

NYS ELECTION REFORM 2021: THE THREE MOST IMPORTANT THINGS
NYC BAR ASSOCIATION
ELECTION LAW, GOVERNMENT ETHICS AND STATE AFFAIRS, AND NYC AFFAIRS COMMITTEES
Wednesday, December 16, 2020, 6:00 – 8:00 p.m. via video teleconference

Agenda

- Welcome
 - Katharine Loving, Chair, NYC Bar Election Law Committee
- Introduction
 - Brigid Bergin, City Hall and Politics Reporter, WNYC
- Douglas A. Kellner, Co-Chair, NYS Board of Elections
- Jorge L. Vasquez, Jr., Program Director, Power and Democracy Program, Advancement Project National Office
- Assemblymember Charles D. Lavine, Chair, Assembly Election Law Committee
- Ciara Torres Spelliscy, Professor of Law, Stetson University, Brennan Center Fellow
- Martin E. Connor, Election Lawyer, Former Minority Leader NYS Senate
- Senator Zellnor Myrie, Chair, Senate Election Law Committee
- Franita Tolson, Vice Dean for Faculty and Academic Affairs and Professor of Law, USC Gould School of Law
- Discussion led by Brigid Bergin

Co-Sponsors

Advancement Project National Office
Brennan Center
Brooklyn Voters Alliance
Caribbean Attorneys Network
Center for Law & Social Justice at Medgar Evers College, CUNY
DemocracyNYC
Dominican Bar Association
Generation Citizen
Hispanic National Bar Association Region II
LatinoJustice PRLDEF
League of Women Voters of New York State
Metropolitan Black Bar Association
Muslim Bar Association of New York
National Bar Association Region II Election Committee
NYPIRG
Reinvent Albany
South Asian Bar Association of New York
VoteEarlyNY

NYS Election Reform 2021: The Three Most Important Things
December 16, 2020
Co-Sponsor Priorities Prior to Date of Event
Contact Organization to Confirm Current Priorities

Advancement Project

1. Rights restoration. Ensuring formerly incarcerated and justice involved New Yorkers are eligible to vote.
2. Automatic Voter Registration.
3. Passage of the NYS Voting Rights Act (with pre-clearance +).

Brennan Center

These priorities are not listed in a particular order.

- Implement new public financing of elections law: Get remaining appointments to Public Financing Board made and ensure new budget makes start up investments needed for program to be in place at end of 2022 for 2024 elections.
- New Automatic Voter Registration law: Get governor to sign and ensure new system is well implemented across agencies.
- Board of Election reform

Brooklyn Voters Alliance

1. BOE Reform - procedural, legislative, and constitutional changes to transform our election ecosystem into one that is more voter-first.
2. Absentee Reform - passing the 2nd constitutional change, voter approval of the associated referendum, legislative changes (both implementation legislation and updates), as well as procedural fixes (automated tracking, for example).
3. Two specific pieces of legislation- Rights Restoration for those on parole (codifying the Governor's EO) and John R. Lewis NYS Voting Rights Act, which is one of the most transformative pieces of voting rights legislation.

Caribbean Attorneys Network

1. Being able to vote in any county.
2. Increased voter registration in more communities of color.
3. More education about candidates in local elections and local election dates.

Center for Law & Social Justice at Medgar Evers College, CUNY

1. Passage of the NYS Voting Rights Act (with a pre clearance provision).
2. Automatic Voter Registration.
3. Revamp the Board of Elections.

Dominican Bar Association

1. Expansion of early voting.
2. Secure drop off ballot boxes.
3. Up to date technology in all voting poll sites.

Generation Citizen

1. Lower the legal voting age to 16. Youth Vote is important and engaging them early in the process of voting encourage more civic engagement in the future;
2. Increased voter registration and polls in underserved communities;
3. Increased promotion and encouragement of youth working during election day.

Hispanic National Bar Association Region II (New York)

These priorities are not listed in a particular order.

- Rights restoration for formerly incarcerated New Yorkers in the form of legislation.
- Increased and maintained focus on registration of naturalized citizens.
- Raising standards and enhancing language assistance especially in largely immigrant polling sites.

Latino Justice PRLDEF

1. Passage of NYS Voting Rights Act with pre-clearance requirement.
2. Expansion & codification of Cuomo Executive Order restoring right to vote for those on parole to full rights restoration for all formerly incarcerated individuals.
3. Creation of new “real” independent NYS redistricting commission.

League of Women Voters of New York State

1. Fundamentally improve operations of county and state boards of election, with an immediate focus on increased transparency and accountability for staffing and procurement at the NYC BOE.
2. Fundamentally improve the timeliness and transparency of tabulating and reporting of election results to the public, include partisan and non-partisan observers in the process, and ensure voters are given a chance to cure absentee ballot deficiencies and voter intent is protected.
3. Fundamentally improve early voting by reducing the maximum number of registered voters per early voting poll site and ensuring state funding for expanded site locations and hours.

National Bar Association Region II Election Committee

1. Pass legislation that would make No Excuse absentee voting permanent in the state.
2. Expand training and education regarding voting pursuant to court order.
3. Ensure that judges assigned to cover election cases on election day are centrally located and that there is sufficient coverage and availability and eliminating logistical barriers for redress.

NYPIRG

1. Overhauling the BOE structure: The BOE's organizational structure has allowed for political patronage and incompetence. Long lines, disenfranchisement, lost ballots, and partisan

arrogance should not be business-as-usual. Instead of relying on the political parties to watch out for the voters' best interests, a professionalized staff should replace the current patronage staffing system. Longer term, an independent, non-partisan, professional agency should run NY's elections.

2. Easing registration restrictions by passing Same Day Registration and establishing completely online voter registration accessible beyond the DMV.
3. Establishing poll sites on college campuses during early voting periods and on election days. Since voting is a habit that must be ingrained and supported in the early years of eligibility—which coincide with typical college years—New York should cultivate this habit by supporting voting by students on campus. Poll sites should be on campuses located in communities with election districts where students are a majority of the voters.

Reinvent Albany

1. Establishing a nonpartisan board of elections by changing the state constitution.
2. Professionalizing board staff and requiring they pass a civil service exam..
3. Greater transparency in release of elections data and results

South Asian Bar Association of New York

1. Increased voter registration in more communities of color.
2. More education about candidates in local elections and local election dates.
3. BOE transparency and Accountability: Election Data & Results, Enforcement for Election Law violations

VoteEarlyNY

1. Absentee ballot reform. Enact no-excuse absentee balloting (NY Const repealer + implementing legislation) and modern absentee ballot process (online ballot requests; statewide realtime ballot tracking; due process safeguards (expand opportunity to cure to include other defects/challenges (allow cure to occur by email), eliminating hyper-technical bases for objecting to/discounting ballots, reduce bad faith challenges by requiring oath or actual knowledge and convincing showing of fraud; enshrine pro-voter counting principle; transparent and uniform statewide review/counting system, with timely (online) updates to SBOE during canvass.
2. Same-day registration. NY Const repealer + implementing legislation. In the meantime (during any implementation delay), move 25-day registration deadline to 10-day constitutional minimum.
3. BOE transparency and Accountability: Enforcement for Election Law violations; Empower and require Attorney General or SBOE to intervene where civil rights being violated; affirmatively require all BOEs to comply with the Open Meetings law and timely FOIL; better and more timely data transparency.

Bios

Brigid Bergin, WNYC

Brigid Bergin is the City Hall and politics reporter for WNYC.

Her reporting has been featured on NPR, Marketplace, the BBC, ABC Radio, The Takeaway, NY1 and KPCC. Previously she worked as the station's general assignment reporter, filing for both WNYC and NPR and has covered a range of stories including Occupy Wall Street, the 2012 elections, and the aftermath of the massacre in Newtown, CT. She's also traveled to Guantanamo Bay, Cuba to report on the trial of the five men accused of plotting the September 11th terror attacks.

Brigid has a passion for breaking news and served as WNYC's first Breaking News Producer. In that role, she directed on-air coverage for major breaking news events like the death of Osama Bin Laden and Hurricanes Irene and Sandy. She also managed WNYC's dynamic morning team. Before becoming a journalist, Brigid spent more than eight years at JPMorganChase as a communications manager. She's also a proud graduate of the New York State public education system earning her B.A. at University at Albany and her M.A. from the CUNY Graduate School of Journalism.

Martin E. Connor, Law Office of Martin E. Connor

Martin E. Connor is one of the leading election law practitioners in New York State.

He served in the New York State Senate for 30 years representing the 25th Senate District and served as Minority Leader. He sponsored more than 100 laws.

In his time in office, Connor advocated for progressive causes such as reform of the legislative process to open Albany to public scrutiny. He observed a voluntary ban on accepting gifts and meals from lobbyists and supported a law making such a ban mandatory for all legislators. He also supported limiting PAC and corporate campaign contributions to reduce the influence of special interest money in campaigns, as well as supporting spending caps on state level campaigns.

Prior to his service in the Senate, Connor practiced corporate and anti-trust law for White & Case, a large Wall Street law firm, as well as the Xerox Corporation. He maintained a private law practice in Brooklyn, and was appointed Assistant Counsel to New York State Comptroller Arthur Leavitt. He resigned that position upon his election to the Senate.

He is the immediate past chair of the NYC Bar Election Law Committee.

Douglas A. Kellner, Co-Chair NYS Board of Elections

Douglas A. Kellner has served as Co-Chair of the New York State Board of Elections since 2005. He is also the New York State representative on the U.S. Election Assistance Commission Standards Board and serves on the Advisory Board of the Verified Voting Foundation.

Before assuming his responsibilities at the State Board of Elections, he served as commissioner of the New York City Board of Elections. He is an experienced election lawyer having served as the Co-Chair of the Law Committee of the New York Democratic Committee from 1982 to 1993 and as the Chairman of the Election Law Committee of the New York County Lawyers Association.

When he was first appointed to the New York City Board, Commissioner Kellner was the very first election official to call for a voter verifiable paper audit trail for electronic voting machines, a principle now enshrined not only in New York law, but in the election codes of a majority of the states throughout the nation. While leading the opposition to unverifiable electronic machines, Commissioner Kellner was instrumental in promoting new technology for scanning absentee and provisional ballots. He drafted model procedures to open the process of canvassing ballots to public scrutiny and convinced his fellow commissioners to adopt rules that provided meaningful due process in ballot challenges. He drafted New York's regulation that requires county board to staff polls so that no voter waits more than thirty minutes to cast a ballot. He has been an outspoken advocate for improving the voting process in New York while insisting on transparency, verifiability and uniformity in voting procedures. Doug is a partner in the law firm, Kellner Herlihy Getty & Friedman LLP, where he specializes in complex international asset recovery litigation. He is the Chair of the North America Region of FraudNet, an organization of experts formed by the International Chamber of Commerce to assist in fraud recovery and tracing of assets.

Charles D. Lavine, NYS Assemblymember, Chair of the Election Law Committee

Charles David Lavine represents the 13th Assembly District, which consists of portions of northeastern Nassau County. He serves as Chair of the Committee on Election Law and is a member of the Committees on Codes, Ethics and Guidance, Rules, Insurance and Judiciary.

Lavine previously served as Chair of the Committee on Ethics and Guidance, co-Chair of the New York State Legislative Ethics Commission and as Chair of the Task-Force established to produce an Assembly Speaker's Policy on Sexual Harassment, Retaliation and Discrimination. Each of these entities are bipartisan.

Assemblymember Lavine is dedicated to fighting for legislation that will make New York an even better place to live. His passion for more open and efficient government has motivated him to author legislation that will strip corrupt public officials of their pensions. The Assemblymember is also a proponent of campaign finance reform and ethics legislation.

To keep our families safe, Assemblymember Lavine has sponsored legislation that will increase penalties for criminals who use high capacity firearm magazines and legislation that will help to halt the trafficking of illegal weapons into New York.

Alarmed by the number of veterans living in poverty and with mental health disorders, he authored legislation to identify former military members in need and coordinate the necessary services to improve their lives.

Lavine is also a proud sponsor of the legislation that resulted in Marriage Equality in New York State.

As President of the New York Chapter of the National Association of Jewish Legislators and as a member of its national board of directors, Lavine is an effective voice for the Jewish community and for the state of Israel. He is a steadfast advocate for a strong alliance between the United States and Israel.

Zellnor Myrie, NYS Senator, Chair of the Election Law Committee

Senator Zellnor Y. Myrie is a Brooklyn native and affordable housing advocate serving the 20th Senate District.

During his first legislative session, Senator Myrie served in leadership roles on several major legislative victories. Having grown up in a rent-stabilized apartment at the epicenter of the affordable housing crisis, Senator Myrie was honored to co-lead the Senate's Housing Reform Working Group, which produced New York's strongest affordable housing and tenant protection laws in generations. During the legislature's budget negotiations, Myrie also served on the Senate's Criminal Justice Reform Working Group, resulting in sweeping reforms to cash bail, discovery, and speedy trial laws. As Chair of the Elections Committee, Senator Myrie led hearings on Public Financing of Elections and Automatic Voter Registration, and presided over historic election reforms including Early Voting, closing the LLC loophole, and many other crucial reforms to protect and expand our democracy.

Senator Myrie has been publicly recognized for his work, including City & State's Rising Stars Award, the Lindsay Fellowship in Government Leadership and Practice, and many other community awards.

Senator Myrie derives inspiration for his public service from his mother, who moved to Brooklyn 40 years ago from Costa Rica on the promise of a mattress in a friend's apartment and a job at a factory. Myrie is a graduate of Brooklyn Technical High School and earned his B.A. in Communications and M.A. in Urban Studies from Fordham University. He later earned his J.D. from Cornell Law School.

Franita Tolson, USC Gould School of Law

Franita Tolson is Vice Dean for Faculty and Academic Affairs and Professor of Law at University of Southern California Gould School of Law. Her scholarship and teaching focus on the areas of election law, constitutional law, legal history and employment discrimination. She has written on a wide range of topics including partisan gerrymandering, political parties, the Elections Clause, the Voting Rights Act of 1965, and the Fourteenth and Fifteenth Amendments. Her research has appeared in leading law reviews including the *Yale Law Journal*, *University of Pennsylvania Law Review*, *Vanderbilt Law Review* and *Boston University Law Review*. Her forthcoming book, *In Congress We Trust?: Enforcing*

Voting Rights from the Founding to the Jim Crow Era, will be published in 2021 by Cambridge University Press.

As a nationally recognized expert in election law, Vice Dean Tolson has written for or appeared as a commentator for various mass media outlets including *The New York Times*, *Reuters* and *Bloomberg Law*. She has testified before the House Judiciary Committee regarding the reauthorization of the Voting Rights Act. She has also authored a legal analysis for an amendment to the U.S. Constitution, introduced by Senator Elizabeth Warren and Senator Richard Durbin, that would explicitly protect the right to vote. Vice Dean Tolson currently works as an election law analyst for CNN and co-hosts an election themed podcast, *Free and Fair with Franita and Foley*, with Ned Foley of The Ohio State University Moritz College of Law.

Prior to joining USC, Vice Dean Tolson was the Betty T. Ferguson Professor of Voting Rights at Florida State University College of Law and a visiting assistant professor at Northwestern University School of Law. Before entering academia, she clerked for the Honorable Ann Claire Williams of the United States Court of Appeals for the Seventh Circuit and the Honorable Ruben Castillo of the Northern District of Illinois.

Vice Dean Tolson is a graduate of the University of Chicago Law School, where she will be a Visiting Professor of Law during the Spring 2021 academic quarter.

Ciara Torres-Spelliscy, Stetson University

Ciara Torres-Spelliscy is a professor teaching courses in Election Law, Corporate Governance, Business Entities, and Constitutional Law. Prior to joining Stetson's faculty, Professor Torres-Spelliscy was counsel in the Democracy Program of the Brennan Center for Justice at NYU School of Law where she provided guidance on the issues of money in politics and the judiciary to state and federal lawmakers. She was an associate at Arnold & Porter LLP and a staffer for Senator Richard Durbin.

Professor Torres-Spelliscy has testified before Congress, and state and local legislative bodies as an expert on campaign finance reform. She has also helped draft legislation and Supreme Court briefs. She is the editor of the 2010 edition of the Brennan Center's campaign finance treatise, "Writing Reform: A Guide to Drafting State and Local Campaign Finance Laws."

She researches and speaks publicly on campaign finance law as well as judicial selection. She has spoken at symposia and other events at 44 universities around the nation, including Harvard, Yale, and Stanford. She presented at the 2013, the 2015, the 2018, the 2019, and the 2020 Annual Conventions of the Association of American Law Schools (AALS) and at the 2014, 2018, and 2019 Annual Convention of the American Constitution Society (ACS), and the 2011, the 2014, and the 2016 Annual Conventions of the Council on Governmental Ethics Laws (COGEL). In 2016 she spoke at the Federal Election Commission (FEC) at a forum on dark money and foreign money in U.S. elections. In 2018, she spoke at the International Society of Public Law's ICON-S conference in Hong Kong.

She is the author of the book Corporate Citizen? An Argument for the Separation of Corporation and State (Carolina Academic Press, 2016), and the book Political Brands (Edward Elgar Publishing, 2019).

As well as publishing in law reviews, such as the *Harvard Law & Policy Review*, *NYU Law Review Online*, the *University of Pennsylvania Law Review Online*, *Harvard Journal of Law & Public Policy*, the *Duke Journal of Constitutional Law & Public Policy*, and the *Montana Law Review*, Professor Torres-Spelliscy has been published in *The Washington Post*, *New York Times*, *New York Law Journal*, *Slate*, *L.A. Times*, *U.S. News and World Report*, *Boston Review*, *Roll Call*, *Business Week*, *Forbes*, *The Atlantic*, *USA Today*, *Business Ethics Magazine*, *San Francisco Chronicle*, *The Hill*, *Huffington Post*, *The Root.com*, *Judicature*, *The Nation*, *Salon.com*, *Talking Points Memo*, *Tampa Bay Times*, *The Progressive*, *CNN.com*, *Medium*, *Shondaland*, and the *ABA Judges Journal*. She has also been quoted by the media in *The Wall Street Journal*, *The Economist*, *The New York Times*, *Time*, *Bloomberg*, *Mother Jones*, *Newsweek on Air*, *SCOTUS Blog*, *Politico*, *Slate*, *The National Journal*, *USA Today*, *L.A. Times*, *Boston Globe*, *NBC.com*, *Vox*, *VICE*, *Five Thirty Eight*, *WMNF*, *Sirius Radio*, *National Public Radio*, *Fox*, *Voice America*, *CSPAN*, *DNA TV*, and *NY1*.

In 2014, Stetson University College of Law awarded Professor Torres-Spelliscy the Dickerson-Brown award for Excellence in Faculty Scholarship. In 2013, Professor Torres-Spelliscy was named as a member of the Lawyers of Color's "50 Under 50" list of minority law professors making an impact in legal education. She was awarded tenure in 2016. In 2017, she was elected to be Chair of the AALS Section on Election Law for a term that started in 2018. She was awarded the Homer & Dolly Hand Award for Excellence in Faculty Research by Stetson University in 2019. In 2020, Professor Torres-Spelliscy was elected to be a member of the AALS Section on Constitutional Law Executive Committee.

Professor Torres-Spelliscy is a Brennan Center Fellow, a member of the Scholars Strategy Network, a member of the Board of Directors of the Mertz Gilmore Foundation, a former member of the Board of Directors of the National Institute on Money in State Politics, which was awarded the 2015 MacArthur Award for Creative and Effective Institutions. She is a graduate of Harvard University and Columbia Law School.

Jorge L. Vasquez, Jr., Advancement Project

Jorge L. Vasquez, Jr. is the Director of the Power and Democracy Program with Advancement Project, a national non-partisan multi-racial, policy, communications, and legal action organization. In this role, Jorge leads Advancement Project's voter protection, redistricting, rights restoration, and democracy initiatives throughout the United States. Prior to joining Advancement Project, Jorge was Associate Counsel with LatinoJustice PRLDEF, where he maintained a civil rights litigation portfolio focused on issues such as voting rights, the 2020 Census and criminal justice reform.

Jorge has been featured as a legal expert on national and local news networks including CNN, ABC Live, NPR, NBC Telemundo, Univision, Spectrum News 1. He also authored a number of opinion pieces for USA Today, The Hill and other digital and print news outlets.

Jorge currently serves as the Chair of the Voting Rights Section of the Hispanic National Bar Association and a member of the American Bar Association's Coalition on Racial and Ethnic Justice.

Jorge earned a Juris Doctorate from Seton Hall University School of Law, an LL.M. in Trial and Advocacy from Basely School of Law, Temple University and Bachelor and Master's degrees from the University at Albany. He is a native New Yorker and a proud product of Manhattan's Lower East Side.