

J.C. Polanco, Esq., MBA

Testimony Before the New York City Charter Revision Commission

Good evening, Commissioners.

My name is J.C. Polanco. I am an attorney, professor at the University of Mount Saint Vincent and CUNY Borough of Manhattan Community College, former President and Commissioner of the New York City Board of Elections, and a lifelong New Yorker. Today I am appearing in my personal capacity as an independent voter.

I appreciate the Commission's willingness to examine how New York City conducts its elections. Regardless of where someone falls on the political spectrum, I believe one fact has become increasingly difficult to ignore: our closed primary system no longer reflects the reality of New York's electorate. It is not progressive, and if it does not change, it will guarantee that we in NYC live in a democracy in name only.

The largest and fastest-growing segment of American voters is independent. Gallup has consistently found that roughly four in ten Americans identify as independents rather than members of either major political party. New York mirrors that trend. More than 3.4 million New Yorkers are now registered as unaffiliated or blank voters, making them one of the largest voting blocs in the state. And in New York City? 1.1 million of us in the five boroughs, and yet, we are excluded from participating in the elections that often determine who ultimately governs them.

That is because, in much of New York, the decisive election is no longer held in November. It is held in June.

It is tragic to say, but we don't live in any democracy when a small group of people on a hot day in June makes all the decisions for the rest of us. We know that the November election is a fait accompli and that, because of a combination of partisanship and gerrymandering that the division in November is known so much that our own mayor introduced the winners of last week's elections not as nominees but as the next member of the various legislatures because he too knows that like Nancy Pelosi said referring to these types of districts that if the bottle of water was the Democratic nominee, the bottle of water would win in November. It's true; you know it's true; we all know this, yet we do nothing about it. But you have the power to start fixing this mistake and create a more perfect electoral process.

The majority of jurisdictions around the country have some form of open primary that allows more of us to have a say in who represents us. You have so many options for the kind of open primary, from fully open to semi-open to jungle-style, nonpartisan, top-two. Any of these is better than what we have now, which encourages extreme partisanship and rewards folks who, at times, win with single-digit turnout. That is no way to elect people to represent hundreds of thousands of people in Albany and Congress.

In district after district, overwhelming registration advantages and legislative district boundaries mean the Democratic or Republican primary effectively decides the outcome months before the general election. Once a nominee is selected, the November election is frequently a foregone conclusion.

When that happens, the electorate that actually chooses public officials is dramatically smaller than the electorate those officials will ultimately represent.

Low-turnout closed primaries naturally reward campaigns that can mobilize the most committed and organized supporters. Candidates have every incentive to appeal to a relatively small segment of highly engaged primary voters instead of the broader electorate. The result is a political environment that rewards ideological purity over coalition-building and consensus.

This is not a criticism of any one party or any one candidate. It is a structural feature of the system itself. If one party is convinced of the nefarious motives of members of another party, fine, do not let them vote, but let those who refuse to register in any party because of the exhaustion of partisanship have a say. We cannot let the fear of bad actors keep us from doing the right thing.

Those people will always find a way to donate to, campaign for, and even re-register as members of a party to hurt the party. We cannot live in fear of these people. By opening primaries to unaffiliated blank voters, we can achieve a more representative democracy and elect candidates who better reflect the broader population, not just a tiny minority of voters. Having elected officials win elections, where 87% of Democrats stay home, is unsustainable for a democracy.

We have repeatedly seen candidates from across the political spectrum win nominations with the support of only a small percentage of eligible voters because turnout in closed primaries remains exceptionally low. Those victories are entirely legitimate under the existing rules. The question before this Commission is whether those rules continue to serve the interests of New York City.

Independent voters pay taxes, serve on juries, own businesses, teach in our schools, and raise families in every borough. Yet they are routinely denied any meaningful voice in the election that frequently determines who will represent them.

That exclusion carries consequences.

It encourages candidates to campaign primarily to their party's activist base rather than to the broader public. It discourages moderation. It reduces incentives to build consensus across ideological lines. Most importantly, it tells millions of New Yorkers that their participation is welcome in November only after the meaningful decision has already been made.

New York is increasingly an outlier. Many states have adopted some form of open or semi-open primary because they recognize that broader participation can strengthen confidence in the electoral process and encourage candidates to appeal to a wider cross-section of voters.

No electoral system is perfect. Open primaries are not a cure-all. But they represent an acknowledgment that elections function best when participation expands rather than contracts.

This Commission has an opportunity to recommend reforms that better reflect today's electorate rather than yesterday's party structure. At a minimum, independent voters should have the opportunity to participate in the municipal primary elections that so often determine who will govern New York City.

Whatever model the Commission ultimately recommends, I hope it is guided by one principle: elections should encourage participation, not exclusion.

Millions of New Yorkers have chosen not to affiliate with either major political party. They should not lose their voice because of that decision.

Thank you for your time and for your service.