

NY Senate Committee on Elections

“To Review Elections Administration and Voting Rights in Central NY”

August 4, 2021

On the Lack of Accountability in State Boards of Election

I chaired a committee in Tompkins County that hired their current Democratic election commissioner. We were lucky; we hired someone with experience in elections whose work over the past decades has been exemplary.

It was not until I moved to CD-22 and witnessed the 2020 debacle that I started to recognize the flaws in NYS elections administration. To me, it comes down to one critical problem: The commissioners are accountable to no one.

No Accountability to the County

Because the commissioners are appointed by the parties, they are untouchable by county administrators or even county legislators. Given a complaint about any other department head, county administrators may use HR or their own offices to follow up. Given a complaint about an election commissioner, they are likely to throw up their hands and say, “There’s nothing we can do.”

No Accountability to the Party

In theory, the election commissioners are accountable to the parties, but I don’t know any party committee anywhere that takes this duty seriously. Certainly once I hired the Tompkins commissioner, I never followed up, provided guidance, or assessed his work. It never occurred to me that this should be part of the process. I have never heard of a committee that does so. Some committees fire and replace their commissioners, but it tends to be about not giving good reports to the committee or failing to provide walking lists in a timely manner—not about more egregious failures in the administration of elections. We generally don’t know election law, and we don’t get reports from the state on changes and new mandates. And speaking of new mandates...

No Accountability to the State

Right now, the State Board of Elections is laser-focused on cybersecurity, which is fine, but it leaves out so many other security problems that may exist in boards of election:

Are the ballots secured or stacked on the floor? Are the doors locked or propped open? Can employees take their devices home or share data on USBs or chat with other counties using open source software?

The tendency of the State BOE seems to be to send a flurry of mandates, often at the last minute, and never to follow up. They do not visit county boards of education to see how things are going; they sit in Albany and develop plans. Just like the county and party, they seem to have no real control over what the commissioners do. The commissioners may view the mandates as suggestions and follow them or not as they choose. As far as I can tell, unlike their treatment of every other department in a county, the state never audits the board of elections.

I respectfully suggest that the CD-22 mess was only discovered because the election was so close, and that it probably represents the tip of the iceberg statewide. I do not for a minute believe that only a handful of counties have those kinds of problems, because I strongly suspect that the system is broken from the top down.

How can we fix it? (1) Maybe we should use the Secretary of State model from other states and develop a (hired, not appointed) department whose role is to oversee commissioners and their employees in every county, offering training, performing audits, and assessing performance. (2) Maybe we should allow counties to establish the boards of elections as standard departments, featuring a hired department head with expertise in organizational skills, policy, procedure, compliance, and personnel management to oversee the party-appointed commissioners, whose responsibilities would then be limited to ensuring the integrity of elections.

Whatever we do, it should be a statewide fix, and the planning toward that fix should start today. Thank you for your attention to this problem.

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