REPORT ON STUDENT VOTING QUESTIONS

CONCLUSION: As a society we should encourage every class of citizen to vote and remove every impediment to voting for every class of citizen.

COMMITTEE CHARGE

As a result of a succession of letters of complaint from students at Bard and Vassar Colleges, Legislative Chair Brad Kendall appointed a three Legislator task force to investigate the validity of the complaints. The basis of the complaints was student perception that the Dutchess County Board of Elections was systematically excluding student voters arbitrarily, capriciously, and without legal foundation.

COMMITTEE METHODOLOGY

In preparing this report and accomplishing the work, the committee considered the following:

1. New York State Election Law, especially Section 5-104(2).
2. December 16, 1999, Confidential Legal Material memorandum from Legislative Counsel Anthony M. Quartararo.
3. Remarks and analysis of Arthur Eisenberg, Esq., NYC Civil Liberties Union.
4. Remarks of participants at two public forums.

COMMITTEE RATIONALE

We agree one of the unique distinguishing marks of an American citizen is the Constitutionally guaranteed right to vote. We feel this is the single most important cornerstone of our democracy. We believe that every American should be encouraged to vote and that limitation of the right to vote should be exercised

only in the most compelling case. In the matter at hand, most of the complaints directed at the voting processes for students in Dutchess County focused on additional proof required of students who sought to enroll and vote in the communities in which they lived/studied/schooled. As part of our work we reviewed the "Supplemental Questionnaire-Registration" (a sample is attached hereto, made a part hereof and marked Exhibit 1). The gravamen of the complaints was two-fold:

1. The questions were immediately sent to "students" after the Board of Elections apparently discerned students status by birth date and address.
2. It contained objectionable questions.

We reviewed NYS Election Law Section 5-104(2) in an effort to reconcile the question of "residency." We discussed the memo of counsel (see attachments marked Exhibits 2 and 3 and made a part hereof). The debate among the members of the committee centered on the difference between the Election Law and opinion of counsel and the federal test as enunciated in the work of Arthur Eisenberg, Esq., (attached hereto, made a part hereof and marked Exhibit 4).

In addition to the readings, the committee participated in two "forums," one at Bard College February 17 and one at Vassar College February 29. The committee stated its goal as a "listener" and received comments and submissions from a variety of participants including professors, students, the clergy, and members of various organizations. None of the forums generated an official record.

After distilling the written and spoken comments, the committee reached the conclusion heretofore stated. We unanimously agree that every class of American citizen has a constitutionally protected right to vote and, in fact, that right should be encouraged rather than discouraged.

As part of our work, we make the following FINDINGS AND RECOMMENDATIONS:

1. The Dutchess County Board of Elections should encourage use of the voting franchise among students.
2. The "Supplemental Questionnaire-Registration" should not be used to exclude students and should not be sent as a matter of course to every apparent student as a prerequisite to enrollment.
3. Notwithstanding the broad latitude afforded the Commissioners of Election by Section 5-104(2), the better course of action would be to adopt the federal guidelines, the three-part test, (1. Is the applicant a citizen of the USA and 18 years of age? 2. Is the applicant a resident of the community in which he seeks to enroll and vote for a period of 30 days or longer? 3. Is his residence the focus of primary concern?)
4. We believe the Questionnaire should be substantially reworked so the only pertinent question is whether the applicant is contemporaneously registered elsewhere. If so, is the applicant willing to terminate that registration. The Board of Elections should facilitate and monitor termination. In addition, the "Questionnaire" should be sent only to those who are registered elsewhere or

who have made incomplete or patently deceptive answers on enrollment applications.

5. We believe, as far as students and campuses are concerned, all candidates for public office should be allowed reasonable access to campuses for campaign purposes, and that colleges should encourage political discussion.
6. We believe the Board of Elections, as part of the registration process, should include a lucid explanation of a voters appeal rights and the appeal process itself should be explained with any denial of voter registration.

That is the unanimous report of this committee.

Respectfully submitted,

Woody N. Klose, Esq., Chair

Mayor Marcus Molinaro

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March 13, 2000
Poughkeepsie, NY