

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 The STATE OF NEW YORK; GEORGE)
 E. PATAKI, Governor of the State)
 of New York; the NEW YORK STATE)
 BOARD OF ELECTIONS; PETER S.)
 KOSINSKI, Deputy Executive Director)
 of the New York State Board of)
 Elections; the UNIVERSITY OF THE)
 STATE OF NEW YORK; the NEW YORK)
 STATE EDUCATION DEPARTMENT;)
 RICHARD P. MILLS, President of the)
 University of the State of New)
 York and Commissioner of the)
 New York State Education)
 Department; the STATE UNIVERSITY)
 OF NEW YORK; ROBERT L. KING,)
 Chancellor of the State University)
 of New York; the CITY UNIVERSITY)
 OF NEW YORK; and MATTHEW)
 GOLDSTEIN, Chancellor of the City)
 University of New York,)
)
 Defendants.)
)
 _____)

COMPLAINT

Plaintiff, the United States of America, alleges:

1. The Attorney General of the United States brings this action on behalf of the United States of America pursuant to the National Voter Registration Act of 1993 ("NVRA"), 42 U.S.C. 1973gg to 1973gg-10, and pursuant to 28 U.S.C. 2201.

2. This Court has jurisdiction of this action pursuant to 28 U.S.C. 1331, 1345 and 2201, and 42 U.S.C. 1973gg-9.

3. Venue is proper in this district pursuant to 28 U.S.C. 1391.

4. Defendant State of New York is a state of the United States of America and is subject to the requirements of the NVRA.

5. Defendant George E. Pataki is the Governor of the State of New York and is sued in his official capacity. As Governor, defendant Pataki is the chief executive officer of the State.

6. Defendant Peter S. Kosinski is the Deputy Executive Director of the New York State Board of Elections ("SBOE") and is sued in his official capacity. Defendant Kosinski has been designated by the Governor of the State of New York as the chief State election official responsible for coordination of State responsibilities under the NVRA.

7. The SBOE is a subdivision of the Executive Department of the State of New York and is responsible for, among other things, officially designating each state agency or office participating in the State's NVRA program.

8. Defendant Richard P. Mills is President of the University of the State of New York and Commissioner of the New York State Education Department and is sued in his official capacities.

9. The University of the State of New York is a corporation established under the laws of the State of New York and is responsible for enforcing the laws and policies of the State relating to education and the duties conferred upon or charged to it and the New York State Department of Education.

10. The New York State Department of Education is the governmental department charged by the laws of the State of New York with the general management and supervision of, among other things, all of the educational work of the State, including the operations of the University of the State of New York.

11. Defendant Robert L. King is Chancellor of the State University of New York ("SUNY") and is sued in his official capacity.

12. SUNY is a corporation within the University of the State of New York consisting of, among others, the four university centers at Albany, Binghamton, Buffalo and Stony Brook; the designated Colleges of Arts and Sciences at Brockport, Buffalo, Cortland, Fredonia, Geneseo, New Paltz, Old Westbury, Oneonta, Oswego, Plattsburgh, Potsdam and Purchase; Empire State College; Downstate Medical Center; Upstate Medical Center; the College of Optometry; the College of Environmental Science and Forestry; Maritime College; and the College of Technology at Utica/Rome.

13. Defendant Matthew Goldstein is Chancellor of the City University of New York ("CUNY") and is sued in his official capacity.

14. CUNY is a corporation within the University of the State of New York consisting of, among others, Baruch College, Brooklyn College, City College, Hunter College, John Jay College of Criminal Justice, Lehman College, Medgar Evers College, New York City College of Technology, Queens College, College of Staten Island, York College, Borough of Manhattan Community College, Bronx Community College, Hostos Community College, Kingsborough Community College, LaGuardia Community College, Queensborough Community College, City University Medical School, City University School of Law at Queens College, and The Graduate Center.

15. The State of New York was required to implement the NVRA beginning January 1, 1995.

16. Section 7 of the NVRA, 42 U.S.C. 1973gg-5, requires the State of New York to designate as voter registration agencies all offices "that provide State-funded programs primarily engaged in providing services to persons with disabilities" so that such disabled persons may be offered the opportunity to register to vote with each application for service, and with each recertification, renewal or change of address form relating to such service.

17. Defendants SUNY and CUNY, through disability services offices ("DSOs") at the colleges and universities under their aegis, provide State-funded programs primarily engaged in providing services to persons with disabilities within the meaning of Section 7(a)(2)(B) of the NVRA, 42 U.S.C. 1973gg-5(a)(2)(B).

18. The State of New York designated the Department of Labor, Office for the Aging, Division of Veterans' Affairs, Office of Mental Health, Office of Vocational and Educational Services for Individuals with Disabilities (Department of Education), the Commission on Quality of Care for the Mentally Disabled, Office of Mental Retardation and Developmental Disabilities, Commission for the Blind and Visually Handicapped, Office of Alcoholism and Substance Abuse Services, and the Office of the Advocate for the Disabled as agencies subject to Section 7 of the NVRA, 42 U.S.C. 1973gg-5.

19. The State of New York has failed to designate the DSOs at SUNY and CUNY institutions, including community colleges, as mandatory voter registration agencies under Section 7 of the NVRA, 42 U.S.C. 1973gg-5.

CAUSE OF ACTION

20. As part of its obligation to begin implementation of the NVRA on January 1, 1995, the State of New York was required by Section 7(a)(2)(B) of the NVRA, 42 U.S.C. 1973gg-5(a)(2)(B),

to designate "all offices in the State that provide State-funded programs primarily engaged in providing services to persons with disabilities" as voter registration agencies.

21. Employees and agents of those State offices designated by Section 7(a)(2)(B) of the NVRA, 42 U.S.C. 1973gg-5(a)(2)(B), as voter registration agencies must, among other things, distribute voter registration forms along with each application for the office's services, including recertifications, renewals, and changes of address relating to such services; provide to each applicant who does not decline to register to vote the same degree of assistance in the completion of the registration application form as the office provides for the completion of its own forms, unless the applicant refuses such assistance; and transmit the completed voter registration forms to the appropriate election official, in accordance with procedures set forth in Sections 7(a)(4), 7(a)(5), 7(a)(6), and 7(d) of the NVRA, 42 U.S.C. 1973gg-5(a)(4), (5) & (6), and 1973gg-5(d).

22. DSOs at SUNY and CUNY institutions are State offices providing State-funded programs primarily engaged in providing services to persons with disabilities, within the meaning of Section 7(a)(2)(B), 42 U.S.C. 1973gg-5(a)(2)(B).

23. Defendants and, where applicable, their employees and agents, have failed to designate the various DSOs at the colleges and universities comprising SUNY and CUNY as voter registration

agencies under Section 7(a)(2)(B) of the NVRA, 42 U.S.C. 1973gg-5(a)(2)(B), and have not provided the opportunity to register to vote specified by Section 7 of the NVRA, 42 U.S.C. 1973gg-5.

24. Defendants' failure to designate as voter registration agencies the DSOs at the colleges and universities comprising SUNY and CUNY constitutes a violation of Section 7(a)(2)(B) of the NVRA, 42 U.S.C. 1973gg-5(a)(2)(B).

25. Defendants' failure to provide persons who apply for services at DSOs the opportunity to register to vote in the manner specified by Section 7 of the NVRA constitutes a violation of Section 7 of the NVRA, 42 U.S.C. 1973gg-5.

26. Unless and until ordered to do so by this Court, Defendants will not provide eligible persons who apply for services at DSOs the opportunity to register to vote as required by Section 7 of the NVRA, 42 U.S.C. 1973gg-5.

27. The Attorney General is authorized under 42 U.S.C. 1973gg-9 to seek declaratory and injunctive relief.

WHEREFORE, the United States prays that the Court enter an ORDER that:

1. Declares that the Defendants have failed to implement the requirements of Section 7 of the NVRA, 42 U.S.C. 1973gg-5;

2. Enjoins the Defendants, their agents and successors in office, and all persons acting in concert with any of them, from

failing to comply with the requirements of Section 7 of the NVRA, 42 U.S.C. 1973gg-5; and,

3. Orders the Defendants, their agents and successors in office, and all persons acting in concert with any of them to:

a. Designate the various DSOs at the colleges and universities comprising SUNY and CUNY, including community colleges, as mandatory voter registration agencies under Section 7(a)(2)(B) of the NVRA, 42 U.S.C. 1973gg-5(a)(2)(B);

b. Take all steps necessary, including the adoption of appropriate administrative policies or rules, to offer persons who apply for services at DSOs the opportunity to apply to register to vote as required by Section 7 of the NVRA, 42 U.S.C. 1973gg-5;

c. Require the Defendants to publicize effectively the remedial plans and programs addressing these NVRA violations to ensure widespread dissemination to State of New York residents, among others, especially those disabled persons who, at the time of the Court's order, have applied for admission to, or are currently enrolled in, any SUNY or CUNY institution, including each community college;

d. Provide the Court within 45 days from the date of the Court's order (1) a plan or program designed to ensure that persons who apply for services at DSOs are offered the opportunity to register to vote as required by Section 7 of the


NVRA, 42 U.S.C. 1973gg-5, and (2) a plan for the effective publicizing of the State's remedial plan or program;

e. Seek the preclearance of the State's remedial and publicity plans as required by Section 5 of the Voting Rights Act, 42 U.S.C. 1973c; and

f. Take all steps reasonably necessary to ensure ongoing compliance by designated DSOs with the requirements of Section 7 of the NVRA, 42 U.S.C. 1973gg-5.

The United States further prays for such additional relief
as the interests of justice may require.

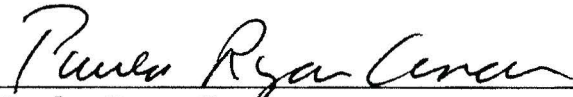
JOHN ASHCROFT
Attorney General



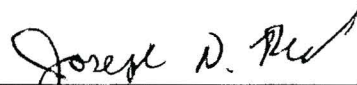
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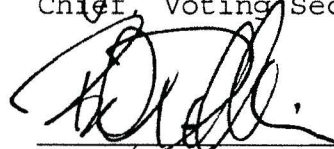
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