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## Op-ed

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### Send Every N.Y. Voter a Ballot



By [Jerry H. Goldfeder](#) and Nick Reade

**G**ov. Cuomo’s executive order permitting all New Yorkers to vote by mail in the primary elections, an attempt to allow people to safely exercise their franchise as the coronavirus pandemic continues, was a welcome change. All eligible voters received an application for an absentee ballot.

But not everyone who requested a ballot received one in time to participate. Many voters are rightly angry about their disenfranchisement, and, for all we know, this lapse may have affected the results in some races.

The Board of Elections should have ramped up its staff to handle the huge number of requests — but let’s not get into the efficiencies of the board right now. The underlying problem was the need for an application process. Why not just send all registered voters a ballot? California and New Jersey are among the states doing this. New York can and should follow suit.

Cuomo and some members of the Legislature claim they can’t order ballots to be sent directly to voters because the state Constitution doesn’t allow it. That’s not correct. There is nothing in the document that prevents it. Let’s break it down for you.

The state Constitution authorizes the Legislature to enact procedures for absentee voting. The

language is pretty open-ended. There is no constitutional directive as to how they may implement absentee voting; the specifics were left up to them.

When the Legislature did pass rules for absentee voting, it chose to require voters to meet certain criteria and fill out an application before they could vote absentee. But the Constitution didn't require this.

The words "apply" and "application" are nowhere to be found anywhere in the relevant constitutional language. So the Legislature can simply amend the statute to eliminate the need for an application during the pandemic (or for all time). They can't claim their hands are tied by the Constitution.

Absent a legislative fix, the governor can issue an Executive Order to eliminate the application requirement. Just as he used his emergency powers in the primary election to temporarily change the law so that everyone could qualify for an absentee ballot rather than have to meet the usual stringent criteria, he could eliminate the need for an application.

If he had done so for the primary election, we would not have the mess we had. He actually did eliminate the application process for recent school board elections, so our idea is not so outlandish. Given the problems with getting ballots to voters during the primary, the governor should do it for the general election.

So many states are moving toward mail-in voting, making it easier for voters to get ballots while increasing funding to those who mail out and count them. Why shouldn't New York join this trend? After all, disenfranchisement — even if caused unintentionally — is not acceptable.

The city's Board of Elections has already shown that it could not handle the surge in requests for the primary, and there is no doubt that voter turnout will be much higher in November. New Yorkers come out in droves to vote for president, producing long lines and packed polling places. Even assuming that there is no "second wave" of COVID-19 on Election Day, epidemiologists will probably still advise social distancing.

And that's to say nothing of the risk to poll workers themselves, many of whom are older and especially vulnerable to coronavirus.

The solution is right in front of us, and it's pretty simple. Send an absentee ballot to every voter without the need for an application. New Yorkers should not have to navigate an obstacle course to vote for president.

If the Legislature doesn't amend the law, the governor should simply order it.

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