

*The City University of New York*  
*Office of the General Counsel and Vice Chancellor for Legal Affairs*  
*535 East 80th Street, New York, N.Y. 10021*

*Phone: (212) 794-5382*

*Fax: (212) 794-5426*


*Robert E. Diaz*  
*General Counsel*

*Roy P. Moskowitz*  
*Deputy General Counsel*

*Abby L. Jennis*  
*Daphna H. Mitchell*  
*Linda Myles*  
*Paul F. Occhiogrosso*  
*Lisa Okubo*  
*Katherine Raymond*  
*Michael D. Solomon*  
*Jane Sovers*  
*Esdras Tuller*

**Administrative Advisory**  
**Memorandum 95-4**

December 20, 1995

To: College Presidents  
From: Robert E. Diaz   
Re: Voter Registration

As you know, the National Voter Registration Act of 1993 prescribed certain changes in Federal and State election laws to increase voter registration. New York State subsequently passed legislation, effective January 1, 1995, implementing the necessary changes. Of particular interest to the University is New York Election Law §5-211, entitled Agency Assisted Registration.

Election Law §5-211 provides in relevant part: "All Institutions of the state university [sic] of New York and the city university [sic] of New York, shall, at the beginning of the school year, and again in January or February of a year in which the president of the United States is to be elected, provide an application for registration to each student in each such institution."

After Colleges were advised of their obligation to distribute a voter registration form to each student, a question arose as to whether CUNY was a designated voter registration agency pursuant to Election Law §5-211, and, as such, given the authority to collect and transmit voter registration forms to the Board of Election. It was the opinion of my office that CUNY is not a "designated voter registration agency" under New York Election Law §5-211. To clarify this matter, on September 25, 1995, I submitted a request for a legal opinion to the Attorney General of the State of New York asking him whether the University is a designated voter registration agency under Election Law §5-211.

I recently received Attorney General Vacco's response to my request. The opinion concurs with our view that CUNY is required to distribute voter registration forms, but is not one of the designated voter registration agencies given the authority to provide assistance, collection and transmission services.

The opinion goes on to state that an amendment to the State Constitution approved on November 7, 1995 by the electorate,<sup>1</sup> has the effect of nullifying the Court of Appeals' decision in Clark v. Cuomo, 66 N.Y. 2d 185, (1985), which prohibited State agencies from collecting completed voter registration forms. Thus, the Attorney General concluded that:

"while CUNY has not been designated as a participating agency, and is not required to conduct registration activities beyond the distribution of voter registration forms specifically mandated in the first paragraph of Election Law §5-211, CUNY is not prohibited from implementing a more comprehensive voter registration program, including providing assistance in completion of forms and collecting and transmitting completed forms to the Board of Elections."

Accordingly, please be advised that University employees may be involved in providing assistance to individuals completing voter registration forms and that colleges may provide collection and transmission services.

Please note that designated voter registration agencies that are expressly authorized to provide assistance to individuals who are completing voter registration forms, are forbidden from engaging in certain conduct.

Regarding assistance, the statute specifically provides:

- "5. Employees of a voter registration agency who provide voter registration assistance shall not:
- (a) seek to influence an applicant's political preference or party designation;
  - (b) display any political preference or party allegiance;
  - (c) make any statement to an applicant or take any action the purpose or effect of which is to discourage the applicant from registering to vote; or

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<sup>1</sup> This amendment becomes effective January 1, 1996.

(d) make any statement to an applicant or take any action the purpose or effect of which is to lead the applicant to believe that a decision to register or not to register has any bearing on the availability of services or benefits." Election Law §5-211(5)

While the above provision expressly applies to designated voter registration agencies, its requirements must be conveyed to all individuals involved in providing assistance in completing voter registration forms and they are to be directed to comply with the various prohibitions. This will insure that the University maintains a posture of neutrality throughout its voter registration activities.

c: Vice Chancellor Hershenson  
Chief Student Affairs Officers  
Legal Affairs Designees

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