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# Goldfeder's Modern Election Law (Book Review)

Gerald Lebovits



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By Jerry H. Goldfeder, New York Legal Publishing Corp., Albany, N.Y. Part I (171 pages); Part II (22 pages); Part III (446 pages), \$125

**E**lections are the heart of the political process. Regardless whether free or fair, elections put everything at stake: for candidates, for their supporters, for voters, for everyone. Elections affect the future. Money. Jobs. Homes. Foreign policy. Legislative agendas. War and peace. Ideology and compromise. Putting into power people and causes we like. Stopping those we dislike.

Elections are fought on battlefields. On the street. In the media. At the polls. On petitions. In smoke-filled rooms. In local political clubs, during rubber-chicken dinners, at nominating-convention halls. In the American democracy, elections are also fought inside courtrooms. These courtrooms are where combatants hire gladiators with law degrees, where statutes, rules, and case law prevail as weapons of choice.

Lawyers battling for elections use brass-knuckle tactics over technical asides. Federal and state court dockets are filled with cases during the election season and beyond. These cases decide electoral campaigns. They limit and expand power. They concern local races, partisan politics, and matters national and international. From how candidates fund campaigns. To how political parties dominate. From the leaders to the led. From ballot security to ballot scrutiny.

GOLDFEDER'S

MODERN  
ELECTION  
LAW

FIRST EDITION  
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L A W Y E R ' S

## Bookshelf

Reviewed by Gerald Lebovits

### *Goldfeder's Modern Election Law*

*Bush v. Gore*, 531 U.S. 98 (2000), in which the U.S. Supreme Court decided a presidential election, shows how a court can interpret election law. So did *New York State Bd. of Elections v. López Torres*, 128 S.Ct. 791 (2008), in which the Court recently found that New York's political parties may, consistent with prospective party candidates' First Amendment rights, select their nominees for Supreme Court justice at a convention of delegates chosen by party members in a primary election. So will the pending *Crawford v. Marion County Election Bd.*, consolidated with *Indiana Democratic Party v. Rokita*, in which the Court heard arguments in January 2008 challenging a law requiring people to submit ID before they may vote.

New York's hypertechnical election law favors the rich, the incumbent, entrenched political parties, and machine candidates. Candidates and their cohorts use New York election law to keep adversaries off the street and in the courts spending time and money defending their petitions. New York's 1992 Election Reform Act and 1996 Ballot Access Law have liberalized things somewhat. Even so, few rules remain so picayune in detail yet crucial in import as New York's election laws. These

rules have long cried out for explanation. The explanation has arrived with "Goldfeder's Modern Election Law."

**T**his book contradicts what we assumed was true: that New York election law is inexplicable, incomplete, and inconsistent. "Modern Election Law" idealistically suggests, successfully, that New York election law is progressively modern and can be explained in a comprehensive, straight-forward way. That is the book's democratic virtue: "Goldfeder's Modern Election Law" makes New York election law accessible.

With "Modern Election Law," idealism turns intuitive. "Modern Election Law" guides readers in clear English, with hundreds of up-to-date citations in easy-to-understand footnotes, on how to get and keep their candidates on the ballot, while trying to knock off would-be opponents. The book is a reliable asset on an arcane subject. Candidates will study it. Lawyers will reference it. Board of Elections personnel will rely on it. Supreme Court referees will know it by heart. Judges will cite it as authority.

The three-part book is not national in scope. For that, I recommend sources like [electionlawblog.org](http://electionlawblog.org), which discusses current election-law topics of national interest in a readable.



entertaining way. "Modern Election Law," instead, closes a long-extant hole: It is about New York election law by a New York election-law expert.

Jerry Goldfeder is the right person to have written a book that bears his name, like a beloved junior offspring one might name after oneself. An election-law practitioner and campaign worker who has served dozens of New York City

and state Democratic candidates from Hillary Clinton, to Mark Green, to H. Carl McCall, Goldfeder was the special counsel to the New York State Senate Democratic Conference. Currently, he is an adjunct professor teaching election law at Fordham University School of Law, the chair of the New York City Bar Association's Election Law Committee,

and, full-time, special counsel to Attorney General Andrew Cuomo.

Goldfeder covers the topic with savvy, practical advice for candidate and lawyer. He analyzes the decision to run for elective office, residence eligibility, the petitioning process, and election-day hurdles. He outlines objections, board of elections hearings, and Supreme Court election contests. He includes key forms in Part II. He offers a chapter on election-law ethics, with hypothetical questions and answers.

**T**he book's cover states that this is the "First Edition." This optimism is realistic. "Modern Election Law" will reach many editions. As with most first editions, forthcoming improvements are possible. I suggest three.

The book should use consecutive pagination. Parts I, II, and III all begin with page 1.

"Modern Election Law" would serve judges, referees, and practitioners best if it gave parallel citations with pinpoint page numbers. The book offers New York citations in the official format, using only the Miscellaneous (Misc.), Appellate Division (A.D.), and New York (N.Y.) reporters. That's fine for lower-court judges, who do not have West's unofficial reports (N.Y.S. and N.E.) in chambers. Practitioners in the main use only the unofficial reports.

And "Modern Election Law," pricey at \$125, would amortize if it were in spiral format, allowing subscribers to update yearly by adding and removing pages without making readers buy each edition anew. It devotes 446 pages in Part III duplicating verbatim the New York State Election Law. Readers should not have to buy a fully new edition whenever the Election Law is amended. Nor should the author have to issue a new edition every time the Legislature amends the Election Law. Practitioners, referees, and judges cannot rely on a possibly old copy of a statute in any event. They must go online for the most recent amendments or at least hunt down the McKinney's or CLS pocket parts.

The next edition of "Modern Election Law" might account for that. Nothing could so contradict this book's title as including an ancient Election Law statute that adds only filler to the edition and cost to the buyer.

"Modern Election Law" is more than a welcome addition to any lawyer's bookshelf. For candidate, election lawyer, and election-law referee and judge, it is an indispensable addition from an indispensable expert.

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