, store, and safeguard each such ramp, or ramp and platform, at such times and dates as may be required by the board or body empowered to designate polling places.

4. Where an **election** district is so situated or the only facilities available therein are such that public convenience would be served by establishing a polling place outside such district, the board or body empowered by this chapter to establish **election** districts may designate a polling place in a contiguous district.

4-a. Notwithstanding any conflicting provisions of this section, the common council of the city of Little Falls may adopt a resolution determining that there is no building within an **election** district within such city available and suitable for the meetings for the registration of voters or for any **election**, or that for reasons of efficiency or economy it is desirable to

consolidate the polling places for two or more, or all districts, in such city, in one place, regardless of whether or not such district adjoins the district to which such meeting or polling place is moved, and there may be as many distinctly separate **election** districts lawfully located in the same building as public convenience may require. Such a resolution shall be subject to the approval of the county board of **elections**. Every such building chosen shall meet all other requirements of this section and all federal requirements for accessibility for the elderly and the disabled.

5. (a) Whenever the number of voters eligible to vote in an **election** in any **election** district is less than one hundred, the polling place designated for such district may be the polling place of any other district which could properly be designated as the polling place of the first mentioned district pursuant to the provisions of this chapter, except that the polling place designated for any such district may be the polling place of any other district in such city or town provided that the distance from such first mentioned district to the polling place for such other district is not unreasonable pursuant to rules or regulations prescribed by the state board of **elections** and provided that the total number of persons eligible to vote in such other district in such **election**, including the persons eligible to vote in such first mentioned districts, is not more than five hundred. The inspectors of **election** and poll clerks, if any, of such other **election** district shall also act in all respects as the **election** officers for such first mentioned districts and no other inspectors shall be appointed to serve in or for such first mentioned districts. A separate poll ledger or computer generated registration list, separate voting machine or ballots and separate canvass of results shall be provided for such first mentioned districts, except that if the candidates and ballot proposals to be voted on by the voters of such districts are the same, the **election** districts shall be combined and shall constitute a single **election** district for that **election**. However, if the first mentioned district contains fewer than ten voters eligible to vote in such **election**, there shall be no limitation on the total number of persons eligible to vote in such combined district. If the polling place for any **election** district is moved for any **election**, pursuant to the provisions of this subdivision, the board of **elections** shall, not later than ten nor more than fifteen days before such **election**, mail, by first class mail, to each voter eligible to vote in such **election** district at such **election**, a notice setting forth the location of the polling place for such **election** and specifying that such location is for such **election** only.

(b) Whenever the total number of voters eligible to vote in any primary or special **election**, in any two **election** districts whose polling places are regularly located in the same building, is less than four hundred, the board of **elections** may assign the inspectors of **election** of the **election** district which contains the greater number of such voters, to act also, in all respects, as the **election** officers of the other such **election** district and no other **election** officers shall be appointed to serve in or for such other **election** district at such primary or special **election**. A separate poll ledger or computer generated registration list, separate voting machine or ballots and separate canvass of results shall be provided for each such **election** district.

(c) Whenever all the candidates to be voted upon at a primary **election**, except a primary **election** in the city of New York, or all the candidates and ballot proposals to be voted upon at a special **election**, or at a school board **election** conducted by the board of **elections**, or at a general **election** in the city of New York in a year in which there is no **election** for electors of president and vice-president of the United States or governor of the state or mayor of such city, by the voters of any two or more **election** districts whose polling places are regularly located in the same building are identical, the board of **elections** may combine such **election** districts for that **election**, provided that the total number of voters eligible to

vote in any such combined **election** district does not exceed one thousand two hundred in a primary **election** or does not exceed two thousand in a special **election** or a general **election** in the city of New York.

(d) Notwithstanding any other provision of this section, polling places designated for any one such **election** district that will be utilizing any voting machine or system certified for use in New York state pursuant to chapter one hundred eighty-one of the laws of two thousand five, may be the polling place of any other contiguous district or districts, provided the voting system used in such polling place produces separate and distinct vote totals for each **election** district voting in such polling place on such voting machine or system.

5-a. Whenever a contiguous property of a college or university contains three hundred or more registrants who are registered to vote at any address on such contiguous property, the polling place designated for such registrants shall be on such contiguous property or at a nearby location recommended by the college or university and agreed to by the board of **elections**.

6. Each polling place designated, whenever practicable, shall be situated on the main or ground floor of the premises selected. It shall be of sufficient area to admit and comfortably accommodate voters in numbers consistent with the deployment of voting systems and privacy booths, pursuant to [9 NYCRR 6210.19](#). Such deployment of voting systems, **election** workers and **election** resources shall be in a sufficient number to accommodate the numbers of voters eligible to vote in such polling place.

6-a. Each polling place designated, whenever practicable, shall be situated directly on a public transportation route.

7. No polling place shall be located on premises owned or leased by a person holding public office or who is a candidate for public office at a primary or general **election**.

8. Whenever the board of **elections** shall determine that there is no building within an **election** district available and suitable for the meetings for the registration of voters or for any **election**, or that for reasons of efficiency or economy it is desirable to consolidate such meetings of one or more districts in one place, such board may designate a building for such purpose in an adjoining district in the same village, city or town and there may be as many distinctly separate meetings or polling places lawfully located in the same building as public convenience may require. Wherever possible, public schools, fire houses, municipal buildings or other buildings exempt from taxation shall be designated for such meetings and polling places. Such a determination shall be made only after notice to the chairpersons of the county committees of all political parties and reasonable opportunity for them to be heard.

9. Renumbered as 8 by [L.2016, c. 43, § 1](#).

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Christian Robert Cullen

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From: [Wesley Dixon](#)
To: [Renata O'Donnell](#)
Subject: Fwd: Polling Site at Vassar College
Date: Friday, November 4, 2022 11:16:23 AM

----- Forwarded message -----

From: **Wesley Dixon** <wdixon@vassar.edu>
Date: Thu, Nov 3, 2022 at 9:31 PM
Subject: Polling Site at Vassar College
To: Haight, Erik <ehaight@dutchessny.gov>, Black, Hannah <hblack@dutchessny.gov>

Dear Commissioners Haight and Black,

I am writing to follow-up on the hearing today regarding the lawsuit filed by the League of Women Voters of the Mid-Hudson Region. My understanding is that the hearing resulted in the judge mandating that the Dutchess BOE establish a polling site at Vassar for the election on Tuesday, November 8th, 2022. Vassar is willing and prepared to respond appropriately to this ruling.

Earlier this evening, I was in communication with Commissioner Black and she informed me that she and others would like to see the space on campus that was reserved in the event that a polling site was established at Vassar. We agreed to meet on campus at 3:00pm tomorrow (November 4th). The designated space is the Aula in Ely Hall.

In advance of tomorrow's site visit, I wanted to give you some background on the space:

1. Standing room capacity of 300; sitting room capacity of 150
2. Three separate entrances into the space
3. ADA accessible and compliant
4. Attached kitchen space
5. Bathrooms nearby
6. Several electrical outlets throughout
7. Tables and chairs to use as you see appropriate
8. Parking for about 15-20 outside

Please let me know if there is anything else the College can do to support the efforts of the Dutchess BOE.

Thanks,

Wes

--

Wesley Eugene Dixon • Special Assistant to the President and Secretary of the Board of Trustees

Vassar College • Box 1 • 124 Raymond Ave • Poughkeepsie, NY 12604

phone: (954) 655-2887

VASSAR COLLEGE

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VASSAR COLLEGE

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Exhibit G

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Co-Chair



Douglas A. Kellner
Co-Chair

Anthony J. Casale
Commissioner

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Kristen Zebrowski Stavisky
Co-Executive Director

GUIDANCE ON COLLEGE POLL SITE DESIGNATION 2022

Part O of Budget Bill S.8005-c/A.9005-c provided for designation of poll sites on college campuses. For 2022, any college campus with 300 or more registered voters within the college campus, must have its own poll site either on the campus or at a nearby location that the college and the board agree too. These sites should be designated by August 1.

Below is a detailed description of the law and some FAQs about its application for 2022.

General Description of Legislation

As added by Part O, Election Law § 4-104 (5-a) provides: "Whenever a contiguous property of a college or university contains three hundred or more registrants who are registered to vote at any address on such contiguous property, the polling place designated for such registrants shall be on such contiguous property or at a nearby location recommended by the college or university and agreed to by the board of elections."

The "deadline for boards of elections to designate polling places pursuant to this act shall be extended to August 1, 2022."

Election Law § 4-100 (3) (a) was also amended and requires that the contiguous property "of a college or university" with three-hundred or more registrants be in a single election district to the extent it is possible to do so consistent with the other rules of drawing election districts. This provision of the new law does not take effect until January 1, 2023.

Application in 2022

The law extended the designation of poll sites "pursuant to this act" to August 1, 2022. And the poll site portion of the law (Election Law § 4-104 (5-a)) became effective on July 9, 2022. Accordingly, boards of elections are required to designate poll sites in accordance with this law in 2022.

Because election districts have not been redrawn to conform to the rule college campuses cannot generally be divided between election districts, boards should *at least* assign election districts to a poll site on the relevant college campus (or nearby location

recommended by the college and approved by the board of elections) when an existing election district meets two criteria:

- 1) the election district includes contiguous college property, **and**
- 2) there are three hundred or more registrants in the election district with an address on such college property;

To avoid all question as to compliance with the new law, when a college campus appears to meet the three-hundred voter criteria, but the campus is presently divided into election districts such that none of them individually has more than three hundred college registrants in them, the board should attempt to assign all such election district to the college property or nearby approved location.

FAQs

What does contiguous property of a college or university mean?

The word contiguous in this statute means connected – as in the “contiguous lower 48 states.” And “property of a college” means property comprising the campus of the institution. If a college has separate campuses or separate properties that are not contiguous, the analysis needs to be made for each contiguous property separately. The statute does not aggregate registrants on separate non-contiguous properties for purposes of meeting the threshold of this legislation. If a college’s main campus had 250 voters and the college’s auxiliary campus miles away had 100 voters living there – neither property would qualify for a mandatory poll site designation.

Does the poll site designation apply to the August primary and November election?

Yes. The poll site provisions of the bill apply to elections in 2022 after August 1, 2022.

Does the college campus poll site designation requirement apply to early voting sites?

No. Nothing prevents the board from selecting college campuses for early voting sites, but this law does not require designation of college campuses as early voting sites.

What is a college or university?

The institutions of higher education located in New York State are listed through the following links.

- [State University of New York \(SUNY\)\(link is external\)](#)
- [City University of New York \(CUNY\)\(link is external\)](#)
- [Commission on Independent Colleges and Universities \(CICU\)\(link is external\)](#)
- [Association of Proprietary Colleges \(APC\)\(link is external\)](#)

How does the board determine if the college or university meets the 300 registrant criteria?

Board staff should make a good faith effort to examine voter rolls in an effort to discern whether a college or university campus meets the designation criteria. The board may inquire of the college whether it believes it meets the three hundred criteria and ask the college to identify the registrants that qualify. The board may also ask a college to provide a comprehensive listing of college residential addresses which could be used to query the voter database.

Can the college simply "sign-off" on the current polling place for the college election district(s) which is already near the campus?

Yes. If the existing poll site is "nearby" the college can "recommend" that location in lieu of a site on the campus.

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