

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK
ALBANY DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,) Case No. 1:10-CV-1214 (GLS/RFT)
)
v.)
)
STATE OF NEW YORK and THE NEW)
YORK STATE BOARD OF ELECTIONS,)
)
Defendants.)
)
_____)

SUPPLEMENTAL REMEDIAL ORDER

WHEREAS the January 27, 2012 Order of this court granted a Permanent Injunction to the United States upon its application to bring the State of New York into compliance with the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) of 1986, 42 U.S.C. §§1973ff to 1973ff-7, as amended by the Military and Overseas Voter Empowerment (MOVE) Act, Pub. L. No. 111-84, subtitle H, §§ 575-589, 123 Stat. 2190, 2318-235 (2009). The January 27, 2012 Order set the 2012 federal non-presidential primary date as June 26, 2012 and provided that in subsequent even-numbered years, New York's non-presidential federal primary date shall

be the fourth Tuesday of June, unless and until New York enacts legislation resetting the non-presidential federal primary for a date that complies fully with all UOCAVA requirements, and is approved by the court (Decretal Paragraphs "1" and "2");

WHEREAS by Order dated February 9, 2012, this court adopted a political calendar for the implementation of the 2012 federal non-presidential primary and general election, and such calendar was specific to 2012. (ECF Document No. 64, pp. 2-3, 5-6);

WHEREAS by Order dated December 12, 2013, this court adopted a political calendar for the implementation of the 2014 federal non-presidential primary and general election, and such calendar was specific to 2014. (ECF Document No. 85, pp 2-6);

WHEREAS as of this date the State of New York has not amended the New York State Election Law to change the date of the federal primary with respect to this court's Order of January 27, 2012 and until such action has occurred this application is necessary;

WHEREAS the instant application requests that the court supersede various sections of the Election Law as necessary to effectuate the January 27, 2012 Order of this court;

WHEREAS the parties to this action consent to the issuance of this Supplemental Remedial Order;

WHEREAS it is the judgment of this court that the enumerated sections of New York State law must be superseded to provide for a MOVE Act compliant election in New York for the year 2016, now therefore, it is hereby,

ORDERED that the following sections of New York State law be and hereby are superseded for the 2016 election of federal offices in New York:

Schedule of State Law Provisions Superseded for Compliance with MOVE Act

Section of Election Law	Subject	Description of Change
§ 1-106	Timeliness of filings related to federal offices	For the 2016 Federal Primary and General Elections, that all certificates and petitions of designation or nomination, certificates of acceptance or declination of such designations and nominations, certificates of authorization for such designations, certificates of disqualification, certificates of substitution for such designations or nominations and objections and specifications of objections to such certificates and petitions required to be filed with the state board of elections or a board of elections outside of the city of New York shall be deemed timely filed and accepted for filing if sent by mail or overnight delivery service (as defined in CPLR §2103(b)(6) in an envelope postmarked or showing receipt by the overnight delivery service prior to midnight of the last day of filing, and received no later than one business day after the last day to file such certificates, petitions, objections or specifications.
§ 4-110	Date of certification of Primary Election ballot by New York State Board of Elections for candidates for federal office	from thirty-six to fifty-four days pre-Primary [May 5, 2016]

Section of Election Law	Subject	Description of Change
§ 4-114	Date of certification of ballot by county boards of elections for candidates for federal office	from thirty-five to fifty-three days pre-Primary or pre General Election [May 6, 2016]
§ 4-112 [1]	Date of certification of General Election ballot by New York State Board of Elections for candidates for federal office	from thirty-six to fifty-four days pre-General Election [September 15, 2016]
§ 6-158 [1]	Filing of designating petitions for Federal Primary	from the time period “between the tenth Monday to the ninth Thursday” to the time period “between the twelfth Monday to the eleventh Thursday” preceding the Federal Primary [April 11, 2016 - April 14, 2016]
§ 6-158 [4]	Filing of opportunity to ballot petitions for Federal Primary	from the eighth Thursday to the tenth Thursday preceding Federal Primary [April 21, 2016]
§ 6-158 [4]	Filing of opportunity to ballot petitions upon declination for Federal Primary	from the seventh to the ninth Thursday preceding Federal Primary [April 28, 2016]
§ 6-158 [6]	Last day to file certificate of nomination to fill vacancy in federal office pursuant to § 6-116	from seven to twenty-one days after Federal Primary [July 19, 2016]
§ 6-158 [9]	Filing dates for independent nominations for federal offices	from the time period “twelve weeks preceding through eleven weeks preceding” to the time period “fifteen weeks preceding through fourteen weeks preceding” the Federal Primary [July 26, 2016 – August 2, 2016]
§ 6-158 [11]	Last day to accept or decline independent nomination for federal office	from three days after the eleventh Tuesday to three days after the fourteenth Tuesday preceding the General Election, and from three days after the Primary to three days after the fourteenth Tuesday preceding the General Election [August 5, 2016]

Section of Election Law	Subject	Description of Change
§ 6-158 [12]	Last day to fill vacancy after declination of a federal independent nomination	from the eleventh to the fourteenth Tuesday preceding the General Election [August 8, 2016]
§ 10-108 [1] and § 11-204 [4]	Deadline to transmit Military and Special Federal absentee ballots for Federal Primary or General Election to voters with valid applications on file	from thirty-two days to forty-five days before Federal Primary or General Election for federal offices. [May 14, 2016 for Federal Primary] [September 24, 2016 for General Election]

ORDERED that nothing herein shall prohibit the State of New York from making statutory changes in its federal office election process to put New York in compliance with the MOVE Act, and that such changes, if made, may be implemented in 2016 upon the determination of this court that such changes render the 2016 election for federal offices MOVE Act compliant.

Date: October 29, 2015
Albany, New York



GARY L. SHARPE
United States District Court Judge