

# Two New York Primaries 'Confusing,' to Cost Up to \$120 Million

- Judge, election officials sorting details after maps tossed
- Legality of August congressional primary is in question

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By Keshia Clukey



New York is on course to hold primaries in both June and August, potentially doubling the cost to taxpayers, after the state's highest court ordered the Republican-hindering congressional and state Senate maps redrawn.

State officials were looking into questions about the district lines, petitioning dates, and whether the congressional nominating election could legally be held in August.

"It's a very confusing situation and we have a state court, the Board of Elections, the Legislature, and potentially the federal court all attempting to figure out how to proceed, while the voters are watching and wondering," said Jerry H. Goldfeder, director of the Voting Rights and Democracy project at Fordham University School of Law and an election attorney for Stroock & Stroock & Lavan LLP.

## New York Must Move Primary Date After Court Tosses Remap

A state Supreme Court judge appointed a neutral special master, Jonathan Cervas, a postdoctoral fellow at the Carnegie Mellon University Institute for Politics and Strategy, to redraw congressional and state Senate lines by May 20 in time for August voting.

A primary election typically costs between \$40 million and \$60 million for such expenses as printing ballots, setting up polling sites, and paying for poll workers, said Douglas A. Kellner, co-chair of the state Board of Elections. Holding two primaries, then, could cost taxpayers as much as \$120 million.

But it's unclear whether the congressional date can legally be set for August because a 2012 federal court order compelled New York to hold U.S. House primaries in June, Goldfeder said.

The party primaries for the Assembly and statewide races, including for governor, are still scheduled for June 28.

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While the state Legislature could pass a law moving the primary for those races to August, no bills have been written yet. Mike Murphy, a spokesman for the state Senate Democratic majority, said Thursday it was “way too early to comment at this point.” Representatives from the governor’s office and Assembly majority office didn’t return calls for comment.

Meanwhile, candidates must decide whether to continue spending precious campaign dollars to run in districts that won’t be drawn for another month, said Na’ilah Amaru, a Democratic strategist and former executive director of the New York City Council’s Black, Latino, and Asian Caucus.

“It’s damned if you do, damned if you don’t. No one really wins in this type of situation and all New Yorkers lose,” she said.



*Photographer: David Dee Delgado/Getty Images  
Voters fill out their ballots at Mitchell Community Center in the Nov. 3, 2020, presidential election, in the Bronx borough of New York City.*

The Court of Appeals agreed with lower courts that Democrats didn't follow proper redistricting procedures and violated the New York Constitution's ban on partisan gerrymandering.

The [decision](#) dealt a blow to Democrats who had been counting on the New York congressional map to offset Republican gerrymanders in other states ahead of a November election in which a change of just five seats out of 435 could flip control of the U.S. House of Representatives.

The rejected redistricting plan would have given Democratic candidates an [advantage](#) in as many as 22 of the 26 new districts. The state is losing one seat because of population growth in other parts of the country. Democrats now hold 19 of 27 seats.

If the state opts for a second primary election date, most of the cost would be incurred at the local level, Kellner said. That would include paying for facilities and security. The political parties also would have to expend resources on three get-out-the-vote drives instead of the typical two.

And then there are intangible costs, like voter confusion and burnout. "The more election contests you have on separate dates, the lower you have participation by the electorate, Kellner said.

## **2018 Precedent**

In 2018, the state held separate state and federal primaries after a 2012 federal court ruled that a September date for selecting nominees doesn't give sufficient time for absentee ballots to reach military voters overseas for the general election. The court ordered the congressional primaries to be held the fourth Tuesday in June, and state lawmakers later moved statewide primaries to match.

"There appears to be an inconsistency between the federal court ruling and the current state court ruling," Goldfeder said.

More than a dozen states have congressional primaries later than New York's, including New Hampshire, Delaware, and Rhode Island, which hold primaries Sept. 13.

Kellner said he and the other state Board of Elections leaders have been speaking with attorneys on next steps.

Supreme Court Justice Patrick F. McAllister—a Republican from Steuben County who is overseeing the remapping—on Thursday released an updated [timeline](#) for the redistricting redo. Primary ballots must be sent to military and other overseas voters 45 days before the primary.

“Every day that goes by makes it more difficult to have an orderly contest,” Kellner said.

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