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Time To Retire ‘First-Past-the-Post’ Elections

In his Election and Political Law column, Jerry Goldfeder makes the argument that reform of the electoral system is needed so that elected officials are more representative of the districts they serve.

By [Jerry H. Goldfeder](#)



“First-past-the-post” is the [time-honored way elections have been held throughout most of the United States](#) for much of our history. If a candidate wins a plurality in a field of competitors (i.e., if they come in first), they win—irrespective of the size of the plurality or the margin of victory versus the runner-up candidate. Mostly all of New York elections follow this practice, and voters and candidates generally take this fact in stride. Acceptance of this practice, however, was recently put to the test after Daniel Goldman narrowly won a Democratic Party primary for Congress in a multi-candidate field.

With 13 candidates on the ballot, he received approximately 26% of the vote. And, although the district has 301,934 enrolled Democrats, only about 66,000 people voted. He received about 17,000 votes, just about 5% of those eligible. As a result, supporters of the runner-up, Yuh-line

Niou, who received about 15,000 votes, [had considered mounting a challenge in the general election on the Working Families Party line but opted not to do so](#). Apart from the fact that Mr. Goldman [would have had a huge financial edge in the race](#), it is extremely rare to successfully challenge a major party candidate. In 2003, current New York State Attorney General [Letitia James won her New York City Council seat](#) as WFP's standard-bearer against a Democratic nominee; in 1977, [Eliot Engel ran on the Liberal Party line to beat the Democratic candidate](#) in a special election to fill an Assembly vacancy; in 1970, [James Buckley was elected to the U.S. Senate as the Conservative Party candidate](#) and [Oliver Koppell](#), running as an independent, was elected to the Assembly against a Democrat; and in 1969, [Mayor John Lindsay won re-election on the Liberal Party line](#) against Democrat Mario Procaccino. In a word, then, such challenges can be waged, but are successful only under the most extraordinary of circumstances. If history is any guide, Niou on the WFP line probably would not have beat Goldman.

This plurality-winner tradition was originally questioned in 1969, when conservative Democrat Procaccino won the Democratic primary for Mayor of New York City with 33% of the vote in a five-way race. Procaccino's victory, in part, prompted the state legislature to enact a law requiring a run-off if no candidate for the three city-wide public officials in New York City (mayor, comptroller, and then-City Council president) received 40% in a primary election. This run-off provision governed only three of the thousands of races in the state, and only in a primary. Thus, until last year, New York had been essentially a first-past-the-post state.

This changed when New York City, as a result of an amendment to its City Charter, enacted Ranked Choice Voting (RCV) for its municipal elections, starting last year. Thus, RCV was used in primaries for the mayor, comptroller and public advocate, the five borough presidents and 51 city council members. For the first time, a candidate in the city's primaries needed more than 50% to win, and if they didn't receive it on the first count of the ballots cast, the candidates with the fewest votes were eliminated and those ballots' second choice votes were distributed to the remaining candidates; if still no one passed the 50% threshold, the candidate with the lowest total on the second round was eliminated and their second choice votes were then distributed; and so on.

RCV is meant to elect candidates with broad support, defined as having a majority, not a plurality. As it turned out, of all the municipal candidates, [almost all who had won only a plurality on the first round went on to win a majority after second and third choice votes were counted](#). Three did not, underscoring the value of RCV, that a candidate with a plurality may not be the one with broad enough support to actually win. Put another way, RCV, though plurality winners are usually ultimate winners, ensures that those elected are representative of a majority of the voters.

In enacting RCV, New York City followed a trend toward reform in other parts of the country. In [10 states](#), to win a primary, a candidate needs to have over 50%, or there is a run-off. In [California](#), the top two vote-getters in the primary compete in the general election, even if they are both Democrats or Republicans, or neither. And in [Alaska](#), the four candidates with

the most votes move on to the November ballot, which, in turn, like [Maine](#), uses Ranked Choice Voting.

New York City was able to reform its own elections through the City Charter amendment process—but only for the city’s elected officials. Elections for state and congressional offices, even if they represent New York City voters, remain first-past-the-post elections. Reform of these elections would have to come from Albany.

Yet, despite RCV’s success in New York City, and similar reforms enacted in other parts of the country for such races, there does not seem to be any movement to reform the manner by which New York nominates or elects its state or federal public officials. Such change should be seriously considered.

This brings us back to soon-to-be-congressmember Dan Goldman. His victory reminds New Yorkers how plurality elections appear unrepresentative. Whether he would have won anyway if New York’s congressional primary followed the California top two system, Alaska’s top four, or New York City’s Ranked Choice Voting, is of course, unknowable.

Yet, if a majority-winner system had been in place and he still prevailed (as was the case for almost all of the races in New York City last year), supporters of the runner-up, and all the voters, would probably feel satisfied that his victory was a fair representation of the district. And such feeling by voters, irrespective of who wins, is always a plus.

In any event, he, and all the candidates, knew the rules and he won fair and square. The take-away, then, is to reform the electoral system—as has been done in other states and in New York City—so that elected officials are more representative of the districts they serve. Taking a page from his own experience, perhaps Mr. Goldman will advocate for such reform.

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