

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,

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*\*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

*[Handwritten Signature]*  
Richard A. Medina

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

*[Handwritten Signature]*  
\_\_\_\_\_  
Notary Public or Commissioner of Deeds



This remote notarial act involved the use of communication technology.