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ELECTION LAW

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Vacant, Commissioner, Public Campaign Finance Board
Todd D. Valentine, Co-Executive Director
Robert A. Brehm, Co-Executive Director
Kimberly A. Galvin, Co-Counsel
Brian L. Quail, Co-Counsel
William J. McCann Jr., Deputy Counsel
Nicholas R. Cartagena, Deputy Counsel
Thomas E. Connolly, Director of Election Operations
Brendan M. Lovullo, Deputy Director of Election Operations
John W. Conklin, Director of Public Information
Cheryl L. Couser, Deputy Director of Public Information
William D. Cross, Chief Information Officer
Vacant, Enforcement Counsel

STATE BOARD OF ELECTIONS
40 NORTH PEARL STREET, SUITE 5
ALBANY, NY 12207–2729
WEBSITE: www.elections.ny.gov
PHONE: 518/474–8100 FAX: 518/486–4068

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ELECTION LAW

Laws 1976, Chapter 233, § 1

Effective December 1, 1977

AN ACT in relation to the election law, recodifying the provisions thereof, by repealing chapter seventeen of the consolidated laws and reenacting a new chapter seventeen thereof and repealing subdivision six of section forty-two of the public officers law and amending such law in relation to filling vacancies.

Became a law June 1, 1976, with the approval of the Governor.

Passed by a majority vote, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

CHAPTER SEVENTEEN OF THE CONSOLIDATED LAWS

[Italicized text is material that was added or amended by the Laws of 2020, chapters 1 to 389 and Laws of 2021, chapters 1 to 23]

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ARTICLE 1—GENERAL PROVISIONS

Section

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§ 1–100. Short title

This chapter shall be known as the ''Election Law''.

(L.1976, c. 233, § 1.)

§ 1–102. Applicability of chapter

This chapter shall govern the conduct of all elections at which voters of the state of New York may cast a ballot for the purpose of electing an individual to any party position or nominating or electing an individual to any federal, state, county, city, town or village office, or deciding any ballot question submitted to all the voters of the state or the voters of any county or city, or deciding any ballot question submitted to the voters of any town or village at the time of a general election. Where a specific provision of law exists in any other law which is inconsistent with the provisions of this chapter, such provision shall apply unless a provision of this chapter specifies that such provision of this chapter shall apply notwithstanding any other provision of law.

(L.1976, c. 233, § 1. Amended L.1976, c. 234, § 1; L.1978, c. 374, § 1; L.1991, c. 727, § 2, eff. Oct. 18, 1991.)

§ 1–104. Definitions

The terms used in this chapter shall have the significance herein defined unless another meaning is clearly apparent in language or context.

1. The term ''political unit'' means the state or any political subdivision thereof or therein.

2. The term ''unit of representation'' means any political unit from which members of any committee or delegates to a party convention shall be elected as provided in this chapter.

3. The term ''party'' means any political organization which, *excluding blank and void ballots, at the last preceding election for governor received, at least two percent of the total*

votes cast for its candidate for governor, or one hundred thirty thousand votes, whichever is greater, in the year in which a governor is elected and at least two percent of the total votes cast for its candidate for president, or one hundred thirty thousand votes, whichever is greater, in a year when a president is elected.

4. The term ''party position'' means membership on a party committee or the position of delegate or alternate to a party convention.

5. The term ''party officer'' means one who holds any party position or any party office whether by election, appointment or otherwise.

6. The term ''committee'' means any committee chosen, in accordance with the provisions of this chapter, to represent the members of a party in any political unit.

7. The term ''designation'' means any method in accordance with the provisions of this chapter by which candidates for party nomination for public office or for election to party position may be named for the purpose of any primary election.

8. The term ''official ballot'' refers to the paper ballot on which the voter casts his vote, or the face of a voting machine as prepared for the voter to cast his vote at any election held in accordance with the provisions of this chapter.

9. The terms ''primary'' or ''primary election'' mean only the mandated election at which enrolled members of a party may vote for the purpose of nominating party candidates and electing party officers.

10. The terms ''uncontested office'' and ''uncontested position'', used in connection with a primary election of a party, mean an office or position for which the number of candidates designated does not exceed the number to be nominated or elected thereto by the party, and for which no valid petition of enrolled members of the party requesting an opportunity to write in the name of an undesignated candidate has been filed.

11. The term ''nomination'' means the selection in accordance with the provisions of this chapter of a candidate for an office authorized to be filled at an election.

12. The term ''independent body'' means any organization or group of voters which nominates a candidate or candidates for office to be voted for at an election, and which is not a party as herein provided.

13. The term ''independent nomination'' means nomination by an independent body.

14. Words of masculine gender include the feminine except where the provision clearly applies to only one sex.

15. The term ''veterans' hospital'' means any sanitarium, hospital, soldiers' and sailors' home, United States Veterans' Administration Hospital, or other home or institution, which is used, operated and conducted exclusively for the care, maintenance and treatment of persons serving in the military or naval service or coast guard of the United States or the state of New York, or persons who (a) were honorably discharged from such service, or (b) have a qualifying condition, as defined in section three hundred fifty of the executive law, and have received a discharge other than bad conduct or dishonorable from such service, or (c) are a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and have received a discharge other than bad conduct or dishonorable from such service.

16. The term ''county legislative body'' shall mean the elected governing body of a county, and in the city of New York, the city council.

17. The term ''ballot proposal'' means any constitutional amendment, proposition, referendum or other question submitted to the voters at any election.

18. The word ''ballot'' when referring to voting machines or systems means that portion of the cardboard or paper or other material or electronic display within the ballot frame containing the name of the candidate and the emblem of the party organization by which he was nominated, of the form of submission of a proposed constitutional amendment, proposition referendum or question as provided in this chapter, with the word ''yes'' for voting for any question or the word ''no'' for voting against any question except that where the question or proposition is submitted only to the voters of a territory wholly within a county or city, such form shall be determined

by the county board of elections. Such statement and the title shall be printed and/or displayed in the largest type or display which it is practicable to use in the space provided.

19. The term ''ballot label'' means the printed strips of cardboard or paper used on the voting machine containing the names of the candidates nominated, and the questions submitted.

20. The term ''write-in ballot'' means a vote cast for a person whose name does not appear on the ballot labels.

21. The term ''protective counter'' means a separate counter built into the voting machine that cannot be reset, and which records the total number of movements of the operating lever.

22. The term ''residence'' shall be deemed to mean that place where a person maintains a fixed, permanent and principal home and to which he, wherever temporarily located, always intends to return.

23. The term ''voting machine custodian'' shall mean a city, town or board of elections employee charged with the duty of repairing and maintaining voting machines.

24. The term ''major political parties'' means the two parties which polled for their respective candidates for the office of governor the highest and next highest number of votes at the last preceding election for such office.

25. The term ''election officer'' shall mean any person who, pursuant to the provisions of this chapter, performs any official duty or function in the electoral process.

26. The term ''board of elections'' shall mean the board of elections of any county in the state of New York and the board of elections of the city of New York and with respect to villages located in more than one county, shall mean the board of elections of that county containing more than fifty percent of the population of the village as shown by the last federal decennial or special census.

27. The term ''personal application'' means a signed writing which may be delivered by mailing or in person.

28. The term ''caucus'' shall mean an open meeting held in a political subdivision to nominate the candidates of a political

party for public office to be elected in such subdivision at which all the enrolled voters of such party residing in such subdivision are eligible to vote.

29. The term ''ballot label programming'' means any computerized instructions which control the placement or the printing of candidates' names and ballot proposals on voting machines of a type approved after September first, nineteen hundred eighty-six.

30. The term ''ballot label programming data'' means the names and ballot positions of candidates and ballot proposals stored on any computerized device through the use of ballot label programming.

31. The term ''resident vote tabulation programming'' means the permanent computerized instructions which are built into any approved voting machine or equipment and which control the recordation, aggregation, tabulation, storage and printing of votes by any such machine or equipment.

32. ''General village election'' means the annual or biennial election for village officers.

33. ''Special village election'' means any election of village officers, other than the general village election.

34. ''Village primary'' means any election held by a political party for the purpose of nominating candidates for elective village offices.

35. The term ''election'' shall include a ''general village election'' or ''special village election'' except where a specific provision of this chapter may not be consistently applied to the village election procedure.

36. ''Name stamp'' means any device which, when applied with ink or other permanent dye, can be used to imprint a person's name to a write-in ballot permanently.

37. The term ''inactive status'' means a category of registered voters who have failed to respond to a residence confirmation notice provided for by section 5–712 of this chapter and whose registrations have neither been restored to the active registration rolls nor been cancelled pursuant to the provisions of this chapter.

38. ''Computer generated registration list'' means a printed or electronic list of voters in alphabetical order for a single election district or poll site, generated from a computer registration file for each election and containing for each voter listed, a facsimile of the signature of the voter. Such a list may be in a single volume or in more than one volume. The list may be utilized in place of registration poll records, to establish a person's eligibility to vote in the polling place on election day.

(a) The state board of elections shall promulgate minimum security standards for any electronic device, and any network or system to which the electronic device is connected, that is used to store or otherwise access a computer generated registration list, and shall also promulgate a list of devices that are approved for use. No local board of elections shall be permitted to use such a device unless the state board of elections has previously approved the device for use and has certified that the network or system to which the electronic device is connected is compliant with the minimum security standards.

(b) The minimum security standards for such devices shall be commensurate with the level of security risk applicable to such devices and shall specifically take into account any security risk associated with voting equipment-related supply chains in addition to any other applicable security risk.

(c) The state board of elections shall promulgate minimum redundancy procedures to ensure a list of registration records is available that provides necessary information in a compressed format to ensure voting continues if the electronic computer generated registration system becomes unavailable for any poll site or election district that utilizes such an electronic computer generated registration list.

(L.1976, c. 233, § 1. Amended L.1976, c. 234, § 2; L.1982, c. 647, § 1; L.1984, c. 248, § 1; L.1986, c. 262, § 1; L.1989, c. 359, §§ 1, 2; L.1994, c. 156, § 1; L.1994, c. 659, § 1; L.2005, c. 181, § 2, eff. July 12, 2005; L.2019, c. 55, pt. XX, § 1, eff. April 12, 2019; L.2019, c. 490, § 19, eff. Nov. 12, 2020; L.2020, c. 58, pt. ZZZ, § 10, eff. April 3, 2020.)

§ 1–106. Filing of papers; when received

1. All papers required to be filed pursuant to the provisions of this chapter shall, unless otherwise provided, be filed be-

tween the hours of nine A.M. and five P.M. On the last day of filing in the county of Westchester, petitions of designation or nomination shall be filed between the hours of nine A.M. and midnight and such board of elections office shall be open to receive such petitions during the hours herein specified. If the last day for filing shall fall on a Saturday, Sunday or legal holiday, the next business day shall become the last day for filing. All papers sent by mail in an envelope postmarked prior to midnight of the last day of filing shall be deemed timely filed and accepted for filing when received, except that all certificates and petitions of designation or nomination, certificates of acceptance or declination of such designations or nominations, certificates of authorization for such designations or nominations, certificates of disqualification, certificates of substitution for such designations or nominations and objections and specifications of objections to such certificates and petitions required to be filed with the state board of elections or a board of elections outside of the city of New York shall be deemed timely filed and accepted for filing if sent by mail or overnight delivery service pursuant to subdivision three of this section, and received no later than two business days after the last day to file such certificates, petitions, objections or specifications. Failure of the post office or any other person or entity to deliver any such petition, certificate or objection to such board of elections outside the city of New York no later than two business days after the last day to file such certificates, petitions, objections or specifications shall be a fatal defect. Excepted further that all certificates and petitions of designation or nomination, certificates of acceptance or declination of such designations and nominations, certificates of substitution for such designations or nominations and objections and specifications of objections to such certificates and petitions required to be filed with the board of elections of the city of New York must be actually received by such city board of elections on or before the last day to file any such petition, certificate or objection and such office shall be open for the receipt of such petitions, certificates and objections until midnight on the last day to file any such petition, certificate or objection. Failure of the post office or any other person or entity to deliver any such petition, certificate or

objection to such city board of elections on or before such last day shall be a fatal defect.

2. The failure to file any petition or certificate relating to the designation or nomination of a candidate for party position or public office or to the acceptance or declination of such designation or nomination within the time prescribed by the provisions of this chapter shall be a fatal defect.

3. (a) Any reference in this chapter to the United States mail shall be treated as including a reference to any delivery service designated by the secretary of the treasury of the United States pursuant to section seventy-five hundred two of the internal revenue code and any reference in this chapter to a postmark or a postmark by the United States mail shall be treated as including a reference to any date recorded or marked in the manner described in section seventy-five hundred two of the internal revenue code by a designated delivery service. If the state board of elections finds that any delivery service designated by such secretary is inadequate for the needs of the state, the state board of elections may withdraw such designation for purposes of this article. The state board of elections may also designate additional delivery services meeting the criteria of section seventy-five hundred two of the internal revenue code for purposes of this article, or may withdraw any such designation if the state board of elections finds that a delivery service so designated is inadequate for the needs of the state. Any reference in this chapter to the United States mail shall be treated as including a reference to any delivery service designated by the state board of elections and any reference in this chapter to a postmark by the United States mail shall be treated as including a reference to any date recorded or marked in the manner described in section seventy-five hundred two of the internal revenue code by a delivery service designated by the state board of elections.

(b) Any equivalent of registered or certified mail designated by the United States secretary of the treasury, or as may be designated by the state board of elections pursuant to the same criteria used by such secretary for such designations pursuant to section seventy-five hundred two of the internal revenue code, shall be included within the meaning of registered or certified mail as used in this chapter. If the state board of

elections finds that any equivalent of registered or certified mail designated by such secretary or the state board of elections is inadequate for the needs of the state, the state board of elections may withdraw such designation for purposes of this article.

(L.1976, c. 233, § 1. Amended L.1977, c. 700, § 1; L.2015, c. 87, § 11, eff. Dec. 15, 2015; L.2015, c. 255, § 1, eff. Sept. 25, 2015; L.2019, c. 5, § 1, eff. Jan. 24, 2019; L.2019, c. 439, § 1, eff. Oct. 30, 2019.)

ARTICLE 2—PARTY ORGANIZATION

Section

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§ 2–100. Party committees; provision for

Party committees shall consist of a state committee, county committees, and such other committees as the rules of the party may allow.

(L.1976, c. 233, § 1. Amended L.1976, c. 234, § 3.)

§ 2–102. State committee; creation

1. The members of the state committee of each party shall be elected from such units of representation as the state committee shall by rule provide. The number of members representing each unit may vary, but each member shall be entitled to an equal vote within his unit. Each member of the state committee shall be entitled to cast one vote unless the rules of the party shall provide otherwise.

2. Each member shall be, at the time of his election and continuously thereafter, an enrolled member of the party and a resident of the unit from which he is elected except as hereinafter provided.

3. To be eligible for election as a member of the state committee at the first election next ensuing after a readjustment or alteration of the units of representation becomes

effective, a candidate must only have been a resident of the county in which the unit, or any part thereof, is contained for the twelve months immediately preceding the election.

4. The state committee may provide by rule for equal representation of the sexes on said committee. When any such rule provides for equal representation of the sexes, the designating petitions and primary ballots shall list candidates for such party positions separately by sexes.

5. The state committee may provide for the holding of a state convention and the election of delegates and alternate delegates thereto in any year and may empower such convention to adopt party platforms and policies and to transact such other business as it may prescribe.

(L.1976, c. 233, § 1. Amended L.1978, c. 373, § 14, eff. June 19, 1978.)

§ 2–104. County committee; creation

1. The county committee of each party shall be constituted by the election in each election district within such county of at least two members and of such additional members, not in excess of two, as the rules of the county committee of the party within the county or the statement filed pursuant hereto may provide for such district, proportional to the party vote in the district for governor at the last preceding gubernatorial election, or in case the boundaries of such district have been changed or a new district has been created since the last preceding gubernatorial election, proportional to the party vote cast for member of assembly or in the event there was no election for member of assembly, then proportional to the number of enrolled voters of such party in such district on the list of enrolled voters last published by the board of elections, excluding voters in inactive status. In a county in which no additional members are provided for by the rules of the county committee or the statement filed pursuant hereto the voting power of each member shall be in proportion to such party vote or, if the election district which such member represents was created or changed since the last election for member of assembly, proportional to such party enrollment. In a county in which additional members are so provided for, on the basis of the party vote or enrollment in election districts within such county, each member shall have one vote. Each member of a

county committee shall be an enrolled voter of the party residing in the county and the assembly district from which or in the assembly district containing the election district in which such member is elected except that a member of a county committee who, as a result of an alteration of assembly district lines, no longer resides within such assembly district may continue to serve for the balance of the term to which he was elected.

2. If, pursuant to section one of article thirteen of the constitution, such committee or a state convention of the party shall provide by rule for equal representation of the sexes on such committee, the rules of such committee relative to additional members, either from election districts or at large, shall be formulated and applied in such manner that the whole membership shall consist of an even number, equally divided between the sexes. When any such rule provides for equal representation of the sexes, the designating petitions and primary ballots shall list candidates for such party positions separately by sexes.

3. Notwithstanding the provisions of subdivision one of this section, a county committee of a party shall be legally constituted if twenty-five per centum of the committeemen required to be elected in such county, as provided in subdivision one of this section, have been elected.

(L.1976, c. 233, § 1. Amended L.1976, c. 234, § 4; L.1982, c. 449, § 4; L.1985, c. 732, § 1; L.1994, c. 659, § 2.)

§ 2–106. State and county committees; election of members

1. Members of the state and county committees shall be elected at the primary election as herein provided.

2. Members of the state committee shall be elected biennially.

3. Members of county committees shall be elected biennially, except that to effect a transition from either odd to even or even to odd number year elections, a county committee may provide by an amendment to its rules filed with the board of elections at least four months before the date of the primary election at which the two year term of such committee is expiring, that the committee elected at such election shall be

elected for a single, interim one-year term for members of such committee. No committee may effect such a change in the year of election more than once every ten years.

4. Members shall hold office until the next election at which members of the committee are elected.

(L.1976, c. 233, § 1. Amended L.1978, c. 9, § 6; L.1979, c. 156, § 1; L.1981, c. 63, § 1; L.1983, c. 1000, § 6.)

§ 2–108. State and county committees; new party

The state committee and county committees of a new political party, which meet prior to the first primary for which members of such party shall have become enrolled, shall be formed as provided by the rules of such party.

(L.1976, c. 233, § 1.)

§ 2–110. Committees other than state and county; creation

1. All committees other than state and county committees shall be formed in the manner provided for by the rules of the party.

2. In the city of New York there shall be the party positions of assembly district leaders or, if the rules of the county committee shall so provide, one assembly district leader and one associate assembly district leader. Outside the city of New York there shall be such positions when the rules of the county committee shall so provide. Such leaders shall be elected at primary elections as herein provided, within every county in such city for each assembly district, or for each part of an assembly district within such county as may be designated for the purpose in the rules of the county committee, and in every county of the state outside of such city where the rules so provide, for such assembly district or part thereof within such county as may be designated in such rules for the purpose. Such assembly district leaders or such assembly district leader and associate assembly district leader shall be of opposite sexes, if the rules of the county committee shall so provide, and shall be enrolled voters of the party residing within the assembly district and, if the rules of the county committee shall so provide, within the part of the assembly district for which they are to be elected, and shall be elected at the same primary

election and for the same term as members of the county committee. When any such rule provides for equal representation of sexes, the designating petitions and primary ballots shall list candidates for such party positions separately by sexes. Each shall perform such duties, powers and functions as the rules of the county committee may prescribe. Vacancies in such positions shall be filled by the members of the county committee within the assembly district or part thereof, as the case may be, until the first primary election following the creation of such vacancy or vacancies for which the period for circulating designating petitions ends at least seven days after the creation of such vacancy or vacancies, at which time the successor or successors shall be directly elected as herein provided. Assembly district leaders and associate assembly district leaders shall automatically be members and shall have the right to participate and vote in meetings of the county committee or any subcommittee thereof. The county committee may provide by its rules that the members of the state committee, elected in accordance with the provisions of this chapter, shall possess the duties, powers and functions of an assembly district leader or an associate assembly district leader. In such event the provisions of this section shall not apply to the members of the state committee but upon his election as a member of the state committee, such person shall be deemed to have also been elected as an assembly district leader or an associate assembly district leader.

3. To be eligible for election as assembly district leader or associate assembly district leader at the first election next ensuing after a readjustment or alteration of the units of representation becomes effective, a candidate must only have been a resident of the county in which the unit, or any part thereof, is contained for the twelve months immediately preceding the election.

(L.1976, c. 233, § 1. Amended L.1978, c. 373, § 15, eff. June 19, 1978.)

§ 2–112. Committees; organization

1. Every committee shall meet and organize by electing a chairman, a secretary, a treasurer and such other officers as they may pursuant to their rules.

(a) Every state committee shall meet no earlier than September seventeenth and no later than October first following the June primary. Until such organization meeting, the existing state committee shall exercise all legal authority. Upon the conclusion of such organization meeting, the new state committee shall assume all legal authority vested in the previously organized state committee.

(b) Every county committee shall meet no earlier than September seventeenth and no later than October sixth following the June primary. Until such organization meeting, the existing county committee shall exercise all legal authority. Upon the conclusion of such organization meeting, the new county committee shall assume all legal authority vested in the previously organized county committee.

(c) All other committees shall meet within the time specified by party rules.

(d) Within three days after their organization meeting all state and county committees shall file in the office of the state board of elections a certificate stating the names and post office addresses of such officers. County committees and any other committee contained therein shall file a copy of such statement with their county board of elections.

2. Such officers shall be enrolled members of the party, but need not be members of such committees.

(L.1976, c. 233, § 1. Amended L.1976, c. 234, § 5; L.1978, c. 9, § 7, eff. Mar. 7, 1978; L.2019, c. 42, § 1, eff. June 25, 2019.)

§ 2–114. Committees; rules of

1. Each committee may prepare rules for governing the party within its political unit. Within ten days after the adoption of any rule or amendment thereto a certified copy thereof shall be filed by the state committee in the office of the state board of elections, and by the county committee in the office of the state board of elections, and in the office of the board of elections of the county. If a section or portion of such rules relate to the nomination of candidates for village office, such section or portion of such rules shall be filed in the office of the village clerk of all villages in which elections are conducted by the village and in which the party makes any nominations for

village office. No rule or amendment thereof shall be effective until the filing thereof in the office of the state board of elections. Such rules shall continue to be the rules for the committee until they are amended or new rules adopted.

2. Rules may be amended or new rules adopted from time to time by a majority vote of the members of the committee present at a meeting at which there is a quorum, provided a copy of the proposed amendment shall be sent with the notice of the meeting at which such amendment is to be proposed, such notice to be mailed not less than five days before such meeting to the post office address of each member of the committee.

(L.1976, c. 233, § 1. Amended L.1978, c. 9, § 8; L.1978, c. 375, § 1; L.1989, c. 359, § 3, eff. Nov. 15, 1989.)

§ 2–116. Committee; removal of member

A member or officer of a party committee may be removed by such committee for disloyalty to the party or corruption in office after notice is given and a hearing upon written charges has been had. The hearing shall be held by the committee, or a subcommittee thereof appointed for that purpose, which subcommittee shall report its findings to the full committee.

(L.1976, c. 233, § 1. Amended L.1978, c. 373, § 16, eff. June 19, 1978.)

§ 2–118. Committees; vacancies, how filled and effect of change of boundaries

1. In the case of the death, declination, enrollment in another party, removal from the unit or removal from office of a member of a committee, or the failure to nominate or elect a member, the vacancy created thereby shall be filled by the remaining members of the committee by the selection of an enrolled voter of the party qualified for election from the unit of representation in which such vacancy shall have occurred. When a state committee fills a vacancy pursuant to this subdivision, the chairman or secretary of such committee shall, within ten days after such vacancy is filled, file a certificate with the state board of elections setting forth the name, address, and unit of representation of the person so selected.

2. If the boundaries of any unit of representation be changed after the election of members of a state committee or assembly district leaders or associate assembly district leaders, the terms of members, assembly district leaders or associate assembly district leaders elected in such units of representation and the units of representation which such members, assembly district leaders or associate assembly district leaders represent shall continue until the next regularly scheduled election for such party positions and until their successors are elected.

3. The county committee, upon its organization after the election of its members, or at any time thereafter, may determine that a vacancy or vacancies in such committee exists by reason of an increase in the number of election districts within the county occasioned by a change of the boundaries of one or more election districts, taking effect after such election, and may determine the districts that the elected members shall represent until the next election at which members of such committee are elected. A vacancy so determined to exist shall be filled as provided in subdivision one.

(L.1976, c. 233, § 1. Amended L.1978, c. 8, § 1; L.1978, c. 9, §§ 9, 10; L.1978, c. 373, § 17; L.1988, c. 14, § 1; L.1992, c. 79, § 2, eff. May 8, 1992.)

§ 2–120. Party positions; to be filled at primary election, time for filing statement as to

1. The chairman of the county committee of each party or such person as may be designated by the rules of the county committee shall file with the board of elections not later than two weeks before the first day on which designating petitions for a primary election may be signed, a statement of the party positions to be filled by such party at such primary election, and the number of persons to be elected to each position; provided, however, that failure to file such statement shall not be construed as a prerequisite to filing designating petitions for such position.

2. If the party positions to be filled are elected from a district which includes parts of two or more counties, the chairman of the state committee of each party or such person as may be designated by the rules of the state committee shall

file such statement with the state board of elections and the board of elections for each county within such district.

3. In each county within the city of New York, and in each county outside of such city where the rules of the county committee of a party provide for the election of assembly district leaders, or one assembly district leader and one associate assembly district leader from parts of an assembly district, the statement filed by such committee shall also set forth the election districts contained within each such part of such assembly district.

(L.1976, c. 233, § 1. Amended L.1978, c. 9, § 11; L.1984, c. 434, § 1; L.1988, c. 16, § 1; L.1992, c. 79, § 3, eff. Jan. 1, 1993; L.2014, c. 20, § 1, eff. May 9, 2014.)

§ 2–122. National party conventions; delegates, election

Delegates and alternates to a national convention of a party shall be elected from congressional districts, or partly from the state at large and partly from congressional districts, as the rules of the state committee may provide. Such delegates and alternates from the state at large shall be elected by the state committee or by a state convention of the party, as the rules of the state committee shall prescribe. If the rules of a national party provide for equal representation of the sexes among delegates elected from districts, such district delegates shall be elected separately by sex. District delegates and alternates to national party conventions and delegates, and alternates, if any, to such a state convention shall be elected at a primary. All delegates and alternates to a national party convention shall be enrolled members of such party. When any such rule provides for equal representation of the sexes, the designating petitions and primary ballots shall list candidates for such party positions separately by sex.

(L.1976, c. 233, § 1. Amended L.1978, c. 177, § 1.)

§ 2–122–a. National convention; national party conference

[Expires and deemed repealed Dec. 31, 2020, pursuant to L.2019, c. 290, § 8.]

1. The rules of the state committee of a party may provide that the delegates and alternate delegates to a national conven-

tion or national party conference be elected by a combination of all of the following methods:

a. By votes cast at a primary election for candidates for the office of president of the United States in which the names of candidates for such office appear on the ballot;

b. By votes cast at a primary election for candidates for the positions of delegate and alternate delegate to a national convention in districts no larger than congressional districts; and

c. By the state committee or a committee of the state committee at a meeting or convention called for such purpose as the rules of the party may provide.

2. If the rules of a state committee adopted pursuant to the provisions of this section provide for a primary election in which the office of president of the United States appears on the ballot, designation of candidates for such office shall be made pursuant to the provisions of sections 6–100, 6–118, 6–122 (except that such candidates need not be citizens of New York but only citizens of the United States), 6–130, 6–132 (except that references to a committee to fill vacancies shall be deemed references to a committee to receive notices), 6–134, 6–144, the provisions with respect to declinations in subdivisions one and two of section 6–146 (except that references to a committee to fill vacancies shall be deemed references to a committee to receive notices), 6–154, and subdivision one and the provision with respect to declinations in subdivision two of section 6–158 (except that such candidates may decline such designations not later than February tenth, two thousand twenty) of this chapter. The state board of elections shall forthwith notify the appropriate county boards of elections of any such declination filed.

3. Designating petitions, where required for candidates for the office of president of the United States to be voted on by voters of the entire state in a primary election, must be signed by not less than five thousand of the then enrolled voters of the party in the state.

4. If the rules of a state committee provide for a primary election in which the office of the president of the United States appears on the ballot, in addition to the spaces on the ballot with the names of the candidates designated for such

office there may be a space with the word ''uncommitted''. The ''uncommitted'' space shall be listed on the ballot provided that a designating petition for such ''uncommitted'' space which meets the same requirements as a petition designating a candidate for the office of president of the United States is filed in the same manner as is required for such a petition.

5. a. The form of a petition requesting that an ''uncommitted'' space be listed on the ballot at a primary election for the office of president of the United States held pursuant to the provisions of this section shall be substantially as follows:

I, the undersigned, do hereby state that I am a duly enrolled voter of the ..... Party and entitled to vote at the next primary election of such party to be held on the ..... day of ..... 20..., that my place of residence is truly stated opposite my signature hereto, and I do hereby request that an ''uncommitted'' space be listed on the ballot at the primary election of such party for the office of president of the United States.

b. The appointment of a committee to receive notices shall be in the form prescribed for a petition for an opportunity to ballot. The signatures on the petition with all the required information and the signed statement of a witness or authentication by a person authorized to take oaths shall be in the form prescribed for a designating petition for such office.

6. a. If the rules of a state committee, adopted pursuant to the provisions of this section, provide that the positions of delegate and alternate delegate to a national convention appear on the ballot, designation of candidates for such positions shall be made pursuant to the provisions of sections 6–100, 6–118, 6–122, 6–130, 6–132 (except that references to a committee to fill vacancies shall be deemed references to a committee to receive notices), 6–134, 6–144, the provisions with respect to declinations in subdivisions one and two of section 6–146 (except that references to a committee to fill vacancies shall be deemed references to a committee to receive notices), 6–147, 6–154, and subdivision one and the provision with respect to declinations in subdivision two and subdivision three of section 6–158 of this chapter.

b. Candidates for the positions of district delegate and alternate district delegate to a national party convention pursuant to the provisions of this section shall be enrolled members of such party and residents of the district in which they are candidates. The board of elections with which a petition is filed shall conduct a prima facie review of the enrollment status of candidates for district delegate and alternate district delegate to determine ballot eligibility. The congressional districts used for the election of such delegates and alternate delegates shall be those districts in effect for the two thousand eighteen congressional elections.

c. Designating petitions for candidates for such positions must be signed by at least five hundred enrolled voters of the party residing in the district in which such candidates are designated, or by at least one-half of one percent (0.5%) of the then enrolled voters of such party in such district, whichever is less. Such petition signature requirement shall be computed using the official February first, two thousand nineteen enrollments published by the state board of elections.

d. The designating petition for any such candidate or candidates shall have printed thereon prior to the affixing of any signatures thereto, a legend naming the presidential candidate whom such candidates are pledged to support, or a legend that such candidates are uncommitted. Such legend shall be part of the title of such position.

e. No designating petition containing the names of more than one candidate for either such position shall be valid under this section, for purposes of delegates and alternate delegates, unless all such candidates for such positions have printed on such petition the legend that they are pledged to the same presidential candidate or unless all such candidates for such positions have printed on such petition the legend that they are uncommitted.

f. On the designating petition shall appear, in parenthesis, the letter (M) if the candidate identifies as male, the letter (F) if the candidate identifies as female or the letters (NB) if the candidate identifies as non-binary. No designating petition containing the names of more than one candidate for either such position shall be presumptively valid unless among the candidates for delegate as a group, and among the candidates

for alternate as a group, the variance within each group between those identifying as male and those identifying as female shall be no greater than one.

g. In the event that a designating petition is filed for candidates for such positions listed as pledged to support a presidential candidate or as uncommitted, and the name of such presidential candidate, or the word uncommitted, will not appear on the ballot at the presidential primary election in two thousand twenty, then the petition designating such candidates for such positions shall be null and void and the names of such candidates for such positions shall not appear on the ballot.

h. Every board of elections with which designating petitions are filed pursuant to the provisions of this section shall, not later than four days after the last day to file such petitions, file with the state board of elections by express mail or by electronic transmission, a complete list of all candidates for delegate and alternate delegate together with their residence addresses, the districts in which they are candidates and the name of the presidential candidate whom they are pledged to support or that they are uncommitted. Such boards of elections shall, not later than the day after a certificate of declination or substitution is filed with respect to any such candidate, file such information with respect to such candidate with the state board of elections by electronic transmission.

7. a. The rules of a state committee adopted pursuant to the provisions of this section may provide that no candidate for the positions of delegate and alternate delegate may appear on the ballot as pledged to support a particular presidential candidate, or as uncommitted, unless the name of such candidate for such position appears on a certificate listing the names of those candidates for such positions who have filed statements of candidacy for such positions with the secretary of the state committee within the time prescribed by such rules and who, if their statements of candidacy contained a pledge of support of a presidential candidate, were not rejected by such presidential candidate. Such certificate shall also list the address and gender of each such candidate for delegate and alternate delegate and the district in which such candidate may appear on the ballot.

b. Such certificate shall be filed by the secretary of such state committee, with the board of elections with which the designating petitions for such candidates for such positions are required to be filed, not later than February eighteenth, two thousand twenty.

c. In the event that a designating petition for candidates for such positions, listed as pledged to support a presidential candidate, contains the names of one or more persons who have not been permitted by such presidential candidate to appear on the ballot as so pledged pursuant to the provisions of this section, then the names of such candidates shall not appear on the ballot but the names of other candidates on such petition who have been permitted by the presidential candidate to appear on the ballot shall be placed on the ballot provided that such candidates are otherwise eligible and that such petition is otherwise valid.

d. The state board of elections shall send a copy of the certificate required by section 4–110 of this chapter to the secretary of the state committee of each party conducting a primary pursuant to the provisions of this section not later than March fourth, two thousand twenty. Every other board of elections with which designating petitions for delegate and alternate delegate were filed pursuant to the provisions of this section shall, not later than March fifth, two thousand twenty, send a list of the names and addresses of those candidates who will appear on the ballot to the secretary of each such state committee.

8. a. If the rules of a state committee adopted pursuant to the provisions of this section provide for an election in which candidates for the office of president of the United States and the word ''uncommitted'' and candidates for the positions of delegate and alternate delegate to a national convention appear on the ballot, such ballot shall be arranged in the manner prescribed by this section.

b. The name of each candidate for the office of president of the United States who has qualified to appear on the ballot and the word ''uncommitted,'' if a valid designating petition to place such word on the ballot was filed with the state board of elections, shall appear in a separate row or column. The names of all the candidates for delegate to a national conven-

tion who filed designating petitions containing a legend naming the presidential candidate whom they are pledged to support or stating that they are uncommitted shall be listed in such row or column immediately under or adjacent to the name of such presidential candidate or the word ''uncommitted,'' followed by the names of all candidates for alternate delegate to such convention who filed such petitions. If the number of candidates, or groups of candidates for delegate and alternate delegate who are pledged to support a particular presidential candidate or who are uncommitted is greater than the number who may be listed in one row or column and if there are more rows or columns available on the ballot than are required for the candidates for president who have qualified to appear on the ballot, then the board of elections shall use two rows or columns on such ballot to list the names of such candidates for delegate and alternate delegate.

c. The order of the names of candidates for the office of president and the word ''uncommitted'' on the ballot and the order of the names of candidates for the positions of delegate or alternate delegate within a particular row or column shall be determined pursuant to the provisions of subdivision three of section 7–116 of this chapter except that names of candidates for such positions who are designated by individual petitions and not in a group shall have their positions determined by lot in the same drawing as groups and except further that candidates or groups of candidates for delegates and alternate delegates designated by the same petition shall be treated as one group for the purposes of such determination by lot. The provisions of subdivision six of such section 7–116 of this chapter shall not apply to any election conducted pursuant to the provisions of this section.

d. Immediately following the name of each candidate for delegate and alternate delegate on the ballot shall appear, in parenthesis, the letter (M) if such candidate identifies as male, the letter (F) if such candidate identifies as female, or the letters (NB) if such candidate identifies as non-binary.

9. All primary elections conducted pursuant to the provisions of this section shall use only voting systems authorized by title two of article seven of this chapter.

10. Persons entitled to vote pursuant to section 11–200 of this chapter shall be entitled to sign designating petitions for, and vote in, any election held pursuant to the provisions of this section.

11. If the rules of a state committee provide for a primary election in which the office of president of the United States and the positions of delegate and alternate delegate to a national convention appear on the ballot pursuant to the provisions of this section, the state board of elections and the county boards of elections as the case may be shall canvass the results of such primary election for such office and positions pursuant to the provisions of sections 9–200 and 9–202 of this chapter, and shall certify to the secretary of the state committee of such party the votes cast for each candidate for such office and positions in such primary election and the votes cast for the ''uncommitted'' preference, tallied separately by congressional districts, except that no candidate or ''uncommitted'' preference shall be certified as nominated or elected to any such office or position.

12. Except as provided in this section and party rules and regulations, all provisions of the election law, except any provisions of section 2–122 of this article which are inconsistent with this section and those sections and subdivisions of article six of this chapter not specified in this section, shall apply to elections conducted pursuant to this section.

13. Notwithstanding any inconsistent provision of law to the contrary, prior to forty-five days before the actual date of a presidential primary election, if a candidate for office of the president of the United States who is otherwise eligible to appear on the presidential primary ballot to provide for the election of delegates to a national party convention or a national party conference in any presidential election year, publicly announces that they are no longer seeking the nomination for the office of president of the United States, or if the candidate publicly announces that they are terminating or suspending their campaign, or if the candidate sends a letter to the state board of elections indicating they no longer wish to appear on the ballot, the state board of elections may determine by such date that the candidate is no longer eligible and omit said candidate from the ballot; provided, however, that for any candidate of a major

political party, such determination shall be solely made by the commissioners of the state board of elections who have been appointed on the recommendation of such political party or the legislative leaders of such political party, and no other commissioner of the state board of elections shall participate in such determination.

14. Notwithstanding any inconsistent provision of law, candidates for delegates and/or alternate delegates who are pledged to candidates of the office of president of the United States who have been omitted pursuant to subdivision thirteen of this section shall also be omitted from the certificate required by section 4–110 of this chapter and/or shall be determined to not be a candidate pursuant to section 4–114 of this chapter. Upon a timely determination of the state board pursuant to subdivision thirteen of this section any prior certification shall be amended forthwith. There shall be no substitution of any candidate omitted pursuant to subdivision thirteen of this section or this subdivision.

(Added L.2019, c. 290, § 3, eff. Sept. 13, 2019, deemed eff. July 1, 2019. Amended L.2020, c. 56, pt. TT, § 1, eff. April 3, 2020.)

Validity

For validity of this section, see Yang v. Kosinski, 960 F.3d 119 (2d Cir. 2020)

§ 2–122–b. Presidential primary

[Expires and deemed repealed Dec. 31, 2020, pursuant to L.2019, c. 290, § 8.]

1. Applicability. The selection of delegates and alternate delegates from New York state to the national convention of the Republican party in each year in which electors of president and vice-president of the United States are to be elected shall be conducted pursuant to the provisions of this section. The state committee of any other political party may, by rule or resolution, opt to conduct the selection of delegates and alternate delegates in any such year in accordance with the provisions of this section. A certified copy of such rule or resolution shall be filed with the state board of elections no later than twenty weeks prior to the date of such election.

2. General provisions. The selection of delegates and alternate delegates to a national convention or conference of a

political party pursuant to this section shall be determined by the votes cast at a statewide primary election for candidates for the office of president of the United States in which the names of candidates for such office appear on the ballot and the names of delegates and alternate delegates do not appear on such ballot. All delegates and alternate delegates to a national convention or conference of a political party from New York state shall be allocated to the candidate receiving the greatest number of votes at such presidential primary election. A political party shall certify to the state board of elections, at least sixteen weeks prior to the date of the presidential primary, the number of delegates to which such party is entitled pursuant to its rules. At-large delegates and alternate delegates shall be selected by the state committee of the political party in accordance with the rules of the national committee of such party and shall be allocated to the presidential candidate receiving the greatest number of votes at the statewide presidential primary election.

3. Ballot access methods. Candidates shall be eligible to appear on the ballot in a presidential primary election of a political party for the office of president of the United States pursuant to any of the following provisions:

a. Any candidate who has been certified as eligible to receive presidential primary matching fund payments pursuant to the provisions of 11 Code of Federal Regulations Part 9033, or any candidate who meets the eligibility criteria regarding matchable contributions established in 11 Code of Federal Regulations Part 9033.2(b)(3) regardless of whether such candidate actually applied for such matching fund payments, may request, by certificate filed and received by the state board of elections no sooner than sixteen weeks and not later than nine weeks prior to the date of the presidential primary, that the name of such candidate appear on the ballot at the primary of such party in the state of New York for that year.

b. Any candidate may request, by certificate filed and received by the state board of elections no sooner than sixteen weeks and not later than nine weeks prior to the date of the presidential primary, that the name of such candidate appear on the ballot at the presidential primary of such party in the state of New York for the office of president of the United

States. Such candidate shall be eligible to appear on the ballot of such party in the state of New York at the presidential primary election for that year if the state board of elections determines that the person is a nationally known and recognized candidate and the candidacy of such person for the party nomination for president is generally and seriously advocated or recognized according to reports in the national or state news media. Notwithstanding any inconsistent provision of law to the contrary, a request by a candidate to appear on the presidential primary ballot of a major political party shall be determined solely by the commissioners of the state board of elections who have been appointed on the recommendation of such political party or the legislative leaders of such political party, and no other commissioner of the state board of elections shall participate in such determination. The state board of elections shall act upon any such request no later than fifty-six days before the presidential primary.

c. Any candidate shall be eligible to appear on the presidential primary ballot pursuant to the provisions of article six of this chapter. Designating petitions shall be signed by not less than five thousand or five percent, whichever is less, of the then enrolled voters of the party in the state.

d. Presidential candidates determined eligible to appear on the presidential primary ballot may have their name removed from such primary ballot by filing a certificate with the state board of elections and received no later than fifty-six days before such primary election. After such date but before the seventh day before the presidential primary, presidential candidates may file a certificate with the state board of elections deeming any vote for such presidential candidate to be a void vote.

4. Election of delegates and alternate delegates from congressional districts. a. Any candidate eligible to appear on the presidential primary ballot pursuant to the provisions of subdivision three of this section shall file a certificate with the state board of elections received no later than nine weeks prior to the date of the presidential primary setting forth a complete slate of proposed delegates and alternate delegates for each delegate and alternate delegate position to be determined by the statewide primary election. The complete slate of delegates and alternate delegates shall consist only of enrolled

members of such political party who reside in the congressional district they seek to represent and who have committed to support such candidate and shall be consistent with the rules of such party, including the rules of the national party, if applicable. The state board of elections shall review each such slate, and if it determines that such slate is not complete or is not otherwise in compliance with the provisions of this paragraph, it shall notify the candidate of any defects forthwith and provide such candidate with no less than three business days to cure any defects. A candidate eligible to appear on the ballot pursuant to the provisions of subdivision three of this section shall appear on such presidential primary election ballot only upon the filing of a valid certificate in compliance with the provisions of this paragraph.

b. All delegates and alternate delegates, other than at-large delegates selected by the state committee of a political party, shall be allocated to the presidential candidate receiving the greatest number of votes at such presidential primary election. Such delegate positions shall be filled in accordance with the slate of delegates and alternate delegates set forth on the certificate filed pursuant to paragraph a of this subdivision; provided, however, that the state board of elections shall provide a candidate with a reasonable opportunity to fill any delegate or alternate delegate positions that have become vacant subsequent to the filing of such certificate. The state board of elections shall certify to the chairman of the state committee of such party, each candidate and the national committee of such party the slate of delegates and alternate delegates elected as a result of the primary election.

5. Election of at-large delegates and at-large alternate delegates. At-large delegates and at-large alternate delegates shall be selected by the New York republican state committee. All at-large delegates and at-large alternate delegates shall be allocated to the presidential candidate receiving the greatest number of votes cast for a presidential candidate at the presidential primary election.

6. All provisions of this chapter which are not inconsistent with this section shall be applicable to a primary election conducted pursuant to this section.

(Added L.2019, c. 290, § 4, eff. Sept. 13, 2019, deemed eff. July 1, 2019.)

§ 2–124. Party names and emblems; provision for

1. The state committee of a party shall select a name and emblem to distinguish the candidates of the party for public office in all districts of the state, and shall file in the office of the state board of elections, a certificate executed by its chairman and secretary, setting forth the name and showing the emblem so selected.

2. The name of a party shall be in the English language and shall not include the words ''American'', ''United States'', ''National'', ''New York State'', ''Empire State'', or any abbreviation thereof, nor the name or part of the name, or an abbreviation of the name, of an existing party. The emblem chosen may be a star, an animal, an anchor, or any other proper symbol, but may not be the same as or similar to any emblem, insignia, symbol or flag used by any political or governmental body, agency or entity nor any religious emblem, insignia, symbol or flag, nor the portrait of any person, nor the representation of a coin or of the currency of the United States. The name and emblem chosen shall not be similar to or likely to create confusion with the name or emblem of any other existing party or independent body.

3. If the name of any party shall contain more than fifteen letters, the state committee shall similarly select and certify an abbreviated form thereof, containing not more than fifteen letters, to be used upon the ballot whenever the necessities of space so require.

4. Emblems and names which have been continuously used by any party or independent body for the nomination of candidates for governor must continue to be used by such party or independent body.

(L.1976, c. 233, § 1. Amended L.1978, c. 9, § 12, eff. Mar. 7, 1978; L.2019, c. 619, § 3, eff. Dec. 11, 2019.)

§ 2–126. Repealed by L.2017, c. 210, § 1, eff. Aug. 21, 2017

§ 2–128. Repealed by L.1979, c. 110, § 1, eff. May 22, 1979

ARTICLE 3—ELECTION OFFICIALS

Title		Section
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TITLE I—STATEWIDE PROVISIONS

Section

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§ 3–100. New York state board of elections; membership; organization

1. There is hereby created within the executive department a New York state board of elections, hereafter referred to as the ''state board of elections'', composed of four commissioners appointed by the governor: two commissioners, one each from among not fewer than two persons recommended by the chairman of the state committee of each of the major political parties; and two other commissioners, one upon the joint recommendation of the legislative leaders, of one major political party, in each house of the legislature and one upon the joint recommendation of the legislative leaders, of the other major political party, in each house of the legislature. The commissioners shall be appointed for terms of two years each and in the same manner as their respective predecessors. A commissioner appointed to the board to fill a vacancy caused other than by expiration of a term, shall serve for the balance of the unexpired term. In the event that there is a vacancy in the office of the commissioner appointed on the recommenda-

tion of such legislative leaders caused by expiration of term or otherwise, such legislative leaders responsible for making the joint recommendation to fill such vacancy shall jointly recommend an individual to fill such vacancy and the governor shall make the appointment from such joint recommendation within thirty days of receiving such joint recommendation. In the event the governor does not act on such joint recommendation within thirty days or objects to such joint recommendation, then the legislative leaders making such joint recommendation shall have the option of: (a) appointing the individual so jointly recommended as a commissioner, or (b) jointly recommending another individual for appointment by the governor according to the procedure outlined in this subdivision.

2. The two commissioners of the board appointed upon the recommendation of the legislative leaders shall be co-chairs of the state board of elections.

3. The commissioners of the state board of elections shall have no other public employment. The commissioners shall receive an annual salary of twenty-five thousand dollars, within the amounts made available therefor by appropriation. The board shall, for the purposes of sections seventy-three and seventy-four of the public officers law, be a ''state agency'', and such commissioners shall be ''officers'' of the state board of elections for the purposes of such sections. Within the amounts made available by appropriation therefor, the state board of elections shall appoint two co-executive directors, and such other staff members as are necessary in the exercise of its functions, and may fix their compensation. The commissioners or, in the case of a vacancy on the board, the commissioner of each of the major political parties shall appoint one co-executive director. Each co-executive director shall serve a term of four years. Any vacancy in the office of co-executive director shall be filled by the commissioners or, in the case of a vacancy on the board, the commissioner of the same major political party as the vacating incumbent for the remaining period of the term of such vacating incumbent.

3–a. There is established within the state board of elections the office of chief enforcement counsel to head the division of election law enforcement. Such counsel shall serve in said office for a fixed term of five years commencing September

first, two thousand fourteen, and may only be removed by the governor for substantial neglect of duty, gross misconduct in office, or the inability to discharge the powers or duties of office, upon notice with an opportunity to be heard. The chief enforcement counsel shall have sole authority over personnel decisions within the enforcement division. All hiring decisions made by the chief enforcement counsel shall be made without regard to political affiliation. The chief enforcement counsel shall not hold any other public office, be a party officer during his or her term of office, or otherwise engage in outside employment. He or she shall be chosen by the governor which choice shall be confirmed by each house of the legislature separately by a majority vote of the members elected to each house of the legislature.

4. For the purposes of meetings, three commissioners shall constitute a quorum. The affirmative vote of three commissioners shall be required for any official action of the state board of elections.

5. The principal office of the state board of elections shall be in the county of Albany.

(L.1976, c. 233, § 1. Amended L.1976, c. 234, § 6; L.1978, c. 9, § 13; L.2005, c. 220, § 2, eff. July 12, 2005; L.2014, c. 55, pt. H, subpt. B, §§ 2, 2–a, eff. June 29, 2014.)

§ 3–102. State board of elections; general powers and duties

In addition to the enforcement powers and any other powers and duties specified by law, the state board of elections shall have the power and duty to:

1. issue instructions and promulgate rules and regulations relating to the administration of the election process, election campaign practices and campaign financing practices consistent with the provisions of law;

2. visit boards of elections, examine their procedures and records and direct that any such procedures be modified in any manner consistent with the provisions of this chapter;

3. conduct any investigation necessary to carry out the provisions of this chapter, provided, however, that the state board of elections chief enforcement counsel, established pur-

suant to section 3–100 of this article, shall conduct all investigations necessary to enforce the provisions of this chapter;

4. conduct private or public hearings;

5. administer oaths or affirmations, subpoena witnesses, compel their attendance, examine them under oath or affirmation and require the production of any books, records, documents or other evidence it may deem relevant or material;

6. confer immunity in accordance with the provisions of section 50.20 of the criminal procedure law, in any investigation relating to any crime or offense with respect to which, by express provisions of statute, a competent authority is authorized to confer immunity; provided, however, that such immunity shall be conferred only after the attorney general and appropriate district attorney are afforded the opportunity to be heard respecting any objections which either may have to the conferring thereof; and provided, further, that if either the attorney general or any such appropriate district attorney shall object to the conferring of immunity, immunity may be conferred only by unanimous vote of all four commissioners of the state board;

7. institute, or direct a board of elections to institute such judicial proceedings as may be necessary to enforce compliance with any provision of article fourteen of this chapter or any regulation promulgated thereunder including, but not limited to, application, on notice served upon the respondent in the manner directed by the court at least six hours prior to the time of return thereon, to a justice of the supreme court within the judicial district in which an alleged violation of any such provision or regulation occurred or is threatened, for an order prohibiting the continued or threatened violation thereof or for such other or further relief as the court may deem just and proper;

8. prepare uniform forms for the statements required by article fourteen of this chapter and uniform forms for use by local election officials in the conduct of registration and voting; design, prepare and make available to county boards of election and to such other institutions and groups as such board in its discretion shall determine uniform application forms for registration and enrollment, transfer of registration and/or

enrollment and special enrollment upon application filed by mail pursuant to the provisions of section 5–210 of this chapter;

9. study and examine the administration of elections within the state including campaign financing, campaign financing reporting, and campaign practices;

9–A. (a) develop an electronic reporting system to process the statements of campaign receipts, contributions, transfers and expenditures required to be filed with any board of elections pursuant to the provisions of sections 14–102, 14–104 *and 14–201* of this chapter;

(b) prescribe the information required in the form for each statement to be filed;

(c) establish an educational and training program on all reporting requirements including but not limited to the electronic reporting process and make it easily and readily available to any such candidate or committee;

(d) make the electronic reporting process available to any such candidate or committee which is required to file or which agrees to file such statements by such electronic reporting process;

(e) cause all information contained in such a statement filed with the state board of elections which is not on such electronic reporting system to be entered into such system as soon as practicable but in no event later than ten business days after its receipt by the state board of elections; and

(f) make all data from electronic reporting process available at all times on the internet.

10. establish rules allowing the admission of news media representatives to the area of the polling place where the canvass of ballots cast can be directly observed;

11. recommend such legislation or administrative measures as it finds appropriate to promote fair, honest and efficiently administered elections, including, but not limited to, legislation to adjust the contribution limitations set forth in article fourteen of this chapter;

12. monitor the adequacy and effectiveness of the election laws and report thereon at least annually to the governor and the legislature;

13. compile the information required with respect to the operation of the National Voter Registration Act [1] and report such information annually to the governor, the legislature and the Federal Election Commission together with an assessment of the operation of such act and any recommendations for changes and improvements.

14. take all appropriate steps to encourage the broadest possible voter participation in elections including the administration of a program of registration form distribution by participating state agencies as prescribed by section 5–211 of this chapter;

15. receive from the secretary of the senate and the clerk of the assembly a list of the mailing addresses of senators and members of the assembly. When members of the public, government officials, or agencies request the mailing addresses of senators and members of the assembly, the mailing addresses submitted to the board by the secretary of the senate and the clerk of the assembly shall be provided;

16. administer the administrative complaint procedure as provided for in section 3–105 of this article;

16–a. provide the department of corrections and community supervision with a sufficient number of voter registration forms to allow the department of corrections and community supervision to comply with the duty to provide such voter registration forms to persons upon the expiration of their maximum sentence of imprisonment. Such voter registration forms shall be addressed to the state board of elections.

17. perform such other acts as may be necessary to carry out the purposes of this chapter.

(L.1976, c. 233, § 1. Amended L.1978, c. 8, § 2; L.1978, c. 9, § 14; L.1983, c. 169, § 2; L.1985, c. 695, § 1; L.1992, c. 79, § 4; L.1994, c. 659, § 3; L.1997, c. 430, § 25, eff. Aug. 20, 1997; L.2003, c. 249, § 1, eff. July 29, 2003; L.2005, c. 23, § 1, eff. May 3, 2005; L.2005, c. 406, § 1, eff. Jan. 1, 2006; L.2010, c. 56, pt. OO, § 10, eff. July 22, 2010; L.2011, c. 62, pt. C, subpt. B, § 91, eff. March 31, 2011; L.2014, c. 55, pt. H, subpt. B, § 3, eff. June 29, 2014; L.2020, c. 58, pt. ZZZ, § 8, eff. April 3, 2020.)

[1] 52 USCA § 20501, nt.

§ 3–103. Computerized record keeping; sharing information in database

1. The state board of elections shall promulgate rules and regulations setting minimum standards for computerized record keeping systems maintained by county boards of elections. Such standards shall include, but not be limited to system access and security, the format and content of the data to be recorded and stored on such systems, and the minimum technical specifications for computer programming. Such standards shall be for the purpose of facilitating compatibility between the systems used by the several boards of elections.

2. The state board of elections, in accordance with subdivision four of section 3–100 of this title, shall enter into an agreement with the commissioner of motor vehicles whereby the department of motor vehicles will provide the state board of elections information to assist local boards of elections to verify a voter's identity pursuant to the federal Help America Vote Act of 2002.

3. The commissioner of motor vehicles shall enter into an agreement with the federal commissioner of social security whereby the social security administration will provide the commissioner of motor vehicles information to allow local boards of elections to verify a voter's identity pursuant to the federal Help America Vote Act of 2002.

4. In addition, the state board of elections, in accordance with subdivision four of section 3–100 of this title, shall enter into an agreement with other agencies within the state that have information relevant to the verification of a voter's identity whereby such agencies will provide the state board of elections information to assist local boards of elections to verify a voter's identity pursuant to the federal Help America Vote Act of 2002.

5. The information transmitted between the statewide voter registration list and other databases, as provided for in this section, shall be limited to the information which is contained in a voter registration application and is necessary to verify a voter's identity. The information contained in the statewide voter registration list shall not be used for non-election purposes.

(Added L.1986, c. 353, § 1. Amended L.2005, c. 179, § 1, eff. Jan. 1, 2006.)

§ 3–104. State board of elections; enforcement powers

1. (a) There shall be a unit known as the division of election law enforcement established within the state board of elections. The head of such unit shall be the chief enforcement counsel.

(b) The state board of elections shall have jurisdiction of, and be responsible for, the execution and enforcement of the provisions of article fourteen of this chapter and other statutes governing campaigns, elections and related procedures; provided however that the chief enforcement counsel shall have sole authority within the state board of elections to investigate on his or her own initiative or upon complaint alleged violations of such statutes and all complaints alleging violations shall be forwarded to the division of election law enforcement.

2. (a) Whenever a local board of elections shall determine, on its own initiative or upon complaint, or otherwise, that there is substantial reason to believe a violation of this chapter or any code or regulation promulgated thereunder has been committed by a candidate or political committee or other person or entity that files statements required by article fourteen of this chapter solely with such local board, it shall expeditiously make an investigation which shall also include investigation of reports and statements made or failed to be made by the complainant and any political committee supporting his candidacy if the complainant is a candidate or, if the complaint was made by an officer or member of a political committee, of reports and statements made or failed to be made by such political committee and any candidates supported by it. The local board shall report the results of its investigation to the division of election law enforcement chief enforcement counsel within ninety days of the start of such investigation. The chief enforcement counsel may direct the local board of elections at any time to suspend its investigation so that the division of election law enforcement can investigate the matter.

(b) The chief enforcement counsel may request, and shall receive, the assistance of the state police in any investigation it shall conduct.

3. Upon receipt of a complaint and supporting information alleging any violation of this chapter, or upon his or her own initiative, the chief enforcement counsel shall determine if an investigation should be undertaken. The chief enforcement counsel shall, if necessary, obtain additional information from the complainant or from other sources to assist such counsel in making this determination. Such analysis shall include the following: first, whether the allegations, if true, would constitute a violation of this chapter and, second, whether the allegations are supported by credible evidence. The chief enforcement counsel may at any time ask that the board authorize him or her to exercise the powers which the board is otherwise authorized to exercise pursuant to subdivisions five and six of section 3–102 of this title. The board shall vote on whether to grant or refuse to grant such authority no later than twenty days after the chief enforcement counsel makes such request. For purposes of considering and voting on such request, the chief enforcement counsel shall be entitled to participate in all matters related thereto and shall vote on the board's granting or refusal to grant such request only when there is a tie. Should the board not vote on such request within twenty days of its submission, or grant the chief enforcement counsel's request, the chief enforcement counsel shall be so empowered to act pursuant to subdivisions five and six of section 3–102 of this title.

4. If the chief enforcement counsel determines that the allegations, if true, would not constitute a violation of this chapter or that the allegations are not supported by credible evidence, he or she shall issue a letter forthwith to the complainant dismissing the complaint and notice to the board.

5. (a) If, an individual has failed to cure pursuant to section 3–104–a of this title, or the chief enforcement counsel determines that substantial reason exists to believe that a person, acting as or on behalf of a candidate or political committee under circumstances evincing an intent to violate such law that does not otherwise warrant criminal prosecution, or has unlawfully violated any provision of this chapter, the board shall assign a hearing officer, randomly from a list of prospective hearing officers each of whom shall have been approved by a majority vote of the board. The chief enforce-

ment counsel shall provide a written report to such hearing officer as to: (1) whether substantial reason exists to believe a violation of this chapter has occurred and, if so, the nature of the violation and any applicable penalty, based on the nature of the violation; (2) whether the matter should be resolved extra-judicially; and (3) whether a special proceeding should be commenced in the supreme court to recover a civil penalty. The hearing officer shall make findings of fact and conclusions of law based on a preponderance of the evidence as to whether a violation has been established and, if so, who is guilty of such violation on notice to and with an opportunity for the individual or entity accused of any violations to be heard. However, if the hearing officer finds that on balance, the equities favor a dismissal of the complaint, the hearing officer shall dismiss the charges. In determining whether the equities favor a dismissal, the hearing officer shall consider the following factors: (1) whether the complaint alleges a de minimis violation of article fourteen of this chapter; (2) whether the subject of the complaint has made a good faith effort to correct the violation; and (3) whether the subject of the complaint has a history of similar violations. For purposes of making any such findings under this subdivision, proceedings before the hearing officer shall be governed by article three of the state administrative procedure act. The chief enforcement counsel shall adopt the report of the hearing officer and may, in his or her discretion, commence a special proceeding in the supreme court pursuant to sections 16–100, 16–114 and 16–116 of this chapter should the findings of fact and conclusions of law support the commencement of such proceeding or enter into an agreement to settle such matter with the subject of the complaint. In the event the chief enforcement counsel commences a special proceeding, the court shall afford the subject of the compliant [1] an opportunity to be heard and shall be empowered to accept, reject or modify the findings of fact and conclusions of law made by the hearing officer. If the board fails to produce a list of eligible hearing officers, the chief enforcement counsel may commence a special proceeding as provided herein in accordance with recommendations made in his or her report.

(b) If the chief enforcement counsel determines that reasonable cause exists to believe a violation warranting criminal prosecution has taken place, the chief enforcement counsel

shall present such findings to the board. Within thirty days of such submission, the board shall vote on whether to accept or reject such findings. For purposes of voting on acceptance or rejection of findings by the chief enforcement counsel, the chief enforcement counsel shall be entitled to participate in all matters related to the review of his or her report and shall vote on its acceptance or rejection only when there is a tie. Should the board fail to vote to either accept or reject the findings within thirty days of submission of such findings, or should the board accept the findings by the chief enforcement counsel that there is reasonable cause to believe that a violation warranting criminal prosecution has taken place, the chief enforcement counsel shall, forthwith, and in any event no later than seven calendar days of such failure to accept or reject the findings by the board, refer such matter to the attorney general or district attorney with jurisdiction over such matter to commence a criminal action as such term is defined in the criminal procedure law.

6. Upon notification that a special proceeding has been commenced by a party other than the state board of elections, pursuant to section 16–114 of this chapter, the chief enforcement counsel shall investigate the alleged violations unless otherwise directed by the court.

7. The chief enforcement counsel shall prepare a report to be included in the annual report of the board to the governor, the state board of elections and legislature, summarizing the activities of the unit during the previous year.

8. The state board of elections may promulgate rules and regulations consistent with law to effectuate the provisions of this section.

(L.1976, c. 233, § 1. Amended L.1978, c. 9, § 15; L.2014, c. 55, pt. H, subpt. B, § 4, eff. June 29, 2014.)

[1] So in original. (''compliant'' should be ''complaint''.)

§ 3–104–a. Compliance unit; compliance procedures

1. There shall be a compliance unit within the board of elections. The compliance unit shall examine campaign finance statements required to be filed pursuant to article fourteen of this chapter. If such statements are found to be

deficient, the compliance unit shall notify the person required to file such statement of such deficiency. Such notice shall be in writing and mailed to the last known residence or business address of such person by certified mail, return receipt requested, or mailed to such address by first class mail if an affidavit attesting to such mailing is created to evidence such mailing. If the person required to file such statement is a treasurer who has stated that the committee has been authorized by one or more candidates, a copy of such notice shall be sent to each candidate by first class mail.

2. Upon a failure to remedy the deficiencies identified by the compliance unit within thirty days of the receipt of such notice the chief enforcement counsel may proceed pursuant to subdivision five of section 3–104 of this title. If such notice is received within thirty days of an election, failure to remedy the deficiencies identified within seven days of the receipt of such notice the chief enforcement counsel may proceed pursuant to subdivision five of section 3–104 of this title.

(Added L.2014, c. 55, pt. H, subpt. B, § 5, eff. June 29, 2014. Amended L.2019, c. 530, § 1, eff. Dec. 15, 2019.)

§ 3–105. Administrative complaint procedure

1. The state board of elections shall establish and maintain a uniform, nondiscriminatory administrative complaint procedure pursuant to which any person who believes that there is a violation (including a violation which has occurred or is occurring or is about to occur) of any provision of title three of the federal Help America Vote Act of 2002 (HAVA),[1] may file a complaint.

2. Initially, any such complaint may be made orally, in person or by telephone, or in writing. Such complaints may be made to the state board of elections or with any local board of elections. A toll-free number shall be made available therefor for telephone calls to the state board of elections. Complaints shall be addressed by election officials expediently and informally whenever possible.

3. All formal complaints shall be filed with the state board of elections. All formal complaints shall be written, signed and sworn by the complainant. The complainant shall use a complaint form promulgated by the state board of elections.

The state board of elections or a local board of elections shall assist any person with a disability who requests assistance to file a complaint. Complaints raising similar questions of law and/or fact may be consolidated by the state board of elections.

4. Upon the written request of the complainant, there shall be a hearing on the record, unless prior to the hearing, the state board of elections, in accordance with subdivision four of section 3–100 of this article, sustains the formal complaint as being uncontested. Any party to the hearing may purchase a transcript of such hearing.

5. The evidentiary standard applied to all formal complaints shall be a preponderance of the evidence.

6. Hearings shall be conducted by a panel of two commissioners of the state board of elections of opposite parties or senior staff members of opposite parties as selected by the commissioners of that party. If the panel does not agree to sustain the complaint, the formal complaint shall be deemed dismissed and shall constitute the determination of the panel.

7. The determination of the hearing panel will be final unless changed by the state board of elections pursuant to subdivision four of section 3–100 of this article, within ninety days of the filing of the formal complaint. A final determination shall be filed and published by the state board of elections within ninety days after the filing of the formal complaint, unless the complainant agrees to a longer period of time. When a violation has been found, the final determination shall include an appropriate remedy for any violation of Title III of the Help America Vote Act of 2002 (HAVA) [2] found by the state board of elections. A final determination dismissing a formal complaint may be filed by any one member of the hearing panel.

8. Whenever a final determination of a formal complaint is not made within ninety days, or any other longer agreed upon time period, the state board of elections shall refer the formal complaint to an independent, alternative dispute resolution agency. Such hearings and determinations shall be conducted by the alternative dispute resolution agency pursuant to regulations promulgated by the state board of elections pursuant to subdivision four of section 3–100 of this article. Such agency

shall have sixty days, from the expiration of the original ninety day time period, or any other longer agreed upon time period, to make a final determination. The state board of elections shall contract, pursuant to subdivision four of section 3–100 of this article with one or more such alternative dispute resolution entities for this specific purpose.

9. No provision of this section shall be construed to impair or supersede the right of an aggrieved party to seek a judicial remedy including a judicial remedy concerning any final determination made pursuant to subdivision eight of this section. The state board of elections shall provide notice to all complainants of the provisions of this subdivision.

(Added L.2005, c. 23, § 2, eff. May 3, 2005.)

[1] 52 USCA § 20901 et seq.
[2] 52 USCA § 21081 et seq.

§ 3–106. Fair campaign code

1. In addition to the powers and duties elsewhere enumerated in this article, the state board of elections, after public hearings, shall adopt a ''fair campaign code'' setting forth ethical standards of conduct for persons, political parties and committees engaged in election campaigns including, but not limited to, specific prohibitions against practices of political espionage and other political practices involving subversion of the political parties and process.

2. Copies of such code shall be sent to each candidate, political party or political committee, upon request, by the board of elections with which such candidate, party or committee is required to file statements of campaign financial disclosure pursuant to article fourteen of this chapter.

3. The state board of elections, on its own initiative, or upon complaint or otherwise, may investigate any alleged violation of the fair campaign code and, in appropriate cases, may apply for an order, as provided in this article.

4. In addition to any other civil or criminal penalty which may be provided for by law, the state board may impose a civil penalty, not to exceed one thousand dollars, upon any person found by the board, after a hearing, to have violated any of the provisions of such code.

5. Any such finding by the board may only be had after a hearing conducted by it upon reasonable written notice, as the board may determine, to such person and affording such person a reasonable opportunity to be heard and present and examine witnesses thereat.

(L.1976, c. 233, § 1. Amended L.1978, c. 8, § 3; L.1978, c. 9, § 16; L.1993, c. 60, § 4, eff. Apr. 15, 1993, deemed eff. Apr. 1, 1993.)

§ 3–107. Powers and duties of the state board of elections respecting elections and crimes against the elective franchise

Authority is hereby conferred upon the state board of elections to appoint a special investigator to take charge of the investigation of cases arising under the election law, and to appoint such additional special investigators and employees as it may deem necessary, and fix their compensation, within the limits of appropriation available therefor, and assign them to any election district or districts for the purpose of enforcing the provisions of the election law. Moneys appropriated for carrying out the provisions of this section shall be paid out of the state treasury on the audit and warrant of the comptroller upon the certificate of the state board.

Such special investigators shall, when directed by the state board of elections, investigate qualifications of persons to register or vote and violations of the election law. Any such special investigator may:

1. Visit and inspect any house, dwelling, building, inn, lodginghouse, [1] boarding-house, rooming-house, or hotel and interrogate any inmate, house-dweller, keeper, caretaker, owner, proprietor or landlord thereof or therein, as to any person or persons residing or claiming to reside therein or thereat.

2. Inspect and copy any books, records, papers or documents relating to or affecting the election or the registration of voters, or require the board or officer in charge thereof to furnish a copy of any such record, paper or document without charge.

3. Require any lodging-house, boarding-house or rooming-house keeper, landlord or proprietor to exhibit his register of the lodgers therein at any time to such special investigator.

4. Procure warrants of arrest and cause to be taken into custody the person or persons named in such process.

5. Go within the guard-rail at any polling place at any election.

Any such special investigator also shall have all of the powers of a peace officer as set forth in section 2.20 of the criminal procedure law, for the purpose of enforcing the provisions of this chapter.

Any person who neglects or refuses to furnish any information required by the election law or authorized herein, or to exhibit records, papers or documents herein authorized to be inspected or which are required to be exhibited, shall be guilty of a misdemeanor.

The state board or any of its special investigators shall have power to issue subpoenas or subpoenas duces tecum, administer oaths and examine witnesses under oath, for the purpose of investigating any matter within the jurisdiction herein prescribed for the purpose of aiding the state board in enforcing the provisions of the election law. Such subpoenas shall be issued in the name of the state board of elections. Such subpoenas may be served by any special investigator or by any police officer or peace officer who is acting pursuant to his special duties.

Any person who shall omit, neglect or refuse to obey a subpoena attested in the name of the state board of elections or who shall refuse to testify under or in pursuance thereof shall be guilty of a misdemeanor.

Any such special investigator may call upon any member of the police, sheriff, deputy sheriff, constable or other public officer, or any person, to assist him in carrying out the provisions of this section. Any such officer or person who shall fail to render the assistance so demanded or who shall wilfully hinder or delay such special investigator in the exercise of any power or the performance of any duty shall be guilty of a misdemeanor.

(L.1976, c. 233, § 1. Amended L.1980, c. 843, §§ 57, 58, eff. Sept. 1, 1980.)

[1] So in original.

§ 3–108. Disaster; additional day for voting

1. A county board of elections, or the state board of elections with respect to an election conducted in a district in the jurisdiction of more than one county board of elections, may determine that, as the direct consequence of a fire, earthquake, tornado, explosion, power failure, act of sabotage, enemy attack or other disaster, less than twenty-five per centum of the registered voters of any city, town or village, or if the city of New York, or any county therein, actually voted in any general election. Such a determination by a county board of elections shall be subject to approval by the state board of elections. If the state board of elections makes such a determination, it shall notify the board of elections having jurisdiction in that county that an additional day of election shall be held, which notice shall show: the nature of the disaster; the county, city, town or village affected thereby; the number of persons duly registered to vote therein at such general election; and the number of persons who voted therein at such general election.

2. The county board of elections shall thereafter set a date for an additional day for voting in the county, city, town or village affected by the statement, which shall not be more than twenty days after the original date of the general election and shall determine the hours during which the polls shall remain open on such additional day for voting; provided, however, that in any event the polls shall remain open for not less than eleven hours. The county board of elections shall publish notice thereof not less than twice in each week preceding the date for the additional day for voting, in newspapers as designated in this chapter, and shall notify all registered voters by mail. Such notice shall also direct attention to any change of polling places and shall contain such other and additional information as in the judgment of the board of elections shall be necessary and proper.

3. Official ballots shall be provided at public expense at each polling place for such additional day of election. In any election district in which voting machines were used upon the original day of voting, they shall be used for the additional day for voting. The original seal on such machines shall not be removed nor shall the machines be unlocked until the opening of the polls on the additional day for voting and the board of

elections shall provide an additional seal to be used as soon as the polls are closed on such day.

4. Only those persons duly registered to vote upon the original date of the general election who did not vote on such date shall be entitled to vote on the additional day for voting. Voting on the additional day provided for in this section shall be accomplished solely by physically appearing at the polling place and nothing contained in this section shall be construed to extend the time set by law for casting or canvassing a military, absentee or special presidential ballot; provided, however, that nothing contained herein shall be deemed to invalidate any absentee, military or special presidential ballot duly received on the original date of the general election.

5. A county board of elections, or the state board of elections with respect to an election conducted in a political subdivision in the jurisdiction of more than one county board of elections, may determine that, as the direct consequence of a fire, earthquake, tornado, explosion, power failure, act of sabotage, enemy attack or other disaster, the ability to make a filing with respect to any provision of this chapter was substantially impaired. Upon making such a finding, a county board of elections, or the state board of elections shall extend for a reasonable time the period for making such filing. An extension pursuant to this subdivision granted by a county board of elections shall be subject to the approval of the state board of elections if such extension is longer than one business day.

(L.1976, c. 233, § 1. Amended L.2008, c. 394, § 1, eff. Aug. 5, 2008.)

§ 3–110. Time allowed employees to vote

1. *If a* registered voter *does not have sufficient time outside of his or her scheduled working hours, within which to vote on any day at which he or she may vote, at any election, he or she* may, without loss of pay for up to *two* hours, take off so much working time as will, *when added to his or her voting time outside his or her working hours,* enable him or her to vote.

2. *If an* employee *has four consecutive hours either between the opening of the polls and the beginning of his or her working shift, or between the end of his or her working shift and the closing of the polls, he or she shall be deemed to have sufficient*

time outside his or her working hours within which to vote. If he or she has less than four consecutive hours he or she may take off so much working time as will, when added to his or her voting time outside his or her working hours enable him or her to vote, but not more than two hours of which shall be without loss of pay, provided that he or she shall be allowed time off for voting only at the beginning or end of his or her working shift, as the employer may designate, unless otherwise mutually agreed.

3. If the employee requires working time off to vote the employee shall notify his or her employer not *more than ten nor* less than two working days before the day of the election that he or she requires time off to vote in accordance with the provisions of this section.

4. Not less than ten working days before every election, every employer shall post conspicuously in the place of work where it can be seen as employees come or go to their place of work, a notice setting forth the provisions of this section. Such notice shall be kept posted until the close of the polls on election day.

(L.1976, c. 233, § 1, formerly § 3–114. Renumbered § 3–110, L.1976, c. 234, § 7. Amended L.2019, c. 55, pt. YY, § 1, eff. April 12, 2019; L.2020, c. 55, pt. AAA, § 1, eff. April 3, 2020.)

§§ 3–112, 3–114. Renumbered Election Law § 7–202 and Election Law § 3–110

TITLE II—BOARD OF ELECTIONS

Section

3–200. Boards of elections; creation, qualifications of commissioners, removal.
3–202. Election commissioners; term of office.
3–204. Election commissioners; appointment.
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3–216. Boards of elections; assistance to, records to be furnished it.
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3–220. Records and photostats; preservation and sale.
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Section
3–226. Boards of elections; ownership, care, custody and control of voting machines.

§ 3–200. Boards of elections; creation, qualifications of commissioners, removal

1. There shall be a board of elections in each county of the state and in the city of New York for the five counties thereof.

2. Each board shall consist of two election commissioners, except that the county legislative body of a county having a population of more than one hundred and twenty thousand may, by local law, increase the number of commissioners to four, to be appointed as provided in this title. Each of the major political parties shall be eligible to recommend appointment of an equal number of commissioners.

3. In the city of New York the board shall consist of ten commissioners of election who shall be registered voters in the county for which they are appointed and they shall be appointed by the city council of the city of New York. Not more than two commissioners shall be registered voters of the same county.

4. No person shall be appointed as election commissioner or continue to hold office who is not a registered voter in the county and not an enrolled member of the party recommending his appointment, or who holds any other public office, except that of commissioner of deeds, notary public, village officer, city or town justice, member of a community board within the city of New York or trustee or officer of a school district outside of a city.

5. *Repealed.*

6. An election commissioner shall not be a candidate for any elective office which he would not be entitled to hold under the provisions of this article, unless he has ceased by resignation or otherwise, to be commissioner prior to his nomination or designation therefor. Otherwise such nomination or designation shall be null and void.

7. An election commissioner may be removed from office by the governor for cause in the same manner as a sheriff.

Any vacancy so resulting shall be filled in a manner prescribed by this article for filling vacancies.

(L.1976, c. 233, § 1. Amended L.1976, c. 234, § 8; L.1984, c. 296, § 9; L.2003, c. 195, § 1, eff. July 29, 2003.)

§ 3–202. Election commissioners; term of office

1. The term of office of an election commissioner shall be two years beginning January first of each odd numbered year except that in the city of New York and the county of Schenectady the term shall be four years beginning on January first of each alternate odd numbered year. The county legislative body of any other county may determine that the commissioners of elections thereafter appointed shall serve for a term of four years. Such determination may be rescinded by a subsequent action of the county legislative body which shall take effect at the expiration of the terms of the commissioners then in office.

2. The local legislative body may, at any time, determine that the terms of office for commissioners shall be staggered and may make subsequent appointments so as to provide for staggered terms of office thereafter.

(L.1976, c. 233, § 1.)

§ 3–204. Election commissioners; appointment

1. At least thirty days before the first day of January of any year in which a commissioner of elections is to be appointed, the chairman or secretary of the appropriate party county committee shall file a certificate of party recommendation with the clerk of the appropriate local legislative body.

2. Party recommendations for election commissioner shall be made by the county committee or by such other committee as the rules of the party may provide, by a majority of the votes cast at a meeting of the members of such committee at which a quorum is present. If at any time a vacancy occurs in the office of any election commissioner other than by expiration of term of office, party recommendations to fill such vacancy shall be made by the county committee or by such other committee as the rules of the party may provide, by a majority

of the votes cast at a meeting of the members of such committee at which a quorum is present.

3. The certificate filed shall be in such form and contain such information as shall be prescribed by the state board of elections.

4. Commissioners of election shall be appointed by the county legislative body, or in the city of New York, by the city council. Provided, however, that if a legislative body shall fail to appoint any person recommended by a party for appointment as a commissioner pursuant to this section, within thirty days after the filing of a certificate of recommendation with such legislative body, then the members of such legislative body who are members of the political party which filed such certificate may appoint such person. And further provided, if there are no members of the legislative body who are members of the political party which filed such certificate, the appointment shall take effect upon the expiration of thirty days from the date that the certificate was filed. If none of the persons named in any of the certificates filed by a party are so appointed within sixty days after the filing of any such certificate, then such party may file another certificate within thirty days after the expiration of any such sixty day period recommending a different person for such appointment. If a party fails to file a certificate within the time prescribed by this section, the members of the legislative body who are members of such party may appoint any eligible person to such office.

5. If at any time a vacancy occurs in the office of any election commissioner other than by expiration of term of office, such vacancy shall be filled as herein provided for the regular appointment of a commissioner except that a person who fills a vacancy shall hold such office during the remainder of the term of the commissioner in whose place he shall serve. Certificates of party recommendation to fill such vacancy shall be filed not later than forty-five days after the creation of the vacancy.

(L.1976, c. 233, § 1. Amended L.1976, c. 234, § 9; L.1984, c. 455, § 1; L.1997, c. 453, § 1, eff. Aug. 26, 1997; L.2010, c. 116, § 1, eff. June 15, 2010.)

§ 3–208. Election commissioners; salaries

Each election commissioner in the same county shall receive an equal salary. The salary shall be an annual salary to be fixed by the county legislative body except that each commissioner of elections in the city of New York shall receive the sum of three hundred dollars for each day's attendance at meetings of the board or any of its committees, not to exceed thirty thousand dollars a year.

(L.1976, c. 233, § 1. Amended L.1980, c. 147, § 1; L.1984, c. 479 § 1; L.1985, c. 394, § 1; L.1993, c. 679, § 1; L.2007, c. 590, § 1, eff. Sept. 14, 2007.)

§ 3–210. Election commissioners; certificate of appointment, filing of

The certificate of appointment of an election commissioner shall be filed in the office of the clerk of the county where the commissioner resides and the clerk shall immediately notify the state board of elections of the appointment.

(L.1976, c. 233, § 1.)

§ 3–212. Boards of elections; organization, proceedings, reports and records

1. The election commissioners, at their first meeting after the first day of January of each year, shall organize as a board, electing one of their number as president, and one as secretary, and if there is a deadlock, the members shall draw lots for such places. The president and secretary shall not belong to the same party.

2. All actions of the board shall require a majority vote of the commissioners prescribed by law for such board.

3. The records of the board, and all papers and books filed in its office are public records. Minutes of all meetings shall show how each commissioner voted upon any resolution or motion. The board shall keep a record of its proceedings, of the number of voters registered and enrolled with each party for that year in each political subdivision or part thereof, data relating to the expenses connected with registration, enrollments and elections within the county or city and such other

information relating to elections as this chapter or the state board of elections may prescribe.

4. (a) Each board of elections shall make an annual report of its affairs and proceedings to its local legislative body once every twelve months and no later than the last day of January in any year. A copy of said annual report shall be filed with the state board of elections.

(b) Said annual report, as required by paragraph (a) of this subdivision, shall include a detailed description of existing programs designed to enhance voter registration. Such report shall include a voter registration action plan which details the various activities and programs of each board, including a description of those steps which shall be taken in the future to increase registration opportunities, especially for those identifiable groups of persons historically underrepresented on the rolls of registered voters; and coordinate voter education programs with school districts, colleges and universities within the board's jurisdiction including voter registration of qualified applicants and instructional or extracurricular activities promoting participation in the electoral process.

(1) Each voter registration action plan shall provide for the designation by the board of a registration activities coordinator. Such designee shall be responsible for initiating contact with each school district, college and university within the area served by the board to request that such school district, college and university designate an administrative liaison who, together with the registration activities coordinator, shall plan, prepare and implement voter education and registration programs to enhance electoral participation. The state board of elections shall promulgate rules and regulations providing guidelines for county board of election assistance to school districts, colleges and universities in the establishment of electoral participation programs.

(2) Each voter registration action plan shall set forth existing activities and planned programs designed to insure compliance with the requirements of subdivision two of section 5–210 of this chapter regarding the distribution of registration application forms.

(3) The state board of elections shall review the voter registration action plan submitted by each board of elections and assist in the development and implementation of local registration outreach services and activities.

5. The board of elections of the city of New York, upon the affirmative vote of six commissioners, may adopt rules authorizing a number of commissioners less than the total membership of the board to act on behalf of the board on matters required to be performed by boards of election pursuant to the provisions of this chapter, provided that such number shall be comprised of commissioners representing equally the two political parties entitled to representation on the board.

(L.1976, c. 233, § 1. Amended L.1991, c. 90, § 12; L.1992, c. 79, § 5, eff. May 8, 1992.)

§ 3–214. Board of elections; general office and branches, hours

1. The board of elections in the city of New York shall maintain an office in the borough of Manhattan, which shall be the headquarters of such board, and an office in each borough of the city. Elsewhere, in each county, the county legislative body shall provide the board of elections for such county with proper and suitable offices.

2. Any board of elections may establish as many fixed branch offices as it deems necessary.

3. Each office shall be open at least every business day during usual business hours, except that each central board office shall be open for the receipt of papers at least between the hours of nine A.M. and five P.M. on the last day on which a paper may be filed with it and on such other days and hours as may be required herein. In each of the two calendar weeks before each general election, each office shall remain open on at least two business days until at least seven P.M. and on Saturdays from not later than nine A.M. until at least noon. In the city of New York, each office shall also remain open on the Sunday before the general election from not later than ten A.M. until at least one P.M.

(L.1976, c. 233, § 1. Amended L.1986, c. 625, § 1, eff. July 26, 1986.)

§ 3–216. Boards of elections; assistance to, records to be furnished it

1. Any law enforcement agency whenever called upon by a board of elections, shall assist in the investigation of registrations and render all other practicable assistance in the enforcement of this chapter. The officer in charge shall detail to the service of the board of elections, upon its written request, such members or employees of the agency as may be necessary.

2. Every public officer shall be required to furnish to the board of elections, without charge, such copies of the official records in his custody, certified by him, as the board may require and as are appropriate and necessary for the performance of its duties.

(L.1976, c. 233, § 1.)

§ 3–218. Subpoenas; power to issue by boards of elections

1. The board of elections and any of the commissioners thereof may require any person to appear and attend before the board or a commissioner at an office of the board and be examined by the board or a commissioner as to any matter in relation to which the board is charged with a duty under this chapter, or in relation to violations of the elective franchise, and subpoenas may issue therefor.

2. When an oath is required or permitted by this chapter, any commissioner, or an employee of the board designated in writing by it, may administer such oath.

(L.1976, c. 233, § 1.)

§ 3–220. Records and photostats; preservation and sale

1. All registration records, certificates, lists, and inventories referred to in, or required by, this chapter shall be public records and open to public inspection under the immediate supervision of the board of elections or its employees and subject to such reasonable regulations as such board may impose, provided, however, that a voter's driver's license number, department of motor vehicle non-driver photo ID number, social security number and facsimile number shall not be released for public inspection. No such records shall be handled at any time by any person other than a member of a

registration board or board of inspectors of elections or board of elections except as provided by rules imposed by the board of elections.

2. The central file registration records shall be kept in locked filing cabinets in the office of the board of elections or, in the appropriate branch offices of the board of elections. Such records shall be taken from such file and handled only where necessary to make entries thereon or take other action in connection therewith as required by this article. The board of elections may cause to be made, photostatic copy or copies of the registration poll records of registered voters in any election district and shall cause such photostatic copies to be placed in one or more ledgers in the same manner and in the same order as the original registration poll records appear in the ledger or ledgers containing the registration poll records for such election district. Such photostatic records shall be open to public inspection, in lieu of the original registration records.

3. Registration records which have been mutilated or voided or which, following the refusal of a board taking registrations to permit an applicant to register, have been marked ''Refused'' shall be retained by the board of elections for at least two years. Upon destruction of any such records the board shall keep a file of the serial numbers of the records so destroyed. Reports of deaths shall be retained by the board of elections for two years. In January of each year, the board of elections may remove from its files and may destroy the check cards of persons whose registrations were cancelled more than two years previously.

4. Subsequent to the expiration of ten years after the receipt thereof or, in the case of registration records, subsequent to the expiration of two years after cancellation of the registration to which they relate, the board of elections, in lieu of preserving any of the records as hereinbefore provided, may preserve photostatic, microphotographic or photographic film copies thereof, and may destroy the original records and is authorized to do so in accordance with the provisions of article thirteen of the state finance law. If the board of elections maintains a computer readable registration record for each registered voter, which includes a copy of the entire registra-

tion poll record or application for registration of each such voter, the original poll record or application for registration may, with the permission of the state board of elections, be so destroyed subsequent to the expiration of two years after such copy is entered in the computer readable record. If such copies in the computer readable record do not include the backs of those registration poll records which have been used at one or more elections, then all such poll records which have been used at one or more elections may, with the permission of the state board of elections, be so destroyed subsequent to the expiration of two years after such copy is entered in the computer readable record, or subsequent to the expiration of four years after the last election at which such poll record was used, whichever is later.

5. Any such photostatic, microphotographic or photographic film copy made pursuant to this section or any such computer readable record shall be deemed to be an original record for all purposes and, when satisfactorily identified, may be introduced in evidence in any judicial or administrative proceeding. An enlargement, facsimile or certified copy thereof shall, for all purposes, be deemed to be an enlargement, facsimile or certified copy of the original record and may likewise be introduced in evidence if the film copy or the computer readable record is in existence and available for inspection under direction of the court or administrative agency. The introduction in evidence of a film copy or a copy of a computer readable record, or an enlargement, facsimile or certified copy thereof, shall not preclude introduction of the original record.

6. All petitions, certificates, objections or papers filed or deposited with a board or officer before an election or primary and relating to designations or nominations, and all registers, books, statements, returns or papers so filed or deposited after registration, enrollment, election or primary at which they were used or to which they relate, not including, however, the voted, unused, protested, void or wholly blank ballots, shall be preserved by such board or officer for at least two years after the receipt thereof and until the determination of any action or proceeding touching the same or in which they are ordered to be preserved pending the action or proceeding and at the expiration of such time they may be either destroyed or sold.

Lists of registered voters with computer generated facsimile signatures used in lieu of registration poll records at any election shall be preserved until the end of the second calendar year after the year of such election. In all jurisdictions, the original statements of results made by the state board of canvassers or a county or city board of canvassers and any original record specifying the name of a person declared to have been elected to a public office shall not be destroyed or sold but shall be preserved, as part of the records of such board or officer, until otherwise provided by law.

6–a. During the period prescribed by subdivision six of this section, no petition shall be removed from the office of the board of elections for copying or any other purpose except while in the custody, or under the supervision of a member or employee of such board or pursuant to court order.

7. Upon the sale of any property authorized by this section to be destroyed or sold, the proceeds shall be paid over as follows: If sold by the board of elections, the proceeds shall be paid into the county treasury, or, in the city of New York, into the city treasury. If sold by the clerk of a city, town or village, the proceeds shall be paid to its fiscal officer for its benefit. Proceeds of the sale of any such property in the office of the state board of elections shall be paid over as provided by law with respect to other state moneys in the hands of a state officer.

(L.1976, c. 233, § 1. Amended L.1977, c. 324, § 1; L.1978, c. 373, § 20; L.1986, c. 425, § 1; L.1992, c. 389, § 1; L.1994, c. 163, § 1; L.2005, c. 179, § 2, eff. Jan. 1, 2006; L.2010, c. 104, § 1, eff. June 2, 2010; L.2014, c. 263, § 1, eff. Aug. 11, 2014.)

§ 3–222. Preservation of ballots and records of voting machines

1. Except as hereinafter provided, removable memory cards or other similar electronic media shall remain sealed against reuse until such time as the information stored on such media has been preserved in a manner consistent with procedures developed and distributed by the state board of elections. Provided, however, that the information stored on such electronic media and all the data and figures therein may be examined upon the order of any court or judge of competent

jurisdiction or may be examined at the direction of a committee of the senate or assembly to investigate and report upon contested elections of members of the legislature voted for by the use of voting machines utilizing such electronic media and such data and such figures examined by such committee in the presence of the officer having the custody of voting machines and electronic media.

2. Voted ballots shall be preserved for two years after such election and the packages thereof may be opened and the contents examined only upon order of a court or judge of competent jurisdiction, or by direction of such committee of the senate and assembly if the ballots relate to the election under investigation by such committee, and at the expiration of such time, such ballots may be disposed of at the discretion of the officer or board having charge of them.

3. Except as hereinafter provided, packages of protested, void and wholly blank ballots, open packages of unused ballots and all absentee and military, special federal, special presidential and emergency ballots and ballot envelopes, if any, opened or unopened, shall be preserved for two years after the election. Sealed packages of unused ballots shall be retained for four months, and may then be destroyed, provided a certificate articulating the election district identifying data and numbers of such ballots is filed with the balance of ballots described in this section, for the balance of the two year retention period. Except as hereinafter provided, boxes containing voted paper ballots, if any shall be preserved inviolate for four months after the election, or until one month before the next election occurring within five months after a preceding election if such boxes are needed for use at such next election and if the officer or board in charge of such voted paper ballots is required by law to furnish ballot boxes therefor. Provided, however, that such ballot boxes and such packages may be opened, and their contents and the absentee and military, special federal, special presidential and emergency ballots and ballot envelopes may be examined, upon the order of any court or justice of competent jurisdiction. Boxes and envelopes containing absentee, military and emergency ballots voted at a general or special election, for the office of member of the senate or assembly, packages of void, protested and wholly blank ballots, unopened absentee and military ballot envelopes and the packages of

unused ballots, in connection with such election, also may be opened, and their contents and such envelopes also may be examined, by direction of a committee of the senate or assembly to investigate and report on contested elections of members of the legislature. Unless otherwise ordered or directed by such a court, justice or committee, such boxes shall be opened and their contents and such packages and the envelopes containing voted ballots and ballot envelopes shall be destroyed, at the expiration of the period during which they are required by the provisions of this section to be preserved, except that instead of being destroyed, they may be sold and the proceeds paid over in the manner provided with respect to the sale of books, records and papers pertaining to an election.

4. All records and documents pertaining to ballot label programming and ballot label programming data for any election for any voting machine of a type approved after September first, nineteen hundred eighty-six and all records pertaining to the periodic maintenance testing of any such programming and programming data or the testing of any such machine in connection with any such election shall be preserved for two years after such election.

(L.1976, c. 233, § 1. Amended L.1978, c. 9, § 17; L.1978, c. 373, § 21; L.1986, c. 262, § 2; L.1994, c. 163, § 2, eff. June 7, 1994; L.2007, c. 49, § 3, eff. May 29, 2007; L.2011, c. 169, § 1, eff. July 20, 2011; L.2011, c. 282, §§ 1, 2, eff. Aug. 3, 2011.)

§ 3–224. Voting machines; use of by other than the board of elections

The board of elections may permit towns, villages, school districts, fire, ambulance, water, sanitation, police and other special districts within the county to use voting machines and other equipment owned by it and used for the conduct of elections or for educational and instructional purposes, upon such rental and other terms and conditions as shall be fixed by it. Such board may similarly permit the use of such machines by associations and organizations for the conduct of elections where it judges the use of such machines for elections conducted by such associations and organizations will be in the public interest.

(L.1976, c. 233, § 1. Amended L.1988, c. 24, § 7; L.2005, c. 180, § 2, eff. Nov. 15, 2005.)

§ 3–226. Boards of elections; ownership, care, custody and control of voting machines

1. Boards of elections shall direct the purchase, acquisition or lease of voting machines, of a kind authorized by law, which shall be selected by such board provided, however, nothing in this section shall preclude the state board of elections from distributing voting machines to boards of elections without charge. All voting machines, and appliances and equipment relating to or used in the conduct of elections shall be in the care, custody and control of the board of elections. Such board shall cause all necessary repairs and maintenance to be made and employ such help as may be necessary in making such repairs and in moving, setting up and caring for all election materials, equipment and appliances, including voting machines. All supplies, equipment or election appliances to be used or furnished by such board shall be purchased by such board. All expenses of such board of elections shall be certified, audited and paid as are other claims against the county, or in the case of the city of New York, by such city, and all expenses connected with elections and matters preliminary relating thereto, including compensation of inspectors and clerks of election, shall be a county charge, except, at the option of the county, all or any part of the type of expenses connected with elections and matters preliminary or relating thereto that were previously incurred by towns and cities, may be apportioned pursuant to this chapter to a city or town.

2. The board of elections shall publish or post, as the case may be, all notices, lists and other materials relating to elections to which this section applies, and which are required by law to be published or posted in the county, or a political subdivision therein, except publications made by the state board of elections and village clerks.

3. Lists of persons recommended to serve as inspectors of election and poll clerks shall be filed by the chairperson of the county committees of the political parties entitled to representation on the board of elections.

(Added L.2005, c. 180, § 3, eff. Nov. 15, 2005.)

TITLE III—ELECTION PERSONNEL

Section

3–300. Board employees; appointment.
3–302. Voting machine technicians and custodians; appointment, duties.

§ 3–300. Board employees; appointment

Every board of elections shall appoint, and at its pleasure remove, clerks, voting machine technicians, custodians and other employees, fix their number, prescribe their duties, fix their titles and rank and establish their salaries within the amounts appropriated therefor by the local legislative body and shall secure in the appointment of employees of the board of elections equal representation of the major political parties. Every commissioner in each board of elections except for commissioners of the board of elections of the city of New York, may approve and at pleasure remove a deputy, establish his title and prescribe his duties. In the city of New York, the board of elections shall appoint an executive director and a deputy executive director whose duties it shall be to supervise the operations of the board of elections under the supervision of such board.

(L.1976, c. 233, § 1.)

§ 3–302. Voting machine technicians and custodians; appointment, duties

1. The board of elections shall appoint as many voting machine technicians and voting machine custodians as shall be necessary for the proper preparation and repair of voting machines. Voting machine technicians may be full time employees of the board of elections and may also serve as voting machine custodians as hereinafter provided. No person shall be appointed as a voting machine technician or voting machine custodian who is a candidate for any public office to be voted for by the voters of the district in which he is to serve.

2. The voting machine technicians shall, under the direction of the board of elections supervise the preparation of the voting machines. They shall inspect voting machines to insure that they are in proper repair and working order and shall notify the board of elections and the appropriate town or city clerk of the repairs found to be needed on any machine.

They shall have the authority to recommend the rejection of a machine to the board of elections as not in suitable mechanical condition for use in an election. They shall perform all other duties as required by the board of elections.

3. The board of elections shall, before the fifteenth day of January of each year, appoint as many custodians of voting machines as may be necessary for the proper preparation of the machines. The custodian shall, under the direction of the board of elections, have charge of and represent the board of elections during the preparation of the voting machines and serve at the pleasure of the board of elections.

4. The board of elections shall as often as necessary provide a course of training and education on the preparation, use, maintenance and repair of the voting machine. Attendance at such course shall be required of all voting machine technicians who have not previously completed such a course satisfactorily.

5. Any person who fails to satisfactorily complete such a course shall not be permitted to serve as a voting machine technician.

6. Voting machine custodians shall be paid for their services an amount fixed by the board of elections, which amount shall, however, be approved by the legislative body of the county and shall be payable by the county, or in the case of the city of New York, payable by such city.

7. Salaries of voting machine technicians shall be fixed by the board of elections as provided herein and provided further that the salaries for each technician may vary dependent on the number of machines to be serviced, other duties assigned and such other factors as the board may consider relevant.

(L.1976, c. 233, § 1. Amended L.1995, c. 340, § 1; L.2005, c. 180, § 4, eff. Nov. 15, 2005.)

TITLE IV—ELECTION INSPECTORS AND POLL CLERKS

Section

3–400. Election inspectors and poll clerks; provision for.
3–401. Election coordinators; provision for.
3–402. Election inspectors and poll clerks; authority.
3–404. Election inspectors and poll clerks; designation.
3–406. Election inspectors and poll clerks; additional.

Section

3–408. Repealed.
3–410. Election inspectors and poll clerks; certification.
3–412. Election inspectors and poll clerks; training.
3–414. Election inspectors and poll clerks; oath of office, certificate of appointment.
3–416. Election inspectors, poll clerks and election coordinators; removal.
3–418. Election inspectors and poll clerks; emergency provisions for filling vacancies or absences.
3–420. Election inspectors, poll clerks and election coordinators; compensation.

§ 3–400. Election inspectors and poll clerks; provision for

1. There shall be for each election district of the state four election inspectors.

2. At every general election in each election district where two voting machines are used, there shall be two clerks in addition to the four inspectors of election, except that in an election district located in a town, where one voting machine is used, the town board may direct the board of elections to appoint not more than two clerks in such district if in the discretion of such board the service of such clerk or clerks is reasonably necessary for the proper conduct of the election. In each election district where paper ballots, in addition to one voting machine, are used at a general election, there shall be two clerks in addition to the four inspectors of election. In each election district where paper ballots, in addition to more than one voting machine are used at a general election there shall be four clerks in addition to the four inspectors. The duties of such clerks shall be such as shall be prescribed by the board of elections and they shall serve at the general election only. When deemed necessary in any election or primary, the board of election may require additional poll clerks to be designated in any election district.

3. Appointments to the offices of election inspector or poll clerk in each election district, shall be equally divided between the major political parties.

4. Before entering on their duties, the election inspectors of each election district outside the city of New York shall appoint one of their number chairman, to serve as such during his term of office. If a majority shall not agree upon such an appointment, they shall draw lots for that position.

5. In the city of New York in each odd numbered election district a chairman shall be designated who shall be an inspector named by the political party which polled the highest number of votes for governor at the last preceding election for such officer and in each even numbered election district a chairman shall be designated who shall be an inspector named by the political party which polled the second highest number of votes for governor at the last preceding election for such officer.

6. No person shall be certified or act as an election inspector or poll clerk who is not a registered voter (unless such person is duly qualified under subdivision eight of this section) and a resident of the county in which he or she serves, or within the city of New York, of such city, who holds any elective public office, or who is a candidate for any public office to be voted for by the voters of the district in which he or she is to serve, or the spouse, parent, or child of such a candidate, or who is not able to speak and read the English language and write it legibly.

7. The board of elections may employ election inspectors to work split shifts with adjusted compensation, provided, however, that at least one inspector from each of the two major political parties is present at the poll site for the entire time that the polls are open. Each county board of elections shall prescribe the necessary rules and procedures to ensure proper poll site operation.

8. A person seventeen years of age who is enrolled in a school district and fulfilling the requirements of section thirty-two hundred seven-a of the education law shall be eligible to be appointed as, and to perform the duties of, an election inspector or poll clerk as provided in this chapter.

9. Notwithstanding any inconsistent provisions of this article, election inspectors or poll clerks, if any, at polling places for early voting, shall consist of either board of elections employees who shall be appointed by the commissioners of such board or duly qualified individuals, appointed in the manner set forth in this section. Appointments to the offices of election inspector or poll clerk in each polling place for early voting shall be equally divided between the major political parties. The board of elections shall assign staff and provide

resources to ensure a voter's wait time to vote at an early voting site shall not exceed thirty minutes.

(L.1976, 233, § 1. Amended L.1978, c. 9, § 18; L.1985, c. 242, § 1; L.1995, c. 340, § 2; L.2010, c. 5, § 1, eff. March 16, 2010; L.2010, c. 76, § 1, eff. May 12, 2010; L.2011, c. 133, §§ 1, 2, eff. July 15, 2011; L.2017, c. 293, § 1, eff. March 11, 2018; L.2019, c. 6, § 1, eff. Jan. 24, 2019.)

§ 3–401. Election coordinators; provision for

1. The board of elections of each county and in the city of New York, the board of elections of the city of New York, may, in its discretion, appoint persons to perform election day duties including directing voters to their proper polling place, assist election inspectors and poll clerks in the performance of their duties, and such other duties as may be assigned to them by the board of elections. Such persons shall be designated as election coordinators.

2. All election coordinators shall be trained in the manner prescribed by this article for election inspectors and poll clerks. Election coordinators shall be appointed by the board of elections. The appointment of election coordinators shall be equally divided between the two major political parties.

3. The board of elections of each county appointing election coordinators and in the city of New York, the board of elections of the city of New York, may, in its discretion, prescribe training in addition to that required by this article.

4. Any county board of elections appointing election coordinators and in the city of New York, the board of elections of the city of New York, shall prepare a report detailing assignments and duties to be delegated to election coordinators. Said report shall be filed with the state board of elections no later than one month prior to the election at which election coordinators are to be assigned.

5. No person shall be certified or act as an election coordinator who is not a registered voter and a resident of the county in which he serves, or within the city of New York, of such city, who holds any elective public office, or who is a candidate for any public office to be voted for by the voters of the district in which he is to serve, or which is not able to speak and read the English language and write it legibly.

(Added L.1991, c. 90, § 3. Amended L.1996, c. 175, § 1.)

§ 3–402. Election inspectors and poll clerks; authority

1. Election inspectors, in performing their duties, shall act as a board and a majority vote thereof shall be required to decide all questions. If, however, any inspector or inspectors shall be temporarily absent for a portion of the meeting, the inspectors present shall have and may exercise any power or perform any duty conferred or imposed upon a board of inspectors, provided that they are not all members of the same political party.

2. Wherever an oath is provided for at any meeting of the board of inspectors, any inspector may administer it.

3. The board of inspectors, and each member thereof, shall preserve good order within and around the polling place or place of registration, and shall keep access thereto unobstructed. The board of inspectors, or any member thereof, by order in writing may direct the arrest of any person who refuses to obey the lawful commands of the inspectors or who is guilty of disorderly conduct disturbing their proceedings or violating or attempting to violate any of the provisions of this chapter. Any peace officer, acting pursuant to his special duties, or police officer shall, when requested by the board or a member thereof, execute such order forthwith.

4. All election inspectors shall perform their duties as required by the election law, and in accordance with the directions and instructions given them by the board of elections.

(L.1976, c. 233, § 1. Amended L.1980, c. 843, § 59, eff. Sept. 1, 1980.)

§ 3–404. Election inspectors and poll clerks; designation

1. The board of elections of each county shall on or before the fifteenth day of July of each year select and appoint election inspectors and poll clerks for each election district therein, and such number of election coordinators as it determines to be necessary, and may thereafter select and designate election inspectors, poll clerks and election coordinators to fill any vacancy for an unexpired term. The term of such designation shall be for a term ending on the fourteenth day of July of the following year. If the election districts for a general or special village election conducted by the board of elections are coterminous with the election districts established for general

elections, such election inspectors and poll clerks shall also serve at such village elections. If the election districts for such a village election are not so coterminous, the board of elections shall select the inspectors and poll clerks to serve in each such village election district from among the inspectors and poll clerks appointed, pursuant to the provisions of this section, for any election district wholly or partly in such village.

2. Each political party entitled to representation on any board of elections may, not later than the first day of May in each year, file with the appropriate board of elections, an original list of persons recommended to serve. Supplemental lists may be filed at the same time and at any time before the designation is made and certified or when a vacancy exists. All designations shall be made first from those named in the original list filed if those designated are found qualified.

3. Such lists shall be authenticated and filed by the chairman, or, under his direction by the secretary, of the county committee of the party, except that in cities other than the city of New York, if there is a general city committee of such party, such list shall be filed by the chairman or secretary of such city committee.

4. Appointment of election inspectors, poll clerks and election coordinators shall be made by boards of elections.

5. If a political party shall fail to submit a list or the list shall be exhausted, the board of elections shall request from the appropriate political party an original or supplemental list. If after ten days no list is filed by that party, the board of elections may appoint qualified persons, enrolled members of the political party in default, to act as election inspectors, poll clerks or election coordinators.

6. If election districts are altered or new districts created, the board of elections shall have the power to transfer election inspectors and poll clerks in such districts; and if vacancies exist as a result of such action, those vacancies shall be filled in the manner provided by this section.

7. Election officers shall be appointed from the lists submitted, by those members of the board who represent the political party which submitted such lists. If such list is not furnished, the members of the board who represent the political party in

default, shall designate the persons to be appointed as election officers.

(L.1976, c. 233, § 1. Amended L.1976, c. 234, § 10; L.1989, c. 359, § 4; L.1991, c. 263, § 1, eff. Dec. 1, 1991.)

§ 3–406. Election inspectors and poll clerks; additional

1. Each board of elections shall establish a list of persons duly qualified to serve as election inspectors, which list shall be known as the ''Additional Inspector List'', in such number of persons as the board shall determine. Such a list shall be equally divided between the major political parties. Appointments under this section shall be made in the manner provided for the appointment of regular election inspectors and for a like term.

2. Any person serving as an additional inspector of elections may, at the direction of the board of elections, be assigned to any election district or transferred from one election district to another after he has entered upon the performance of his duties on a day of registration or election.

3. Any person designated to the additional inspectors list shall meet the requirements for regular election inspectors and may be removed in the same manner as any election inspector.

4. If the board of elections shall determine that a vacancy exists upon any board of inspectors or that any election inspector or poll clerk is absent, and that no qualified voter has been appointed pursuant to this chapter to act in place of such election inspector or poll clerk, or to relieve any qualified voter who has been so appointed, it shall forthwith direct a person appointed pursuant to this section to act in place of the absent election inspector or poll clerk or qualified voter so appointed until such absent election inspector or his appointed successor shall appear; provided, however, that the additional election inspector so appointed shall be a designee of the same political party as the election inspector in whose place he shall act. The board of elections shall provide suitable identification for every additional election inspector to present to the chairman of the board before entering upon the duties of such office.

5. Additional inspectors shall be paid by the county in which they serve in an amount fixed by the board of elections.

(L.1976, c. 233, § 1. Amended L.1978, c. 373, § 22, eff. June 19, 1978.)

§ 3–408. Repealed by L.2016, c. 102, § 1, eff. July 21, 2016

§ 3–410. Election inspectors and poll clerks; certification

1. Before a person designated as an election officer may enter upon his duties, he must be certified by the board of elections as provided herein.

2. If an election officer fails to meet the requirements for certification, the office shall be treated as vacant.

(L.1976, c. 233, § 1.)

§ 3–412. Election inspectors and poll clerks; training

1. Each board of elections shall, at least once every year, conduct a mandatory school for the instruction of election inspectors, poll clerks and election coordinators. They shall be given written notice stating the time and place at which such school or schools shall be held.

1–a. The state board of elections shall establish a mandatory core curriculum for poll worker training which includes the requirements in subdivision two of this section, as amended by a chapter of the laws of 2005, and the rights of voters at the polls and obligation of election workers to protect those rights while maintaining the integrity of the franchise, including assisting voters with disabilities or with limited or no proficiency in the English language, handling, processing and entitlement to ballots, including affidavit and emergency ballots, proper identification requirements, procedures to be followed with respect to voters whose names are not on the list of registered voters or whose identities have not been verified, electioneering and other violations of the elective franchise as defined in this chapter, solicitation by individuals and groups at the polling place and procedures to be followed after the polls close. Each board of elections shall augment the core curriculum with local procedures not inconsistent with the core curriculum adopted by the state board of elections and which includes procedures relating to proper operation of, and remedying problems with, the voting machine or system in use in that jurisdiction.

2. Election inspectors, poll clerks and election coordinators shall be instructed concerning the election law, the taking of registrations, the use of voting machines, disability etiquette

and their duties in connection therewith as soon as possible after their designation.

3. Election inspectors, poll clerks and election coordinators as required by this section shall, upon their original designation, and every year thereafter, complete a course of instruction, and, before certification, pass an examination thereon. The state board of elections shall supply each board of elections with instructional material to be used in the preparation for such examinations and shall give each such board of elections uniform directions for the conduct of such examinations, which, it shall be the duty of the board to follow. Every such board may utilize additional materials selected by it in the course of instruction. No person taking such examination shall be permitted to know the questions or answers in advance or be given access to the answers during the examination. If such inspectors or clerks pass such examination, the board of elections shall certify the designated election inspector or poll clerk.

4. The county board of elections shall within two weeks notify those who have passed the examination, that they are certified to serve.

5. Each board of elections shall reproduce a booklet of instructions for inspectors prepared by the state board of elections. A copy of such booklet shall be given to each inspector at the time such inspector attends the course of instruction. At least one copy of such booklet shall be included with the supplies sent to each election district for each election and day of local registration.

(L.1976, c. 233, § 1. Amended L.1985, c. 510, §§ 1 to 3; L.1991, c. 90, § 4; L.2005, c. 180, § 5, eff. Nov. 15, 2005; L.2005, c. 181, § 17, eff. July 12, 2005.)

§ 3–414. Election inspectors and poll clerks; oath of office, certificate of appointment

1. Every person designated and certified as an election inspector shall, within ten days after notice of certification, take and subscribe the constitutional and statutory oath of office, which shall be administered by a commissioner of elections, or by any employee of the board of elections who shall be designated in writing to administer such oaths, or by

the clerk of the city or town in which the election district for which such person is certified is located. Oaths of office shall be filed in the office of the board of elections.

2. Every person so sworn shall receive a certificate of appointment in such form as may be approved by the board under which he serves, and such form shall specify the capacity and the election district or districts, in which he is to serve and the date of the expiration of the term of office.

(L.1976, c. 233, § 1.)

§ 3–416. Election inspectors, poll clerks and election coordinators; removal

1. Any election officer appointed pursuant to the provisions of this chapter, may be removed for cause by the board making the appointment. Unless such removal is for improper conduct, while such officer is actually on duty on the day of registration or election, it shall occur only after notice in writing to the officer to be removed. Such notice shall set forth clearly the reasons for his removal. Neglect to attend to the duties of the office shall be a cause for the removal of any such officer.

2. It shall be the duty of the board making the appointment of an election officer, to remove forthwith such officer without preferring any charges and without notice to such officer, upon the written request of the official of the political party who certified the name of such election officer, or his successor. All such vacancies so created shall be filled in the same manner as the original appointment was made. Any election officer who shall at any time be appointed to fill a vacancy, shall have that fact stated in his certificate of appointment and shall hold office only during the unexpired term of his predecessor.

3. Any election inspector, poll clerk or election coordinator who is removed from office for cause shall forfeit the compensation earned up to the time of such removal.

4. An election inspector, poll clerk or election coordinator who is removed for cause shall be ineligible to again serve in such capacity; provided, however, that the board of elections may rehear the charges against such person at any time and it

may determine that such person shall again be eligible for appointment if otherwise qualified.

(L.1976, c. 233, § 1. Amended L.1991, c. 90, § 5, eff. Dec. 1, 1991.)

§ 3–418. Election inspectors and poll clerks; emergency provisions for filling vacancies or absences

1. If, at the time of a meeting of the inspectors, there shall be a vacancy, or if any inspector shall be absent, the inspector present who is the designee of the same party as the absent inspector shall appoint a qualified voter of the same city or town to act in place of the absent inspector. If, however, any inspectors shall be temporarily absent for a portion of the meeting, the inspectors present, provided that they are not all members of the same political party, shall have and may exercise any power or perform any duty conferred or imposed upon a board of inspectors.

2. If at the time of any such meeting two inspectors who are members of the same party shall be absent, or their places shall be vacant, the poll clerk or poll clerks present, if any, of the same party shall act as inspectors and shall appoint qualified voters of the same city or town who are members of the same party as the absent inspectors, to act in place of such clerks.

3. If at the time of any such meeting two inspectors and the poll clerk or clerks, if any, who are members of the same party shall be absent, or their places shall be vacant, the inspector or inspectors present, or in their absence the poll clerk or clerks present, if any, shall appoint qualified voters of the same city or town, who are members of the same party as such absent inspectors, to act as such inspectors and clerks, until the inspectors or clerks duly appointed by the original appointing authority, shall appear.

4. If at the time of any such meeting, there shall be a vacancy in the office of poll clerk, or if a poll clerk shall be absent, the inspectors who are designees of the same party, or in their absence, any poll clerk of the same party who is present, shall appoint a qualified voter of the same city or town who is a member of the same party, to act in place of the absent poll clerk.

5. Every person so appointed or named shall take the oath of office, which shall be administered by any person authorized to administer oaths or by one of the inspectors.

(L.1976, c. 233, § 1. Amended L.1978, c. 373, § 24, eff. June 19, 1978.)

§ 3–420. Election inspectors, poll clerks and election coordinators; compensation

1. Election inspectors, poll clerks, election coordinators and qualified voters appointed to act in place of an absent inspector, clerk or coordinator shall be paid for their services on the days of registration and election, by the county containing the election district in which they serve, in an amount fixed by the county legislative body, subject to such limitations as shall be prescribed or authorized by statute, except that in the city of New York the amount of such compensation shall be payable by such city and shall be fixed by the mayor at a daily rate which, in the case of election inspectors shall not be less than one hundred thirty dollars and in the case of election coordinators not less than two hundred dollars. Such inspectors, poll clerks, election coordinators and qualified voters at a general or special village election conducted by the board of elections shall be paid by such village in an amount fixed by the village board of trustees subject to any such limitations.

2. An election inspector or poll clerk who attends a required training session shall be paid not less than twenty-five dollars for each meeting plus, at the option of the county, transportation expenses not to exceed the mileage allowance approved by the county legislative body for their permanent employees, payable by the county or in the case of the city of New York, by such city. For administrative purposes, each county may establish one or more categories for the mileage allowance, based on the range of distance traveled, and pay the mileage allowance for that category.

3. The chairman of the board of inspectors of each election district shall, within twenty-four hours of any election or day of local registration, furnish to the board appointing such officers, if required by such board to do so, a certificate stating the days and hours of actual service of each member of such board, the names of the persons, if any, who served as clerks on an election day, the hours of their service, and the days on

which the store, building or room hired for registration and election purposes was actually used for such purposes.

4. If a person recommended and examined for appointment as election officer in a city, or examined therefor without recommendation in the absence of a party list, be found disqualified and be not appointed, as therein provided, and such person shall serve in the same calendar year as inspector at a registration or election or as clerk at an election, under a vacancy appointment, he shall receive no compensation for such services.

(L.1976, c. 233, § 1. Amended L.1978, c. 373, § 25; L.1989, c. 359, § 5; L.1991, c. 90, § 6; L.1997, c. 545, § 1, eff. Sept. 8, 1997; L.2005, c. 180, § 6, eff. Nov. 15, 2005.)

TITLE V—ALTERNATE PROVISIONS

Section

3–500. Alternative poll site staffing plan.
3–502. Nassau county; board of elections, special provisions.
3–504. Suffolk county; board of elections, special provisions.
3–506. Boards of elections; voting materials in Russian.

§ 3–500. Alternative poll site staffing plan

1. Notwithstanding the provisions of title four of this article, a board of elections may design an alternative poll site staffing plan to more efficiently conduct an election in accordance with this section. Such alternative poll site staffing plan must be filed with the state board of elections.

2. An alternative staffing plan shall provide for at least four inspectors, equally divided among the major parties, to be assigned to each poll site, and all staffing must be likewise bipartisan. An alternative staffing plan may consolidate election district and poll site staffing functions to efficiently conduct an election pursuant to this chapter, provided the tabulation of votes by election district shall not be impaired unless consolidation of election districts for an election is otherwise permitted by this chapter, and such staffing plan complies with 9 NYCRR 6210.19(c).

(Added L.2019, c. 417, § 1, eff. Jan. 1, 2020.)

§ 3–502. Nassau county; board of elections, special provisions

1. All the provisions of this article, when not inconsistent with this section, shall apply to the county of Nassau.

2. At least thirty days before the first day of January of any year in which a commissioner of elections is to be appointed, or within thirty days after a vacancy occurs in the office of commissioner of elections, the chairman of the appropriate party county committee shall file with the clerk of the county legislative body a certificate naming the person whom he is recommending for appointment as such commissioner of elections. The certificate shall be in the form and contain the information prescribed by the state board of elections.

3. All petitions and certificates of nomination or designation, or of declination thereof, for an election to which this section applies, and all statements of receipts and expenditures relating to such an election, required to be filed with any officer of Nassau county, or political subdivision therein shall be filed with the board of elections.

4. Inspectors of election shall be appointed for a term of two years, except that an inspector appointed to fill a vacancy, shall hold office only for the unexpired term of his predecessor.

(L.1976, c. 233, § 1. Amended L.1988, c. 24, § 9; L.1989, c. 359, § 7; L.2005, c. 180, § 8, eff. Nov. 15, 2005.)

§ 3–504. Suffolk county; board of elections, special provisions

1. All the provisions of this article, when not inconsistent with this section, shall apply to the county of Suffolk.

2. At least thirty days before the first day of January of any year in which a commissioner of elections is to be appointed or within thirty days after a vacancy occurs in the office of commissioner of elections, the chairman of the appropriate party county committee shall file with the clerk of the county legislative body a certificate naming the person whom he is recommending for appointment as such commissioner of elections. The certificate shall be in the form and contain the information prescribed by the state board of elections.

3. All petitions and certificates of nomination or designation, or of declination thereof, for an election to which this section applies, and all statements of receipts and expenditures required to be filed with any officer of Suffolk county, or political subdivision therein shall be filed with the board of elections.

4. Inspectors of election shall be appointed in odd-numbered years for a term of two years, except that an inspector appointed to fill a vacancy, shall hold office for the unexpired term of his predecessor.

(L.1976, c. 233, § 1. Amended L.1989, c. 359, § 8; L.2005, c. 180, § 9, eff. Nov. 15, 2005.)

§ 3–506. Boards of elections; voting materials in Russian

A board of elections in a city of over one million shall provide the same information in Russian that it provides in languages other than English on its website. It shall also produce and disseminate citywide a booklet that includes: (a) a voter registration form in English with instructions in Russian; (b) instructions in Russian regarding the criteria and application process for obtaining an absentee ballot; and (c) a section with general voter information in Russian including frequently asked questions. Such board may include other languages on its website and in such booklet.

(Added L.2009, c. 244, § 1, eff. Jan. 1, 2010.)

TITLE VI—DIVISION FOR SERVICEMEN'S VOTING [REPEALED]

§ 3–600. Repealed by L.1991, c. 290, § 1, eff. July 15, 1991

ARTICLE 4—PROCEEDINGS PRELIMINARY TO REGISTRATION, ENROLLMENT AND ELECTIONS

Section

4–100. Election districts; creation and alteration.
4–102. Maps; congressional, senatorial, assembly and election districts.
4–104. Registration and polling places; designation of.
4–106. Certification of offices to be filled at general or special elections; state board of elections, county, city, village and town clerks.
4–108. Certification of proposed constitutional amendments and questions.
4–110. Certification of primary election candidates; state board of elections.
4–112. Certification of nominations; state board of elections.
4–114. Determination of candidates and questions; county board of elections.
4–116. Constitutional amendments and questions; publication of by state board of elections and secretary of state.
4–117. Check of registrants and information notice by mail.
4–118. Notice of primary election; publication of by board of elections.
4–119. Publication of list of places for registration.
4–120. Notices of general, village and special elections; publication of.
4–122. Lists of nomination; publication of by board of elections.
4–123. Publication of candidate websites.
4–124. City of New York; publications within made necessary by this law.
4–126. Delivery of election laws to clerks, boards and election officers.
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4–130. Supplies for registration; manner and time of delivery.
4–132. Polling places; equipment for.
4–134. Preparation and delivery of ballots, supplies and equipment for use at elections.
4–136. Election expenses; payment of.
4–138. Expenses of boards of elections outside New York City; apportionment of.

§ 4–100. Election districts; creation and alteration

1. The State of New York shall be divided into election districts which shall be the basic political subdivision for purposes of registration and voting as provided in this chapter.

2. The creation, consolidation, division or alteration of election districts shall be done by the board of elections.

3. a. Each election district shall be in compact form and may not be partly within and partly without a ward, town, city, a village which has five thousand or more inhabitants and is wholly within one town, or a county legislative, assembly, senatorial or congressional district. Except as provided in

paragraph b of this subdivision, election district boundaries, other than those boundaries which are coterminous with the boundaries of those political subdivisions mentioned in this paragraph, must be streets, rivers, railroad lines or other permanent characteristics of the landscape which are clearly visible to any person without the need to use any technical or mechanical device. An election district shall contain not more than nine hundred fifty registrants (excluding registrants in inactive status) or, with the approval of the county board of elections, not more than eleven hundred fifty registrants (excluding registrants in inactive status), but any election district may be divided for the convenience of the voters.

b. An election district in a city or town may divide a block, provided that the board of elections prepares an alphabetical list of all the streets in such city or town with the election district for each such street. If any such street is divided between two or more election districts, then such list must contain the lowest and highest street numbers in each such district and if the odd and even numbers on a street are in different districts, such list must contain separate listings for such odd and even numbers and if there are both odd and even numbers in such different election districts, such list must contain separate listings for such numbers. Copies of such lists shall be filed and kept open to public inspection in the offices of such board. One copy of each such list shall be delivered, upon request, to the state board of elections and to a person or officer designated jointly by the speaker of the assembly and the temporary president of the senate. Surplus copies shall be sold at cost.

4. Any election district must be realigned when the total number of registrants, excluding registrants in inactive status, at the time of the preceding general election, exceeds the maximum number permitted by this section by at least fifty registered voters.

5. Any creation, consolidation, division or alteration of election districts in any calendar year shall be made on or before February fifteenth, and shall take effect on April first, except that when required by the creation or alteration of a political subdivision, other than an election district, in which candidates are to be voted for at the next election, such

creation, consolidation, division or alteration shall be made and shall take effect immediately upon creation or alteration of such political subdivision. No such creation, consolidation, division or alteration shall be made between February twentieth of a calendar year ending in seven and December first of a calendar year ending in zero unless required by the creation or alteration of a political subdivision.

6. Repealed by L.2010, c. 512, § 4, eff. Sept. 17, 2010.

(L.1976, c. 233, § 1. Amended L.1982, c. 151, § 1; L.1982, c. 693, § 1; L.1983, c. 30, § 1; L.1984, c. 63, § 1; L.1984, c. 467, §§ 1, 2; L.1985, c. 161, § 1; L.1986, c. 102, §§ 1, 2; L.1989, c. 680, § 1; L.1994, c. 154, § 1; L.1994, c. 659, § 4; L.2005, c. 180, § 11, eff. Nov. 15, 2005; L.2006, c. 222, § 1, eff. July 26, 2006; L.2010, c. 512, §§ 1, 4, eff. Sept. 17, 2010.)

§ 4–102. Maps; congressional, senatorial, assembly and election districts

1. The state board of elections, at the expense of the state, shall publish maps showing the county or counties contained in each of the congressional districts, senatorial districts and assembly districts of the state.

2. Where a portion of a county is contained in any congressional, senatorial or assembly district, the state board shall publish a map showing the portion of such county contained in each such respective district. Such map or maps shall show the extreme boundaries of the portion of the county so contained, as described by the street boundary and shall have printed thereon the names of the streets or public ways bounding the district; provided however, that where the extreme boundary consists of the boundary line of any city, town or village, it shall be sufficient to so indicate, without showing or naming individual streets or public ways.

3. The state board shall also publish three individual maps of each borough of the city of New York, which shall show all of the congressional districts or parts thereof, all of the senatorial districts or parts thereof, and all of the assembly districts or parts thereof contained in such borough. Each such map shall show the extreme boundaries of the districts to which it refers, as described in the street boundary and shall have printed thereon the names of the streets or public ways bounding the district.

4. All such maps shall be to scale. Pertinent copies of such maps shall be filed and kept open to public inspection as follows: one in the office of the town or city clerk, except in the city of New York; one in the office of every board of elections, and each branch office, if any. Surplus copies if any, may be sold at cost and the proceeds remitted to the state board of elections. Whenever the boundaries of any congressional, senatorial, or assembly district are altered, the state board of elections shall publish revised copies of those maps affected by such boundary alteration and make the distribution required in this subdivision.

5. a. A map or separate maps of uniform scale of election districts within a town or ward, or, in the city of New York and the county of Nassau, within an assembly district, wholly within such city or county or within that portion of any assembly district within such city or county, shall be made by the board or body creating or altering the districts so that the map or maps on file at any time will show the existing election districts in such town, ward, assembly district, or the appropriate portion of such assembly district.

b. In a city, street corner numbers of the block or blocks defining the extreme boundaries of each election district shall be printed on the map or maps, within or outside the block line or lines, so as to show plainly the highest and lowest street numbers within the election district of every street bounding the district.

c. Copies of such maps or descriptions shall be filed and kept open to public inspection as follows: one in the office of the town or city clerk, except in the city of New York; one in the office and each branch office, if any, of the board of elections.

d. One copy of each map shall be delivered, upon request, to the state board of elections and to a person or officer designated jointly by the speaker of the assembly and the temporary president of the senate. Each time an election district boundary is changed a copy of the new map shall be sent to each such board, person or officer who has requested such maps. Surplus copies of maps of election districts in a city or town may be sold at cost and the proceeds paid to the

county, city or town which incurred the expense of preparing the maps.

6. In a town, after the creation or alteration of any election district therein, the board of elections shall furnish to the inspectors of election in each election district, on the first day of registration or election occurring after such change, a map or dsecription [1] showing such election district.

(L.1976, c. 233, § 1. Amended L.1978, c. 9, § 20; L.1978, c. 373, § 28; L.1984, c. 467, § 3, eff. July 20, 1984.)

[1] So in original.

§ 4–104. Registration and polling places; designation of

1. Every board of elections shall, in consultation with each city, town and village, designate the polling places in each election district in which the meetings for the registration of voters, and for any election may be held. The board of trustees of each village in which general and special village elections conducted by the board of elections are held at a time other than the time of a general election shall submit such a list of polling places for such village elections to the board of elections. A polling place may be located in a building owned by a religious organization or used by it as a place of worship. If such a building is designated as a polling place, it shall not be required to be open for voter registration on any Saturday if this is contrary to the religious beliefs of the religious organization. In such a situation, the board of elections shall designate an alternate location to be used for voter registration. Such polling places must be designated by March fifteenth, of each year, and shall be effective for one year thereafter. Such a list required to be submitted by a village board of trustees must be submitted at least four months before each general village election and shall be effective until four months before the subsequent general village election. No place in which a business licensed to sell alcoholic beverages for on premises consumption is conducted on any day of local registration or of voting shall be so designated. If, within the discretion of the board of elections a particular polling place so designated is subsequently found to be unsuitable or unsafe or should circumstances arise that make a designated polling place unsuitable or unsafe, then the board of elections is empowered to

select an alternative meeting place. In the city of New York, the board of elections shall designate such polling places and alternate registration places if the polling place cannot be used for voter registration on Saturdays.

1–a. Each polling place shall be accessible to citizens with disabilities and comply with the accessibility guidelines of the Americans with Disabilities Act of 1990. The state board of elections shall publish and distribute to each board of elections with the power to designate poll sites, a concise, non-technical guide describing standards for poll site accessibility, including a polling site access survey instrument, in accordance with the Americans with Disabilities Act accessibility guidelines (ADAAG) and methods to comply with such standards. Such guide and procedures shall be developed in consultation with persons, groups or entities with knowledge about public access as the state board of elections shall determine appropriate.

1–b. The county board of elections shall cause an access survey to be conducted for every polling site to verify substantial compliance with the accessibility standards cited in this section. Completed surveys shall be submitted to the state board of elections and kept on file as a public record by each county. Each polling site shall be evaluated prior to its designation or upon changes to the facility. A site designated as a polling place prior to the effective date of this subdivision shall be evaluated within two years of the effective date of this subdivision by an individual qualified to determine whether or not such site meets the existing state and federal accessibility standards. Any polling place deemed not to meet the existing accessibility standards must make necessary changes and/or modifications, or be moved to a verified accessible polling place within six months.

1–c. The state board of elections shall promulgate any rules and regulations necessary to implement the provisions of this section.

2. If the board of elections, after designating a polling place, and after sending written notice of such polling place to each registered voter, designates an alternative polling place, it must, at least five days before the next election or day for registration, send by mail a written notice to each registered voter notifying him of the changed location of such polling

place. If such notice is not possible the board of elections must provide for an alternative form of notice to be given to voters at the location of the previous polling place.

3. A building exempt from taxation shall be used whenever possible as a polling place if it is situated in the same or a contiguous election district, and may contain as many distinctly separate polling places as public convenience may require. The expense, if any, incidental to its use, shall be paid like the expense of other places of registration and voting. If a board or body empowered to designate polling places chooses a public school building for such purpose, the board or agency which controls such building must make available a room or rooms in such building which are suitable for registration and voting and which are as close as possible to a convenient entrance to such building and must make available any such room or rooms which the board or body designating such building determines are accessible to physically disabled voters as provided in subdivision one-a. Notwithstanding the provisions of any general, special or local law, if a board or body empowered to designate polling places chooses a publicly owned or leased building, other than a public school building, for such purposes the board or body which controls such building must make available a room or rooms in such building which are suitable for registration and voting and which are as close as possible to a convenient entrance to such building, and must make available any such room or rooms which the board or body designating such building determines are accessible to physically disabled voters unless, not later than thirty days after notice of its designation as a polling place, the board or body controlling such building, files a written request for a cancellation of such designation with the board or body empowered to designate polling places on such form as shall be provided by the board or body making such designation. The board or body empowered to so designate shall, within twenty days after such request is filed, determine whether the use of such building as a polling place would unreasonably interfere with the usual activities conducted in such building and upon such determination, may cancel such designation.

3–a. Any person or entity which controls a building for which a tax exemption, tax abatement, subsidy, grant or loan for construction, renovation, rehabilitation or operation has been provided by any agency of the state or any political subdivision thereof on or after the effective date of this subdivision shall agree to make available for registration and voting purposes the room or rooms in such building which the board or body empowered to designate polling places determines are suitable for registration and voting, are accessible to physically disabled voters and are as close as possible to a convenient entrance to such building. Notwithstanding any other provision of law, any agency of the state or any political subdivision thereof may deny a tax exemption, tax abatement, subsidy, grant or loan for construction, renovation, rehabilitation or operation to a building which is otherwise eligible for such exemption, abatement, subsidy, grant or loan if the person or entity which controls such building refuses to agree to make available for registration and voting purposes the room or rooms in such building which the board or body empowered to designate polling places determines are suitable for registration and voting, are accessible to physically disabled voters and are as close as possible to a convenient entrance to such building. The provisions of this subdivision shall not apply to buildings used solely for residential purposes which contain twenty-five dwelling units or less.

3–b. Any person or entity conducting any program, activity or service for which a loan, grant, contract, subsidy or reimbursement has been provided by any agency of the state or a political subdivision thereof on or after the effective date of this subdivision shall make available for registration and voting purposes the room or rooms under the control of such person or entity in a building in which such program, activity or service is conducted which the board or body empowered to designate polling places determines are suitable for registration and voting, are accessible to physically disabled voters and are as close as possible to a convenient entrance to such building. Any such person, organization or entity shall agree to facilitate the use of such room or rooms, to the maximum extent possible, by making efforts to obtain the permission and cooperation of any person or entity which controls the building in which such room or rooms are located. Notwithstanding

any other provision of law, any agency of the state or any political subdivision thereof may deny a loan, grant, contract, subsidy or reimbursement to any such person or entity otherwise eligible for such loan, grant, contract, subsidy or reimbursement unless such person or entity agrees to make available for registration and voting purposes the room or rooms in such building which the board or body empowered to designate polling places determines are suitable for registration and voting, are accessible to physically disabled voters as provided in subdivision one-a of this section and are as close as possible to a convenient entrance to such building and agrees to facilitate the use of such room or rooms, to the maximum extent possible, by making efforts to obtain the permission and cooperation of any person or entity which controls the building in which such room or rooms are located.

3–c. Notwithstanding the provisions of subdivisions three-a and three-b of this section, no person, board, agency, body or entity shall be required to make available for registration or voting by persons other than the residents of such building, any room or rooms in a building, other than a publicly owned building, which contains correctional, health, mental hygiene, day care, drug or addiction treatment, or emergency services or other services for the public safety, or in a building used for religious services.

3–d. Notwithstanding any inconsistent provision of section 3–506 or section 4–134 of this chapter, and in the absence of a specific written agreement to the contrary, if the board or body empowered to designate polling places has authorized the use of a portable ramp, or ramp and platform, at a polling site for purposes of compliance with subdivision one-a of this section, the person or entity in control of a building or portion thereof in which such polling site is designated shall install, remove, store, and safeguard each such ramp, or ramp and platform, at such times and dates as may be required by the board or body empowered to designate polling places.

4. Where an election district is so situated or the only facilities available therein are such that public convenience would be served by establishing a polling place outside such district, the board or body empowered by this chapter to

establish election districts may designate a polling place in a contiguous district.

4–a. Notwithstanding any conflicting provisions of this section, the common council of the city of Little Falls may adopt a resolution determining that there is no building within an election district within such city available and suitable for the meetings for the registration of voters or for any election, or that for reasons of efficiency or economy it is desirable to consolidate the polling places for two or more, or all districts, in such city, in one place, regardless of whether or not such district adjoins the district to which such meeting or polling place is moved, and there may be as many distinctly separate election districts lawfully located in the same building as public convenience may require. Such a resolution shall be subject to the approval of the county board of elections. Every such building chosen shall meet all other requirements of this section and all federal requirements for accessibility for the elderly and the disabled.

5. (a) Whenever the number of voters eligible to vote in an election in any election district is less than one hundred, the polling place designated for such district may be the polling place of any other district which could properly be designated as the polling place of the first mentioned district pursuant to the provisions of this chapter, except that the polling place designated for any such district may be the polling place of any other district in such city or town provided that the distance from such first mentioned district to the polling place for such other district is not unreasonable pursuant to rules or regulations prescribed by the state board of elections and provided that the total number of persons eligible to vote in such other district in such election, including the persons eligible to vote in such first mentioned districts, is not more than five hundred. The inspectors of election and poll clerks, if any, of such other election district shall also act in all respects as the election officers for such first mentioned districts and no other inspectors shall be appointed to serve in or for such first mentioned districts. A separate poll ledger or computer generated registration list, separate voting machine or ballots and separate canvass of results shall be provided for such first mentioned districts, except that if the candidates and ballot proposals to

be voted on by the voters of such districts are the same, the election districts shall be combined and shall constitute a single election district for that election. However, if the first mentioned district contains fewer than ten voters eligible to vote in such election, there shall be no limitation on the total number of persons eligible to vote in such combined district. If the polling place for any election district is moved for any election, pursuant to the provisions of this subdivision, the board of elections shall, not later than ten nor more than fifteen days before such election, mail, by first class mail, to each voter eligible to vote in such election district at such election, a notice setting forth the location of the polling place for such election and specifying that such location is for such election only.

(b) Whenever the total number of voters eligible to vote in any primary or special election, in any two election districts whose polling places are regularly located in the same building, is less than four hundred, the board of elections may assign the inspectors of election of the election district which contains the greater number of such voters, to act also, in all respects, as the election officers of the other such election district and no other election officers shall be appointed to serve in or for such other election district at such primary or special election. A separate poll ledger or computer generated registration list, separate voting machine or ballots and separate canvass of results shall be provided for each such election district.

(c) Whenever all the candidates to be voted upon at a primary election, except a primary election in the city of New York, or all the candidates and ballot proposals to be voted upon at a special election, or at a school board election conducted by the board of elections, or at a general election in the city of New York in a year in which there is no election for electors of president and vice-president of the United States or governor of the state or mayor of such city, by the voters of any two or more election districts whose polling places are regularly located in the same building are identical, the board of elections may combine such election districts for that election, provided that the total number of voters eligible to vote in any such combined election district does not exceed one thousand

two hundred in a primary election or does not exceed two thousand in a special election or a general election in the city of New York.

(d) Notwithstanding any other provision of this section, polling places designated for any one such election district that will be utilizing any voting machine or system certified for use in New York state pursuant to chapter one hundred eighty-one of the laws of two thousand five, may be the polling place of any other contiguous district or districts, provided the voting system used in such polling place produces separate and distinct vote totals for each election district voting in such polling place on such voting machine or system.

6. Each polling place designated, whenever practicable, shall be situated on the main or ground floor of the premises selected. It shall be of sufficient area to admit and comfortably accommodate voters in numbers consistent with the deployment of voting systems and privacy booths, pursuant to 9 NYCRR 6210.19. Such deployment of voting systems, election workers and election resources shall be in a sufficient number to accommodate the numbers of voters eligible to vote in such polling place.

6–a. Each polling place designated, whenever practicable, shall be situated directly on a public transportation route.

7. No polling place shall be located on premises owned or leased by a person holding public office or who is a candidate for public office at a primary or general election.

8. Whenever the board of elections shall determine that there is no building within an election district available and suitable for the meetings for the registration of voters or for any election, or that for reasons of efficiency or economy it is desirable to consolidate such meetings of one or more districts in one place, such board may designate a building for such purpose in an adjoining district in the same village, city or town and there may be as many distinctly separate meetings or polling places lawfully located in the same building as public convenience may require. Wherever possible, public schools, fire houses, municipal buildings or other buildings exempt from taxation shall be designated for such meetings and polling places. Such a determination shall be made only after

notice to the chairpersons of the county committees of all political parties and reasonable opportunity for them to be heard.

9. Renumbered as 8 by L.2016, c. 43, § 1.

(L.1976, c. 233, § 1. Amended L.1978, c. 8, §§ 4, 5; L.1978, c. 9, § 21; L.1980, c. 580, § 2; L.1981, c. 246, § 1; L.1982, c. 37, § 1; L.1982, c. 647, § 2; L.1982, c. 737, § 1; L.1982, c. 682, § 1; L.1983, c. 246, § 1; L.1984, c. 213, § 1; L.1984, c. 526, § 2; L.1986, c. 86, § 1; L.1986, c. 251, § 1; L.1989, c. 359, § 10; L.1989, c. 694, §§ 1, 2; L.1991, c. 90, § 1; L.1991, c. 263, § 2; L.1994, c. 193, § 1; L.1994, c. 453, § 1; L.1995, c. 95, § 1; L.1995, c. 580, § 1; L.2005, c. 180, § 12, eff. Nov. 15, 2005; L.2010, c. 323, § 1, eff. Dec. 1, 2010; L.2010, c. 432, § 1, eff. Aug. 30, 2010; L.2010, c. 505, § 1, eff. Dec. 15, 2010; L.2010, c. 512, §§ 2, 3, eff. Sept. 17, 2010; L.2016, c. 43, § 1, eff. June 1, 2016; L.2019, c. 5, § 2, eff. Jan. 24, 2019; L.2019, c. 438, § 1, eff. Oct. 30, 2019.)

§ 4–106. Certification of offices to be filled at general or special elections; state board of elections, county, city, village and town clerks

1. The state board of elections shall, by February first in the year of each general election, make and transmit to the board of elections of each county, a certificate stating each office, except county, city, village and town offices to be voted for at such election in such county.

2. Each county, city, village and town clerk, by February first in the year of each general election, shall make and transmit to the board of elections a certificate stating each county, city, village or town office, respectively to be voted for at each such election. Each village clerk, at least five months before each general village election conducted by the board of elections, shall make, and transmit to such board, a certificate stating each village office to be filled at such election.

3. If any such office is for an unexpired term, the certificate shall so state. The state board of elections shall forthwith, upon the filing of a governor's proclamation ordering a special election, transmit to the board of elections in each county in which the special election is to be held, a notice of such proclamation and a certificate of the offices to be voted for at such special election.

4. Within three days after the occurrence of any vacancy in an office required to be filled at the next general election or a

general or special village election or other special election conducted by the board of elections, the state board of elections or the county, city, town or village clerk as is appropriate, shall file with the county board of elections, a certificate indicating the occurrence of the vacancy and the position which is to be filled.

(L.1976, c. 233, § 1. Amended L.1976, c. 234, § 13; L.1978, c. 373, § 29; L.1989, c. 359, § 11; L.1990, c. 67, § 1; L.1990, c. 635, § 1; L.1995, c. 88, § 1, eff. Dec. 1, 1995; L.2019, c. 5, § 3, eff. Jan. 24, 2019.)

§ 4–108. Certification of proposed constitutional amendments and questions

1. a. Whenever any proposed amendment to the constitution or other question provided by law to be submitted to a statewide vote shall be submitted to the people for their approval, the state board of elections at least three months prior to the general election at which such amendment, proposition or question is to be submitted, shall transmit to each county board of elections a certified copy of the text of each amendment, proposition or question and a statement of the form in which it is to be submitted.

b. Whenever any proposal, proposition or referendum as provided by law is to be submitted to a vote of the people of a county, city, town, village or special district, at an election conducted by the board of elections, the clerk of such political subdivision, at least three months prior to the general election at which such proposal, proposition or referendum is to be submitted, shall transmit to each board of elections a certified copy of the text of such proposal, proposition or referendum and a statement of the form in which it is to be submitted. If a special election is to be held, such transmittal shall also give the date of such election.

c. Such certified copy shall set out all new matter in italics and enclose in brackets, [ ], all matter to be eliminated from existing law, and at the bottom of each page shall be appended the words:

Explanation: Matter in italics is new, to be added; matter in brackets [ ] is old law, to be omitted.

d. In addition to the text, such transmittal shall contain an abstract of such proposed amendment, proposition or question,

prepared by the state board of elections concisely stating the purpose and effect thereof in a clear and coherent manner using words with common and everyday meanings.

2. The form in which the proposed amendment, proposition or question is to be submitted shall consist of only an abbreviated title indicating generally and briefly, and in a clear and coherent manner using words with common and every-day meanings, the subject matter of the amendment, proposition or question. If more than one such amendment, proposition or question is to be voted upon at such election, each such amendment, proposition or question respectively shall be separately and consecutively numbered.

3. The attorney general shall advise in the preparation of such abstract and such form of submission.

(L.1976, c. 233, § 1. Amended L.1976, c. 234, § 14; L.1978, c. 136, § 1; L.1979, c. 254, § 1; L.1985, c. 117, § 1, eff. May 28, 1985; L.2019, c. 5, § 4, eff. Jan. 24, 2019.)

§ 4–110. Certification of primary election candidates; state board of elections

The state board of elections, not later than fifty-five days before a primary election, shall certify to each county board of elections: The name and residence of each candidate to be voted for within the political subdivision of such board for whom a designation has been filed with the state board; the title of the office or position for which the candidate is designated; the name of the party upon whose primary ballot his or her name is to be placed; and the order in which the names of the candidates are to be printed as determined by the state board. Where an office or position is uncontested, such certification shall state such fact.

(L.1976, c. 233, § 1. Amended L.1976, c. 234, § 14–a; L.1984, c. 434, § 2, eff. Dec. 1, 1984; L.2011, c. 147, § 6, eff. July 18, 2011, deemed eff. July 1, 2011; L.2015, c. 87, § 7, eff. Dec. 15, 2015; L.2019, c. 5, § 5, eff. Jan. 24, 2019.)

§ 4–112. Certification of nominations; state board of elections

1. The state board of elections, not later than fifty-five days before a general election, or fifty-three days before a special

election, shall certify to each county board of elections the name and residence of each candidate nominated in any valid certificate filed with it or by the returns canvassed by it, the title of the office for which nominated; the name of the party or body specified of which he or she is a candidate; the emblem chosen to distinguish the candidates of the party or body; and a notation as to whether or not any litigation is pending concerning the candidacy. Upon the completion of any such litigation, the state board of elections shall forthwith notify the appropriate county boards of elections of the results of such litigation.

2. The state board of elections, not later than seven days before the general election, shall certify to each county board of elections the name and residence of each write-in candidate for president and vice president of the United States who has filed a valid certificate of candidacy with it.

3. If a certificate of a nomination to fill a vacancy caused by death or disqualification is filed with the state board of elections, or a court order shall change a nomination, after the state board has made its certifications to the county boards of elections, the state board shall transmit forthwith a statement of such nomination to the appropriate boards of elections.

(L.1976, c. 233, § 1. Amended L.1978, c. 373, § 30; L.1982, c. 434, § 3; L.1988, c. 175, § 1, eff. June 27, 1988; L.2011, c. 4, § 2, eff. March 9, 2011; L.2019, c. 5, § 6, eff. Jan. 24, 2019.)

§ 4–114. Determination of candidates and questions; county board of elections

The county board of elections, not later than the fifty-fourth day before the day of a primary or general election, or the fifty-third day before a special election, shall determine the candidates duly nominated for public office and the questions that shall appear on the ballot within the jurisdiction of that board of elections.

(L.1976, c. 233, § 1. Amended L.1984, c. 434, § 4, eff. Dec. 1, 1984; L.2011, c. 4, § 3, eff. March 9, 2011; L.2011, c. 147, § 7, eff. July 18, 2011, deemed eff. July 1, 2011; L.2013, c. 99, § 2, eff. July 8, 2013; L.2015, c. 87, § 8, eff. Dec. 15, 2015; L.2019, c. 5, § 7, eff. Jan. 24, 2019.)

§ 4–116. Constitutional amendments and questions; publication of by state board of elections and secretary of state

1. The secretary of state shall cause each concurrent resolution of the two houses of the legislature agreeing to a proposed amendment to the constitution that has been referred to the legislature to be chosen at the next general election to be published at least once in each of the three months next preceding such election. Such publication shall include the information that such amendment has been so referred.

2. The state board of elections shall publish once in the week preceding any election at which proposed constitutional amendments or other propositions or questions are to be submitted to the voters of the state an abstract of such amendment or question, a brief statement of the law or proceedings authorizing such submission, a statement that such submission will be made and the form in which it is to be submitted.

3. Publication required by subdivision two of this section shall be in one newspaper of general circulation in each county.

(L.1976, c. 233, § 1. Amended L.1976, c. 234, § 15; L.1993, c. 60, § 5; L.1994, c. 169, § 115; L.1995, c. 341, § 1, eff. July 28, 1995, deemed eff. Apr. 1, 1994.)

§ 4–117. Check of registrants and information notice by mail

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

1. [Eff. until Dec. 31, 2020, pursuant to L.2020, c. 21, § 2. See, also, subd. 1 below.] The board of elections, not less than *eighty-five* days nor more than *ninety* days before the primary election in each year, shall send by mail on which is endorsed such language designated by the state board of elections to ensure postal authorities do not forward such mail but return it to the board of elections with forwarding information, when it cannot be delivered as addressed and which contains a request that any such mail received for persons not residing at the address be dropped back in the mail, a communication, in

a form approved by the state board of elections, to every registered voter who has been registered without a change of address since the beginning of such year, except that the board of elections shall not be required to send such communications to voters in inactive status. The communication shall notify the voter *in bold print contained in such notice* of the days and hours of the ensuing primary and general elections, the place where he or she appears by his or her registration records to be entitled to vote, *and also in other than bold type of* the fact that voters who have moved or will have moved from the address where they were last registered must either notify the board of elections of his or her new address or vote by paper ballot at the polling place for his or her new address even if such voter has not re-registered, or otherwise notified the board of elections of the change of address. If the primary will not be held on the first Tuesday after the second Monday in September, the communication shall contain a conspicuous notice in all capital letters and bold font notifying the voter of the primary date. If the location of the polling place for the voter's election district has been moved, the communication shall contain the following legend in bold type: ''YOUR POLLING PLACE HAS BEEN CHANGED. YOU NOW VOTE AT.....''. The communication shall also indicate whether the polling place is accessible to physically disabled voters, that a voter who will be out of the city or county on the day of the primary or general election or a voter who is ill or physically disabled may obtain an absentee ballot, that a physically disabled voter whose polling place is not accessible may request that his registration record be moved to an election district which has a polling place which is accessible, the phone number to call for applications to move a registration record or for absentee ballot applications, the phone number to call for the location of registration and polling places, the phone number to call to indicate that the voter is willing to serve on election day as an election inspector, poll clerk, interpreter or in other capacities, the phone number to call to obtain an application for registration by mail, and such other information concerning the elections or registration as the board may include. In lieu of sending such communication to every registered voter, the board of elections may send a single communication to a household containing more than one

registered voter, provided that the names of all such voters appear as part of the address on such communication.

1. [Eff. Dec. 31, 2020, pursuant to L.2020, c. 21, § 2. See, also, subd. 1 above.] The board of elections, not less than sixty-five days nor more than seventy days before the primary election in each year, shall send by mail on which is endorsed such language designated by the state board of elections to ensure postal authorities do not forward such mail but return it to the board of elections with forwarding information, when it cannot be delivered as addressed and which contains a request that any such mail received for persons not residing at the address be dropped back in the mail, a communication, in a form approved by the state board of elections, to every registered voter who has been registered without a change of address since the beginning of such year, except that the board of elections shall not be required to send such communications to voters in inactive status. The communication shall notify the voter *in bold print contained in such notice* of the days and hours of the ensuing primary and general elections, the place where he or she appears by his or her registration records to be entitled to vote, *and also in other than bold type of* the fact that voters who have moved or will have moved from the address where they were last registered must either notify the board of elections of his or her new address or vote by paper ballot at the polling place for his or her new address even if such voter has not re-registered, or otherwise notified the board of elections of the change of address. If the primary will not be held on the first Tuesday after the second Monday in September, the communication shall contain a conspicuous notice in all capital letters and bold font notifying the voter of the primary date. If the location of the polling place for the voter's election district has been moved, the communication shall contain the following legend in bold type: ''YOUR POLLING PLACE HAS BEEN CHANGED. YOU NOW VOTE AT. . . . . .''. The communication shall also indicate whether the polling place is accessible to physically disabled voters, that a voter who will be out of the city or county on the day of the primary or general election or a voter who is ill or physically disabled may obtain an absentee ballot, that a physically disabled voter whose polling place is not accessible may request that his registration record be moved to an election

district which has a polling place which is accessible, the phone number to call for applications to move a registration record or for absentee ballot applications, the phone number to call for the location of registration and polling places, the phone number to call to indicate that the voter is willing to serve on election day as an election inspector, poll clerk, interpreter or in other capacities, the phone number to call to obtain an application for registration by mail, and such other information concerning the elections or registration as the board may include. In lieu of sending such communication to every registered voter, the board of elections may send a single communication to a household containing more than one registered voter, provided that the names of all such voters appear as part of the address on such communication.

1–a. The notice required by subdivision one of this section shall include the dates, hours and locations of early voting for the general and primary election. The board of elections may alternatively satisfy the notice requirement of this subdivision by providing in the notice instructions to obtain the required early voting information by means of a website and phone number of the board of elections.

2. Whenever a ballot proposal is to be submitted to the people for approval at any election, the board of elections may send to every registered voter, by the same mail containing the communication required by this section, a copy of the abstract of such ballot proposal.

3. Each year, in the month of December, the commissioners of every local board of elections shall file with the state board of elections, on a form provided therefor by such state board, a statement setting forth the approximate number of communications mailed pursuant to the requirements of this section and the approximate number of such communications returned by the post office. Such statement shall be sworn or subscribed to and bear a form notice that false statements made therein are punishable as a class A misdemeanor pursuant to section 210.45 of the penal law. The failure of a local board of elections to file such a certificate in any year, within the time prescribed, shall create a presumption that such board of elections did not mail such communications in such year. Not later than January thirty-first of each year, the state

board of elections shall publish a chart listing, by county, the numbers contained in the certificates required to be filed by each local board of elections in December of the previous year pursuant to the provisions of this subdivision.

(Formerly § 5–712, L.1976, c. 233, § 1. Amended L.1982, c. 647, § 5; L.1982, c. 682, § 5; L.1982, c. 824, § 1; L.1983, c. 528, § 1; L.1985, c. 170, § 1; L.1985, c. 244, § 1; L.1987, c. 146, § 2; L.1988, c. 117, § 2; L.1988, c. 604, § 2; L.1988, c. 733, § 2; L.1991, c. 85, § 1; L.1991, c. 263, § 7; L.1991, c. 396, § 1. Renumbered § 4–117 and amended L.1994, c. 659, §§ 39, 40. Amended L.2009, c. 288, § 1, eff. July 28, 2009; L.2016, c. 44, § 1, eff. June 1, 2016; L.2018, c. 3, § 2, eff. March 2, 2018; L.2019, c. 3, § 3, eff. March 25, 2019; L.2019, c. 5, § 8, eff. Jan. 24, 2019; L.2019, c. 6, § 2, eff. Jan. 24, 2019; L.2020, c. 21, § 1, eff. Feb. 11, 2020; L.2020, c. 200, § 1, eff. Dec. 1, 2020.)

§ 4–118. Notice of primary election; publication of by board of elections

1. Each county board of elections shall publish in the week ending on the Saturday preceding a primary election a notice specifying the day of such primary election, the hours during which it will be held and the public offices for which nominations are to be made and the party positions which are to be filled at such primary elections. Such publication shall be in two newspapers published within the county. If the county contains a city or cities, at least one of such newspapers shall be published in the city, or the largest city, if there be more than one.

2. The board of elections of every county containing a city, other than the board of elections of the city of New York, shall publish on the day of each primary election, in two newspapers within each city in such county, representing the major political parties, a list of the polling places designated within such city, referring to the election districts by their numbers and wards or assembly districts. Such list shall identify those polling places which do not provide access to handicapped voters. If the newspaper is an evening newspaper, such notice shall be published on the day prior to such primary election. If in an election district the primary of a party is uncontested, such notice shall include, in a place where they clearly refer to the proper district and polling place, the words ‘‘. . . . . (insert name of party) primary un-

contested.'' If in an election district the primaries of all parties are uncontested, such notice shall include, in lieu of the address of the polling place, the words ''Polls not open. All primaries uncontested.'' Such publication in such newspapers by the board of elections of the city of New York shall be at least one-half page in size and in lieu of the information otherwise required by this subdivision, shall set forth both in English and such other languages as such board deems appropriate the date of the election, the hours the polls are open and the phone number to call for information about location of polling places, their accessibility to the handicapped and any other subjects which such board deems appropriate.

(L.1976, c. 233, § 1. Amended L.1982, c. 682, § 2; L.1984, c. 992, § 1, eff. Dec. 18, 1984.)

§ 4–119. Publication of list of places for registration

1. The board or body authorized to designate places for registration in any city, other than the city of New York, shall publish on each day of registration a list of the places for registration designated within such city in two newspapers published in such city. The lists shall refer to the election districts by their numbers and wards or assembly districts. Such lists shall identify those polling places which do not provide access to handicapped voters. The board of elections of the city of New York shall publish in at least two newspapers in such city, a notice, at least one-half page in size, in English and such other languages as such board deems appropriate which shall set forth the dates and hours of registration and the phone number to call for information about location of polling places, their accessibility to the handicapped, applications for absentee ballots and any other subjects which such board deems appropriate. So far as is consistent with the provisions of this section, one of such newspapers in each such city or, in each county of the city of New York, shall represent each of the major political parties and shall have a large circulation affording wide publicity. If the newspaper is an evening newspaper the notice shall be published on the last day, other than a Sunday, prior to any such day of registration.

2. The board or body authorized to designate places for registration in any town may publish within one week next

preceding the first day of registration in a newspaper or newspapers designated by such board or body, a list of places of registration within such town, a statement of the days and hours of registration and a brief description of the boundaries of each election district in the town. Such lists shall identify those polling places which do not provide access to handicapped voters. The amount to be paid for any of such publications shall be at the rate prescribed by section seventy-a of the public officers law. In no publication, however, shall any type smaller than agate be used. The amount to be paid for all such publications shall be a town charge.

(L.1976, c. 233, § 1. Amended L.1978, c. 373, § 31; L.1982, c. 682, § 3; L.1984, c. 992, § 2, eff. Dec. 18, 1984.)

§ 4–120. Notices of general, village and special elections; publication of

1. The board of elections shall publish once in each of the two weeks preceding a general election, or a special or village election conducted by the board of elections, a notice specifying the day of the election, and the public officers to be voted for within such county, or any part thereof at such election. The board of elections shall, as soon as practicable, but not less than two weeks prior to any special election, prominently display on its website the date and hours of the election, the offices to be voted on in the county, part of a county, or the city of New York, and a link to any poll site information or poll location tools, where available. Such information shall also be made available to local governments, municipalities, and community boards for publication on any public-facing internet website, web application, web domain or digital application, including a social network or search engine, to the extent that such publication is practicable. If constitutional amendments, or questions are to be submitted to the voters of the state, the notice shall state that fact and that a copy of each such amendment or question may be obtained at the board of elections, by any voter. Such publication shall be in two newspapers published within the county. If the county contains a city or cities, at least one of such newspapers shall be published in the city, or the largest city, if there be more than one.

In the case of a village election, such publication shall be made in a newspaper of general circulation in such village and shall include an abstract of any proposition to be voted upon at such election.

2. The board or body authorized to designate places for voting in any town or in any city, except the city of New York, may publish on the publication day immediately preceding election day, in a newspaper or newspapers designated by such board or body, a notice of the election, and the village clerk shall publish at least ten days prior to any village election conducted by the board of elections in a newspaper of general circulation in such village a list of the polling places, the date and hours of election and, at the discretion of such board or clerk, a brief description of the boundaries of each election district. Such list shall identify those polling places which do not provide access to handicapped voters. The amount to be paid for any of such publications shall be at the rate prescribed by section seventy-a of the public officers law. In no publication, however, shall any type smaller than agate be used. The amount to be paid for all such publications shall be a town, city or village charge.

3. The board of elections of the city of New York shall publish on the eighth day before and the day before each general election, in at least two newspapers in such city, a notice, at least one-half page in size, in English and such other languages as such board deems appropriate, which sets forth the dates and hours of the election and the phone number to call for information about the location of polling places, their accessibility to the handicapped, applications for absentee ballots and any other subjects which such board deems appropriate.

(L.1976, c. 233, § 1. Amended L.1978, c. 373, § 32; L.1982, c. 682, § 4; L.1985, c. 631, §§ 1, 2; L.1989, c. 359, § 12, eff. Nov. 15, 1989; L.2019, c. 413, § 1, eff. Oct. 25, 2019.)

§ 4–122. Lists of nomination; publication of by board of elections

1. The county board of elections shall publish, at least six days before an election, a list containing the name of every

candidate for public office to be voted for within its jurisdiction at such election.

2. The candidates for the office of presidential electors shall, in the list in subdivision one of this section, only be described as a specific number of such electors, nominated to support the party candidates, naming them, for the office of president and vice-president.

3. The list described in subdivision one of this section shall be published at least once in not less than two nor more than four newspapers in the county. In a county containing a city, at least one such publication shall be in a daily newspaper published in a city therein, if there be such a newspaper. In the case of a village election held at a time other than the time of a general election, such publication shall be in a newspaper having general circulation in such village. So far as is consistent with this section, one such newspaper shall represent each of the major political parties. Should the board of elections find it impossible to make such publication six days before election it shall make it at the earliest possible day thereafter before the election.

4. Repealed.

(L.1976, c. 233, § 1. Amended L.1978, c. 373, § 33; L.1989, c. 359, §§ 13, 14, eff. Nov. 15, 1989; L.2017, c. 310, § 1, eff. Sept. 13, 2017.)

§ 4–123. Publication of candidate websites

1. The state board of elections shall publish on its website the campaign website address designated by any candidate for governor, lieutenant governor, attorney general, state comptroller, member of the state senate and member of the state assembly on the ballot at the next primary, special or general election, except as provided in subdivision two of this section. Such candidate may notify the state board of elections of his or her website address on such candidate's petition cover sheet or in a separate writing signed by the candidate. Any candidate who does not provide a website address shall be listed as having not provided a website address for publication.

2. The state board of elections shall not publish any website address found to be unrelated to a candidacy for public office. Such denial to publish a website address shall be reviewed

only in a special proceeding brought by the candidate pursuant to article seventy-eight of the civil practice law and rules.

3. The state board of elections shall prominently display the following disclaimer with relation to the list of candidate website addresses: ''The website addresses published here are designated by the candidate. The state board of elections is not responsible for and expresses no opinion as to the content of candidate websites.''

(Added L.2017, c. 307, § 1, eff. Dec. 1, 2017.)

§ 4–124. City of New York; publications within made necessary by this law

In the city of New York any publication made necessary by any section of this law shall be made in two newspapers published in each county or published in the city of New York and having an edition for any of the respective counties of such city.

(L.1976, c. 233, § 1.)

§ 4–126. Delivery of election laws to clerks, boards and election officers

1. The state board of elections, within ten days after the enactment of any amendment to the election law, shall transmit a copy of such amendment to each board of elections.

2. The state board of elections shall, prior to each general election, prepare, and cause to be printed in such formats as the board shall determine, compilations of the election law. A copy of the full text of such law shall be transmitted to each board of elections at least once each year. Additional copies of such text, or portions thereof, shall be made available to the public upon request.

3. *Repealed.*

(L.1976, c. 233, § 1. Amended L.1978, c. 9, § 22; L.1985, c. 159, § 1; L.1989, c. 359, § 15; L.1993, c. 60, § 30, eff. Apr. 15, 1993, deemed eff. Apr. 1, 1993.)

§ 4–128. Supplies; furnished by board of elections or city, town or village clerk

1. The board of elections of each county shall provide the requisite number of official and facsimile ballots, two cards of

instruction to voters in the form prescribed by the state board of elections, at least one copy of the instruction booklet for inspectors, a sufficient number of maps, street finders or other descriptions of all of the polling places and election districts within the political subdivision in which the polling place is located to enable the election inspectors and poll clerks to determine the correct election district and polling place for each street address within the political subdivision in which the polling place is located, distance markers, tally sheets and return blanks, pens, pencils, or other appropriate marking devices, envelopes for the ballots of voters whose registration poll records are not in the ledger or whose names are not in the computer generated registration list, envelopes for returns, identification buttons, badges or emblems for the inspectors and clerks in the form prescribed by the state board of elections and such other articles of stationery as may be necessary for the proper conduct of elections, except that when a town, city or village holds an election not conducted by the board of elections, the clerk of such town, city or village, shall provide such official and facsimile ballots and the necessary blanks, supplies and stationery for such election.

2. If the official ballots required to be furnished by any board or officer shall not be delivered to such board or officer at the time required, or if after delivery shall be lost, destroyed or stolen, such board or officer shall cause other ballots to be prepared as nearly in the form of the official ballots as practicable, and delivered to the inspectors of election. Such ballots shall be known as unofficial ballots. Sample ballots of each kind shall be printed on paper of a different color from any of the official ballots and without numbers on the stubs, but in all other respects precisely similar to the official ballots.

(L.1976, c. 233, § 1. Amended L.1978, c. 9, § 23; L.1978, c. 373, § 34; L.1985, c. 510, § 4; L.1990, c. 635, § 2; L.1992, c. 91, § 1, eff. May 17, 1992; L.2009, c. 489, § 1, eff. Oct. 28, 2009; L.2011, c. 125, § 1, eff. July 15, 2011; L.2019, c. 55, pt. XX, § 2, eff. April 12, 2019.)

§ 4–130. Supplies for registration; manner and time of delivery

1. Before it is sent from the office or branch office of the board of elections, each ledger or binder of blank registration records shall be locked in a distinctively numbered carrying

case. Such board shall place the key for such carrying case in a sealed envelope on which shall be written or printed the number of the carrying case. No such case or key shall be delivered to any person who is not designated in this chapter as a person entitled to receive it. Any person to whom any such case or key shall be delivered shall give a receipt therefor to the person delivering it. Such receipt shall recite the official title or capacity of the person receiving it and, in each instance, the distinctive number identifying it. After leaving the board of elections no such case shall be unlocked except at the time and in the manner provided in this chapter.

2. a. Except in the cities of New York, Buffalo, and Rochester, the board of elections shall deliver at its office to each town or city clerk in its county not more than five days before the beginning of local registration, the registration record forms, supplies and equipment required for local registration and such clerks shall deliver the same to the several boards of inspectors within such town or city approximately one-half hour before the hour fixed for beginning such registration.

b. In the cities of New York, Buffalo, and Rochester the board of elections shall deliver such material to the boards of inspectors at least one-half hour before the hour fixed for beginning local registration.

(L.1976, c. 233, § 1. Amended L.1978, c. 373, § 35, eff. June 19, 1978.)

§ 4–132. Polling places; equipment for

The board of elections or the town, city or village clerk, when a town, city or village holds an election not conducted by the board of elections, shall provide in each polling place, as required, the following articles:

a. Material to define the voting area.

b. Separate boxes for the purposes of receiving ballots. Such boxes shall have an opening on the top, large enough to allow a single ballot to be passed easily through the opening, but no larger, and shall be supplied with a protective lock or seal.

c. A booth or device in each election district for the use of voters marking ballots. Such booth or device shall be so constructed as to permit the voter to mark his or her ballot in

secrecy and shall be furnished at all times with an appropriate marking device.

d. A sufficient number of maps, street finders or other descriptions of all of the polling places and election districts within the political subdivision in which the polling place is located to enable the election inspectors and poll clerks to determine the correct election district and polling place for each street address within the political subdivision in which the polling place is located.

(L.1976, c. 233, § 1. Amended L.1985, c. 164, § 1, eff. Dec. 1, 1985; L.2009, c. 489, § 2, eff. Oct. 28, 2009; L.2011, c. 125, § 2, eff. July 15, 2011; L.2019, c. 55, pt. XX, § 3, eff. April 12, 2019.)

§ 4–134. Preparation and delivery of ballots, supplies and equipment for use at elections

1. The board of elections shall deliver, at its office, to the clerk of each town or city in the county, except the cities of New York, Buffalo and Rochester and to the clerk of each village in the county in which elections are conducted by the board of elections, by the Saturday before the primary, general, village or other election for which they are required: the official and sample ballots; ledgers prepared for delivery in the manner provided in subdivision two of this section and containing the registration poll records of all persons entitled to vote at such election in such town, city or village, or computer generated registration lists containing the names of all persons entitled to vote at such election in such town, city or village; challenge reports prepared as directed by this chapter; sufficient applications for registration by mail; sufficient ledger seals and other supplies and equipment required by this article to be provided by the board of elections for each polling place in such town, city or village. The town, city or village clerk shall call at the office of such board of elections at such time and receive such ballots, supplies and equipment. In the cities of New York, Buffalo and Rochester the board of elections shall cause such ballots, supplies and equipment to be delivered to the board of inspectors of each election district approximately one-half hour before the opening of the polls for voting, and shall take receipts therefor.

2. The board of elections shall provide for each election district a ledger or ledgers containing the registration poll

records or lists with computer generated facsimile signatures, of all persons entitled to vote in such election district at such election. Such ledgers shall be labelled, sealed, locked and transported in locked carrying cases. After leaving the board of elections no such carrying case shall be unlocked except at the time and in the manner provided in this chapter.

3. Each kind of official ballot shall be arranged in a package in the consecutive order of the numbers printed on the stubs thereof beginning with number one. All official and sample ballots for each election district shall be in separate sealed packages, clearly marked on the outside thereof, with the number and kind of ballots contained therein and indorsed with the designation of the election district for which they were prepared. The other supplies provided for each election district also shall be enclosed in a sealed package, or packages, with a label on the outside thereof showing the contents of each package.

4. All such packages so received and marked for any election district shall be delivered unopened and with the seals thereof unbroken to the inspectors of election of such election districts at least one hour before the opening of the polls of such election therein, who shall give a receipt therefor specifying the number and kind of packages delivered.

5. Town, city and village clerks required to provide official and sample ballots, registration records, seals, supplies and equipment, as described in this section, for town, city and village elections not conducted by the board of elections, shall in like manner, deliver them to the inspectors or presiding officers of the election at each polling place at which such meetings and elections are held, respectively, in like sealed packages marked on the outside in like manner, and shall take receipts therefor in like manner.

(L.1976, c. 233, § 1. Amended L.1978, c. 373, § 36; L.1984, c. 251, § 1; L.1984, c. 648, § 1; L.1986, c. 425, § 2; L.1989, c. 359, § 16; L.1990, c. 635, § 3; L.1992, c. 91, § 2, eff. May 17, 1992; L.2010, c. 163, § 1, eff. July 7, 2010; L.2019, c. 55, pt. XX, § 4, eff. April 12, 2019.)

§ 4–136. Election expenses; payment of

1. Except as provided for in subdivision two of this section, the expenses of providing polling places, voting booths, sup-

plies therefor, ballot boxes and other furniture for the polling place for any election, including the storage, transportation and maintenance of voting machines, appliances and equipment or ballot counting devices, and the compensation of the election officers in each election district, shall be a charge upon the county in which such election district is situated, except in the city of New York where such expenses shall be a charge upon the city of New York.

2. All expenses incurred under this chapter by the board of elections of a county outside of the city of New York shall be a charge against the county and in the city of New York the expenses of the board of elections shall be a charge against such city. The expenses incurred by the board of elections of a county outside the city of New York may, pursuant to section 3–226 of this chapter, be apportioned among the cities and towns therein, or in the case of a village election held other than at the time of the fall primary or general election, apportioned to such villages therein.

3. In the city of New York all leased or purchased equipment, supplies, ballots, printing and publications, except newspaper notices and advertisements, to be used or furnished by such board, may be procured for it by the purchasing department or agency of such city as if such board were an agency of such city. Such board shall comply with the rules and regulations of the New York city procurement policy board and applicable state law.

(L.1976, c. 233, § 1. Amended L.1976, c. 234, § 16; L.1978, c. 373, § 37; L.1979, c. 254, § 2; L.1989, c. 359, § 17; L.2005, c. 180, § 13, eff. Nov. 15, 2005; L.2010, c. 155, § 1, eff. July 7, 2010.)

§ 4–138. Expenses of boards of elections outside New York City; apportionment of

The board of elections in each county, outside of the city of New York, on or before the fifteenth day of December and not earlier than the first day of October, in each year, shall certify to the clerk of the legislative body of the county, the total amount of the expenses of such board of elections, including salaries for the preceding year, and, if the legislative body of any county shall so direct, shall certify to such clerk the portions of such expenses which under provisions of law are to

be borne by any city or cities in said county and the portion thereof which is to be borne by the rest of such county. Whenever any additional expenses either for salaries or supplies in addition to the regular county-wide primary and election expenses are incurred by a board of elections incidental to any election in any city, town or village, such board of elections shall certify to the county legislative body a detailed statement of such expenses.

(L.1976, c. 233, § 1. Amended L.1976, c. 234, § 17; L.1979, c. 254, § 3, eff. June 19, 1979.)

ARTICLE 5—REGISTRATION AND ENROLLMENT OF VOTERS

Title		Section
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II.	Registration and Enrollment	5–200
III.	Enrollment	5–300
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TITLE I—GENERAL PROVISIONS

Section

5–100. Registration; required.
5–102. Qualifications of voters; age and residence.
5–104. Qualifications of voters; residence, gaining or losing.
5–106. Qualifications of voters; reasons for exclusion.

§ 5–100. Registration; required

A person shall not be entitled to vote in any election held pursuant to this chapter unless he shall be registered, and if required, enrolled pursuant to the provisions of this article unless he shall present a court order directing that he be permitted to vote at such election. Where a specific provision of law relating to the registration of voters exists in any other statute, which is inconsistent with the provisions of this article, such provision shall apply and the provisions of this article not inconsistent therewith shall apply.

(L.1976, c. 233, § 1. Amended L.1978, c. 373, § 38, eff. June 19, 1978.)

§ 5–102. Qualifications of voters; age and residence

1. No person shall be qualified to register for and vote at any election unless he is a citizen of the United States and is or will be, on the day of such election, eighteen years of age or over, and a resident of this state and of the county, city or village for a minimum of thirty days next preceding such election.

2. The provisions herein with respect to a durational residency requirement for purposes of qualifying to vote shall not

prohibit United States citizens otherwise qualified, from voting for president and vice president of the United States.

(L.1976, c. 233, § 1. Amended L.1978, c. 9, § 25; L.1988, c. 175, § 2, eff. June 27, 1988.)

§ 5–104. Qualifications of voters; residence, gaining or losing

1. For the purpose of registering and voting no person shall be deemed to have gained or lost a residence by reason of his presence or absence while employed in the service of the United States, nor while engaged in the navigation of the waters of this state, or of the United States, or of the high seas; nor while a student of any institution of learning; nor while kept at any welfare institution, asylum or other institution wholly or partly supported at public expense or by charity; nor while confined in any public prison.

2. In determining a voter's qualification to register and vote, the board to which such application is made shall consider, in addition to the applicant's expressed intent, his conduct and all attendant surrounding circumstances relating thereto. The board taking such registration may consider the applicant's financial independence, business pursuits, employment, income sources, residence for income tax purposes, age, marital status, residence of parents, spouse and children, if any, leaseholds, sites of personal and real property owned by the applicant, motor vehicle and other personal property registration, and other such factors that it may reasonably deem necessary to determine the qualification of an applicant to vote in an election district within its jurisdiction. The decision of a board to which such application is made shall be presumptive evidence of a person's residence for voting purposes.

(L.1976, c. 233, § 1. Amended L.1976, c. 234, § 18; L.1978, c. 9, § 26, eff. Mar. 7, 1978.)

§ 5–106. Qualifications of voters; reasons for exclusion

1. No person who shall receive, accept, or offer to receive, or pay, offer or promise to pay, contribute, offer or promise to contribute to another, to be paid or used, any money or any other valuable thing as a compensation or reward for the giving or withholding a vote at an election, or for registering or

refraining from registering as a voter, or who shall make any promise to influence the giving or withholding of any such vote or registration, or who shall make or become directly or indirectly interested in any bet or wager depending upon the result of an election, shall vote at such election.

2. No person who has been convicted of a felony pursuant to the laws of this state, shall have the right to register for or vote at any election unless he shall have been pardoned or restored to the rights of citizenship by the governor, or his maximum sentence of imprisonment has expired, or he has been discharged from parole. The governor, however, may attach as a condition to any such pardon a provision that any such person shall not have the right of suffrage until it shall have been separately restored to him.

3. No person who has been convicted in a federal court, of a felony, or a crime or offense which would constitute a felony under the laws of this state, shall have the right to register for or vote at any election unless he shall have been pardoned or restored to the rights of citizenship by the president of the United States, or his maximum sentence of imprisonment has expired, or he has been discharged from parole.

4. No person who has been convicted in another state for a crime or offense which would constitute a felony under the laws of this state shall have the right to register for or vote at any election in this state unless he shall have been pardoned or restored to the rights of citizenship by the governor or other appropriate authority of such other state, or his maximum sentence has expired, or he has been discharged from parole.

5. The provisions of subdivisions two, three and four of this section shall not apply if the person so convicted is not sentenced to either death or imprisonment, or if the execution of a sentence of imprisonment is suspended.

6. No person who has been adjudged incompetent by order of a court of competent judicial authority shall have the right to register for or vote at any election in this state unless thereafter he shall have been adjudged competent pursuant to law.

(L.1976, c. 233, § 1. Amended L.1976, c. 234, § 19; L.1978, c. 373, § 39; L.1982, c. 82, § 1, eff. May 11, 1982.)

TITLE II—REGISTRATION AND ENROLLMENT

Section

5–200. Repealed.
5–202. Local registration; provision for.
5–204. Local registration; general provisions for the conduct of.
5–206. Watchers.
5–208. Transfer of registration and enrollment.
5–210. Registration and enrollment and change of enrollment upon application.
5–211. Agency assisted registration.
5–212. Motor vehicle registration.
5–213. Inactive status.
5–214. Registration cards for identification.
5–215. Veterans' absentee registration.
5–216. Registration; assistance to applicant.
5–218. Registration; challenges.
5–220. Registration; challenge after registered.
5–222. Statement of temporary absence.
5–224. Registration of voters unlawfully denied the right to register.
5–226. Registration; voter registered in wrong district.
5–228. Registration; certificates of local registration.
5–230. Local registration; disposition of records and supplies.

§ 5–200. Repealed by L.1991, c. 90, § 15, eff. Dec. 1, 1991

§ 5–202. Local registration; provision for

1. The board of inspectors for every election district shall meet for the purpose of taking the registration of voters not earlier than the sixth Saturday or later than the fourth Saturday before each general election. During such period, in the city of New York and in counties having a population of three hundred thousand or more, the board shall hold two meetings each year, including at least one on a Saturday. During such period, in all other counties, the board shall hold one meeting each year, on a Saturday, except that in years in which a president of the United States is to be elected, the board shall hold two such meetings, including at least one on a Saturday. If the polling place of an election district is located in a building owned by a religious organization or used by it as a place of worship, the building will not be required to be open for voter registration on any Saturday if this is contrary to the religious beliefs of the religious organization. The dates of such meetings and any additional meetings that the board of elections may, in its discretion, direct to be held shall be determined by the board of elections except that no such meeting shall be held on the religious holidays of Yom Kippur,

Rosh Hashana, Simchas Torah, Shmini Atzereth or Succoth. The board of elections shall also determine the hours for conducting all such meetings, provided, however, that there shall be not less than seven consecutive hours for registration on a Saturday and not less than three and one-half consecutive hours on any other meeting day. The days and hours of registration shall be uniform throughout the county and in the city of New York throughout the city, and meetings shall begin not earlier than six o'clock in the morning and continue not later than half-past ten o'clock in the evening and no Saturday meeting shall end before nine o'clock in the evening.

2. Local registration shall always be received by two members of the local board of inspectors, representing respectively the two political parties as provided herein for the appointment of inspectors.

3. The last day of local registration shall be uniform throughout the state and such registration day shall be designated by the state board of elections not later than the first day of June preceding the general election in each year. Such statewide registration day shall be one of the registration days hereinabove provided in this section, provided, however, that in any year in which presidential and vice-presidential electors are to be elected such day shall not be more than thirty days before the general election. If the polling place of an election district is located in a building owned by a religious organization or used by it as a place of worship, the building will not be required to be open for voter registration on a Saturday if this is contrary to the religious beliefs of the religious organization.

4. Each board of elections shall make and file in its office and with the state board of elections a determination as to the dates and hours for local registration not later than the tenth day of July next preceding the general election in each year, and shall publish such dates and hours at least once in the two week period preceding the first day of such registration. Such publication shall be in two newspapers published within the county. If the county contains a city or cities, at least one of such newspapers shall be published in the city, or the largest city, if there be more than one.

5. Notwithstanding any inconsistent provision of this chapter, in any year the board of elections may provide that a single

place and a single board of inspectors shall be used for taking the local registration of two or more election districts provided that such board shall find that more than one-half the anticipated registrants in such districts are already registered permanently. In cities, notice of such action shall be published with the list of registration places as provided in this chapter. In towns, the board of elections shall cause notice of such action with the location of the registration place designated for such election district to be posted in five conspicuous public places within each affected election district or to be published in the manner provided by this chapter for the optional publication of places of registration. In all cases where notice is given by publication, the board of elections shall cause notice of such action, with the location of the registration place designated for such election district to be posted, on the days of registration, at the entrance to the regular polling place for each affected election district.

6. Notwithstanding any provision of law to the contrary, any board of elections, and in the city of New York, the board of elections of the city of New York, may, by resolution adopted not later than the first day of July in any year, except a year in which presidential and vice presidential electors are to be elected, provide that no meeting for local registration shall be held in the county or the city of New York. If a board of elections or the board of elections of the city of New York adopts a resolution eliminating meetings for local registration, such resolution shall remain in effect for such year and each succeeding year, except years in which presidential and vice presidential electors are to be elected, unless it is thereafter repealed by a resolution adopted at least sixty days prior to the first day for holding local registrations as provided for under the provisions of this article.

(L.1976, c. 233, § 1. Amended L.1976, c. 234, § 20; L.1978, c. 8, § 6; L.1978, c. 9, § 27; L.1979, c. 669, § 1; L.1982, c. 37, § 2; L.1991, c. 90, § 7.)

§ 5–204. Local registration; general provisions for the conduct of

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

1. At the opening of each place of registration on each day of local registration the board of inspectors shall:

a. See that the American flag is displayed.

b. Cause the election district map or maps, or certified description thereof, to be posted conspicuously in the registration place.

c. Check to see that all necessary supplies are available in order to properly conduct registration.

d. Affix or attach to their clothing the proper identification, buttons, badges or emblems issued by the board of elections pursuant to the provisions of this chapter. They shall wear no other buttons, badges or emblems which are similar in design.

2. Repealed by L.1985, c. 164, § 2, eff. Dec. 1, 1985

3. a. The inspectors of election in receiving registrations shall, by printing in ink, fill out the registration poll record and the central file registration record.

b. If the applicant's name does not appear on the list of registered voters and if the applicant is not challenged, and he is found by the inspectors of election to be otherwise qualified, they shall complete his registration as provided herein.

c. If the person's name appears on the list of registered voters and he is residing at the same address as set forth therein, his registration shall be refused as unnecessary.

d. If the applicant's name appears on the list of cancelled registrations, the inspectors of election shall ascertain from such list the reason for cancellation, and if satisfied that the reason for cancellation no longer exists shall register the applicant.

e. If the inspectors of election shall refuse to receive a registration for any reason, they need not complete the registration records. They, however, shall enter the applicant's name and address on the applicant's records, shall mark the word ''Refused'', and insert the reason for such refusal in the remarks section on each of such registration records. In any such case, they shall inform the applicant of such reason, and advise the applicant of his right to appeal to the board of elections for review of its decision.

f. If an applicant is challenged after the inspectors of election have commenced to take his registration and if such applicant refuses to take the challenge oath as prescribed by this article, or to answer a question appearing on the challenge affidavit, they shall not complete his registration and shall insert in the remarks section of his registration records the words ''Challenge Oath Refused'' or ''Challenge Question Not Answered''.

g. After completing the registration forms the inspectors of election shall require the applicant to sign the two registration records in the spaces provided for his signature at the time of registration.

h. After securing the voter's signatures, the two inspectors by whom the registration is taken shall sign the records in the spaces provided.

i, j. Repealed by L.1981, c. 74, § 1, eff. April 21, 1981

k. If an applicant has removed from his residence but is still eligible to vote from that address for a reason enumerated in this chapter, the inspectors shall require him to execute a statement of temporary absence.

l. If an applicant for registration presents a court order directing that he be registered, the board shall register him, enter the words ''Court Order'' in the remarks space on the face of each of his registration records, write his new registration serial number on the top of the first page of such order and return such order to the board of election with the executed certificates and forms.

4. The inspectors shall distribute to the voters applying for registration copies of the ballot proposals to be submitted to the voters at the ensuing election.

5. An inspector shall not remove or permit to be removed any registration record or blank from the locked ledger in which it is filed or to insert or permit to be inserted any such record or blank in such ledger. If a registration record blank is mutilated or voided or for any reason cannot be used, the board shall mark ''Void'' across the face of such blank and the blank of the same number in the other ledger of the same set.

6. The map or maps furnished in cities shall be posted in the polling place on the days of local registration.

7. There shall be no smoking in any place of registration in a church or school.

8. The inspectors shall act as a board and a majority of them shall decide questions.

9. While the polls are open no person shall do any electioneering within the polling place, or within a one hundred foot radial measured from the entrances, designated by the inspectors of election, to a building where the registration is being conducted. No political banner, poster or placard shall be allowed in or upon the place of registration during any day of registration. Where an oath is required or permitted by this article at any meeting for registration, any inspector may administer it. The inspectors, and each of them, shall preserve good order within and around the place of registration and keep access thereto unobstructed. The board or any member thereof by order in writing may direct the arrest of any person refusing to obey the lawful commands of the inspectors, or guilty of disorderly conduct disturbing their proceedings, or violating, or attempting to violate, any of the provisions of this chapter. Any police officer or peace officer, who is acting pursuant to his special duties, or any person designated by the board shall execute the order.

10. Persons entitled to register who are on line, or in the polling place, at or before the time fixed by law for closing of registration, shall be allowed to register.

(L.1976, c. 233, § 1. Amended L.1980, c. 843, § 60; L.1981, c. 74, § 1; L.1981, c. 141, § 1; L.1982, c. 647, § 3; L.1985, c. 164, § 2.)

§ 5–206. Watchers

1. Each political party or independent body duly nominating or entitled to nominate candidates for offices to be filled at the election may, by a writing signed by the duly authorized chairman or secretary of the county, city, town or village committee of such political party or independent body, and delivered to and filed with one of the inspectors of election, appoint not more than two watchers to attend any meeting or

meetings of the inspectors for an election district held for the registration of voters thereof.

2. Each watcher must be a qualified voter of the city or county in which he is to serve. Such watchers may be present at such place of registration from at least fifteen minutes before the commencement of such meeting until after the completion of the duties of the board of inspectors for that day of registration. Any watcher may examine any challenge list furnished by the board of elections.

(L.1976, c. 233, § 1. Amended L.1976, c. 234, § 21; L.1991, c. 263, § 3, eff. Dec. 1, 1991.)

§ 5–208. Transfer of registration and enrollment

1. The board of elections shall transfer the registration and enrollment of any voter appearing on a statewide voter list pursuant to subdivision one of section 5–614 of this article for whom it receives a notice of change of address to another address in New York state, or for any voter who submits a ballot in an affidavit ballot envelope which sets forth such a new address. Such notices shall include, but not be limited to, notices received from any state agency which conducts a voter registration program pursuant to the provisions of sections 5–211 and 5–212 of this title, that the voter has notified such agency of a change of address in New York state unless the voter has indicated that such change of address is not for voter registration purposes, notices of change of address from the United States Postal Service through the National Change of Address System, any notices of a forwarding address on mail sent to a voter by the board of elections and returned by the postal service, national or state voter registration forms, confirmation mailing response cards, United States Postal Service notices to correspondents of change of address, applications for registration from persons already registered in New York state, or any other notices to correspondents sent to the board of elections by such voters.

2. Upon receipt of such a notice, the board shall compare the signature (if any) and other information with the signature and other information on the registration record on file. If such signature and other information appears to be correct,

the board shall change the address of the voter in all the records of such board.

3. If such a notice is received at least twenty days before a primary, special or general election, such change of address must be completed before such election.

4. If such application for registration from a voter already registered in New York state also reflects a change of enrollment, the board of elections shall treat such application as an application for change of enrollment pursuant to section 5–304 of this article.

5. As soon as practicable, after it transfers a voter's registration, the board of elections shall send the voter, by forwardable first class or return postage guaranteed mail, a notice advising him of the transfer in a form which is similar to the notice sent to new registrants pursuant to the provisions of section 5–210 of this title and which has been approved by the state board of elections. If the notice of change of address did not contain the voter's signature, such notice shall include a postage paid return card, in a form prescribed by the state board of elections, on which the voter may notify the board of elections of any correction of address, together with a statement on such notice and on the return card that the voter should return such card only if the address to which the notice was sent is not the voter's current address.

6. If a notice sent pursuant to subdivision five of this section is returned by the postal service as undeliverable and without a forwarding address, the board of elections shall return the registration of such voter to the original address, send such voter a confirmation notice pursuant to the provisions of subdivision one of section 5–712 of this title and place such voter in inactive status.

7. The board of elections shall preserve such notices of change of address for as long as registration records are otherwise required to be preserved or, if the computer readable records maintained by the board of elections include a complete copy of such notice, the board shall preserve the original notice for a period of at least two years or such longer period as the state board of elections may require.

8. If the board of elections receives notice of a change of address within New York state from, or with respect to, a person who it determines is not registered in New York state, it shall forthwith send such person a notice to that effect in a form approved by the state board of elections at the new address set forth in such notice of change of address, together with a voter registration form.

9. The state board of elections shall promulgate regulations as to the procedures for transferring a voter from one county to another.

(Added L.1994, c. 659, § 5. Amended L.1996, c. 200, § 1, eff. June 25, 1996; L.2019, c. 3, § 1, eff. March 25, 2019.)

§ 5–210. Registration and enrollment and change of enrollment upon application

1. In addition to local registration and veterans' absentee registration as provided in this chapter, any qualified person may apply personally for registration and enrollment, change of enrollment by mail or by appearing at the board of elections on any day, except a day of election, during the hours that such board of elections is open for business.

2. (a) Application forms for use pursuant to this section shall be furnished by a county board of elections to any person requesting such form. Application forms sent outside of the United States to a country other than Canada or Mexico, shall be sent airmail. Each county board of elections shall also cause such application forms to be as widely and freely distributed as possible.

(b) The board of elections shall mail an application for registration by mail and information on how the person may re-register to each person for whom it receives notice pursuant to the provisions of subdivision four of section 5–402 of this article that such person has moved into such city or county unless such person is already registered from the address listed in such notice.

3. Completed application forms, when received by any board of elections and, with respect to application forms promulgated by the federal election commission, when received by the state board of elections, or showing a dated

cancellation mark of the United States Postal Service or contained in an envelope showing such a dated cancellation mark which is not later than the twenty-fifth day before the next ensuing primary, general or special election, and received no later than the twentieth day before such election, or delivered in person to such board of elections not later than the tenth day before a special election, shall entitle the applicant to vote in such election, if he or she is otherwise qualified, provided, however, such applicant shall not vote on a voting machine until his or her identity is verified. Any board of elections receiving an application form from a person who does not reside in its jurisdiction but who does reside elsewhere in the state of New York, shall forthwith forward such application form to the proper board of elections. Each board of elections shall make an entry on each such form of the date it is received by such board.

4. Any qualified person who has been honorably discharged from the military after the twenty-fifth day before a general election, or who has a qualifying condition, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from the military after the twenty-fifth day before a general election, or who is a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from the military after the twenty-fifth day before a general election, or who has become a naturalized citizen after the twenty-fifth day before a general election may personally register at the board of elections in the county of his or her residence and vote in the general election held at least ten days after such registration.

5. Statewide application forms shall be designed by the state board of elections, which shall conform to the requirements for the national voter registration form in the rules and regulations promulgated by the federal election commission and the federal Help America Vote Act,[1] and shall elicit the information required for the registration poll record. The form shall include such other information as the state board of elections may reasonably require to enable the board of elections to assess the eligibility of the applicant and to administer

voter registration and other parts of the election process and shall also include the following information:

(a) Notice that those voters currently registered do not need to reregister unless they have moved outside of the city or county in which they were registered.

(b) Instructions on how to fill out and submit the form and that the form must be received by any county board of elections at least twenty-five days prior to the election at which the applicant may vote.

(c) Notice that registration and enrollment is not complete until the form is received by the appropriate county board of elections.

(d) Notice of a voter's right to register locally.

(e) A warning that it is a crime to procure a false registration or to furnish false information to the board of elections.

(f) Notice that political party enrollment is optional but that, in order to vote in a primary election of a political party, a voter must enroll in that political party, unless state party rules allow otherwise.

(g) Notice that the applicant must be a citizen of the United States, is at least sixteen years old when he or she submits an application to register to vote which will be effective for elections occurring on or after the applicant turns eighteen years of age and a resident of the county or city to which application is made.

(h) Notice that a voter notification form will be mailed to each applicant whose completed form is received.

(i) The telephone number of the county board of elections and a toll free number at the state board of elections that can be called for answers to registration questions.

(j) A space for the applicant to indicate whether or not the voter is willing to serve on election day for a board of elections as an election inspector, poll clerk, interpreter or in other capacities.

(k) The form shall also include space for the following information, which must be contained on the inside of the form after it is folded for mailing:

(i) A space for the applicant to indicate whether or not he or she has ever voted or registered to vote before and, if so, the approximate year in which such applicant last voted or registered and his or her name and address at the time.

(ii) The name and residence address of the applicant including the zip code and apartment number, if any.

(iii) A space for the furnishing of an e-mail address, the furnishing of which shall be optional, together with a notice stating that if an e-mail address is furnished, all notices and communications otherwise required to be sent by the state board of elections to the voter by postal mail shall be sent by e-mail in addition to postal mail. County boards of elections and the board of elections of the city of New York shall have the option of sending notices and communications otherwise required to be sent to the voter by postal mail by e-mail in addition to postal mail if the voter furnishes an email address.

(iv) The date of birth of the applicant.

(v) A space for the applicant to indicate his or her driver's license or department of motor vehicles non-driver photo ID number or the last four digits of his or her social security number or, if the applicant does not have either such number, a space for the applicant to indicate he or she does not have either.

(vi) A space for the applicant to indicate whether or not he or she is a citizen of the United States and the statement ''If you checked ''no'' in response to this question, do not complete this form.''

(vii) A space for the applicant to answer the question ''Will you be 18 years of age on or before election day?'' and the statement ''If you checked ''no'' in response to this question, do not complete this form unless you will be 18 by the end of the year.''

(viii) A statement informing the applicant that if the form is submitted by mail and the applicant is registering for the first time, certain information or documents must be submitted with the mail-in registration form in order to avoid additional identification requirements upon voting for the first time. Such information and documents are:

(A) a driver's license or department of motor vehicles non-driver photo ID number; or

(B) the last four digits of the individual's social security number; or

(C) a copy of a current and valid photo identification; or

(D) a copy of a current utility bill, bank statement, government check, paycheck or other government document that shows the name and address of the voter.

(ix) The gender of the applicant (optional).

(x) A space for the applicant to indicate his or her choice of party enrollment, with a clear alternative provided for the applicant to decline to affiliate with any party.

(xi) The telephone number of the applicant (optional).

(xii) A place for the applicant to execute the form on a line which is clearly labeled ''signature of applicant'' preceded by the following specific form of affirmation:

AFFIDAVIT: I swear or affirm that:

* I am a citizen of the United States.

* I will have lived in the county, city, or village for at least 30 days before the election.

* I meet all the requirements to register to vote in New York State.

* This is my signature or mark on the line below.

* All the information contained on this application is true. I understand that if it is not true I can be convicted and fined up to $5,000 and/or jailed for up to four years.

which form of affirmation shall be followed by a space for the date and the aforementioned line for the applicant's signature.

(xiii) A space for the applicant to register in the New York state donate life registry for organ and tissue donations established pursuant to section forty-three hundred ten of the public health law.

(*l*) The mail voter registration application form developed by the federal election commission pursuant to the provisions of section nine of the National Voter Registration Act of 1993 42 USC 1973gg–7 shall be deemed to meet the requirements of

this section. Any application for registration received on such an application form shall be accepted if the applicant is otherwise eligible to register to vote pursuant to the provisions of this article. A voter whose registration is accepted pursuant to the provisions of this paragraph shall be permitted to furnish an e-mail address to the board of elections, which furnishing shall carry the same notice and have the same effect as provided by subparagraph (iii) of paragraph (k) of this subdivision.

(m) The form of affidavit prescribed by the state board of elections for requests for affidavit ballot pursuant to subdivision three of section 8–302 of this chapter shall be deemed to meet the requirements of this section. Any application for registration received on the form of affidavit shall be accepted if the applicant is otherwise eligible to register to vote pursuant to the provisions of this article, however the failure to complete the voter registration application appearing on such affidavit envelope shall not otherwise invalidate the affidavit ballot.

6. A person who willfully makes a material false statement in any application for registration and enrollment and/or transfer of registration and enrollment or special enrollment by mail, or who knowingly makes a false affirmation, or who offers or attempts to offer any application for registration and enrollment or transfer of registration and enrollment or special enrollment knowing that the applicant is not qualified to register or enroll, or transfer his or her registration and enrollment or to specially enroll, shall be guilty of a class E felony.

6–a. Repealed by L.1994, c. 659, § 12, eff. Jan. 1, 1995

7. Each county board of elections shall deliver a sufficient number of such uniform statewide application forms to each local post office within its county and keep such post office so supplied, with the request that the postmaster thereof make them available to the public for its use in participating in the electoral process.

8. Upon its receipt by the county board of elections, each application form shall be reviewed and examined by such board. If the application shall contain substantially all the required information indicating that the applicant is legally qualified to register and/or enroll as stated in his or her

application, the county board of elections shall transfer all information on such application to the appropriate registration records. If requested by any member of the board, the application form of any voter, or group of voters, must be reviewed and examined by two such board members or two employees of the board representing different political parties. Such members or employees shall place their initials or other identifying information on the registration poll record of such voter or on a computer generated list of such registrations. Such lists shall be preserved in the same manner, and for the same time, as such registration poll records. If the application indicates that the voter does not have a driver's license or department of motor vehicles non-driver photo ID number or a social security number, the state board of elections shall, upon the transmission of voter information to the statewide voter registration list as required by section 5–614 of this article, assign such voter a unique identifier.

9. The county board of elections shall, promptly and in any event, not later than twenty-one days after receipt by it of the application, verify the identity of the applicant. In order to do so, the county board of elections shall utilize the information provided in the application and shall attempt to verify such information with the information provided by the department of motor vehicles, social security administration and any other lawful available information source. If the county board of elections is unable to verify the identity of the applicant within twenty-one days of the receipt of the application, it shall immediately take steps to confirm that the information provided by the applicant was accurately utilized by such county board of elections, was accurately verified with other information sources and that no data entry error, or other similar type of error, occurred. Following completion of the preceding steps, the county board of elections shall mail (a) a notice of its approval, (b) a notice of its approval which includes an indication that such board has not yet been able to verify the identity of the applicant and a request for more information so that such verification may be completed, or (c) a notice of its rejection of the application to the applicant in a form approved by the state board of elections. Notices of approval, notices of approval with requests for more information or notices of rejection shall be sent by nonforwardable first class or return

postage guaranteed mail on which is endorsed such language designated by the state board of elections to ensure postal authorities do not forward such mail but return it to the board of elections with forwarding information, when it cannot be delivered as addressed and which contains a request that any such mail received for persons not residing at the address be dropped back in the mail. The voter's registration and enrollment shall be complete upon receipt of the application by the appropriate county board of elections. The failure of a county board of elections to verify an applicant's identity shall not be the basis for the rejection of a voter's application, provided, however, that such verification failure shall be the basis for requiring county board of elections to take the additional verification steps provided by this chapter. The notice shall also advise the registrant of the date when his registration and enrollment is effective, of the date and the hours of the next regularly scheduled primary or general election in which he will be eligible to vote, of the location of the polling place of the election district in which he is or will be a qualified voter, whether such polling place is accessible to physically handicapped voters, an indication that physically handicapped voters or voters who are ill or voters who will be out of the city or county on the day of the primary or general election, may obtain an absentee ballot and the phone number to call for absentee ballot applications, the phone numbers to call for location of polling places, to obtain registration forms and the phone number to call to indicate that the voter is willing to serve on election day as an inspector, poll clerk or interpreter. The notice of approval, notice of approval with request for more information or notice of rejection shall also advise the applicant to notify the board of elections if there is any inaccuracy. The form of such mail notification shall be prescribed by the state board of elections and shall contain such other information and instructions as it may reasonably require to carry out the purposes of this section. The request for more information shall inform the voter that ''THE FAILURE TO CONTACT THE BOARD OF ELECTIONS AND CORRECT ANY INACCURACIES IN THE APPLICATION OR PROVIDE REQUESTED ADDITIONAL INFORMATION MAY RESULT IN A REQUEST FOR IDENTIFICATION AT THE POLLS IN ORDER TO CAST A VOTE ON A VOTING MACHINE.'' If

such notice is returned undelivered without a new address, the board shall forthwith send such applicant a confirmation notice pursuant to the provisions of section 5–712 of this article and place such applicant in inactive status. The state board of elections shall prepare uniform notices by this section as provided for in subdivision eight of section 3–102 of this chapter.

10. If the board of elections has been unable to verify the identity of the applicant within forty-five days of the application, the board shall mail a second request for more information to the applicant. This notice shall inform the voter that ''THE FAILURE TO CONTACT THE BOARD OF ELECTIONS AND CORRECT ANY INACCURACIES IN THE APPLICATION OR PROVIDE REQUESTED ADDITIONAL INFORMATION MAY RESULT IN A REQUEST FOR IDENTIFICATION AT THE POLLS IN ORDER TO CAST A VOTE ON A VOTING MACHINE.'' If the board of elections remains unable to verify the identity of the voter it shall so indicate with a notation next to the voter's name in the registration list. Such a voter may provide information to assist the county board to verify his or her identity at any time and such notation shall be removed by the board of elections upon such verification.

11. If the county board of elections suspects or believes that for any reason the applicant is not entitled to registration and enrollment, it shall make inquiry in reference thereto. If the board of elections shall find that the applicant is not qualified to register and enroll, the application shall be rejected and the applicant notified of such rejection and the reason therefor, no later than ten days before the day of the first primary or general election occurring at least twenty-five days after the filing of the application.

12. Whenever the county board of elections is not satisfied from an examination of an application for registration and enrollment, or after its initial inquiry, that the applicant is entitled to such registration or enrollment, it may order an investigation through any officer or employee of the state or county board of elections, police officer, sheriff or deputy sheriff.

13. An affidavit or a signed statement by any officer or employee of the state or county board of elections or any police

officer, sheriff or deputy sheriff, that such person visited the premises claimed by the applicant as his or her residence and interrogated an inmate, house-dweller, keeper, caretaker, owner, proprietor or landlord thereof or therein as to such applicant's residence therein or thereat, and that he or she was informed by one or more such persons, naming them, that they knew the persons residing upon such premises and that the applicant did not reside upon such premises as set forth in his or her application, shall be sufficient authority for a determination by the board that the applicant is not entitled to registration or enrollment; but this provision shall not preclude the board from making such other determination, as the result of other inquiry, as it may deem appropriate.

14. Notwithstanding the entry by the county board of elections on the registration poll record of the information contained on an application form prescribed by this section, such entry shall not preclude the county board of elections from subsequently rejecting the application if it is not satisfied that the applicant is entitled to register and enroll as provided by this section, provided that the applicant is notified of such rejection and reasons therefor no later than ten days before the day of the first primary or general election occurring at least twenty-five days after the filing of such application form.

15. a. The county board of elections shall keep a record of applications for registration as they are received and at least once each month, shall, upon request of the chairman of a political party in the county, give such chairman a complete list of the persons whose applications were approved together with their addresses and telephone numbers, and their election and assembly districts or wards, if any.

b. Not more than four times a year, on dates determined by the state board of elections, the county board of elections shall send to the chairman of each political party in the county a complete list of the persons whose applications were approved together with their addresses, their election and assembly districts or wards, if any, their party enrollments and an indication of whether such persons are eligible to vote in the primary elections to be held in that calendar year. Not more than twice a year, in even numbered years, on dates determined by the state board of elections, the county board of

elections shall send a copy of such list to the state board of elections. In counties of over one hundred thousand population, each such list shall be, and in other counties each such list may be, cumulative and include the names of all such persons whose names do not appear in the annual enrollment lists last published by such board of elections, together with an indication of which such names did not appear on the previous list. Such lists may also include the names of those persons whose names do appear in the annual enrollment lists. Such lists shall be arranged in the same manner as the annual enrollment lists. Additional copies of such lists shall be available to the public at a charge not exceeding the cost of publication or reproduction.

(L.1976, c. 233, § 1. Amended L.1976, c. 234, § 23; L.1978, c. 9, § 30; L.1978, c. 373, §§ 40, 41, 42; L.1979, c. 522, § 1; L.1981, c. 37, § 1; L.1981, c. 685, § 1; L.1983, c. 365, § 1; L.1984 c. 407, § 1; 1985, c. 164, § 4; L.1985, c. 695, § 2; L.1985, c. 786, § 1; L.1988, c. 733, § 1; L.1990, c. 392, § 1; L.1991, c. 90, §§ 16 to 19; L.1991, c. 263, § 4; L.1992, c. 79, §§ 6, 7; L.1992, c. 473, § 1; L.1993, c. 27, § 1; L.1993, c. 60, § 31; L.1993, c. 682, § 1; L.1994, c. 85, § 1; L.1994, c. 659, §§ 6 to 13; L.1996, c. 116, § 1; L.1996, c. 200, §§ 2 to 6; L.2005, c. 179, § 3, eff. Jan. 1, 2006; L.2008, c. 362, § 1, eff. Jan. 1, 2009; L.2010, c. 62, § 1, eff. April 28, 2010; L.2015, c. 255, § 2, eff. Sept. 25, 2015; L.2016, c. 44, § 2, eff. June 1, 2016; L.2019, c. 2, § 3, eff. Jan. 1, 2020; L.2019, c. 490, § 20, eff. Nov. 12, 2020; L.2019, c. 536, § 1, eff. Nov. 25, 2020.)

[1] 52 USCA § 20901 et seq.

§ 5–211. Agency assisted registration

Each agency designated as a participating agency under the provisions of this section shall implement and administer a program of distribution of voter registration forms pursuant to the provisions of this section. The following offices which provide public assistance and/or provide state funded programs primarily engaged in providing services to persons with disabilities are hereby designated as voter registration agencies: designated as the state agencies which provide public assistance are the office of children and family services, the office of temporary and disability assistance and the department of health. Also designated as public assistance agencies are all agencies of local government that provide such assistance. Designated as state agencies that provide programs primarily engaged in providing services to people with disabili-

ties are the department of labor, office for the aging, division of veterans' services, office of mental health, office of vocational and educational services for individuals with disabilities, commission on quality of care for the mentally disabled, office for people with developmental disabilities, commission for the blind, office of alcoholism and substance abuse services, the office of the advocate for the disabled and all offices which administer programs established or funded by such agencies. Additional participating agencies designated as voter registration offices are the department of state and the district offices of the workers' compensation board. Such agencies shall be required to offer voter registration forms to persons upon initial application for services, renewal or recertification for services and upon change of address relating to such services. Such agencies shall also be responsible for providing assistance to applicants in completing voter registration forms, receiving and transmitting the completed application form from all applicants who wish to have such form transmitted to the appropriate board of elections. The state board of elections shall, together with representatives of the United States department of defense, develop and implement procedures for including recruitment offices of the armed forces of the United States as voter registration offices when such offices are so designated by federal law. The state board of elections shall also make request of the United States Citizenship and Immigration Services to include applications for registration by mail with any materials which are given to new citizens.

1. The state board of elections shall adopt such rules and regulations as may be necessary to carry out the requirements of this section and shall prepare and distribute to participating agencies written instructions as to the implementation of the program and shall be responsible for establishing training programs for employees of participating agencies involved in such program. The state board of elections shall provide a toll free telephone to answer registration questions.

2. Strict neutrality with respect to a person's party enrollment shall be maintained and all persons seeking voter registration forms and information shall be advised that government services are not conditioned on being registered to vote. No statement shall be made nor any action taken to discourage the applicant from registering to vote.

3. If a participating agency provides services to a person with a disability at the person's place of residence, the agency shall offer the opportunity to complete a voter registration form at such place of residence.

4. Each participating agency shall provide to each applicant who does not decline to register to vote the same degree of assistance with regard to the completion of the registration application form as is provided by the agency with regard to the completion of its own form unless the applicant refuses such assistance.

5. Employees of a voter registration agency who provide voter registration assistance shall not:

(a) seek to influence an applicant's political preference or party designation;

(b) display any political preference or party allegiance;

(c) make any statement to an applicant or take any action the purpose or effect of which is to discourage the applicant from registering to vote; or

(d) make any statement to an applicant or take any action the purpose or effect of which is to lead the applicant to believe that a decision to register or not to register has any bearing on the availability of services or benefits.

6. The state board of elections shall coordinate and monitor the distribution of voter registration forms by those state agencies, departments, divisions and offices selected to participate in the program to maximize the efficient and non partisan distribution of voter registration information and forms. The board shall also adopt such rules and regulations as may be necessary to require county boards and participating agencies to provide the state board with such information and data as the board deems necessary to assess compliance with this section and to compile such statistics as may be required by the federal elections commission.

7. Each participating agency, department, division and office that makes available voter registration forms shall prominently display promotional materials designed and approved by the state board of elections, informing the public of the existence of voter registration services.

8. Each participating agency, department, division or office that makes available voter registration forms pursuant to this section shall offer with each application for the services or assistance of such agency, department, division or office and with each recertification, renewal or change of address form relating to such service or assistance, a registration form together with instructions relating to eligibility to register and for completing the form except that forms used by the department of social services for the initial application for services, renewal or recertification for services and change of address relating to such services shall physically incorporate a voter registration application in a fashion that permits the voter registration portion of the agency form to be detached therefrom. Such voter registration application shall be designed so as to ensure the confidentiality of the source of the application. Included on each participating agency's application for services or assistance or on a separate form shall be:

(a) the question, ''If you are not registered to vote where you live now, would you like to apply to register here today?''

(b) The [1] statement, ''applying to register or declining to register to vote will not affect the amount of assistance that you will be provided by this agency.''

(c) boxes for the applicant to check to indicate whether the applicant would like to register or decline to register to vote.

(d) the statement in prominent type, ''IF YOU DO NOT CHECK EITHER BOX, YOU WILL BE CONSIDERED TO HAVE DECIDED NOT TO REGISTER TO VOTE AT THIS TIME.''

(e) the statement, ''If you would like help in filling out the voter registration application form, we will help you. The decision whether to seek or accept help is yours. You may fill out the application form in private.''

(f) the statement, ''If you believe that someone has interfered with your right to register or decline to register to vote, your right to privacy in deciding whether to register or in applying to register to vote, or your right to choose your own political party or other political preference, you may file a complaint with the state board of elections (address and toll free telephone number).''

(g) a toll free number at the state board of elections that can be called for answers to registration questions.

9. Disclosure of voter registration information, including a declination to register, by a participating agency, its agents or employees, for other than voter registration purposes, shall be deemed an unwarranted invasion of personal privacy pursuant to the provisions of subdivision two of section eighty-nine of the public officers law and shall constitute a violation of this chapter.

10. The form containing the declination to register to vote shall be retained by the recipient agency for the same period of time as such agency retains the accompanying application for services or for such shorter period of time as may be approved by the state board of elections.

11. The participating agency shall transmit the completed applications for registration and change of address forms to the appropriate board of elections not later than ten days after receipt except that all such completed applications and forms received by the agency between the thirtieth and twenty-fifth day before an election shall be transmitted in such manner and at such time as to assure their receipt by such board of elections not later than the twentieth day before such election.

12. Completed application forms, when received by a participating agency not later than the twenty-fifth day before the next ensuing primary, general or special election and transmitted by such agency to the appropriate board of elections so that they are received by such board not later than the twentieth day before such election shall entitle the applicant to vote in such election provided the board determines that the applicant is otherwise qualified.

13. The state board of elections shall provide application forms for use pursuant to this section except that any agency which uses a form other than such registration form shall be responsible for providing such form. Forms which vary in design and or content from the form approved by the state board of elections may only be used with the approval of such board.

14. Applications shall be processed by the board of elections in the manner prescribed by section 5–210 of this title or,

if the applicant is already registered to vote from another address in the county or city, in the manner prescribed by section 5–208 of this title. The board shall send the appropriate notice of approval or rejection as required by either subdivision nine of such section 5–210 or subdivision five of such section 5–208.

15. The head of each participating agency shall take all actions which are necessary and proper for the implementation of this section. Each agency head shall designate one person within the agency as the agency voter registration coordinator who will, under the direction of the state board of elections, be responsible for the voter registration program in such agency.

16. The state board shall develop and distribute public information and promotional materials relating to the purposes and implementation of this program.

17. Each agency designated as a participating agency under this section shall conduct a study and prepare a report to determine the feasibility, practicality and cost-effectiveness of designing their agency intake forms to serve also as voter registration forms that comply with state and federal law. Such study and report shall be completed by December 1, 1996. Copies of such reports shall be provided to the governor, the temporary president of the senate, the speaker of the assembly and the state board of elections. After submission of the report, participating agencies that determine that it is feasible, practical and cost-effective to have such forms also serve as voter registration forms shall do so upon the approval of the state board of elections. For each agency that determines it is feasible, practical and cost effective to use agency intake forms that serve also as voter registration forms, the state board of elections shall approve or disapprove such use within six months of the submission of the report by the agency.

18. (a)*(i)* On or before January first, two thousand twenty, all institutions of the state university of New York and the city university of New York shall create and make available to all students a webpage for voter education on each such institution's website, containing a link to an application for voter registration, a link to an application for an absentee ballot,

contact information for the county board of elections, and the name and contact information for the administrator responsible for voter registration assistance on each campus.

(ii) Each such institution shall, at the beginning of the school year, and again in January of a year in which the president of the United States is to be elected, provide an application for voter registration *and an application for an absentee ballot* to each student in each such institution. Each institution shall be considered in compliance with *the* requirements *of this subparagraph* for each student to whom the institution electronically transmits a message containing the link to the webpage for voter education, the link to an application for voter registration *and the link to an application for an absentee ballot*, if such information is in an electronic message devoted exclusively to voter registration.

(iii) Each such institution shall provide the same degree of assistance as required of participating agencies.

(b) *The state university of New York and the city university of New York, on behalf of e*ach institution *within its system,* shall on or before *June* first, two thousand twenty, and each subsequent year, submit a report *disaggregated according to each institution* to the state board of elections that includes:

(i) the efforts of the institution to register voters in the preceding calendar year;

(ii) a date-stamped screen shot of the webpage for voter education that contains the required information under paragraph (a) of this subdivision;

(iii) the number of students who were registered for course work in the preceding twelve months at such institution and the number of *clicks* on the links to online voter registration and absentee ballot applications; and

(iv) any other efforts or recommendations the institution plans to implement to improve access to voter registration and absentee ballot voting for students at the institution.

(c) The state board of elections shall make the reports provided pursuant to paragraph (b) of this subdivision publicly available on its website.

(Added L.1992, c. 79, § 8. Amended L.1994, c. 659, § 14; L.1996, c. 200, §§ 7 to 9, eff. June 25, 1996; L.2013, c. 265, § 11, eff. July 31, 2013; L.2019,

c. 56, pt. AA, § 1, eff. April 12, 2019; L.2019, c. 587, §§ 1, 2, eff. Dec. 6, 2019; L.2019, c. 672, § 1, eff. Dec. 16, 2019; L.2020, c. 55, pt. XX, subpt. M, § 1, eff. Dec. 6, 2019.)

[1] So in original. (''The'' should be ''the''.)

§ 5–212. Motor vehicle registration

1. In addition to any other method of voter registration provided for in this article, any qualified person may apply for registration and enrollment by application made simultaneously and integrated with an application for a motor vehicle driver's license, a driver's license renewal or an identification card if such a card is issued by the department of motor vehicles in its normal course of business.

2. The department of motor vehicles, with the approval of the state board of elections, shall design a form or forms which shall, in addition to eliciting such information as may be required by the department of motor vehicles for a driver's license, a driver's license renewal, a change of address notification or an identification card, serve as an application for registration and enrollment, or a registration necessitated by a change of residence. The cost of such forms shall be borne by the department of motor vehicles.

3. The voter registration portion of such forms:

(a) shall not require any information that duplicates the information required on the application for the driver license portion and shall require only such additional information, including the applicant's signature, as will enable election officials to assess the applicant's eligibility to register to vote, prevent duplicate registration and to administer voter registration and other parts of the election process.

(b) shall include a statement of the eligibility requirements for voter registration and shall require the applicant to attest by his signature that he meets those requirements under penalty of perjury.

(c) shall inform the applicant, in print identical to that used in the attestation section of the following:

(i) voter eligibility requirements;

(ii) penalties for submission of false registration application;

(iii) that the office where applicant registers shall remain confidential and the information be used only for voter registration purposes;

(iv) if the applicant declines to register, his declination shall remain confidential and be used only for voter registration purposes;

4. Included on the form or on a separate form shall be:

(a) the question, ''If you are not registered to vote where you live now, would you like to apply to register here today?''

(b) boxes for the applicant to check to indicate whether the applicant would like to register or decline to register to vote.

(c) the statement in prominent type, ''IF YOU DO NOT CHECK EITHER BOX, YOU WILL BE CONSIDERED TO HAVE DECIDED NOT TO REGISTER TO VOTE AT THIS TIME.''

(d) the statement, ''If you would like help in filling out the voter registration application form, we will help you. The decision whether to seek or accept help is yours. You may fill out the application form in private.''

(e) the statement, ''If you believe that someone has interfered with your right to register or decline to register to vote, your right to privacy in deciding whether to register or in applying to register to vote, or your right to choose your own political party or other political preference, you may file a complaint with the state board of elections (address and toll free telephone number).''

(f) a toll free number at the state board of elections that can be called for answers to registration questions.

5. The form containing the declination to register to vote shall be retained by the department of motor vehicles for the same period of time as such department retains the accompanying application for services or for such shorter period of time as may be approved by the state board of elections.

6. The department of motor vehicles shall transmit that portion of the form which constitutes the completed application for registration or change of address form to the appropriate board of elections not later than ten days after receipt except that all such completed applications and forms received

by the department between the thirtieth and twenty-fifth day before an election shall be transmitted in such manner and at such time as to assure their receipt by such board of elections not later than the twentieth day before such election. All transmittals shall include original signatures.

7. Completed application forms received by the department of motor vehicles not later than the twenty-fifth day before the next ensuing primary, general or special election and transmitted by such department to the appropriate board of elections so that they are received not later than the twentieth day before such election shall entitle the applicant to vote in such election provided the board determines that the applicant is otherwise qualified.

8. Disclosure of voter registration information, including a declination to register, by the department of motor vehicles, its agents or employees, for other than voter registration purposes, shall be deemed an unwarranted invasion of personal privacy pursuant to the provisions of subdivision two of section eighty-nine of the public officers law and shall constitute a violation of this chapter.

9. Application forms shall be processed by the board of elections in the manner prescribed by section 5–210 of this title or, if the applicant is already registered to vote from another address in such county or city, in the manner prescribed by section 5–208 of this title. The board shall send the appropriate notice of approval or rejection as required by either subdivision nine of such section 5–210 or subdivision five of such section 5–208.

10. Strict neutrality with respect to a person's party enrollment shall be maintained and all persons seeking voter registration forms and information shall be advised that government services are not conditioned on being registered to vote.

11. No statement shall be made nor any action taken to discourage the applicant from registering to vote.

12. The department of motor vehicles shall provide to each person who chooses to register to vote the same level of assistance provided to persons in connection with the completion of the agency's own forms, unless such person refuses such assistance.

13. The state board shall adopt such rules and regulations as may be necessary to carry out the requirements of this section. The board shall also adopt such rules and regulations as may be necessary to require county boards and the department of motor vehicles to provide the state board with such information and data as the board deems necessary to assess compliance with this section and to compile such statistics as may be required by the federal elections commission.

14. The state board shall develop and distribute public information and promotional materials relating to the purposes and implementation of this program.

15. The state board shall prepare and distribute to the department of motor vehicles written instructions as to the implementation of the program and shall be responsible for establishing training programs for employees of the department of motor vehicles involved in such program.

16. The commissioner of motor vehicles shall take all actions which are necessary and proper for the implementation of this section. The commissioner of motor vehicles shall designate one person within the agency as the agency voter registration coordinator who will, under the direction of the state board of elections, be responsible for the voter registration program in such agency.

(Added L.1994, c. 659, § 15. Amended L.1996, c. 200, §§ 10, 11.)

§ 5–213. Inactive status

1. When a voter is sent a confirmation notice pursuant to the provisions of this article, the voter's name shall be placed in inactive status.

2. The registration poll records of all such voters shall be removed from the poll ledgers and maintained at the offices of the board of elections in a file arranged alphabetically by election district. If such board uses computer generated registration lists, the names of such voters shall not be placed on such lists at subsequent elections other than lists prepared pursuant to the provisions of section 5–612 of this article but shall be kept as a computer record at the offices of such board.

3. The board of elections shall restore the registration of any such voter to active status if such voter notifies the board

of elections that he resides at the address from which he is registered, or the board finds that such voter has validly signed a designating or nominating petition which states that he resides at such address, or if such voter casts a ballot in an affidavit envelope which states that he resides at such address, or if the board receives notice that such voter has voted in an election conducted with registration lists prepared pursuant to the provisions of section 5–612 of this article. If any such notification or information is received twenty days or more before a primary, special or general election, the voter's name must be restored to active status for such election.

4. As soon as practicable, after it restores a voter's registration to active status, the board of elections shall send the voter, by first class forwardable mail, a notice advising him of the restoration in a form which is similar to the notice sent to new registrants pursuant to the provisions of section 5–210 of this title and which has been approved by the state board of elections.

5. If the board of elections receives notice, which complies with the requirements of this article, that a voter in inactive status is residing at another address within the jurisdiction of such board, it shall transfer the registration and enrollment of such voter to such other address pursuant to the provisions of section 5–208 of this title.

(Added L.1994, c. 659, § 16. Amended L.1994, c. 659, § 17; L.1996, c. 200, § 12.)

§ 5–214. Registration cards for identification

A board of elections may provide identification cards for use in any city or town in such county in which the board deems it necessary to facilitate voting. However, the failure of a voter to present such card shall not deprive such voter of the right to exercise the franchise, or any other right provided under this chapter.

(L.1976, c. 233, § 1. Amended L.1978, c. 9, § 31, eff. Mar. 7, 1978.)

§ 5–215. Veterans' absentee registration

1. The board of elections in the county in which a veterans' hospital is located shall appoint a board of registration which

shall attend each veterans' hospital between the hours of nine o'clock in the morning and five o'clock in the evening on the seventh Thursday before each general election and, in the event that it be necessary for the completion of its duties, on the seventh Friday before such election except that if any of the religious holidays of Yom Kippur, Rosh Hashanah, Simchas Torah, Shmini Atzereth or Succoth shall fall on such days, such registration shall be held on the next regular business day which does not fall on any of such religious holidays, and shall receive from residents or patients therein, or their spouses, parents and children, the applications of such of them as desire and are qualified to be registered by absentee registration.

2. After the applicant completes and signs the application, or has it signed for him, it shall be deposited by or for him in an envelope and sealed. Before receiving the next application the board shall address the envelope to the board of elections in the county where the applicant resides and note upon a form provided for such purpose the date of the application, the name and residence address of the applicant and the name of the hospital at which the application was received.

3. At the end of each day each member of such board shall sign the form containing the list of applicants with their names and addresses and they shall, no later than the next day, return the list and the sealed envelopes to the board of elections in the county where such hospital is located.

4. The board of elections upon receipt of such applications shall immediately mail those applications that are addressed to another board of elections and shall process those applications addressed to it.

5. If a veterans health administration hospital in which any veteran entitled to vote in this state is a resident or patient, is located outside the State of New York, an application for an absentee ballot signed by such veteran or his or her spouse, parent or child accompanying or being with him or her, if a qualified voter and a resident of the same election district, shall constitute permanent personal registration.

6. All applications made and received pursuant to this section shall be processed in the manner provided herein for personal registration by mail.

7. The cost incurred by the county in which such veterans' hospital is located, for the registration of voters as herein provided, may be apportioned to the counties in which such voters reside in proportion to the number of applicants for such registration residing in such counties.

8. The board of elections shall not be required to send a board of central registration to each veterans' hospital in such county, pursuant to the provisions of this section, if, in lieu thereof, it shall provide such hospital with mail registration application forms in sufficient quantity so that each resident or patient of such hospital who wishes to register will be able to do so. A complete application received from a resident or patient whose residence is in a county other than the county in which the hospital is located shall be immediately transmitted to the appropriate board of elections.

(Formerly § 5–212, L.1976, c. 233, § 1. Amended L.1982, c. 347, § 1; L.1991, c. 90, § 20. Renumbered § 5–215, L.1994, c. 659, § 15. Amended L.2015, c. 375, § 1, eff. Oct. 26, 2015.)

§ 5–216. Registration; assistance to applicant

1. If any person entitled to be registered shall declare to the board of inspectors that he is unable to read or write by reason of illiteracy or disability, the board shall provide assistance in registering. Such person shall, if unable to write, be excused from signing and the board shall enter the words ''unable to sign'' in each space reserved for his signature. The board shall also enter in the remarks space on the face of the registration records the reason for his inability to write his name.

2. If the applicant be a person who does not speak the English language, he may be assisted by a relative who can interpret for him. If the applicant registers with this assistance the board shall put in the remarks space of the registration forms the name and address, and the relationship, of the person so doing the interpreting and the interpreter shall sign his name in the remarks space.

3. If the registrant needs assistance with registration, he may also have the same assistance in order to mark the enrollment blank.

(L.1976, c. 233, § 1. Amended L.1978, c. 373, § 43, eff. June 19, 1978.)

§ 5–218. Registration; challenges

1. Any person who applies for registration may be challenged by any qualified voter, watcher, or inspector of election if such person has reason to suspect that the applicant is not qualified to be registered to vote.

2. When an applicant is challenged the person making the challenge must first state the reason for the challenge and complete the challenger's part of the challenge form. The board shall then administer to such applicant the following oath: ''You do solemnly swear (or affirm) that you will give true answers to the questions which may be put to you to establish your qualifications to register and vote''. A member of such board shall then read to the challenged person the questions printed upon the form of the challenge affidavit which relate to the reason given for the challenge, and such other questions on the form as in its discretion it may deem appropriate, and shall enter in ink, opposite each question, the answer thereto given by such applicant. After answering, the applicant shall sign his name to such challenge affidavit. The inspector or member of such board who writes the answers shall enter in the place provided on the challenge affidavit, information identifying the person challenged and the name and address of the person challenging, and shall sign the certificate at the end thereof. The other inspectors present shall also sign such certificate at the end thereof.

3. The applicant shall be registered by the board if a majority of such board shall be satisfied with the answers of the registrant. If not satisfied, they shall notify him of the qualifications which they believe he lacks as a voter, and shall furnish him a duplicate of the challenge affidavit as completed. They shall also advise him of his right to apply to the board of elections for registration.

4. When a person who has been challenged is registered, the board shall enter in the remarks column the word ''Challenged''.

5. The state board of elections shall prescribe forms for challenge affidavits for use pursuant hereto, which forms shall elicit such information from the applicant as it deems appropriate.

(L.1976, c. 233, § 1.)

§ 5–220. Registration; challenge after registered

1. Any person may challenge the registration of a voter by executing and delivering to the board of elections or a board taking registrations, his affidavit that he had reason to believe that such voter's registration should be cancelled. Such affidavit shall contain the affiant's full name, residence, and business address, the name of his employer, the registration serial number of the person challenged and a recital of the reasons and the facts supporting affiant's belief that the person challenged lacks the qualifications for voting prescribed in this chapter and specified in such affidavit. The affidavit shall state if the reasons for challenge are based upon the affiant's personal knowledge, or upon information received from another person. If the affiant's belief is based upon information furnished by another, the affidavit shall recite the name of the person furnishing the information and the basis for his information. After the affiant has signed such affidavit a member of such board shall read to him and request him to sign the following oath, which shall be subscribed by such affiant: ''I do solemnly swear (or affirm) that the foregoing statement made by me on (insert day, month and year) is a truthful disclosure of the reasons for my belief that the registered voter therein named is not qualified to continue to be registered in the election district in which he is now registered.'' If the affiant shall take and sign such oath, the members of the board shall sign their names as witnesses below the affiant's subscription to such oath. Each such affidavit shall be directed toward the challenge of only one registrant. The board shall give full assistance to any person desiring to execute such an affidavit. The board of elections shall furnish the necessary forms. Upon receipt of such affidavit the board of elections forthwith shall conduct an investigation of the voter's qualifications to remain registered in the same manner as provided for applications for personal registration by mail. Any person whose registration is so challenged shall be notified thereof by the board of elections by registered or certified mail within five days after the affidavit is received by it.

2. If the board of elections cannot complete its investigation, or cannot make a determination before the next election

at which the registrant could vote, it shall place his name on a challenge list as a person to be challenged when voting.

(L.1976, c. 233, § 1. Amended L.1978, c. 373, § 44, eff. June 19, 1978.)

§ 5–222. Statement of temporary absence

1. A voter who has removed from his residence but who is still eligible to vote from that address for any of the reasons enumerated in this chapter shall, at the time of his registration, or at the time of his removal, or upon request of the board of elections, file with such board, in person or by mail, a statement of temporary absence.

2. Such statement shall set forth where the voter actually resides, where he claims to be legally domiciled, the nature of his occupation or employment, the name and address of his employer, or the school he attends, or the institution at which he is resident, the class to which he claims to belong and such other information as the board shall deem appropriate.

3. When such a statement is filed, the board of elections shall enter the words ''Statement of temporary absence filed'' in the ''remarks'' space on the face of such voter's registration poll record. The registration serial number of the voter shall be placed on such statement and it shall be preserved with the other records of the board of elections.

4. The state board of elections may prescribe a form of statement of temporary absence.

(L.1976, c. 233, § 1.)

§ 5–224. Registration of voters unlawfully denied the right to register

1. If any voter applies personally for registration and is unlawfully denied the right to register, the county board of elections may, upon the application of the voter in person or by mail to such board within two weeks after the last day of registration, or within five days after the date of the voter's receipt of notice of the rejection of his application, upon proper proof, and upon such notice to the chairman of the county committees of the several parties as the board shall prescribe, direct that he be registered in the election district in which he is a qualified voter. The directions of the county

board of elections shall be carried out by the board itself, by its clerks, or by the proper inspectors of elections, as the board may prescribe. The county board of elections shall make a final determination of such application not later than one week after the application is made by the voter.

2. If the board of elections has reason to believe that any applicant has been wrongfully denied the right to register, it shall notify him by mail and such person, upon application in person or by mail to the board of elections, within two weeks of the date of such notice, may be registered by the board of elections.

3. The board of elections shall make a final determination on such application not later than one week after it is made.

4. If any applicant is registered pursuant to the provisions of this section, such registration shall be deemed effective as of the date of the wrongful denial of the right to register.

(L.1976, c. 233, § 1. Amended L.1978, c. 9, § 32; L.1991, c. 90, § 21, eff. Dec. 1, 1991.)

§ 5–226. Registration; voter registered in wrong district

1. If any voter has been registered in a wrong election district, the board of elections shall, if he is a qualified voter in any election district within the jurisdiction of such board, change his registration to the correct election district. The board of elections shall thereupon give immediate notice by mail to such voter that his registration has been corrected, and also the location of the polling place of the election district in which he is a qualified voter.

2. If such voter does not reside in any election district within the jurisdiction of the board, his registration shall be cancelled and he shall be notified of the cancellation and the reason therefor.

3. The board shall maintain a list of all such corrections and cancellations as a public record in its office and shall deliver a copy of such list to the chairman of each political party seven days before each election.

(L.1976, c. 233, § 1.)

§ 5–228. Registration; certificates of local registration

1. At the close of local registration, each board of inspectors shall mail, or, if the board of elections directs, shall deliver to the board of elections a certificate, signed by the members of such board, stating the name, present residence address of each registrant and such other information as the board of elections shall require and a certificate stating the name and address of each person whom the board refused to register for any reason other than that he was already registered, and, in each instance, the reason for such refusal. The names and addresses shall be entered on such certificates during the day of registration as the voters concerned are registered or refused registration.

2. At the end of each period of local registration, the board of inspectors shall sign a certificate containing a tabulation of the following information:

a. The total number of voters registered on each day of local registration;

b. The total number of voters registered during such period of registration;

c. Such other information as shall be deemed appropriate by the county board of elections and the state board of elections.

Such certificate shall be mailed or delivered to the board of elections as it may direct, by the board taking registrations. In any city having therein an office of the board of elections, the board of elections may direct that such certificate shall be delivered to the police at the place of registration or the nearest police stationhouse. In such event, the police shall forthwith deliver the certificate to the board of elections at its nearest office.

3. The state board of elections shall prescribe the form of the certificates required by this section.

(L.1976, c. 233, § 1. Amended L.1976, c. 234, § 24, eff. Dec. 1, 1977.)

§ 5–230. Local registration; disposition of records and supplies

1. At the end of each day of registration, the chairman of each board of inspectors shall deliver the ledgers locked in the

carrying case, if any, the flag and all other supplies to the police at the place of registration, or, if directed, to the officer charged by this chapter with the duty of delivering such articles to the board. The police or such other officer shall return all such articles on the next day of registration to the chairman of such board at the place of registration immediately prior to the opening hour for registration.

2. If allowed by the board of elections, at the end of each day of registration, the chairman may, after locking and sealing the same, leave the registration poll records in the custody of a member of the board of one political party and the corresponding central file registration records with a member of the board of the opposite political party and himself retain custody of all other articles, or securely store such other articles in the place of registration if the same be a public building.

3. If allowed by the board of elections, at the end of each day of registration, the registration poll records and all other articles may be securely stored in the place of registration if the same be a public building.

4. At the close of the last day on which any board of inspectors is authorized to take registrations such board shall seal the ledgers and lock them in the carrying case; enclose all keys in a sealed package and enclose all executed forms in a sealed package. The chairman of such board shall deliver the sealed material, unused forms and all equipment and material furnished by the board of elections to a person designated by the board of elections to take custody of these items. The person designated shall deliver all such articles to the board of elections within twenty-four hours after the polls close.

5. The members of each board taking registrations shall sign all seals and shall affix their signatures to each in such a manner that the article sealed cannot be opened without breaking their signatures.

6. Any person receiving such supplies from the board of inspectors shall give to the person delivering such supplies a receipt therefor, which, if a ledger carrying case is included,

shall certify that such case was locked at the time he received it.

(L.1976, c. 233, § 1. Amended L.1978, c. 373, § 45; L.1985, c. 164, § 5, eff. Dec. 1, 1985.)

TITLE III—ENROLLMENT

Section

5–300. Enrollment; generally.
5–302. Enrollment; completion.
5–304. Enrollment; change of enrollment or new enrollment by previously registered voters.
5–306. Enrollment; correction of.
5–308. Repealed.
5–308. Enrollment; automatic voter registration.
5–310. Enrollment; forms of affidavits, mailing requirements.

§ 5–300. Enrollment; generally

At the time a voter is registered or completes an application for registration he may mark his party enrollment within the circle or box underneath or next to the party of his election on the application form.

(Added L.1985, c. 164, § 6, eff. Dec. 1, 1985.)

§ 5–302. Enrollment; completion

1. Before placing the registration poll record in the poll ledger or in the computer generated registration list, the board shall enter in the space provided therefor the name of the party designated by the voter on his application form, provided such party continues to be a party as defined in this law. If such party ceases to be a party at any time, either before or after such enrollment is so entered, the enrollment of such voter shall be deemed to be blank and shall be entered as such until such voter files an application for change of enrollment pursuant to the provisions of this chapter. The board shall enter the date of such entry and affix initials thereto in the space provided.

2. If the application form is for a voter who has changed his enrollment or a voter who has previously registered and not enrolled, then the board of elections shall compare the information and the signature appearing on each application form received with that on the registration poll record of the

applicant and if found to correspond in all particulars shall, not earlier than the Tuesday following the next general election and not later than the thirtieth day preceding the last day for publishing enrollment lists, proceed in the manner specified in subdivision one hereof to enter such enrollment on such voter's registration poll card.

3. If marks are found in more than one of the boxes or circles or if no marks are found in any of the boxes or circles of any application form, the voter who used the application form shall be deemed not to be enrolled, and the words blank or void shall be entered in the space reserved on his registration poll record for the name of a political party or in the computer files from which the computer generated registration lists are prepared. However if such application form sets forth the address of prior registration and such prior registration had not been previously cancelled, the party enrollment, if any, which is part of such prior registration shall be entered in such space on such registration poll record or in such computer files.

4. Registration poll records of voters whose registrations are not rejected by the board of elections shall forthwith be placed in the poll ledger or such voters' names shall forthwith be entered in the computer files from which the computer generated registration lists are prepared, except that the registration poll record of an otherwise qualified voter who registers after the twenty-fifth day before a primary election shall not be placed in such poll ledger or such voters' names shall not appear on such a computer generated registration list until after such primary and except further that the registration poll record of a voter whose previous registration was cancelled pursuant to the provisions of this chapter after the previous general election and who registers pursuant to the provisions of this chapter after such cancellation shall not be placed in such poll ledger or such voters' names shall not appear on such a computer generated registration list until after the fall primary election, unless such voter has enrolled with the same party as the enrollment on the registration which was so cancelled.

The registration poll record of a voter who is not eligible to vote in a primary election but who is eligible to vote in a

special election held before such primary election shall be placed in its regular place in the poll ledger or in a special section of such poll ledger for such special election as the board of elections, in its discretion, shall provide, or such name shall appear in its regular place on the computer generated registration list prepared for use in such special election. Such poll record shall be removed from such poll ledger or computer generated registration list immediately after such special election.

5. During the period preceding the ensuing primary election, the board of elections shall maintain as a public record a list of all enrollments entered, transferred or corrected, and not contained in the last published enrollment list. Such supplemental enrollment list shall contain the same information and shall be distributed in the same manner as the original enrollment list not later than the fifteenth day before the primary election.

(L.1976, c. 233, § 1. Amended L.1978, c. 9, § 35; L.1985, c. 164, § 7; L.1985, c. 164, § 7; L.1985, c. 558, § 1; L.1991, c. 90, § 13; L.1992, c. 91, § 3; L.1994, c. 659, § 18; L.2019, c. 55, pt. XX, § 5, eff. April 12, 2019.)

§ 5–304. Enrollment; change of enrollment or new enrollment by previously registered voters

1. A registered voter may change his enrollment in the manner prescribed by this section.

2. The term ''change of enrollment'' shall apply to applications by a registered voter already enrolled in one party to enroll in a different party, or to delete his enrollment in any party, or an application by a registered voter not enrolled in any party to enroll in a particular party.

3. A change of enrollment received by the board of elections will take effect immediately, provided however, any change of enrollment received by the board of elections after February fourteenth and before or on seven days after the June primary shall take effect on the seventh day after the June primary.

4. Registered voters may apply for change of enrollment personally by mail to or by appearing before a county board of elections or by appearing before a board of inspectors. If the

applicant has appeared in person and if the board finds that he or she is properly registered, it shall provide the applicant with an application form for voter registration by mail which shall be treated as an application for change of enrollment filed pursuant to this section. If the voter has applied personally by mail, the county board of elections shall mail him or her an application form for voter registration by mail as provided by this chapter. If a registered voter submits an application form for registration or enrollment as provided by this chapter, from the residence address from which he or she is then registered, and such form reflects a change of enrollment, the county board of elections shall treat such form as an application for change of enrollment filed pursuant to this section. If such application form also sets forth a new address within the same city or county, the board of elections shall also treat such form as an application for transfer of registration pursuant to section 5–208 of this article. If a voter has cast a ballot in an affidavit ballot envelope on which such voter claims a party enrollment different from the enrollment in the records of the board of elections, such affidavit shall be treated as an application for change of enrollment.

5. Repealed by L.1985, c. 164 § 9, eff. Dec. 1, 1985

(L.1976, c. 233, § 1. Amended L.1978, c. 373, § 46; L.1982, c. 147, §§ 1, 2; L.1985, c. 164, §§ 8, 9; L.1991, c. 90, § 14; L.1994, c. 659, § 19; L.2010, c. 62, § 2, eff. April 28, 2010; L.2019, c. 316, § 1, eff. Sept. 26, 2019.)

§ 5–306. Enrollment; correction of

1. If, after being regularly registered in an election district, a voter discovers he has made a mistake when enrolling, he may within one year from the date of his last registration apply to the board of elections of the county or city in which he resides for a correction of the mistake made by him when marking his enrollment blank, by filing his affidavit setting forth substantially as follows: how he is enrolled, and the town or city, election district, and when required, the ward or assembly district, in which he is registered, the street address, if any, from which he was registered, a statement, in substance, that his current enrollment blank was not marked correctly and that he did not intend to be so enrolled; the name of the party with which he did intend to enroll and

which he desires to be entered on the registration records; a statement that he has been duly and regularly enrolled with the party whose name he desires entered on his registration records for at least five years immediately preceding the registration at which such mistake occurred or that he was not registered for all or part of such five year period; the county or counties and the addresses at which he resided when he was so enrolled; that he is in general sympathy with the principles of the party with which he requests to be enrolled and intends to support generally its nominees at the next general election, and a statement that he has not enrolled in any party or participated in any primary election or convention of any party during the past five years, other than the one with which he requests to be enrolled.

2. If the applicant's certificate or, the registration records in the office of such board show the applicant to have been registered during such five year period elsewhere in the state of New York the board shall require the applicant to produce a certified transcript of his enrollment, if any, in such other jurisdiction within the state accompanied with proof, by affidavit, showing his identity with the person whose name appears in such transcript. If the records of any board of elections within the state show the applicant to have been enrolled during such five year period in any party other than the one with which he requests to be enrolled, or to have been registered but not enrolled, the application for correction of enrollment shall be denied.

3. A voter may correct his enrollment pursuant hereto on any of the days the board is open for registration. A correction made during the twenty-five-day period preceding a primary election shall not be effective for such election.

4. Where such application for correction of enrollment is approved, the board of elections shall enter the date of filing of the voter's affidavit along with the new party of enrollment in the spaces provided for entering enrollments on the back of his registration poll record or in the computer file from which the computer generated registration lists are prepared and the words ''Enrollment Corrected'' shall be entered in the remarks space therein. If requested by any member of the board, the correction of enrollment of any voter, or group of voters, must

be approved by two such board members or two employees of the board representing different political parties. Such members or employees shall place their initials or other identifying information on the registration poll record of such voter, or on a computer generated list of such corrections of enrollment. Such lists shall be preserved in the same manner, and for the same time, as such registration poll records. The board shall file such affidavit in a file specially maintained for that purpose.

(L.1976, c. 233, § 1. Amended L.1978, c. 373, § 47; L.1991, c. 90, § 22; L.1996, c. 116, § 2, eff. June 4, 1996.)

§ 5–308. Enrollment; automatic voter registration

[Eff. Jan. 1, 2023.]

1. The board of elections shall, promptly and not later than twenty-one days after receipt of a voter registration or pre-registration application submitted pursuant to title nine of this article by a voter registering or pre-registering for the first time, send any such voter who did not enroll in a party a notice and a form to indicate party enrollment, with return postage paid by the board of elections. Such notice shall offer the voter the opportunity to enroll with a party or to decline to enroll with a party and contain the following statement in prominent type ''IF YOU DO NOT CHOOSE A PARTY YOU WILL NOT BE ABLE TO PARTICIPATE IN PRIMARY ELECTIONS FOR THAT PARTY.'' Such form shall provide a clear alternative for the applicant to decline to affiliate with any party. If the board of elections has not received a response to the party enrollment notice and form within forty-five days of the application, the board shall mail a second similar notice and form to the voter.

2. Notwithstanding subdivision two of section 5–304 of this title, if a voter who registered to vote for the first time (or pre-registered) pursuant to title nine of this article responds to the notice required by subdivision one of this section and elects to enroll in a party, such enrollment shall take effect immediately. However, any pre-registrant's registration shall remain classified as ''pending'' until he or she reaches the age of eligibility.

3. If a voter appears at a primary election and votes by affidavit ballot indicating the intent to enroll in such party, such

affidavit ballot shall cause the voter to be enrolled immediately in that party if the board of elections determines that the voter registered (or pre-registered) to vote for the first time pursuant to title nine of this article.

4. If a voter appears at a primary election and votes by affidavit ballot indicating the intent to enroll in such party, such affidavit ballot shall be cast and counted if the board of elections determines that the voter registered (or pre-registered) to vote at least twenty-five days before that primary pursuant to title nine of this article and such voter is otherwise qualified to vote in such election.

(Added L.2020, c. 350, § 3, eff. Jan. 1, 2023.)

§ 5–310. Enrollment; forms of affidavits, mailing requirements

1. The board shall prepare forms for the various applications and affidavits required under this title and, upon application, shall furnish a copy of the appropriate form to or for any voter desiring to use the same, and an additional copy if required. Copies also may be sold by the board, at cost, to any qualified voter.

2. Except when a voter is expressly required to file a paper in person, such paper may be filed either in person, by agent or sent by mail. Mailing within the state and within the times prescribed for filing shall be sufficient if the affidavit be received by the board. The postmark shall be sufficient proof of the date of mailing. If mailed outside of the state or if the postmark is omitted or illegible the affidavit must be received by the board within the times so prescribed for filing.

(L.1976, c. 233, § 1.)

TITLE IV—CANCELLATION OF REGISTRATION

Section

5–400. Cancellation of registration; generally.
5–402. Cancellation of registration; generally, notice to voter.
5–403. Rejection of ballot of unqualified voter; notice of action by board.
5–404. Cancellation of registration; cancellation of record.
5–406. Repealed.

§ 5–400. Cancellation of registration; generally

1. A voter's registration, including the registration of a voter in inactive status, shall be cancelled if, since the time of his last registration, he:

(a) Moved his or her residence outside the state.

(b) Was convicted of a felony disqualifying him from voting pursuant to the provisions of section 5–106 of this article.

(c) Has been adjudicated an incompetent.

(d) Refused to take a challenge oath.

(e) Has died.

(f) Did not vote in any election conducted by the board of elections during the period ending with the second general election at which candidates for federal office are on the ballot after his name was placed in inactive status and for whom the board of elections did not, during such period, in any other way, receive any information that such voter still resides in the same county or city.

(g) Personally requested to have his name removed from the list of registered voters.

(h) For any other reason, is no longer qualified to vote as provided in this chapter.

2. For the purposes of this section a personal request to be removed from the list of registered voters shall include the following:

(a) A statement signed by the registrant which makes such a request.

(b) A notice that the registrant has moved to an address outside the state which is signed by the registrant and sent to the board of elections.

(c) A notice signed by the registrant which states that such registrant has moved to an address outside the state and that such change of address is for voter registration purposes.

(d) A notice from a board of elections or other voter registration officer or agency that such person has registered to vote from an address outside the state.

(L.1976, c. 233, § 1. Amended L.1978, c. 9, § 37; L.1979, c. 522, § 2; L.1981, c. 37, § 2; L.1989, c. 359, § 18; L.1991, c. 263, § 5; L.1994, c. 659, §§ 20 to 22; L.2019, c. 3, §§ 4, 5, eff. March 25, 2019.)

§ 5–402. Cancellation of registration; generally, notice to voter

1. The board of elections shall cancel the registration of a voter when he is no longer qualified to vote or as required herein.

2. Whenever the board has reason to believe that a registered voter is no longer qualified to vote, it shall, before cancelling his registration, notify him, in a form approved by the state board of elections, by first class forwardable mail to the address from which he was last registered that he may appear before the board or answer in writing by mail, stating the reasons why his registration should not be cancelled. Such notice shall also state that if the voter does not appear or answer in writing within fourteen days after such notice is mailed, his registration will be cancelled. Such notice shall also advise the voter of his right to reregister pursuant to the provisions of this chapter and shall contain the phone number to call for the days and hours of local registration and the location of local registration places, the deadline for personal registration by mail for the next general election and the phone number to call to obtain additional applications for personal registration by mail. No such notice shall be required in order to cancel the registration of a voter who has made a personal request to be removed from the list of registered voters as defined by subdivision two of section 5–400 of this title or the registration of a voter whose name has been in inactive status for at least the period required by paragraph (f) of subdivision one of section 5–400 of this title or to cancel the registration of a voter who has died. Together with such notice of cancellation, the board shall mail to such voter a postage paid return card in a form approved by the state board of elections. Such card shall provide a place for the voter to set forth the reasons for his continued eligibility to vote in such county or city and

to indicate his current address in the county or city and a statement that failure to return the card will result in cancellation of registration. The card shall also inform the voter of how to reregister if the voter has moved out of the county or city. If such registered voter shall fail to appear or answer in writing within such time or if, after he so appears or writes, the board is not satisfied that he is qualified to remain registered, the board shall cancel his registration.

3. The board of elections shall notify immediately every person whose registration is cancelled after such person has responded, in person or by mail, to a notice sent pursuant to subdivision two of this section, of the action taken and the reason therefor, by written notice to the address from which he was last registered. Such notice shall advise such persons either of their right to reregister or their right to apply to a court of law for reinstatement, whichever is appropriate.

4. Each board of elections shall, at least once a month, transmit to the appropriate board of elections, a list of the names, old addresses and new addresses of every voter whose registration was cancelled pursuant to the provisions of paragraph (a) of subdivision one of section 5–400 of this title because the voter moved to an address in the jurisdiction of the board to which the list is sent, unless the board of elections sending the list has received notice that the voter has already registered to vote from the new address.

(L.1976, c. 233, § 1. Amended L.1978, c. 9, § 38; L.1978, c. 373, § 49; L.1987, c. 146, § 1; L.1994, c. 659, §§ 23, 24; L.1996, c. 200, § 13; L.1997, c. 94, § 1, eff. June 11, 1997.)

§ 5–403. Rejection of ballot of unqualified voter; notice of action by board

If the ballot of any person, voted in an affidavit envelope in the manner prescribed by this chapter, is rejected under the provisions of this chapter on the grounds that such person is not a qualified voter of the election district wherein he or she sought to vote, or is not duly enrolled in the party in whose primary he or she sought to vote and if such person has completed the application for registration and enrollment or change of enrollment on such affidavit envelope, the board of elections shall process such an application in the same manner

as other applications for registration and enrollment or change of enrollment. The board of elections shall immediately notify such person by first class mail directed to the address given in his or her affidavit, of the rejection of his or her ballot, together with the reason therefor and, if such person has not completed the application for registration by mail, the appropriate information on the times and places where he or she may register, re-register, enroll, or change or correct his or her enrollment. Where appropriate, a form of application for personal registration by mail shall be included with such notice.

(L.1976, c. 233, § 1. Amended L.2010, c. 62, § 3, eff. April 28, 2010.)

§ 5–404. Cancellation of registration; cancellation of record

1. The board of elections shall cancel a registration by marking the word ''Cancelled'' on the face of each of the voter's registration poll records, without obliterating any of the entries thereon, and shall enter the reasons for such cancellation on the face of such registration record or, if the board uses computer generated registration lists, entering such reasons in the computer records. If requested by any member of the board, the cancellation of registration of any voter, or group of voters, must be approved by two such board members or two employees of the board representing different political parties. Such members or employees shall place their initials or other identifying information on the registration poll record of such voter, or on a computer generated list of such cancellations. Such lists shall be preserved in the same manner, and for the same time, as such registration poll records.

2. The board shall supply a list of registration cancellations and reinstatements to the county chairman of any political party requesting same.

(L.1976, c. 233, § 1. Amended L.1996, c. 116, § 3.)

§ 5–406. Repealed by L.1994, c. 659, § 25, eff. Jan. 1, 1995

TITLE V—REGISTRATION RECORDS

Section

5–500. Registration records; form and content.

Section
5–502. Registration records; supplies and equipment.
5–504. Optional discontinuation of central file registration records.
5–506. Optional use of computer registration lists.
5–507. Voter pre-registration and education on voter pre-registration.
5–508. Confidentiality of registration records in certain cases.

§ 5–500. Registration records; form and content

1. There shall be two records of the registration of each voter. Except as otherwise provided in this chapter, one record shall be sent, at the time of every election, to the polling place where the voter is entitled to vote, and shall be known as the ''registration poll record''. Between elections it shall be kept in the main office or a branch office of the board of elections. The other record shall be kept constantly in such main office or branch office and shall be known as the ''central file registration record''. The two types of records shall be prepared in different colors.

2. The face of each registration record, at or before its use, shall have entered at the top the name of the county in which it is to be used and a registration serial number, which shall be different for each voter but the same for the two records of each voter.

3. The central file registration records shall be printed on one side only, and shall be identical in substance, printing and arrangement with the face of the registration poll records.

4. The central file registration records and the face of the registration poll records shall contain a space for the voter's signature, preceded by the words, ''The foregoing statements are true'', and followed by the signature of the two members of the board of inspectors or central registration board by whom the voter is registered. In addition, there shall be spaces for the following entries, all of which shall precede the space for the voter's signature:

a. Serial number assigned to voter and county of registration;

b. The voter's surname, given name and initials of other names;

c. The date of registration;

d. The residence address at which the voter claims to reside and post office address, if not the same; and the number or designation of the room, apartment, or floor occupied by the voter if he or she does not claim the entire building as his or her residence; and in addition, space for the furnishing of an e-mail address, the furnishing of which shall be optional, together with a notice stating that if an e-mail address is furnished, all notices and communications otherwise required to be sent by the state board of elections to the voter by postal mail shall be sent by e-mail in addition to postal mail. County boards of elections and the board of elections of the city of New York shall have the option of sending notices and communications otherwise required to be sent to the voter by postal mail by e-mail in addition to postal mail if the voter furnishes an e-mail address;

e. The assembly district or ward and the election district in which such residence address is located;

f. The length of the voter's residence in the county or city calculated to the time of the next general election;

g. Whether the voter has previously voted or registered to vote and, if so, the approximate year in which he last voted or registered and his name and address at the time;

h. His date of birth;

i. A space for the applicant to indicate whether or not he is a citizen of the United States;

j. The gender of the voter (optional);

k. The telephone number of the applicant (optional);

l. Whether the voter was challenged;

m. A space for the applicant to indicate his choice of party enrollment, with a clear alternative provided for the applicant to decline to affiliate with any party.[1]

n. On the face of each registration record there also shall be spaces appropriately entitled, for entering information about the cancellation of registration, the date of such cancellation and the reason therefor, and the signature of the two members or employees of the board, representing different political parties by whom the cancellation was recorded;

o. A space for ''remarks'' regarding other facts required by this chapter to be recorded or appropriate to identify the voter;

p. A space for pre-registering applicants to respond to the following question: ''Are you at least 16 years of age and understand that you must be 18 years of age on or before election day to vote, and that until you will be eighteen years of age at the time of such election your registration will be marked 'pending' and you will be unable to cast a ballot in any election?''.

5. On each registration poll record shall be spaces appropriately entitled and arranged for the voting record and signature of each voter. Each line above the last shall be reserved for the entries for each election at which the voter casts his vote. Such arrangement shall allow for the entry of the following information with reference to each election at which the registrant shall vote; the year, month and day of the election; the voter's number recorded on the public-counter, and the designation of the particular machine used if there be more than one in the district, if voting machines are used; the number on the ballot delivered and voted by the voter, if paper ballots are used; the signature of the voter; and the signatures or initials of the election inspectors by whom the voter is admitted to vote. On the last line at the bottom shall be a space for the voter's signature to be made at the time of registration.

6. On a different part of the registration poll record shall be spaces for recording the enrollment of the voter, changes in such enrollment, including, in each case, the number of the enrollment blank used, the date, the name of the party, appropriate remarks; and the initials of the board members who make any entry: [2]

7. The state board of elections shall prescribe the form of the record required by this section which may include any additional information it shall deem necessary. The state board may provide that the form of application for registration by mail may be used in lieu of the form prescribed by this section.

(L.1976, c. 233, § 1. Amended L.1978, c. 8, § 11; L.1978, c. 9, § 39; L.1978, c. 373, §§ 50, 51; L.1985, c. 164, §§ 10, 11; L.1985, c. 786, § 2; L.1988, c. 320, § 1; L.1993, c. 27, § 2; L.1994, c. 659, § 26; L.2019, c. 2, § 1, eff. Jan. 1, 2020; L.2019, c. 536, § 2, eff. Nov. 25, 2020.)

[1] Punctuation as in original.

[2] Punctuation as in original.

§ 5–502. Registration records; supplies and equipment

1. The board of elections shall furnish in time for use by the boards of inspectors of election, the registration records, an American flag, a map or certified description of the election district, and the adjoining election districts, challenge affidavits, absentee voting applications, a list of voters who are currently registered in the election district, a list of those voters who have been cancelled in the last year with the reason for such cancellations, forms for statements of temporary absence, a sufficient number of copies of the ballot proposals to be submitted to the voters at the ensuing election, at least one copy of the instruction booklet for inspectors and all other forms and supplies required for the administration of the registration system as provided by this article.

2. The board of elections shall also maintain in its custody and control:

a. At the headquarters of the board, filing cabinets and ledgers sufficient in number and form to accommodate the records required by this article to be kept at such headquarters or office.

b. Carrying cases sufficient to carry to and from the registration places the ledgers, if any, and forms required by this chapter to be available for use at such places.

3. Each ledger and cabinet shall be equipped with a lock of such a nature that when the ledger or cabinet is locked it shall not be possible to remove any record or form which has been filed therein, or to file in it any other record or form. Each carrying case shall be equipped with a lock. Each carrying case lock and its key shall bear an identical distinctive identifying number.

4. Subject to the requirements of this article, the state board of elections shall prescribe the number of and the form, content, color and specifications of such registration records, lists, and check cards. It may require such other forms, supplies and equipment as it deems necessary to be furnished

by the boards of elections and any other officer charged with equipping the places for taking registrations.

(L.1976, c. 233, § 1. Amended L.1978, c. 9, § 40; L.1978, c. 373, § 52; L.1981, c. 74, § 2; L.1982, c. 647, § 4; L.1985, c. 164, § 12, eff. Dec. 1, 1985; L.1985, c. 510, § 5, eff. Jan. 1, 1986.)

§ 5–504. Optional discontinuation of central file registration records

1. Notwithstanding the provisions of this article to the contrary, a board of elections may apply to the state board of elections for permission to discontinue preparation, use and maintenance of central file registration records.

2. The state board of elections shall adopt regulations establishing the requirements which must be met by a board of election seeking such permission.

3. Such requirements shall include, but not be limited to the following:

a. The board of elections maintains a complete, current computer record of all registered voters.

b. At least one copy of such record is kept in a building other than the one in which the offices of the board of elections are located.

c. The board of elections maintains, as a public record, at the appropriate office of the board, a complete and current alphabetized list of all registered voters, including voters in inactive status, which contains next to each voter's name at least the following information: address, town or city, assembly district where appropriate, election district, registration serial number, party enrollment, date of registration, sex, date of birth and, if the voter is in inactive status, an indication of that fact.

d. A board of elections which has discontinued use of registration poll ledgers shall not be required to maintain such an alphabetized list of all registered voters if it has available for public use, a sufficient number of computer terminals from which such information can be obtained. Such terminals must have the capacity to display a series of names arranged in such alphabetical order without an inquiry for each such name having to be entered into the computer separately.

4. After such inquiry as it deems appropriate, the state board of elections shall approve the applications of those boards of elections whose systems meet the requirements established by this section and the regulations of the state board. Such boards may then discontinue preparation, use and maintenance of central file registration records.

5. If the state board of elections amends its regulations, a board of elections whose system was previously approved by the state board shall have a reasonable time to conform to the new regulation.

6. If the state board of elections determines on its own initiative, or upon investigation of a complaint, that the system being used by a board of elections is not in compliance with the requirements of this section and the regulations of the state board, it shall order such board of elections to comply forthwith.

7. If such a board of elections does not comply with the provisions of subdivision six of this section, the state board shall issue an order withdrawing permission to discontinue use of central file registration records and such board of elections shall be required to reinstitute use of such records on the first day of December following issuance of such an order.

(Added L.1981, c. 934, § 1. Amended L.1994, c. 659, §§ 27, 28.)

§ 5–506. Optional use of computer registration lists

1. Notwithstanding the provisions of this chapter to the contrary, a board of elections may apply to the state board of elections for permission to discontinue preparation, use and maintenance of registration poll records.

2. The state board of elections shall adopt regulations establishing the requirements which must be met by a board of elections seeking such permission.

3. Such requirements shall include, but not be limited to the following:

a. The board of elections maintains a complete, current, computer readable record for each registered voter which includes a reproducible signature, except that the record of the elections in which such voter has voted shall not be required to

be maintained in such record for longer than the five previous calendar years. Such record may also include a copy of the entire registration poll record or application for registration of each such voter.

b. The board of elections maintains at least two copies of such computer readable records, which it stores in two different buildings.

c. The computer generated registration list prepared for each election in each election district shall be prepared in a manner which meets or exceeds standards for clarity and speed of production established by the state board of elections, shall be in a form approved by such board, shall include the names of all voters eligible to vote in such election and shall be in alphabetical order, except that, at a primary election, the names of the voters enrolled in each political party may be placed in a separate part of the list or in a separate list, as the board of elections in its discretion, may determine. Such list shall contain, adjacent to each voter's name, or in a space so designated, at least the following: street address, date of birth, party enrollment, year of registration, a computer reproduced facsimile of the voter's signature or an indication that the voter is unable to sign his name, a place for the voter to sign his name at such election and a place for the inspectors to mark the voting machine number, the public counter number if any, or the number of any paper ballots given the voter.

d. The board of elections preserves, for as long as registration records are otherwise required to be preserved, the original application for registration or registration poll record of every registered voter filed in a manner which makes such records available for examination or, if the computer readable record for each registered voter maintained by the board of elections includes a copy of the entire registration poll record or application for registration of each such voter, the board of elections preserves the original of each such poll record or application in such a manner for a period of at least two years, or such longer period as the state board of elections may require, after such copy is entered in the computer readable record or if such computer readable records do not include the backs of those registration poll records which have been used at one or more elections, the board preserves the original of

each such poll record for a period of at least two years after such copy is entered in such computer readable record or four years after the last election at which such poll record was used, whichever is later, or such longer period as the state board of elections may require.

4. After such inquiry as it deems appropriate, the state board of elections shall approve the applications of those boards of elections whose systems meet the requirements established by this section and the regulations of the state board. Such boards may then discontinue preparation, use and maintenance of registration poll records.

5. If the state board of elections amends its regulations, a board of elections whose system was previously approved by the state board shall have a reasonable time to conform to the new regulation.

6. If the state board of elections determines on its own initiative, or upon investigation of a complaint, that the system being used by a board of elections is not in compliance with the requirements of this section and the regulations of the state board, it shall order such board of elections to comply forthwith.

7. If such a board of elections does not comply with the provisions of subdivision six of this section, the state board shall issue an order withdrawing permission to discontinue use of registration poll records and such board of elections shall be required to reinstitute use of such records on the first day of December following issuance of such an order.

8. No computer tape, computer disc or other record which can be used to reproduce such computer generated facsimile signatures shall be sold or otherwise distributed other than for use by a board of elections or upon the order of a court of competent jurisdiction. However all other data contained on any such tape, disc or record shall be sold or otherwise distributed in the same manner as other records of the board of elections.

(Added L.1986, c. 425, § 3. Amended L.1988, c. 43, § 1; L.1992, c. 91, § 4; L.1992, c. 389, § 2; L.1994, c. 659, § 29; L.2019, c. 55, pt. XX, § 6, eff. April 12, 2019.)

§ 5–507. Voter pre-registration and education on voter pre-registration

1. Pre-registration. A person who is at least sixteen years of age and who is otherwise qualified to register to vote may pre-register to vote, and shall be automatically registered upon reaching the age of eligibility as provided by this chapter.

2. Encouragement of student voter registration and pre-registration. Local boards of education are required to adopt policies to promote student voter registration and pre-registration. These policies may include collaboration with county boards of elections to conduct voter registration and pre-registration in high schools. Completion and submission of voter registration or pre-registration forms shall not be a course requirement or graded assignment for students.

(Added L.2019, c. 2, § 2, eff. Jan. 1, 2020.)

§ 5–508. Confidentiality of registration records in certain cases

1. For purposes of this section:

(a) ''Victim of domestic violence'' means any person who is a victim of a violent felony, as defined in section 70.02 of the penal law, or disorderly conduct, harassment in the first degree, harassment in the second degree, aggravated harassment in the second degree, aggravated harassment in the third degree, stalking in the fourth degree, criminal mischief, menacing in the second degree, menacing in the third degree, reckless endangerment, assault in the third degree or an attempted assault; and

(i) such act or acts have resulted in actual physical or emotional injury or have created a substantial risk of physical or emotional harm to such person or such person's child; and

(ii) such act or acts are or are alleged to have been committed by a family or household member.

(b) ''Family or household members'' mean the following individuals:

(i) persons related by consanguinity or affinity;

(ii) persons legally married to one another;

(iii) persons formerly married to one another regardless of whether they still reside in the same household;

(iv) persons who have a child in common regardless of whether such persons are married or have lived together at any time;

(v) persons who are not related by consanguinity or affinity and who are or have been in an intimate relationship regardless of whether such persons have lived together at any time. Factors the court may consider in determining whether a relationship is an ''intimate relationship'' include but are not limited to: the nature or type of relationship, regardless of whether the relationship is sexual in nature; the frequency of interaction between the persons; and the duration of the relationship. Neither a casual acquaintance nor ordinary fraternization between two individuals in business or social contexts shall be deemed to constitute an ''intimate relationship''.

2. Upon application made to the supreme court, county court, or family court, in the county wherein a victim of domestic violence is registered pursuant to this article, the court may issue an order requiring that any registration record kept or maintained in accordance with this article and any other records with respect to such an individual be kept separate and apart from other such records and not be made available for inspection or copying by the public or any other person, except election officials acting within the course and scope of their official duties and only as pertinent and necessary in connection therewith.

(Added L.2010, c. 73, § 1, eff. May 5, 2010. Amended L.2017, c. 396, § 1, eff. Oct. 23, 2017.)

TITLE VI—FILING AND CUSTODY OF REGISTRATION RECORDS

Section

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Section
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§ 5–600. Registration records; filing of

1. The board of elections shall keep all registration records, when not in use at the polls for an election, at its main office, or a branch office designated by it. Such records shall be kept in locked ledgers or locked filing cabinets and shall not be removed from the office or branch office of the board of elections, except that the registration poll records of all voters entitled to vote at an election shall be delivered as provided in this chapter to the appropriate election district polling places for use at such election.

2. The central file registration records shall be filed for the entire county using a system permitting location by name. Cancelled registration records shall be filed separately and shall be arranged in the same manner as current registration records.

3. The registration poll records shall be classified by election districts, the records for each election district being filed according to street, by number, and alphabetically within any address or in the discretion of the board of elections they may be filed alphabetically by name of voter.

4. Any registration record not completed because of the refusal of a board of inspectors to register an applicant shall be filed by the board of elections with the cancelled registration records as if the person affected had registered and his registration had been cancelled.

5. After receipt thereof from a board of inspectors at the close of a period of local registration, the board of elections, before removing any records or blank forms from any ledger containing registration records of voters registered during such period, shall compare such records and blanks with the certificate filed by such board of inspectors. It shall investigate any discrepancy between such returned material and the information contained on such certificate and if such discrepancy is not satisfactorily resolved, it shall, at the request of any commissioner, make a written report thereof in triplicate and send one copy of such report to the district attorney and one to the

state board of elections and keep the third copy on file at its office as a public record. The board of elections shall then remove the records and blanks from the ledgers and shall file them as provided herein.

(L.1976, c. 233, § 1.)

§ 5–601. Registration records; physically disabled voters

1. A physically disabled voter whose polling place is located in a building that is not accessible shall be entitled to vote in any other election district whose polling place is located in a building which is accessible, provided that the candidates and ballot proposals on the ballot in such other election district are the same as those on the ballot in the election district in which such voter resides.

2. A written application by a disabled voter to have his registration record transferred to an election district which has an accessible polling place shall be valid for an election occurring more than fourteen days after it is received by the board of elections and, if the voter is permanently disabled, for all subsequent elections. Such application may specify the election district to which the voter wishes his registration records transferred.

3. The board of elections shall keep all such applications from permanently disabled voters on file at its office. Not later than twelve days before each election, the board shall transfer the records of each voter for whom it has such an application and who continues to be registered from the address on such application to an election district in the polling place specified in such application. If the application does not specify such an election district, or if the election district so specified is not one to which such records properly may be transferred for such election, the board of elections shall transfer such record to the election district among those to which it may properly be transferred for such election, which is located in the accessible polling place closest to the residence of the applicant.

4. If such registration records are in the form of registration poll records, the board of elections, before transferring any such registration record, shall make a photocopy thereof.

Such photocopies shall be kept on file in the offices of such board in case such registration poll record is lost.

5. Upon removing such a registration poll record from a poll ledger, the board of elections shall insert in such poll ledger, at the place where such registration poll record was filed, a form giving the name and address of the voter, stating that the registration poll record was moved pursuant to the provisions of this section and giving the number of the election district to which such registration poll record was moved and the location of the polling place for such election district.

6. If such registration records are kept in the form of computer generated registration lists, the board of elections at the time such registration record is transferred, shall cause to be entered on the computer generated registration at the place where such registration record would have appeared, the name and address of the voter but without the computer reproduced facsimile of the voter's signature and either a notation that such record was moved pursuant to the provisions of this section together with the number of the election district to which such record was moved and the location of the polling place for such election district or a notation stating where, in such computer generated registration list, such information is provided.

7. Not later than ten days before each election, the board of elections shall mail to each voter who has made application pursuant to the provisions of this section, by first class mail, information specifying the number and location of the election district to which his records have been transferred or that there is no election district to which such records may properly be transferred which is located in an accessible polling place.

8. If the board determines that there is no election district in an accessible polling place to which such voter's record may properly be transferred for a particular election, it shall treat the application of such voter as an application for an absentee ballot for such election and forthwith mail such absentee ballot to such voter at his residence address together with the notice required by subdivision seven of this section.

9. The board of elections shall compile a list, arranged by election districts of residence, of the names and addresses of all voters whose registration records have been moved pursuant to the provisions of this section and the number of the election district to which such registration record was moved. Not later than six days before election day, the board of elections shall send a copy of such list to the county chairman of each party. Such list shall be a public record at the office of such board of elections.

10. The state board of elections shall prescribe a standard form of application for use under this section and all forms necessary to carry out the provisions of this section.

(Added L.1988, c. 117, § 1. Amended L.1988, c. 604, § 1; L.1991, c. 599, § 1, eff. Dec. 1, 1991.)

§ 5–602. Lists of registered voters; publication of

1. After the last day of local registration and before the sixth day before the next ensuing general election in each year, the board of elections shall cause to be published a complete list of names and residence addresses of the registered voters for each election district over which the board has jurisdiction. The names for each election district may be arranged according to street and number or alphabetically. Each list shall be prepared in such a manner as to indicate the registrants whose names did not appear on the list of registered voters last published pursuant to the provisions of this section and the registrants who are in inactive status. The board of elections, in its discretion, may publish the names of the registrants in inactive status as a separate list. In lieu of publishing such a registration list, such board of elections may publish a complete list of the names and residence addresses of all registered voters whose names do not appear in the annual enrollment lists published in such year by such board, in the same form as such enrollment lists, and a list of the registered voters whose names appear in such annual enrollment lists but who have been placed in inactive status or whose registrations have been cancelled since the publication of such annual enrollment lists. Lists for all election districts in a ward or assembly district may be bound together in one volume.

2. The board of elections shall cause a list to be published for each election district over which it has jurisdiction.

3. The board of elections shall prepare such number of copies of such lists as it determines will be sufficient to meet the demand for such lists and shall send at least one copy of each such list to the state board of elections, and shall keep at least five copies for public inspection at each main office or branch of the board. Other copies shall be sold at a charge not exceeding the cost of publication.

(L.1976, c. 233, § 1. Amended L.1994, c. 85, § 2; L.1994, c. 659, § 30; L.1996, c. 176, § 1, eff. June 18, 1996.)

§ 5–604. Enrollment lists; publication of

1. The board of elections shall also cause to be published for each election district a complete list of the registered voters of each election district. Such list shall, in addition to the information required for registration lists, include the party enrollment of each voter. At least as many copies of such list shall be prepared as the required minimum number of registration lists.

Lists for all the election districts in a ward or assembly district may be bound together in one volume. The board of elections shall also cause to be published a complete list of names and residence addresses of the registered voters, including the party enrollment of each voter, for each town and city over which the board has jurisdiction. The names for each town and city may be arranged according to street and number or alphabetically. Such lists shall be published before the twenty-first day of February. The board shall keep at least five copies for public inspection at each main office or branch office of the board. Surplus copies of the lists shall be sold at a charge not exceeding the cost of publication.

2. Immediately after the publication of such lists the board shall send at least one true copy, duly certified, of each such list to the state board of elections.

(L.1976, c. 233, § 1. Amended L.1996, c. 176, § 2; L.1996, c. 709, § 1, eff. June 18, 1996; L.2010, c. 28, § 1, eff. March 30, 2010; L.2019, c. 5, § 9, eff. Jan. 24, 2019; L.2019, c. 316, § 2, eff. Sept. 26, 2019.)

§ 5–606. Lists; certification of

1. The board of elections shall certify to the correctness of any transcript of original registration or enrollment entries, or of any part thereof, on the payment of one cent for every twenty names contained in the transcript.

2. The board of elections shall on request give to any enrolled voter a certificate of enrollment which shall specify the name of the party with which he is enrolled, the date of enrollment and the election district in which such voter is enrolled.

(L.1976, c. 233, § 1.)

§ 5–608. Replacement of registration and enrollment records; damaged, unusable or lost

1. If the registration or enrollment records of any voter shall be lost, mutilated, defaced or destroyed, the board of elections shall, except as provided in subdivision two hereof, require him to reregister or reenroll. Such reregistration or reenrollment shall be deemed to have taken effect as of the date of the original registration or enrollment.

2. If one or both of the registration records of the voter are still in the possession of the board of elections and it is possible therefrom to duplicate the lost or damaged record, the board of elections shall prepare a new record containing all the information required, using the original serial number, and shall paste photostatic copies of the voter's signature in each space on the new record where his signature was placed on the original record.

3. When the spaces for signature or for other entries, on a registration poll record are filled so as to render a record no longer usable, the board of elections shall prepare a second poll record. All pertinent information shall be copied from the original poll record on to the second poll record. The registration signature on the original poll record shall be photostated and pasted on the back in the space for the registration signature on the second poll record. Within the space reserved for remarks shall be imprinted ''Record Continued—2nd Poll Record'', or ''3rd Poll Record'', as appropriate.

4. The active but unusable poll record shall be kept in a special file for active continued registrations until such time as

the next poll record may be cancelled, at which time the poll records are stamped ''cancelled'' and fastened together when placed in the cancellation file.

5. All mutilated or defaced registration records which are replaced by new records under the provisions of this section shall be stamped across the face with the words ''Record Replaced'', without obliterating any of the entries thereon and shall be kept on file by the board of elections.

6. If the records of an entire election district or a large segment thereof are lost, mutilated, defaced or destroyed, or are determined by the board of elections to be so inaccurate or incomplete as to be unusable, such board may, upon due notice, require re-registration of all qualified voters resident within such district. In such event, the board shall fix and determine additional days of local registration for such re-registration.

(L.1976, c. 233, § 1.)

§ 5–610. Registration records; new election district

When an election district is created, abolished or altered in any way, the board of elections shall do all things necessary to transfer the affected registration records to conform to the new plan of election districts and shall make all necessary changes in the designation of the election district and political subdivision on the registration record of each voter affected. At least twenty days before the next election, after such new plan of election districts has been effected, the board of elections shall mail a written notice to each affected registered voter notifying him of the designation of the new political subdivision, if any, and the number of the election district to which his registration record has been transferred, and if available, the address of his polling place.

(L.1976, c. 233, § 1.)

§ 5–612. Registration records; use by town or village clerks and for school district, improvement district and fire district elections

1. The board of elections shall, not later than the twentieth day before a special town election and not later than the

seventh day before a village election conducted by the village clerk, provide a list of registered voters or shall place registration poll records in properly locked ledgers in the temporary custody of the town or village clerk for the purpose of permitting him to copy such records or to deliver such records for village election purposes to the board of inspectors of the several polling places in the election districts as provided by this chapter. The board of elections shall indicate on such list, or on a separate accompanying list, the names of those voters whose registration records have been marked ''permanently disabled''. The names of voters in inactive status shall appear on a separate accompanying list. Voters listed in inactive status who appear at the polls to vote shall be challenged in the manner provided by section 8–504 of this chapter.

2. Notwithstanding the provisions of sections nineteen hundred six, twenty hundred fourteen and twenty-six hundred six of the education law with respect to registration of voters, any person, otherwise qualified to vote who is registered under the provisions of this article shall be entitled to vote at all school district meetings or elections without further registration.

3. Whenever a school district meeting or election is scheduled, the board of elections for the appropriate county or counties shall deliver the registration lists, indicating on such list, or on a separate accompanying list, the names of those voters whose registration record has been marked ''permanently disabled'', and, on a separate accompanying list, the names of voters in inactive status who shall be challenged if they appear at the polls to vote, for the appropriate election districts or those portions of the election districts encompassing the school district to the appropriate officials of such school district as soon as possible upon request of the appropriate officials, but no later than the thirty days immediately prior to the regularly scheduled school district election, provided further, that such board of elections shall deliver no later than ten days prior to each such special or regular school district election supplemental registration lists containing the names of those voters who have registered after delivery of the first registration lists and who are eligible to vote in such elections, indicating on such list or on a separate accompany-

ing list the names of those voters whose registration record has been marked ''permanently disabled''.

4. Within five days of the adoption by a board of education of a resolution in accordance with subdivisions one and three of section two thousand fourteen of the education law, such board of education shall notify the appropriate board of elections of such adoption.

5. The board of education of a school district which has adopted such a resolution shall, not less than forty-five days before each regularly scheduled school district meeting or election and fourteen days before any such special meeting or election notify the board of elections of the date of such meeting or election.

6. The board of elections, upon the request of the board of commissioners of an improvement district which elects commissioners or a fire district shall, not later than the twenty-first day before each election in such district, deliver to the secretary of such district a list of persons registered to vote as of the twenty-third day before such election in the election districts contained in such district, indicating on such list the names of the voters in inactive status, or shall place the registration poll records for such election districts in properly locked ledgers in the temporary custody of such district secretary for the purpose of permitting him to copy such records. Any voter listed in inactive status who appears at the polls to vote, shall be challenged.

7. The appropriate official of each town, village, school district, improvement district or fire district which obtains a list of registered voters from the board of elections pursuant to the provisions of this section shall deliver the list containing the names of the voters in inactive status or, at the discretion of such official, a photocopy of such list to the board of elections not later than one week after the election at which the list was used with an indication of which voters listed in inactive status on such list voted at the election for which the list was prepared. If such official delivered the original list, the board of elections shall return such list to the official from whom it was received within three weeks thereafter.

(L.1976, c. 233, § 1. Amended L.1978, c. 8, § 12; L.1978, c. 9, § 41; L.1981, c. 117, § 2; L.1982, c. 702, § 1; L.1984, c. 58, § 1; L.1984, c. 202,

§§ 3, 4; L.1985, c. 400, §§ 5, 6; L.1988, c. 396, § 1; L.1989, c. 359, § 14; L.1990, c. 67, § 2; L.1992, c. 217, § 1; L.1996, c. 200, §§ 14, 15, eff. June 25, 1996.)

§ 5–614. Statewide voter registration list

1. There shall be one official record of the registration of each voter. Such record shall be maintained in an interactive, statewide, computerized, voter registration list. Such statewide voter registration list shall constitute the official list of voters for the state of New York. Such list shall be in the custody of the state board of elections and administered and maintained by the state board of elections, subject to rules and regulations promulgated by the state board of elections in accordance with subdivision four of section 3–100 of this chapter. Local boards of elections shall comply with all the rules and regulations promulgated by the state board of elections pursuant to this section.

2. The official statewide voter registration list shall be created by combining the existing voter registration list maintained by each local board of elections into a single integrated list. The state board of elections, pursuant to subdivision four of section 3–100 of this chapter, shall promulgate rules and regulations, which shall be binding upon each local board of elections, concerning the combining of each existing voter registration list into a single integrated list. Such rules and regulations shall be designed, to the maximum extent practicable, to allow each local board of elections to continue to use its existing computer infrastructure, computer software and database applications to access data from and transmit data to the statewide voter registration list. To create such list, each local board of elections shall transmit to the state board of elections a certified copy of the voter registration records of such board in an electronic format prescribed by the state board of elections. The state board of elections shall on an ongoing basis compile such records from the local boards of elections into a statewide voter registration list. The computer infrastructure of such list shall be maintained and administered by the state board of elections and such board shall, in accordance with subdivision four of section 3–100 of this chapter, promulgate uniform rules and regulations for the maintenance of voter registration records not inconsistent with this chapter. The

state board of elections shall make accessible to each local board of elections the statewide voter registration list. Such list shall be maintained in a computerized form which permits different user interfaces.

3. The statewide voter registration list shall:

a. serve as the single system for storing and managing the official list of registered voters throughout the state which local boards of elections shall use for creating the computer generated registration list prepared for each election for each election district as provided by this chapter;

b. contain the name and registration information of every legally registered voter in the state, as provided by section 5–500 of this article and such other information as may be deemed necessary by the state board of elections in accordance with subdivision four of section 3–100 of this chapter;

c. contain a unique identifier for each legally registered voter in the state;

d. be coordinated and referenced with other state and federal identification records;

e. provide timely electronic access to the information contained therein to election officials;

f. provide that all voter registration information obtained by a local board of elections shall be electronically entered into such list on an expedited basis at the time the information is provided to such board;

g. ensure that the state board of elections provides such support as may be required so that local boards of elections are able to enter the information described in paragraph f of this subdivision;

h. serve as the official voter registration list for the conduct of all elections in the state which are administered by local boards of elections; and

i. allow local boards of elections, using their own systems, to perform essential election functions including but not limited to processing of absentee voters, administration of poll workers and polling places, assignment of election jurisdictions based on residence and address and other functions

necessary for the conduct of elections using voter registration information from the official statewide voter registration list.

4. Adding, changing, canceling or removing voter registration records shall be conducted only by local boards of elections as provided by this chapter.

5. For purposes of removing names of ineligible voters from the list of eligible voters, the state board of elections shall obtain and transmit to local boards of elections (a) the list of persons who have died maintained by the New York city department of health and the state department of health, and (b) the list of persons subject to forfeiture of the right to vote pursuant to section 5–106 of this article maintained by the office of court administration or by a court having made such determination.

6. Each local board of elections shall, within twenty-five days after receiving such list of decedents or list of persons subject to forfeiture of the right to vote pursuant to section 5–106 of this article, use such lists to identify and remove decedents and persons subject to forfeiture of the right to vote pursuant to section 5–106 of this article from the list of eligible voters.

7. The local board of elections shall electronically file with the state board of elections a cancellation and removal report indicating all cancellations and removal actions taken by the local board of elections from the list of eligible voters. Such report shall be filed in a format and at such intervals as directed by the state board of elections.

8. If the information received by the board of elections through the statewide voter registration list indicates that a voter is currently registered to vote more than once, the local board of elections containing the registration record of the earlier dated registration record shall send such voter the confirmation notice prescribed by section 5–712 of this article and place such voter in inactive status pursuant to section 5–213 of this article.

9. The state board of elections shall, in accordance with subdivision four of section 3–100 of this chapter, promulgate rules and regulations to ensure compliance with the adding,

changing, canceling or removing of voters from the single, official, statewide voter registration list.

10. Any person may bring a challenge pursuant to this chapter against any board of elections to compel the removal of an ineligible voter from the list of eligible voters or to compel the correction of a registration record in the case of a voter wrongfully canceled or removed from the statewide, single, official voter registration list.

11. The state board of elections shall establish a statewide voter hotline using information available through the statewide voter registration list for voters to obtain information regarding their voter registration.

12. a. The state board of elections, in consultation with local boards of elections and in accordance with subdivision four of section 3–100 of this chapter, shall establish minimum standards for statewide voter registration list maintenance activities and schedules for such activities by regulation.

b. The list maintenance performed pursuant to the minimum standards required by paragraph a of this subdivision shall be conducted in a manner consistent with this chapter to ensure that:

(1) the name of each registered voter appears in the statewide voter registration list;

(2) only names of persons who are not registered or who are not eligible to vote are removed from such list; and

(3) the prior registrations of duplicate names are removed from such list.

13. The state board of elections shall provide adequate technological security measures to prevent the unauthorized access to or disruption of the statewide voter registration list established pursuant to this section and any voter registration records electronically transmitted between local boards of elections and the state board of elections as provided for in subdivision two of this section. A copy of such list shall be stored at least twenty-five miles away from the place where the original is housed.

14. The statewide voter registration list system shall ensure that voter registration records in the state are accurate and are

updated regularly, including a system of file maintenance that makes a reasonable effort to remove registrants who are ineligible to vote from the official list of eligible voters, as provided for by this chapter.

(Added L.2005, c. 24, § 1, eff. May 3, 2005.)

TITLE VII—CHECKS AGAINST FRAUDULENT PRACTICES

Section

5–700. Checks on registration.
5–702. Voters' check cards; investigation.
5–704. Notification to jurisdiction of prior registration.
5–706. Repealed.
5–708. Change of voter status; reports of.
5–710. Check of registrants; personal.
5–712. Confirmation notices.

§ 5–700. Checks on registration

The board of elections shall permit only those persons to register or to remain registered who have the qualifications prescribed by this article.

(L.1976, c. 233, § 1.)

§ 5–702. Voters' check cards; investigation

1. The board of elections shall cause a bipartisan team of regular or special employees of such board to conduct an investigation of the qualifications to register and vote, or cause a voter's check card to be prepared for each voter who was registered after being challenged or who was challenged after registration and, if requested by any member of the board, for any other voter. The board shall forthwith deliver each such voter's check card to the head of the police department in the city, town or village in which the voter resides, or, if there be no such police department, to the sheriff or head of the police department of the county. The board shall make and retain an inventory list of all cards so delivered.

2. The head of the police department or sheriff, forthwith shall cause an investigation to be made to determine, in each instance, whether the registrant resides, and how long he has resided, at the address at which he claims a residence, and to check the facts relating to why the voter was challenged. Such

investigation shall be completed within five days after receipt of such check cards. Each check card shall be signed with the title or rank, badge number, if any, and signature of the police officer, sheriff or deputy making the investigation, who shall note above such signature whether he personally interviewed the registrant and, if not, the full name of at least one other person whom he personally interviewed at the registrant's claimed residence or place of employment; the place, date and hour of such interview; the family relationship, if any, between the registrant and the person interviewed; and any reason he may have to believe that the registrant does not reside at the address given or does not possess the qualifications prescribed by this chapter for eligibility for registration. If he is satisfied that the registrant resides at such address and does possess such qualifications he shall write the word ''valid'' above his signature. If the officer charged with or actually making such investigation knows of his personal knowledge that the registrant is a qualified voter in the election district in which such registrant claims a residence, he may, without further investigation, endorse on such check card, above his title or rank, badge number, if any, and signature, the words ''Valid; Personal knowledge.'' Such endorsement shall be considered for all purposes as a statement under oath by such officer that the registrant is qualified to vote from the residence claimed.

3. No later than the sixth day after receipt of such check cards from the board of elections the head of the police department or sheriff shall return them, in sealed wrappers and in each instance endorsed as required by subdivision two of this section, to the board of elections. Each wrapper shall contain all of the check cards for a single election district, alphabetically arranged in two groups. The first group shall contain all the check cards marked ''Valid'' or ''Valid: Personal knowledge.'' The second group shall contain the remainder of such check cards. On the face of the wrapper such forwarding officer shall cause to be noted his name and the title of his office, the city, town or village, assembly district or ward, if any, and the election district of the cards in the wrapper, the total number of check cards marked ''Valid'' and ''Valid; Personal knowledge'', the number of other check cards, and the total of all check cards contained in such wrapper. With each such wrapper the forwarding officer shall present to the

board of elections a receipt, containing the information required to be stated on such wrapper. The original of such receipt shall be retained by the forwarding officer. The duplicate of such receipt shall be filed in the board of elections.

4. The board of elections forthwith shall compare such check cards for each election district with the inventory list prepared as directed by subdivision one of this section, the certificates executed by the registration board, the challenge affidavits executed in such district and returned to the board of elections and the registration cards of all applicants for whom check cards were executed and shall investigate any discrepancies.

5. The board of elections shall file all such check cards which are marked ''Valid'' or ''Valid: Personal knowledge'' in a separate file maintained by it for such purpose. Within such file, all cards shall be arranged by election districts and alphabetically within such districts.

6. The board of elections shall likewise file all such check cards which are not marked ''Valid'' or ''Valid: Personal knowledge'' in a separate file or ledgers maintained by it for such purpose.

6–a. Repealed.

7. If it appears from the check card that the registrant does not reside at the address from which he is registered, the board shall proceed in the manner prescribed by section 5–402 of this article.

8. Whenever it appears to the satisfaction of a board of elections that any voter or witness has made a false statement, whether or not under oath, affecting his qualifications to be registered or has given false testimony at any hearing affecting such registration, such board forthwith shall forward such statement or testimony to the district attorney and the district attorney forthwith shall present the matter to the grand jury.

9. Check cards. The state board of election shall prescribe a form of registration check card for use pursuant to this article.

10. Redesignated 9.

(L.1976, c. 233, § 1. Amended L.1981, c. 74, § 3; L.1986, 339, §§ 1, 2; L.1994, c. 659, § 31.)

§ 5–704. Notification to jurisdiction of prior registration

1. Each board of elections shall, at least once a month, transmit to the appropriate boards of election, a list of all persons who have registered with such board of elections and stated that they were previously registered outside of the city or county of such board's jurisdiction. Such list shall include the name of the registrant, the name of the prior registration if different, the address of the prior registration including street address, city or town, county and state and the date of birth of the registrant. Such information with respect to those persons whose address of previous registration is outside the state, shall be sent to the state board of elections.

2. The state board shall arrange such list by state and transmit such list to the chief state election official of such state at such times and in such manner as it deems appropriate.

(Added L.1994, c. 659, § 33.)

§ 5–706. Repealed by L.1994, c. 659, § 32, eff. Jan. 1, 1996

§ 5–708. Change of voter status; reports of

1. It shall be the duty of the state health department and the department of health of the city of New York to deliver to the state board of elections, at least monthly, records, in a format as mutually determined by both agencies, of the names of all persons of voting age for whom death certificates were issued. Such records shall be arranged by county of residence and shall include the name, residence address and birth date of each such person.

2. It shall be the duty of every court having jurisdiction over such matters, or the office of court administration, to transmit to the appropriate board of elections or, in the discretion of the office of court administration, to the state board of elections, at least quarterly, the names, residence addresses and birthdates of all persons for whom convictions or revocations of probation or conditional discharge result in loss of voting privileges pursuant to the provisions of section 5–106 of this article. Such transmittals shall be in a format as mutually determined by such agencies and the state board of elections.

3. It shall be the duty of every court having jurisdiction over such matters or the office of court administration to transmit to the appropriate board of elections or, in the discretion of the office of court administration, to the state board of elections, at least quarterly, of the name, residence address and birthdate of any person of voting age who has been adjudicated as incompetent.

4. a. If a board of elections receives any notices pursuant to the provisions of subdivisions two and three of this section which set forth a residence address outside of the city or county of such board's jurisdiction, it shall, at least once a month, transmit such notices to the appropriate board of elections, or, if such address is outside the state, to the state board of elections.

b. The state board shall arrange such notices and the names received pursuant to the other provisions of this section by county of residence and transmit such notices and any notices of conviction for a felony received from a United States attorney to the appropriate board of elections.

c. If any such notices, or names received pursuant to the other provisions of this section, set forth a residence address outside New York state, the state board shall transmit such notices to the chief state election official of such state at such times and in such manner as it deems appropriate.

5. a. At least once each year during the month of February, each board of elections shall obtain through the National Change of Address System, the forwarding address for every voter registered with such board of elections for whom the United States Postal Service has such a forwarding address together with the name of each such voter whom the Postal Service records indicate has moved from the address at which he is registered without leaving a forwarding address.

b. The state board of elections shall obtain such information for those boards of elections which request it do so. Such a request must be made not later than April first. Each board which makes such a request shall supply the list of voters registered with such board in a format prescribed by the state board. Each such board shall reimburse the state board for

the fees it disburses to obtain such information if such fee exceeds two hundred fifty dollars.

c. If the information received through the National Change of Address System indicates that a voter has moved to an address outside such county or city, or has moved without leaving a forwarding address, the board of elections shall, not later than June first, send such voter the confirmation notice prescribed by section 5–712 of this title and place such voter in inactive status pursuant to section 5–213 of this article.

d. If the information received through the National Change of Address System indicates that a voter has moved to another address in such county or city, the board of elections shall transfer the registration of such voter to such new address pursuant to the provisions of section 5–208 of this article and send such voter the notice prescribed by such section 5–208.

6. It shall be the duty of the appropriate officers of a city, town or village to notify the appropriate board of elections of any action by such city, town or village which shall affect or change the name or street numbers of any street located within such city, town or village. Upon receipt of such information the board of elections shall make the necessary changes in the addresses of the voters registered from addresses wherein such change of street name or street numbers was effected.

7. The real property assessment bureau of the department of finance of the city of New York shall notify the board of elections in the city of New York of each residence which, because of abandonment, demolition or vacancy, no longer contains a potential voter.

8. Repealed by L.1994, c. 659, § 36, eff. Jan. 1, 1995

(L.1976, c. 233, § 1. Amended L.1984, c. 253, § 1; L.1990, c. 416, § 1; L.1991, c. 413, §§ 73, 74; L.1994, c. 659, §§ 35 to 38; L.1996, c. 200, §§ 16, 17, eff. June 25, 1996; L.2002, c. 476, § 1, eff. Dec. 1, 2002; L.2019, c. 5, § 10, eff. Jan. 24, 2019.)

§ 5–710. Check of registrants; personal

1. A special door to door check of all the registered voters in any or all of the election districts including election districts previously checked shall be conducted in any year upon the written filed request of any one member of the board of

elections. The board of elections shall employ a sufficient number of employees for the purpose of conducting such checks.

2. The board shall supply such employees with copies of the most recent registration list prepared for such election district under check as corrected by the board to reflect new registrations and cancellations occurring since the publication thereof. Such check shall be performed by two employees of the board representing the major political parties and they shall submit to the board of elections on or before a date fixed by the board, a report signed by each of them. Such signed report shall be accepted for all purposes as the equivalent of an affidavit, and if it contains any material false statement, shall subject the persons who sign the report to the same penalties as if each had been duly sworn and such provision shall be printed in bold type directly above the signature lines on such report. At the end of the ensuing period of local registration in such years, the board of elections shall forthwith prepare a supplementary list of all voters registered for the first time during such period of local registration in the election districts so canvassed and shall direct the conduct of a similar check of all such voters.

3. Whenever it appears from the report that a registered voter is no longer qualified the board shall proceed in the manner prescribed by section 5–402 of this article.

(L.1976, c. 233, § 1. Amended L.1994, c. 659, § 34.)

§ 5–712. Confirmation notices

1. The board of elections shall send a confirmation notice by forwardable first class or return postage guaranteed mail to every registered voter or applicant for registration, at the address at which the voter is registered or the address on the application for registration, when any mail sent to such voter or applicant is returned as undeliverable by the postal service without any indication of a forwarding address and to any voter for whom notice that the voter has moved without leaving a forwarding address, is received from the United States Postal Service through the National Change of Address System.

2. (a) The board of elections shall also send a confirmation notice to every registered voter for whom it receives a notice of change of address to an address not in such city or county which is not signed by the voter. Such change of address notices shall include, but not be limited to, notices of change of address received pursuant to subdivision eleven of section 5–211 and subdivision six of section 5–212 of this article, notice of change of address from the United States Postal Service through the National Change of Address System or from any other agency of the federal government or any agency of any state or local government and notice of a forwarding address on mail sent to a voter by the board of elections and returned by the postal service. Such confirmation notices shall be sent to such new address.

(b) If a notice sent pursuant to paragraph (a) of this subdivision to the voter at the new address is returned as undeliverable, the board of elections shall send another such notice to the address at which the voter was originally registered.

3. Such notices shall be in a form prescribed by the state board of elections and shall include a postage-paid return card on which the voter may confirm the fact that he still resides at the address to which the notice was sent, or notify the board of any change of address. Such notices shall request all voters who receive the notice to reply with their current addresses. Such notices shall request all voters who receive the notice to reply with their current addresses and shall state that voters who have not moved or who have moved within the county or city and who do not respond may be required to vote by affidavit ballot and that if they do not vote in any election up to and including the second federal election after such notice, their registrations may be cancelled. Such notices sent to addresses in New York state shall also include a mail registration form and information on how voters who have moved to a different city or county may reregister.

4. No such confirmation notices shall be sent between June first in any year and the date of the general election in such year or in the ninety days before a spring primary election except that such notices shall be sent forthwith to persons for whom an acknowledgment of acceptance of registration sent pursuant to subdivision nine of section 5–210 of this article is

returned to the board of elections as undeliverable and to every registered voter for whom the board of elections receives a notice of change of address described in paragraph a of subdivision two of this section to an address not in such city or county.

5. All voters or applicants to whom a confirmation notice is sent, pursuant to the provisions of this section, shall forthwith be placed in inactive status.

(Added L.1994, c. 659, § 41. Amended L.1996, c. 200, § 18, eff. June 25, 1996.)

TITLE VIII—ELECTRONIC PERSONAL VOTER REGISTRATION PROCESS

Section

5–800. Electronic voter registration transmittal system.
5–802. Online voter registration application.
5–804. Failure to provide exemplar signature not to prevent registration.

§ 5–800. Electronic voter registration transmittal system

[Section effective Apr. 12, 2021, or upon contingency pursuant to L.2019, c. 55, pt. CCC, § 6.]

In addition to any other means of voter registration provided for by this chapter, the state board of elections shall establish and maintain an electronic voter registration transmittal system through which applicants may apply to register to vote online. The state board of elections shall electronically transmit such applications to the applicable board of elections of each county or the city of New York for filing, processing and verification consistent with this chapter. In accordance with technical specifications provided by the state board of elections, each board of elections shall maintain a voter registration system capable of receiving and processing voter registration application information, including electronic signatures, from the electronic voter registration transmittal system established by the state board of elections. Notwithstanding any other inconsistent provision of this chapter, applications filed using such system shall be considered filed with the applicable board of elections on the calendar date the application is initially transmitted by the voter through the electronic voter registration transmittal system.

(Added L.2019, c. 55, pt. CCC, § 3, eff. April 12, 2021.)

§ 5–802. Online voter registration application

[Section effective Apr. 12, 2021, or upon contingency pursuant to L.2019, c. 55, pt. CCC, § 6.]

1. A voter shall be able to apply to register to vote using a personal online voter registration application submitted through the electronic voter registration transmittal system when the voter:

(a) completes an electronic voter registration application promulgated by the state board of elections which shall include all of the voter registration information required by section 5–210 of this article; and

(b) affirms, subject to penalty of perjury, by means of electronic or manual signature, that the information contained in the voter registration application is true and that the applicant meets all of the qualifications to become a registered voter; and

(c) consents to the use of an electronic copy of the individual's manual signature that is in the custody of the department of motor vehicles, the state board of elections, or other agency designated by sections 5–211 or 5–212 of this article, as the individual's voter registration exemplar signature, or provides such a signature by direct upload in a manner that complies with the New York state electronic signature and records act and the rules and regulations promulgated by the state board of elections.

2. The board of elections shall provide the personal online voter registration application in any language required by the federal Voting Rights Act of 1965 (52 U.S.C. Sec. 10503) in any county in the state.

3. The online voter registration application process shall provide reasonable accommodations to improve accessibility for persons with disabilities, and shall be compatible for use with standard online accessibility assistance tools for persons with visual, physical or perceptive disabilities.

4. The state board of elections shall promulgate rules and regulations for the creation and administration of an online voter registration system pursuant to this section.

(Added L.2019, c. 55, pt. CCC, § 3, eff. April 12, 2021.)

§ 5–804. Failure to provide exemplar signature not to prevent registration

[Section effective Apr. 12, 2021, or upon contingency pursuant to L.2019, c. 55, pt. CCC, § 6.]

1. If a voter registration exemplar signature is not provided by an applicant who submits a voter registration application pursuant to this title, the local board shall seek to obtain such exemplar signature from the statewide voter registration database, the state board of elections, or a state or local agency designated by section 5–211 or 5–212 of this article.

2. If such exemplar signature is not available from the statewide voter registration database, the state board of elections, or a state or local agency designated by section 5–211 or 5–212 of this article, the local board of elections shall, absent another reason to reject the application, proceed to register and, as applicable, enroll the applicant. Within ten days of such action, the board of elections shall send a standard form promulgated by the state board of elections to the voter whose record lacks an exemplar signature, requiring such voter to submit a signature for identification purposes. The voter shall submit to the board of elections a voter registration exemplar signature by any one of the following methods: in person, by mail with return postage paid provided by the board of elections, by electronic mail, or by electronic upload to the board of elections through the electronic voter registration transmittal system. If such voter does not provide the required exemplar signature, when the voter appears to vote the voter shall be entitled to vote by affidavit ballot.

(Added L.2019, c. 55, pt. CCC, § 3, eff. April 12, 2021.)

TITLE IX—AUTOMATIC VOTER REGISTRATION

Section

5–900. Integrated personal voter registration application required.
5–902. Failure to receive exemplar signature not to prevent registration.
5–904. Presumption of innocent authorized error.
5–906. Forms.

§ 5–900. Integrated personal voter registration application required

[Eff. Jan. 1, 2023.]

1. In addition to any other method of voter registration provided for by this chapter, state and local agencies designated in subdivisions thirteen and fourteen of this section shall provide to the state board of elections voter registration qualification information associated with each person who submits an application for services or assistance at such agency, including a renewal, recertification, or reexamination transaction at such agency, and each person who notifies the agency of a change of address or name. For the purposes of the department of motor vehicles, ''application for services or assistance at such agency'' refers only to an application for a motor vehicle driver's license, a driver's license renewal or an identification card if such card is issued by the department of motor vehicles in its normal course of business. For purposes of the New York city housing authority ''application for services or assistance at such agency'' refers only to applications that reach an eligibility interview and reexamination transactions. Such designated agencies shall ensure agency applications substantially include all of the elements required by section 5–210 of this article, including the appropriate attestation, so that persons completing such applications shall be able to also submit an application to register to vote through the electronic voter registration transmittal system. For purposes of this section, ''agency'' shall mean any state or local agency, department, division, office, institution or other entity designated in subdivision thirteen of this section or designated by the governor pursuant to subdivision fourteen of this section. For purposes of this section, registration shall also include pre-registration pursuant to section 5–507 of this article.

2. For each application submitted to the agency, whether electronically or on paper, the agency shall transmit to the state board of elections through an interface with the electronic voter registration transmittal system established and maintained by the state board of elections that portion of the application that includes voter registration information. The state board of elections shall electronically forward such application to the applicable board of elections of each county or the city of New York for filing, processing and verification consistent with this chapter.

3. An integrated voter registration form submitted to an agency in paper format shall be transmitted to the state board of

elections through an electronic voter registration transmittal system by converting the paper form to an image file or a portable document format file which shall thereafter be deemed the original form for voter registration and enrollment purposes. The agency shall retain the complete original paper application for no less than two years. The transmittal of the converted paper application may include or be accompanied by data elements and transmittal information as required by the rules and regulations of the state board of elections.

4. An integrated voter registration application submitted to an agency in an electronic format shall be transmitted to the state board of elections through the electronic voter registration transmittal system and shall include all of the voter registration data elements, including electronic signature, as applicable, and record of attestation of the accuracy of the voter registration information and any relevant document images.

5. Notwithstanding any other law to the contrary, no agency designated under this section shall transmit to the state board of elections any application for registration for a person that indicates on the integrated personal voter registration application that they do not meet one of the eligibility requirements.

6. The voter registration related portion of each agency's integrated application for services or assistance shall:

(a) include a statement of the eligibility requirements for voter registration and shall require the applicant to attest by his or her signature that he or she meets those requirements under penalty of perjury unless such applicant declines such registration;

(b) inform the applicant, in print identical to that used in the attestation section of the following:

(i) voter eligibility requirements;

(ii) penalties for submission of a false registration application;

(iii) that the office where the applicant applies for registration shall remain confidential and the voter registration information shall be used only for voter registration purposes;

(iv) that if the applicant applies to register to vote electronically, such applicant thereby consents to the use of an electronic copy of the individual's manual signature that is in the custody

of the department of motor vehicles, the state board of elections, or other agency designated by this section, as the individual's voter registration exemplar signature if the individual voter's exemplar signature is not provided with the voter registration application;

(v) if the applicant declines to register, such applicant's declination shall remain confidential and be used only for voter registration purposes; and

(vi) that applying to register or declining to register to vote will not affect the amount of assistance that the applicant will be provided by this agency;

(c) include a box for the applicant to check to indicate whether the applicant would like to decline to register to vote along with the following statement in prominent type, "IF YOU DO NOT CHECK THIS BOX, AND YOU PROVIDE YOUR SIGNATURE ON THE SPACE BELOW, YOU WILL HAVE ATTESTED TO YOUR ELIGIBILITY TO REGISTER OR PRE-REGISTER TO VOTE AND YOU WILL HAVE APPLIED TO REGISTER OR PRE-REGISTER TO VOTE.";

(d) include the following warning statement in prominent type, "IF YOU ARE NOT A CITIZEN OF THE UNITED STATES, YOU MUST CHECK THE BOX BELOW. NON-CITIZENS WHO REGISTER OR PRE-REGISTER TO VOTE MAY BE SUBJECT TO CRIMINAL PENALTIES AND SUCH VOTER REGISTRATION OR PRE-REGISTRATION MAY RESULT IN DEPORTATION OR REMOVAL, EXCLUSION FROM ADMISSION TO THE UNITED STATES, OR DENIAL OF NATURALIZATION.";

(e) include a space for the applicant to indicate his or her choice of party enrollment, with a clear alternative provided for the applicant to decline to affiliate with any party and the following statement in prominent type "IF YOU DO NOT CHOOSE A PARTY YOU WILL NOT BE ABLE TO PARTICIPATE IN PRIMARY ELECTIONS FOR THAT PARTY".

(f) include a statement that if an applicant is a victim of domestic violence or stalking, he or she may contact the state board of elections in order to receive information regarding the address confidentiality program for victims of domestic violence under section 5–508 of this article.

7. Information from the voter relevant to both voter registration and the agency application shall be entered by the voter only once upon an application.

8. The agency shall redact or remove from the completed integrated application to be transmitted to the state board of elections any information solely applicable to the agency application.

9. Information concerning the citizenship status of individuals, when collected and transmitted pursuant to subdivision one of this section, shall not be retained, used or shared for any other purpose except as may be required by law.

10. A voter shall be able to decline to register to vote using an integrated application by selecting a single check box, or equivalent, which shall include the following statement: "I DECLINE USE OF THIS FORM FOR VOTER REGISTRATION AND PRE-REGISTRATION PURPOSES. DO NOT FORWARD MY INFORMATION TO THE BOARD OF ELECTIONS."

11. The voter shall be able to sign the voter registration application and the agency application by means of a single manual or electronic signature unless the agency requires more than one signature for other agency purposes.

12. No application for voter registration shall be submitted if the applicant declines registration or fails to sign the integrated application, whether on paper or online.

13. Designated agencies for purposes of this section shall include the department of motor vehicles, the department of health, the office of temporary and disability assistance, the department of labor, the office of vocational and educational services for individuals with disabilities, county and city departments of social services, and the New York city housing authority, as well as any other agency designated by the governor. Each designated agency shall enter into an agreement with the state board of elections finalizing the format and content of electronic transmissions required by this section. The state board of elections shall prepare and distribute to designated agencies written instructions as to the implementation of the program and shall be responsible for establishing training programs for employees of designated agencies listed in this section. Such instructions and such training shall ensure usability of the

integrated application for low English proficiency voters. Any such designated agency shall take all actions that are necessary and proper for the implementation of this section, including facilitating technological capabilities to allow transmission of data through an interface with the electronic voter registration transmittal system in a secure manner.

14. Each year, the governor shall conduct a review of each participating agency under section 5–211 of this article not already designated as an automatic voter registration agency pursuant to this subdivision in order to determine whether designation is appropriate. The governor shall designate each participating agency that collects information or documents that would provide proof of eligibility to vote unless the governor determines that there are compelling reasons why automatic voter registration is not feasible at the agency. If the governor should determine that there are compelling reasons why automatic voter registration is not feasible at an agency, the governor shall prepare a report explaining those reasons to the legislature by the end of the calendar year in which that determination is made. Any agency designated by the governor pursuant to this subdivision shall provide automatic voter registration upon the earlier occurrence of: (a) two years after designation by the governor, or (b) five days after the date of certification by the state board of elections that the information technology infrastructure to substantially implement the provisions of this section at the agency is functional.

15. The state board of elections shall promulgate rules and regulations for the creation and administration of an integrated electronic voter registration process as provided for by this section.

16. Each participating agency shall provide an opportunity through rulemaking for public notice and comment regarding the plans for implementation in the agency. Such opportunity must be provided sufficiently in advance of implementation to allow for adjustment of agency plans to take public comment into account. Agency plans for implementation shall provide for sufficient testing of the process in the agency prior to implementation in order to ensure the technology is functioning properly, the process is usable and understandable for applicants and agency employees, and reasonable precautions have been

put in place to minimize error or the possibility of discouraging applications for services, assistance, or registration.

(Added L.2020, c. 350, § 2, eff. Jan. 1, 2023.)

§ 5–902. Failure to receive exemplar signature not to prevent registration

[Eff. Jan. 1, 2023.]

If a voter registration exemplar signature is not received from an applicant who submits a voter registration or pre-registration application pursuant to this title and such signature exemplar is not otherwise available from the statewide voter registration database or a state or local agency, the local board of elections shall, absent another reason to reject the application, proceed to register or pre-register and, as applicable, enroll the applicant. Within ten days of such action, the board of elections shall send a standard form promulgated by the state board of elections to the voter whose record lacks an exemplar signature, requiring such voter to submit a signature for identification purposes. The voter shall submit to the board of elections a voter registration exemplar signature by any one of the following methods: in person, by mail with return postage paid provided by the board of elections, by electronic mail, or by electronic upload to the board of elections through the electronic voter registration transmittal system. If such voter does not provide the required exemplar signature, when the voter appears to vote the voter shall be entitled to vote by affidavit ballot.

(Added L.2020, c. 350, § 2, eff. Jan. 1, 2023.)

§ 5–904. Presumption of innocent authorized error

[Eff. Jan. 1, 2023.]

1. Notwithstanding subdivision six of section 5–210 of this article or any other law to the contrary, a person who is ineligible to vote who fails to decline to register or pre-register to vote in accordance with the provisions of this section and did not willfully and knowingly seek to register or pre-register to vote knowing that he or she is not eligible to do so:

(a) shall not be guilty of any crime as the result of the applicant's failure to make such declination;

(b) shall be deemed to have been registered or pre-registered with official authorization; and

(c) such act may not be considered as evidence of a claim to citizenship.

2. Notwithstanding subdivision six of section 5–210 of this article or any other law to the contrary, a person who is ineligible to vote who fails to decline to register or pre-register to vote in accordance with the provisions of this section, who then either votes or attempts to vote in an election held after the effective date of that person's registration, and who did not willfully and knowingly seek to register or pre-register to vote knowing that he or she is not eligible to do so, and did not subsequently vote or attempt to vote knowing that he or she is not eligible to do so:

(a) shall not be guilty of any crime as the result of the applicant's failure to make such declination and subsequent vote or attempt to vote;

(b) shall be deemed to have been registered or pre-registered with official authorization; and

(c) such act may not be considered as evidence of a claim to citizenship.

(Added L.2020, c. 350, § 2, eff. Jan. 1, 2023.)

§ 5–906. Forms

[Eff. Jan. 1, 2023.]

The state board of elections shall promulgate rules and regulations to implement this title. All agency forms and notices required by this title shall be approved by the state board of elections. All applications and notices for use by a board of elections pursuant to this title shall be promulgated by the state board of elections, and no addition or alteration to such forms by a board of elections shall be made without approval of the state board of elections.

(Added L.2020, c. 350, § 2, eff. Jan. 1, 2023.)

ARTICLE 6—DESIGNATION AND NOMINATION OF CANDIDATES [1]

Title	Section
II. Village Elections [1]	6–200

[1] So in original. No Title I has been enacted.

Section

6–100. Nominations and designations; generally.
6–100. Nominations and designations; generally.
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Section
6–168. Designating petitions; candidates for the office of judge of the civil court of the city of New York.

§ 6–100. Nominations and designations; generally

[Section effective until Dec. 31, 2020, pursuant to L.2020, ch. 142, § 2. See, also, § 6–100 effective Dec. 31, 2020.]

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

1. Nomination and designation of candidates for election to public office or party position are governed by this article.

2. All party designations and nominations, except for a primary election, may be made via video teleconference upon notice to the members of the respective committee by mail, email, text or telephone call at least twelve hours before such meeting. Certificates of designation or nomination, minutes, authorizations and/or acceptances may be executed in separate acts by the signatories thereto and where acknowledgements or oaths are required, they may be performed or administered remotely and pursuant to executive order 202.7 allowing notarizations to be performed using communication technology.

(L.1976, c. 233, § 1. Amended L.2020, c. 142, § 1, eff. Aug. 21, 2020.)

§ 6–100. Nominations and designations; generally

[Section effective Dec. 31, 2020, pursuant to L.2020, ch. 142, § 2. See, also, § 6–100 effective until Dec. 31, 2020.]

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

Nomination and designation of candidates for election to public office or party position are governed by this article.

(L.1976, c. 233, § 1. Amended L.2020, c. 142, § 1, eff. Aug. 21, 2020.)

§ 6–102. Party nominations; electors, presidential

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

Party nominations of candidates for the office of elector of president and vice president of the United States, one for each congressional district and two at large, shall be made by the state committee.

(L.1976, c. 233, § 1.)

§ 6–104. Party designation; statewide office

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

1. Party designation of a candidate for nomination for any office to be filled by the voters of the entire state shall be made by the state committee.

2. The state committee shall make a decision by majority vote. The person receiving the majority vote shall be the party's designated candidate for nomination, and all other persons who shall have received twenty-five percent or more of the vote cast on any ballot shall have the right to make written demand, duly acknowledged, to the state board of elections that their names appear on the primary ballot as candidates for such nomination. Such demand shall be made not later than seven days after such meeting and may be withdrawn in the same manner within fourteen days after such meeting.

3. In the absence of a party rule forming and designating the members of a committee to fill any vacancy in designations which may occur after the state committee has adjourned its meeting and before the primary election, the state committee shall also enact a resolution forming such a committee and selecting the members of same.

4. Upon the vote for such designation, each member of the state committee shall be entitled to cast a number of votes which shall be in accordance with the ratio which the number of votes cast for the party candidate for governor on the line or column of the party at the last preceding general state election in the unit of representation of such member bears to the total vote cast on such line or column at such election for such candidate in the entire state. The apportionment of such votes as so prescribed shall be determined by the rules of the party.

5. Enrolled members of the party may make other designations by petition for a member of the same party.

6. The meeting of the state committee for the purpose of designating candidates shall be held not earlier than twenty-one days before the first day to sign designating petitions and not later than the first day to sign designating petitions for the primary election.

7. Within four days after such meeting, the state committee shall file with the state board of elections.

(a) The names of persons who have received the designation of the state committee and the offices for which designated, and the name of each person who received twenty-five percent or more, of the vote on any ballot and the offices for which they received such vote.

(b) The names of the persons selected as the committee to fill vacancies or a certified copy of the party rule forming and empowering such a committee to fill vacancies.

8. No person may be designated by a state committee for more than one statewide office pursuant to the provisions of this section.

(L.1976, c. 233, § 1. Amended L.1978, c. 8, § 13; L.1978, c. 9, § 42; L.1984, c. 434, § 5; L.1988, c. 16, § 2; L.1992, c. 79, § 9, eff. May 8, 1992; L.2014, c. 20, § 2, eff. May 9, 2014.)

§ 6–106. Party nominations; justice of the supreme court

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

Party nominations for the office of justice of the supreme court shall be made by the judicial district convention.

(L.1976, c. 233, § 1.)

§ 6–108. Party nominations; towns

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

1. In any town in a county having a population of over seven hundred fifty thousand inhabitants, as shown by the latest federal decennial or special population census, party nominations of candidates for town offices shall be made at the primary preceding the election. In any other town, nominations of candidates for town offices shall be made by caucus or primary election as the rules of the county committee shall provide, except that the members of the county committee from a town may adopt by a two-thirds vote, a rule providing that the party candidates for town offices shall be nominated at the primary election. If a rule adopted by the county committee of a political party or by the members of the county committee from a town, provides that party candidates for town offices, shall be nominated at a primary election, such rule shall not apply to nor affect a primary held less than four months after a certified copy of the rule shall have been filed with the board of elections. After the filing of such a rule, the rule shall continue in force until a certified copy of a rule revoking the same shall have been filed with such board at least four months before a subsequent primary. Such a caucus shall be held no earlier than the first day on which designating petitions for the primary election may be signed.

2. In the event that there is no town committee with a chairman, the chairman of the county committee or such other person or body as the rules of such committee may provide, shall designate an enrolled member of the party who is a qualified voter of such town as the town caucus chairman to convene such caucus and give notice thereof.

3. A notice of any party caucus held for making party nominations of candidates for town offices shall be given by proper party authorities by posting such notice in the public areas at the offices of the town clerk and the board of elections and filing a copy of such notice with such clerk and such board at least ten days preceding the day of the caucus and, either by newspaper publication thereof once within the town at least one week and not more than two weeks preceding the caucus, or by posting in ten public places in the town at least ten days preceding the day of the caucus. The notice shall specify the time and place or places, and the purpose of the caucus. There shall be a chairman and secretary, and there may be

tellers, for each such caucus, and they shall take the constitutional oath of office before acting. No person shall participate in such a caucus for the nomination of candidates for town offices, unless he shall appear as an enrolled party voter on the transcript of enrollments from the registration poll ledger. Town caucuses described in this section shall be held at the expense of the party. Subject to the foregoing provisions, the county committee of the county containing a town may prescribe rules governing the conduct of party caucuses described in this section.

(L.1976, c. 233, § 1. Amended L.1982, c. 352, §§ 1, 2; L.1984, c. 189, § 1; L.1985, c. 114, § 1; L.1996, c. 160, § 1, eff. Dec. 1, 1996; L.2019, c. 5, § 11, eff. Jan. 24, 2019.)

§ 6–110. Party nominations; public office

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

All other party nominations of candidates for offices to be filled at a general election, except as provided for herein, shall be made at the primary election.

(L.1976, c. 233, § 1. Amended L.1978, c. 9, § 43, eff. Mar. 7, 1978.)

§ 6–112. Repealed by L.1978, c. 9, § 44, eff. Mar. 7, 1978

§ 6–114. Party nominations; special election

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

Party nominations for an office to be filled at a special election shall be made in the manner prescribed by the rules of the party.

(L.1976, c. 233, § 1.)

§ 6–116. Party nominations; election to fill a vacancy

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

A party nomination of a candidate for election to fill a vacancy in an elective office required to be filled at the next general election, occurring after seven days before the last day for circulating designating petitions or after the holding of the meeting or convention to nominate or designate candidates for such, shall be made, after the day of the primary election, by a majority vote of a quorum of the state committee if the vacancy occurs in an office to be filled by all voters of the state, and otherwise by a majority vote of a quorum of the members of a county committee or committees last elected in the political subdivision in which such vacancy is to be filled, or by a majority of such other committee as the rules of the party may provide. A certificate of nomination shall be filed as provided for herein.

(L.1976, c. 233, § 1. Amended L.1978, c. 373, § 53, eff. June 19, 1978.)

§ 6–118. Designation and nomination by petition

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

Except as otherwise provided by this article, the designation of a candidate for party nomination at a primary election and the nomination of a candidate for election to a party position to be elected at a primary election shall be by designating petition.

(L.1976, c. 233, § 1. Amended L.1978, c. 9, § 45, eff. Mar. 7, 1978.)

§ 6–120. Designation and nomination; restrictions

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

1. A petition, except as otherwise herein provided, for the purpose of designating any person as a candidate for party nomination at a primary election shall be valid only if the person so designated is an enrolled member of the party referred to in said designating petition at the time of the filing of the petition.

2. Except as provided in subdivisions three and four of this section, no party designation or nomination shall be valid unless the person so designated or nominated shall be an enrolled member of the political party referred to in the certificate of designation or nomination at the time of filing of such certificate.

3. The members of the party committee representing the political subdivision of the office for which a designation or nomination is to be made, unless the rules of the party provide for another committee, in which case the members of such other committee, and except as hereinafter in this subdivision provided with respect to certain offices in the city of New York, may, by a majority vote of those present at such meeting provided a quorum is present, authorize the designation or nomination of a person as candidate for any office who is not enrolled as a member of such party as provided in this section. In the event that such designation or nomination is for an office to be filled by all the voters of the city of New York, such authorization must be by a majority vote of those present at a joint meeting of the executive committees of each of the county committees of the party within the city of New York, provided a quorum is present at such meeting. The certificate of authorization shall be filed not later than four days after the last day to file the designating petition, certificate of nomination or certificate of substitution to which such authorization relates. The certificate of authorization shall be signed and acknowledged by the presiding officer and the secretary of the meeting at which such authorization was given.

4. This section shall not apply to a political party designating or nominating candidates for the first time, to candidates nominated by party caucus, nor to candidates for judicial offices.

(L.1976, c. 233, § 1. Amended L.1976, c. 234, § 26; L.1978, c. 373, § 54; L.1982, c. 226, § 1.)

§ 6–122. Designation or nomination; eligibility, restrictions

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

A person shall not be designated or nominated for a public office or party position who (1) is not a citizen of the state of New York; (2) is ineligible to be elected to such office or position; or (3) who, if elected will not at the time of commencement of the term of such office or position, meet the constitutional or statutory qualifications thereof or, with respect to judicial office, who will not meet such qualifications within thirty days of the commencement of the term of such office.

(L.1976, c. 233, § 1. Amended L.1978, c. 373, § 55; L.1993, c. 511, § 9, eff. July 26, 1993.)

§ 6–124. Conventions; judicial

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

A judicial district convention shall be constituted by the election at the preceding primary of delegates and alternate delegates, if any, from each assembly district or, if an assembly district shall contain all or part of two or more counties and if the rules of the party shall so provide, separately from the part of such assembly district contained within each such county. The number of delegates and alternates, if any, shall be determined by party rules, but the number of delegates shall be substantially in accordance with the ratio, which the number of votes cast for the party candidate for the office of governor, on the line or column of the party at the last preceding election for such office, in any unit of representation, bears to the total vote cast at such election for such candidate on such line or column in the entire state. The number of alternates from any district shall not exceed the number of delegates therefrom. The delegates certified to have been elected as such, in the manner provided in this chapter, shall be conclusively entitled to their seats, rights and votes as delegates to such convention. When a duly elected delegate does not attend the convention, his place shall be taken by one of the alternates, if any, to be substituted in his place, in the order of the vote received by each such alternate as such vote appears upon the certified list and if an equal number of votes were cast for two or more such alternates; the order in which such alternates shall be

substituted shall be determined by lot forthwith upon the convening of the convention. If there shall have been no contested election for alternate, substitution shall be in the order in which the name of such alternate appears upon the certified list, and if no alternates shall have been elected or if no alternates appear at such convention, then the delegates present from the same district shall elect a person to fill the vacancy.

(L.1976, c. 233, § 1. Amended L.1977, c. 876, § 1, eff. Dec. 1, 1977.)

§ 6–126. Conventions; rules for holding

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

1. The time and place of meeting of a convention shall be fixed, within the times prescribed herein, by a committee appointed pursuant to the rules of the state committee. The room designated for the meeting place of a convention shall have ample seating capacity for all delegates and alternates. Every convention shall be called to order by the chairman of the committee from which the call originates or by a person designated in writing for that purpose by such chairman, or, if he fails to make such designation, then, by a person designated in such manner as the rules of the party shall prescribe. Such chairman or person designated shall have the custody of the roll of the convention until it shall have been organized. No such convention shall proceed to the election of a temporary chairman or transact any business until the time fixed for the opening thereof nor until a majority of the delegates or respective alternates named in the official roll shall be present. The roll call upon the election of a temporary chairman shall not be delayed more than one hour after the time specified in the call for the opening of the convention, provided a majority of delegates, including alternates sufficient to make up such majority by substitution, are present. The person who calls the convention to order shall exercise no other function than that of calling the official roll of the delegates upon the vote for temporary chairman and declaring the result thereof.

2. The temporary chairman shall be chosen upon a call of the official roll. The committees of the convention shall be

appointed by the convention, or by the temporary chairman, as the convention may order. Where only one candidate is placed in nomination for any office, the vote may be taken viva voce. When more than one candidate is placed in nomination for an office the roll of the delegates shall be called and each delegate when his name is called shall arise in his place and announce his choice, except that the chairman of a delegation from any unit of representation provided for by party rules, unless a member of such delegation objects, may announce the vote of such delegation. The convention may appoint a committee to nominate candidates to fill vacancies in nominations made by the convention and caused by the death, declination or disqualification of a candidate. The permanent officer shall keep the records of the convention.

3. Repealed.

(L.1976, c. 233, § 1. Amended L.1983, c. 29, § 1; L.1986, c. 378, § 1, eff. July 21, 1986.)

§ 6–128. New party; first nominations by

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

1. When an independent body becomes a party at a general election by qualifying under the requirements set by law, nominations shall, prior to and including the first general election thereafter, be made as provided by the rules of such party. A certificate of such nominations shall contain:

(a) The name of the party filing the nominations which shall not be altered or modified once submitted.

(b) The title of the office for which the nomination is made and the name and residence address of the person so nominated.

(c) The names of the members of the committee, if any, appointed to fill vacancies in nominations.

(d) A description and representation of the party's emblem.

(e) The name of the committee making the nomination.

(f) A certified copy of the party rules describing the rule-making body and nomination process.

(g) An affidavit containing a statement by the presiding officer and secretary of the committee that they are such officers and the statements in the certificate are true.

2. The certificate of nomination, with all required information contained therein, shall be filed in the same places and manner as provided for designating petitions, not later than the first day of September preceding the general election, or as otherwise provided herein.

3. After examination, no board or officer shall receive for filing any such certificate of nomination unless the above requirements have been fulfilled.

4. If there is any question or conflict relating to the rules or the rule-making body, rules which a majority of the candidates of such party who were nominated by petition for offices voted for by all the voters of the state at the general election at which the independent body became a party certify were duly adopted by a properly authorized body shall be deemed to be the rules. The certificate of such candidates describing the rule-making body shall be controlling.

(L.1976, c. 233, § 1. Amended L.2019, c. 46, § 1, eff. July 3, 2019; L.2019, c. 619, § 1, eff. Dec. 11, 2019.)

§ 6–130. Designating petition; signer information

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

The sheets of a designating petition must set forth in every instance the name of the signer, his or her residence address, town or city (except in the city of New York, the county), and the date when the signature is affixed.

(L.1976, c. 233, § 1. Amended L.1978, c. 373, § 56; L.1996, c. 709, § 1–a, eff. Apr. 1, 1997.)

§ 6–132. Designating petition; form

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

1. Each sheet of a designating petition shall be signed in ink and shall contain the following information and shall be in substantially the following form:

I, the undersigned, do hereby state that I am a duly enrolled voter of the..... party and entitled to vote at the next primary election of such party, to be held on....., 20...; that my place of residence is truly stated opposite my signature hereto, and I do hereby designate the following named person (or persons) as a candidate (or candidates) for the nomination of such party for public office or for election to a party position of such party.

Names of candidates	Public Office or party position (include district number, if applicable)	Place of Residence (also post office address, if not identical)
.....	.....	.....
.....	.....	.....

I do hereby appoint ..... (insert the names and addresses of at least three persons, all of whom shall be enrolled voters of said party) as a committee to fill vacancies in accordance with the provisions of the election law.

In witness whereof, I have hereunto set my hand, the day and year placed opposite my signature.

Date	Name of Signer	Residence
.....	.....	.....
.....	.....	.....
		Town or city (except in the city of New York, the county)
		.....
		.....

2. There shall be appended at the bottom of each sheet a signed statement of a witness who is a duly qualified voter of the state, who is an enrolled voter of the same political party as the voters qualified to sign the petition and who has not previously signed a petition for another candidate for the same office. Such a statement shall be accepted for all purposes as the equivalent of an affidavit, and if it contains a material false statement, shall subject the person signing it to the same penalties as if he or she had been duly sworn. The form of such statement shall be substantially as follows:

STATEMENT OF WITNESS

I, ... (name of witness) state: I am a duly qualified voter of the State of New York and am an enrolled voter of the..... party. I now reside at..... (residence address).

Each of the individuals whose names are subscribed to this petition sheet containing..... (fill in number) signatures, subscribed the same in my presence on the dates above indicated and identified himself or herself to be the individual who signed this sheet.

I understand that this statement will be accepted for all purposes as the equivalent of an affidavit and, if it contains a material false statement, shall subject me to the same penalties as if I had been duly sworn.

Date: ....
Signature of Witness

Witness identification information: The following information must be completed prior to filing with the board of elections in order for this petition sheet to be valid.

Town or City	County
.....	.....

3. In lieu of the signed statement of a witness who is a duly qualified voter of the state, the following statement signed by a notary public or commissioner of deeds shall be accepted:

On the dates above indicated before me personally came each of the voters whose signatures appear on this petition sheet containing ..... (fill in number) signatures, who signed same in my presence and who, being by me duly sworn, each for himself or herself, said that the foregoing statement made and subscribed by him or her, was true.

Date:.....

.....
(Signature and official title
of officer administering oath)

4. The state board of elections shall prepare a sample form of a designating petition which meets the requirements of this section and shall distribute or cause such forms to be distributed to each board of elections. Such forms shall be made

available to the public, upon request, by the state board of elections and each such board. Any petition that is a copy of such a sample shall be deemed to meet the requirements of form imposed by this section.

(L.1976, c. 233, § 1. Amended L.1976, c. 234, § 27; L.1977, c. 459, § 1; L.1978, c. 9, § 46; L.1978, c. 373, § 57; L.1992, c. 79, §§ 10, 11; L.1995, c. 476, § 1; L.1996, c. 197, § 1; L.1996, c. 709, § 2; L.2000, c. 235, § 1, eff. Aug. 16, 2000; L.2006, c. 447, § 1, eff. Dec. 1, 2006; L.2017, c. 106, § 1, eff. Nov. 22, 2017; L.2017, c. 176, § 1, eff. Aug. 21, 2017.)

§ 6–134. Designating petition; rules

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

1. A designating petition may designate candidates for nomination for one or more different public offices or for nomination for election to one or more party positions or both, but designations or nominations for which the petitions are required to be filed in different offices or petitions for the same public office or party position in different political subdivisions may not be combined in the same petition. If two or more offices having the same title are to be filled for different terms, the terms of office shall be included as part of the title of the office.

2. Sheets of a designating petition shall be delivered to the board of elections in the manner prescribed by regulations that shall be promulgated by the state board of elections, provided, however, that the sheets of any volume of a petition shall be numbered. Such regulations shall be no more restrictive than is reasonably necessary for the processing of such petitions by the board of elections. Such regulations shall be binding on the boards of election in each county and in the city of New York. When a determination is made that a designating petition does not comply with such regulations, the candidate shall have three business days from the date of such determination to cure the violation.

3. If a voter shall sign any petition or petitions designating a greater number of candidates for public office or party position than the number of persons to be elected thereto his

signatures, if they bear the same date, shall not be counted upon any petition, and if they bear different dates shall be counted in the order of their priority of date, for only so many designees as there are persons to be elected.

4. A signature made earlier than thirty-seven days before the last day to file designating petitions for the primary election shall not be counted.

5. The use of titles, initials or customary abbreviations of given names by the signers of, or witnesses to, designating petitions or the use of customary abbreviations of addresses of such signers or witnesses, shall not invalidate such signatures or witness statement provided that the identity of the signer or witness as a registered voter can be established by reference to the signature on the petition and that of a person whose name appears in the registration poll ledgers, provided, however, nothing in this section shall prevent a court from receiving sworn testimony or other admissible evidence as to the authenticity of a signature when such signature would otherwise be invalidated for not matching the signature on file with the board of elections.

6. An alteration or correction of information appearing on a signature line, other than the signature itself and the date, shall not invalidate such signature.

7. A signer need only place his signature upon the petition, and need not himself fill in the other required information.

8. Notwithstanding any other provision of this chapter, the failure to list a committee to fill vacancies or the failure to list at least three eligible voters as a committee to fill vacancies shall not invalidate the petition unless a vacancy occurs which, under law, may be filled only by such a committee.

9. A person other than the subscribing witness may insert the information required by the subscribing witness statement, provided that all subscribing witness information required above the subscribing witness' signature is inserted either before such subscribing witness signs the statement or in the presence of such subscribing witness.

10. The provisions of this section shall be liberally construed, not inconsistent with substantial compliance thereto and the prevention of fraud.

11. If the number of signatures on any petition sheet is understated in the witness statement, such petition sheet shall not be invalid solely because of such understatement, but such petition sheet will be deemed to contain the number of signatures indicated on such witness statement and the signatures at the end of such petition sheet that are in excess of the number so indicated shall be deemed not to have been filed.

12. A signature on a petition sheet shall not be deemed invalid solely because the address provided is the post office address of the signer provided that proof that such address is the accepted address of such signer is provided to the board of elections no later than three days following the receipt of specific objections to such signature.

13. In addition to the requirement for the signature, the printed name of the signer may be added, provided that the failure to provide a place to print the name or failure to print a name if a space is provided shall not invalidate the signature or petition.

(Added L.1996, c. 709, § 3. Amended L.2009, c. 71, § 1, eff. June 24, 2009; L.2014, c. 20, § 3, eff. May 9, 2014; L.2019, c. 533, § 1, eff. Dec. 15, 2019.)

§ 6–136. Designating petitions; number of signatures

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

1. Petitions for any office to be filled by the voters of the entire state must be signed by not less than fifteen thousand or five per centum, whichever is less, of the then enrolled voters of the party in the state (excluding voters in inactive status), of whom not less than one hundred or five per centum, whichever is less, of such enrolled voters shall reside in each of one-half of the congressional districts of the state.

2. [Eff. until Dec. 31, 2021, pusuant to L.2021, c. 22, § 4.] All other petitions must be signed by not less than *one and one-half* per centum, as determined by the preceding enrollment, of the then enrolled voters of the party residing within the political unit in which the office or position is to be voted for (excluding voters in inactive status), provided, however, that

for the following public offices the number of signatures need not exceed the following limits:

(a) *Notwithstanding any provision of the New York city charter providing for greater thresholds to the contrary f*or any office to be filled by all voters of the city of New York, *two thousand two hundred fifty* signatures;

(b) *Notwithstanding any provision of the New York city charter providing for greater thresholds to the contrary f*or any office to be filled by all the voters of any county or borough within the city of New York, *one thousand two hundred* signatures;

(c) *Notwithstanding any provision of the New York city charter providing for greater thresholds to the contrary f*or any office to be filled in the city of New York by all the voters of any municipal court district, *four hundred fifty* signatures;

(c–1) *Notwithstanding any provision of the New York city charter providing for greater thresholds to the contrary f*or any office to be filled in the city of New York by all the voters of any city council district, *two hundred seventy* signatures;

(d) For any office to be filled by all the voters of cities or counties, except the city of New York and counties therein, containing more than two hundred fifty thousand inhabitants according to the last preceding federal enumeration, *six hundred* signatures;

(e) For any office to be filled by all the voters of cities or counties containing more than twenty-five thousand and not more than two hundred fifty thousand inhabitants, according to the last preceding federal enumeration, *three hundred* signatures;

(f) For any office to be filled by all the voters of any other city or county, or of a councilmanic district in any city other than the city of New York, *one hundred fifty* signatures;

(g) For any office to be filled by all the voters of any congressional district, *three hundred seventy-five* signatures;

(h) For any office to be filled by all the voters of any state senatorial district, *three hundred* signatures;

(i) For any office to be filled by all voters of any assembly district, *one hundred fifty* signatures;

(j) For any office to be filled by all the voters of any political subdivision, except as herein otherwise provided, contained within another political subdivision, not to exceed the number of signatures required for the larger subdivision;

(k) For any other office to be filled by the voters of a political subdivision containing more than one assembly district, county or other political subdivision, not to exceed the aggregate of the signatures required for the subdivisions or parts of subdivisions so contained; and

(*l*) For any county legislative district, *one hundred fifty* signatures.

2. [Eff. Dec. 31, 2021, pusuant to L.2021, c. 22, § 4.] All other petitions must be signed by not less than five per centum, as determined by the preceding enrollment, of the then enrolled voters of the party residing within the political unit in which the office or position is to be voted for (excluding voters in inactive status), provided, however, that for the following public offices the number of signatures need not exceed the following limits:

(a) For any office to be filled by all voters of the city of New York, seven thousand five hundred signatures;

(b) For any office to be filled by all the voters of any county or borough within the city of New York, four thousand signatures;

(c) For any office to be filled in the city of New York by all the voters of any municipal court district, one thousand five hundred signatures;

(c–1) For any office to be filled in the city of New York by all the voters of any city council district, nine hundred signatures;

(d) For any office to be filled by all the voters of cities or counties, except the city of New York and counties therein, containing more than two hundred fifty thousand inhabitants according to the last preceding federal enumeration, two thousand signatures;

(e) For any office to be filled by all the voters of cities or counties containing more than twenty-five thousand and not more than two hundred fifty thousand inhabitants, according

to the last preceding federal enumeration, one thousand signatures;

(f) For any office to be filled by all the voters of any other city or county, or of a councilmanic district in any city other than the city of New York, five hundred signatures;

(g) For any office to be filled by all the voters of any congressional district, twelve hundred fifty signatures;

(h) For any office to be filled by all the voters of any state senatorial district, one thousand signatures;

(i) For any office to be filled by all voters of any assembly district, five hundred signatures;

(j) For any office to be filled by all the voters of any political subdivision, except as herein otherwise provided, contained within another political subdivision, not to exceed the number of signatures required for the larger subdivision;

(k) For any other office to be filled by the voters of a political subdivision containing more than one assembly district, county or other political subdivision, not to exceed the aggregate of the signatures required for the subdivisions or parts of subdivisions so contained; and

(*l*) For any county legislative district, five hundred signatures.

3. The number of signatures on a petition to designate a candidate or candidates for the position of delegate or alternate to a state or judicial district convention or member of the state committee or assembly district leader or associate assembly district leader need not exceed the number required for member of assembly, and to designate a candidate for the position of district delegate to a national party convention need not exceed the number required for a petition for representative in congress.

4. Expired and deemed repealed Dec. 31, 2019, pursuant to L.2019, c. 17, § 2. See Subd. 4 below.

4. [Expires and deemed repealed Dec. 31, 2020, pursuant to L.2019, c. 18, § 2. See Subd. 4 above.] Notwithstanding subdivision two of this section, for any party position of member of the ward, town, city or county committee, such petitions must be signed by not less than three per centum of the then

enrolled voters of the party residing within the election district for which such position is to be voted (excluding voters in inactive status).

5. Expired and deemed repealed Dec. 31, 2019, pursuant to L.2019, c. 22, § 2.

(L.1976, c. 233, § 1. Amended L.1977, c. 171, § 1; L.1991, c. 90, § 27; L.1992, c. 79, § 15; L.1993, c. 418, § 1; L.1994, c. 659, § 42; L.1996, c. 200, § 19, eff. June 25, 1996; L.2019, c. 17, § 1, eff. Feb. 20, 2019; L.2019, c. 18, § 1, eff. Feb. 20, 2019; L.2019, c. 22, § 1, eff. March 25, 2019; L.2021, c. 22, § 1, eff. Jan 28, 2021.)

§ 6–137. Repealed by L.1999, c. 137, § 6, eff. Dec. 31, 2000

§ 6–138. Independent nominations; rules

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

1. Independent nominations for public office shall be made by a petition containing the signatures of registered voters of the political unit for which a nomination is made who are registered to vote. The name of a person signing such a petition for an election for which voters are required to be registered shall not be counted if the name of a person who has signed such a petition appears upon another valid and effective petition designating or nominating the same or a different person for the same office.

2. Except as otherwise provided herein, the form of, and the rules for a nominating petition shall conform to the rules and requirements for designating petitions contained in this article.

3. a. The name selected for the independent body making the nomination shall be in English characters and shall not include the name or part of the name or an abbreviation of the name or part of the name, nor shall the emblem or name be of such a configuration as to create the possibility of confusion with the emblem or name of a then existing party, or the emblem or name of an independent body selected by a previously filed independent nominating petition for the same office. Such name selected for such independent body shall continu-

ously remain the name of such party as defined in subdivision three of section 1–104 of this chapter.

b. Notwithstanding the requirements of paragraph a of this subdivision, if the emblem or name selected for an independent body on any independent nominating petition is the same as that selected by any previously filed independent nominating petition for the same office, the board of elections with which such later petition was filed shall, not later than two days after the filing of such later filed petition, send notice of such duplicate selection of emblem or name by first-class mail, to the candidate for such office who was nominated by such later filed petition, and that the candidate to whom such notice is required to be sent may file with such board of elections, not later than seven days after such notice was mailed, a certificate selecting a different emblem or name.

c. A person who has been nominated or who expects to be nominated as the candidate of an independent body for the office of President of the United States at any election for such office may, not later than three days after the last day to file nominating petitions, file with the state board of elections, a special certificate which shall be irrevocable, stating that such person does not wish to permit candidates for any other office, except the office of Vice-President of the United States, to appear on the ballot with the same name and emblem as the independent body which has nominated or will nominate such candidate for the office of President.

d. Not later than seven days after the last day to file nominating petitions, the state board of elections shall notify each local board of elections of the name of each candidate for President of the United States who has filed such a special certificate, together with the name and emblem of the independent body selected on the petition which nominated such candidate.

e. If any candidate has been nominated for any other office by a petition which selected the same name or emblem for an independent body as the name or emblem selected on the petition which nominated a candidate for President of the United States who has filed a special certificate pursuant to paragraph c of this subdivision, the board of elections with which the petition nominating such candidate for such other

office was filed shall, not later than ten days after the last day to file nominating petitions, send to each such candidate, by first class mail, notice that a special certificate pursuant to paragraph c of this subdivision has been filed and that the candidate to whom such notice is sent may file with such board of elections, not later than seven days after such notice was mailed, a certificate selecting a different name and emblem.

f. If such a petition shall not show an emblem, or if the petition shall fail to select a name for such independent body, or if pursuant to the provisions of paragraph b or paragraph e of this subdivision, a candidate shall fail to select another emblem or name for such independent body, the officer or board in whose office the petition is filed shall select an emblem or name or both to distinguish the candidates nominated thereby. The name and emblem shown upon such petition or selected by a candidate authorized to make such selection by paragraph b or paragraph e of this subdivision, or selected by an officer or board shall also conform to the requirements of this chapter with respect to names or emblems permitted to be selected by a party.

g. Nothing contained in this subdivision shall preclude a court of competent jurisdiction from rejecting an independent nominating petition if the court determines that fraud was involved in the selection of a name or emblem.

4. A signature made earlier than six weeks prior to the last day to file independent petitions shall not be counted. A signature on an independent petition for a special election made earlier than the date of the proclamation calling the special election shall not be counted.

(L.1976, c. 233, § 1. Amended L.1978, c. 9, § 48; L.1992, c. 79, § 16; L.1992, c. 305, § 1; L.1992, c. 306, § 1; L.1995, c. 88, § 2; L.1996, c. 709, § 4; L.2019, c. 619, § 2, eff. Dec. 11, 2019.)

§ 6–140. Independent nominations; form of petition

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

1. a. Each sheet of an independent nominating petition shall be signed in ink, shall contain the following information and shall be in substantially the following form:

I, the undersigned, do hereby state that I am a registered voter of the political unit for which a nomination for public office is hereby being made, that my present place of residence is truly stated opposite my signature hereto, and that I do hereby nominate the following named person (or persons) as a candidate (or as candidates) for election to public office (or public offices) to be voted for at the election to be held on the ..... day of ....., 20...., and that I select the name ..... (fill in name) as the name of the independent body making the nomination (or nominations) and ..... (fill in emblem) as the emblem of such body.

Name of Candidate	Public Office (include district number, if applicable)	Place of residence (also post office address if not identical)
.....	.....	.....
.....	.....	.....

I do hereby appoint ..... (here insert the names and addresses of at least three persons, all of whom shall be registered voters within such political unit), as a committee to fill vacancies in accordance with the provisions of the election law.

In witness whereof, I have hereunto set my hand, the day and year placed opposite my signature.

Date	Name of Signer	Residence
.....	.....	.....
.....	.....	.....
		Town or city (except in the city of New York, the county)
		.....
		.....

b. There shall be appended at the bottom of each sheet a signed statement of a witness who is a duly qualified voter of the state and who has not previously signed a petition for another candidate for the same office. Such a statement shall be accepted for all purposes as the equivalent of an affidavit, and if it contains a material false statement, shall subject the person signing it to the same penalties as if he or she had been

duly sworn. The form of such statement shall be substantially as follows:

STATEMENT OF WITNESS

I, ... (name of witness) state: I am a duly qualified voter of the State of New York and now reside at ..... (residence address).

Each of the individuals whose names are subscribed to this petition sheet containing ..... (fill in number) signatures, subscribed the same in my presence on the dates above indicated and identified himself or herself to be the individual who signed this sheet.

I understand that this statement will be accepted for all purposes as the equivalent of an affidavit and, if it contains a material false statement, shall subject me to the same penalties as if I had been duly sworn.

Date: ....
Signature of Witness

Witness identification information:

The following information must be completed prior to filing with the board of elections in order for this petition sheet to be valid.

Town or City	County
.....	.....

2. In lieu of the signed statement of a witness who is a duly qualified voter of the state, the following statement signed by a notary public or commissioner of deeds shall be accepted:

On the dates above indicated before me personally came each of the voters whose signatures appear on this petition sheet containing ..... (fill in number) signatures, who signed same in my presence and who, being by me duly sworn, each for himself or herself, said that the foregoing statement made and subscribed by him or her, was true.

Date: .....

.....
(Signature and official title of officer administering oath)

3. The state board of elections shall prepare a sample form of an independent nominating petition which meets the requirements of this section and shall distribute or cause such forms to be distributed to each board of elections. Such forms shall be made available to the public upon request, by the state board of elections and each such board. Any petition that is a copy of such a sample shall be deemed to meet the requirements of form imposed by this section.

(L.1976, c. 233, § 1. Amended L.1976, c. 234, § 29; L.1977, c. 459, § 2; L.1978, c. 373, § 60; L.1992, c. 79, §§ 17, 18; L.1995, c. 476, § 2; L.1996, c. 197, § 2; L.1996, c. 709, § 5; L.2000, c. 235, § 2, eff. Aug. 16, 2000; L.2006, c. 447, §§ 2, 3, eff. Dec. 1, 2006; L.2009, c. 246, § 1, eff. July 28, 2009; L.2017, c. 106, § 2, eff. Nov. 22, 2017; L.2017, c. 176, § 2, eff. Aug. 21, 2017.)

§ 6–142. Independent nominations; number of signatures

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

1. An independent nominating petition for candidates to be voted for by all the voters of the state must be signed by at least *forty-five* thousand voters, *or one percent of the total number of votes, excluding blank and void ballots, cast for the office of governor at the last gubernatorial election, whichever is less,* of whom at least *five* hundred, *or one percent of enrolled voters,* whichever is less, shall reside in each of one-half of the congressional districts of the State.

2. An independent nominating petition for the nomination of candidates for an office to be filled by the voters of any other political unit must be signed by voters numbering five per centum of the total number of votes cast for governor at the last gubernatorial election in such unit, excluding blank and void votes, except that not more than three thousand five hundred signatures shall be required upon any such petition for any office to be filled in any political subdivision of the state wholly outside the city of New York, and not more than the following numbers of signatures shall be required upon any such petition for the following public offices respectively:

(a) for any office to be filled in any county or portion thereof outside the city of New York, one thousand five hundred;

(b) for any office to be filled by all the voters of the city of New York, seven thousand five hundred;

(b–1) for any office to be filled by all the voters of any two counties in such city, four thousand;

(c) for any office to be filled by all the voters of any county or borough in such city, four thousand;

(d) for any office to be filled by all the voters of any municipal court district, three thousand signatures;

(d–1) for any office to be filled in the city of New York by all the voters of any city council district, two thousand seven hundred;

(e) for any office to be filled by all the voters of any congressional district, three thousand five hundred;

(f) for any office to be filled by all the voters of any state senatorial district, three thousand;

(g) for any office to be filled by all the voters of an assembly district, one thousand five hundred;

(h) for the office of trustee of the Long Island Power Authority, five hundred;

(i) for any office to be filled by the voters of any political subdivision contained within another political subdivision except as herein otherwise provided, not to exceed the number of signatures required for the larger subdivision.

(L.1976, c. 233, § 1. Amended L.1978, c. 8, § 14; L.1986, c. 517, § 6; L.1991, c. 90, § 28; L.1992, c. 79, § 19; L.1993, c. 418, § 2, eff. July 21, 1993; L.2020, c. 58, pt. ZZZ, § 9, eff. April 3, 2020.)

§ 6–144. Nominating and designating petitions and certificates; place for filing

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

Petitions, certificates and minutes specified in this article shall be filed in the office of the Board of Elections of the

county, except as follows: for an office or position to be voted for wholly within the city of New York, in the office of the Board of Elections of that city; for an office or position to be voted for in a district greater than one county, or portions of two or more counties, in the office of the state board of elections; for a village office to be filled in a village election not conducted by the board of elections, in the office of the village clerk. All such petitions and certificates shall at the time of filing thereof be endorsed by such officer or board with the day, hour and minute of such filing. Such officer or board shall keep a book, which shall be open to public inspection in which shall be entered the times of filing all such petitions and certificates; the names and residences of all candidates named therein; the names and residences of all candidates certified to such officer or board; the title of the office or party position; the name of the party or independent body to which the petition or certificate relates and a memorandum of any objections to such petition or certificate. Forthwith upon the filing of a petition or certificate designating or nominating a person or persons for public office, such officer or board shall mail notice thereof to each such person. Such notice shall also state the last day to decline such designation or nomination, and include a statement that the candidate's name shall appear on the ballot as it appears in such notice.

(L.1976, c. 233, § 1. Amended L.1986, c. 378, § 3; L.1990, c. 635, § 4; L.1996, c. 150, § 1, eff. Dec. 31, 1996.)

§ 6–146. Nomination and designation; declination or acceptance

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

1. A person designated as a candidate for nomination or for party position, or nominated for an office, otherwise than at a primary election, may, in a certificate signed and acknowledged by him, and filed as provided in this article, decline the designation or nomination; provided, however, that, if designated or nominated for a public office other than a judicial office by a party of which he is not a duly enrolled member, or

if designated or nominated for a public office other than a judicial office by more than one party or independent body or by an independent body alone, such person shall, in a certificate signed and acknowledged by him, and filed as provided in this article, accept the designation or nomination as a candidate of each such party or independent body other than that of the party of which he is an enrolled member, otherwise such designation or nomination shall be null and void.

2. If any designation or nomination is declined, the officer or board to whom or which notification thereof is given shall forthwith inform by mail or otherwise the committee authorized to fill the vacancy, that the designation or nomination has been declined, and if such declination is filed with the state board of elections after such board has given official notice, pursuant to the provisions of this chapter, to the several boards of elections that the name of the candidate filing such declination is to appear on a ballot, such board also shall give immediate notice by mail or otherwise that such designation or nomination has been declined, to the several boards of elections which prepare the official ballots for election districts affected by such declination.

3. When a person who was not designated for nomination at a primary election receives a nomination for public office at such primary election, the officer or board with whom or which a designating petition for such an office is required to be filed shall forthwith notify, by mail, such person of his nomination, and that he must decline or accept such nomination in writing as hereinafter provided.

4. A person nominated without designation for public office at a primary election may decline such nomination. A person so nominated for public office by a party of which he is not a duly enrolled member, must decline or accept such nomination, otherwise such nomination shall be null and void. Such declinations or acceptances must be filed not later than five days after the mailing of notification of such nomination by such officer or board. If the nomination is declined the vacancy may be filled not later than three days after such declination shall have been filed in the office of the officer or board.

5. A person who has been nominated for public office by a party or parties and who is thereafter nominated for another office by one or more of such parties, or who is thereafter nominated by the party to fill a vacancy caused by such nomination or nominations to fill a vacancy by the party, may decline such first nomination or nominations not later than the third day after the filing of the certificate of his nomination or nominations for such other office, but such a declination shall not be effective if such other nomination or nominations by the party is duly declined.

(L.1976, c. 233, § 1. Amended L.1976, c. 234, § 30; L.1982, c. 224, § 1; L.1994, c. 324, § 1, eff. July 20, 1994.)

§ 6–147. Multiple designations of a candidate for a party position

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

1. The name of a person designated on more than one petition as a candidate for a party position to be filled by two or more persons shall be printed on the ballot with the group of candidates designated by the petition first filed unless such person, in a certificate duly acknowledged by him or her and filed with the board of elections not later than the tenth Tuesday preceding the primary election or five days after the board of elections mails such person notice of his or her designation in more than one group, whichever is later, specifies another group in which his or her name shall be printed.

2. A person designated as a candidate for the position of member of the county committee in more than one election district shall be deemed to have been designated in the lowest numbered election district unless such person, in a certificate duly acknowledged by him or her, and filed with the board of elections not later than the tenth Tuesday preceding the primary election or five days after the board of elections mails such person notice of his or her designation in more than one election district whichever is later, specifies that he or she wishes to be deemed designated in a different election district.

3. The board of elections shall forthwith notify each person designated more than once for the same party position in one

or more districts of the fact of such designations and of his right to file a certificate pursuant to the provisions of this section, specifying the group or district in which he wishes to be deemed a candidate.

(Added L.1984, c. 433, § 2. Amended L.1984, c. 434, § 7, eff. Dec. 1, 1984; L.2019, c. 5, § 12, eff. Jan. 24, 2019.)

§ 6–148. Nomination and designation; filling vacancies

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

1. A vacancy in a designation or nomination caused by declination, where a declination is permitted by this article, or by the death or disqualification of the candidate, or by a tie vote at a primary, may be filled by the making and filing of a certificate, setting forth the fact and cause of the vacancy, the title of the office, the name of the original candidate, if any, and the name and address of the candidate newly designated or nominated.

2. A vacancy in a designation or independent nomination, or in a party nomination made otherwise than at a primary, may be filled by a majority of the committee to fill vacancies shown upon the face of the petition or certificate of the designation or nomination in which the vacancy occurs.

3. A vacancy in a nomination made at a primary, or by a tie vote thereat, may be filled by a majority of the members, of the party committee or committees last elected in the political subdivision in which the vacancy occurs, present at a meeting at which there is a quorum, or by a majority of such other committee as the rules of the party may provide.

4. If the vacancy be filled by a committee named in a petition or certificate of nomination, the new certificate shall be signed by a majority of such committee; if filled by any other committee, it shall be signed by the presiding officer and secretary of the committee. Appended to the certificate shall be the affidavit of the persons signing the certificate that they were a majority of such committee, or such officers, as the case may be, and that the statements in such certificate are true.

5. The certificate designating a person to fill a vacancy in a designation or nomination shall have appended thereto his written consent to be so designated or nominated, duly acknowledged.

6. When a certificate of a new designation or nomination shall be filed with the state board of elections after such board has given official notice, pursuant to the provisions of this chapter, to the several boards of elections, of the names to appear on the ballot at the election to which such new designation or nomination applies, such board shall forthwith certify to the proper board of elections the name of the person designated or nominated by such certificate and such other facts as are required to be stated therein.

(L.1976, c. 233, § 1. Amended L.1976, c. 234, § 31; L.1978, c. 9, § 49, eff. Mar. 7, 1978; L.1978, c. 373, § 61, eff. June 19, 1978.)

§ 6–150. Nomination; vacancy caused by death or disqualification, unfilled at time of general or special election

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

If a vacancy shall occur in a nomination, caused by disqualification or death of the candidate subsequent to noon of the Tuesday before a general or special election and prior to the closing of the polls on such election day, such vacancy shall not be filled, and the votes cast for such deceased candidate shall be canvassed and counted, and if he shall receive a plurality of the votes cast, a vacancy shall exist in the office for which such nomination was made to be filled in the manner provided by law for vacancies in office occurring by reason of death after election.

(L.1976, c. 233, § 1.)

§ 6–152. Vacancies caused by death or disqualification and unfilled at time of primary election

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

If a vacancy shall occur in a designation of a candidate for nomination or election at a primary election, caused by the death or disqualification of a candidate subsequent to noon of the seventh day before the primary election and prior to the closing of the polls, such vacancy shall not be filled and the votes cast for such deceased or disqualified candidate shall be canvassed and counted, and, if he shall receive a plurality of the votes cast, another candidate may thereafter be nominated or the vacancy filled as provided by law or the rules of the party.

(L.1976, c. 233, § 1. Amended L.1976, c. 234, § 32, eff. Dec. 1, 1977.)

§ 6–153. Certificate of candidacy by write-in candidates for president and vice president

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

1. Any person who wishes to be a write-in candidate for president of the United States shall, not later than the third Tuesday before the general election, file a certificate of candidacy with the state board of elections.

2. Such certificate shall be signed by such candidate and shall contain the following:

(a) The name and address of the candidate for president.

(b) The name and address of a candidate for vice president of the United States, if any, and a certificate of acceptance signed by such candidate.

(c) The names and addresses of the candidates for electors pledged to such candidate for president, together with a certificate of acceptance and pledge of support signed by each such candidate for elector.

(Added L.1988, c. 13, § 1. Amended L.1988, c. 175, § 3, eff. June 27, 1988.)

§ 6–154. Nominations and designations; objections to

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

1. Any petition filed with the officer or board charged with the duty of receiving it shall be presumptively valid if it is in proper form and appears to bear the requisite number of signatures, authenticated in a manner prescribed by this chapter.

2. Written objections to any certificate of designation or nomination or to a nominating or designating petition or a petition for opportunity to ballot for public office or to a certificate of acceptance, a certificate of authorization, a certificate of declination or a certificate of substitution relating thereto may be filed by any voter registered to vote for such public office and to a designating petition or a petition for opportunity to ballot for party position or a certificate of substitution, a certificate of acceptance or a certificate of declination relating thereto by any voter enrolled to vote for such party position. Such objections shall be filed with the officer or board with whom the original petition or certificate is filed within three days after the filing of the petition or certificate to which objection is made, or within three days after the last day to file such a certificate, if no such certificate is filed except that if any person nominated by an independent nominating petition, is nominated as a party candidate for the same office by a party certificate filed, or a party nomination made after the filing of such petition, the written objection to such petition may be filed within three days after the filing of such party certificate or the making of such party nomination. When such an objection is filed, specifications of the grounds of the objections shall be filed within six days thereafter with the same officer or board and if specifications are not timely filed, the objection shall be null and void. Each such officer or board is hereby empowered to make rules in reference to the filing and disposition of such petition, certificate, objections and specifications.

3. When a determination is made that a certificate or petition is insufficient, such officer or board shall give notice of the determination forthwith by mail to each candidate named in the petition or certificate, and, if the determination is made upon specified objections, the objector shall be notified.

(L.1976, c. 233, § 1. Amended L.1978, c. 373, § 62; L.1981, c. 248, § 1, eff. June 15, 1981.)

§ 6–156. Party nominations; certification

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

Certificates of nominations, made otherwise than at a primary, shall contain the name of the political party making the nomination, the title of the office for which such person is nominated, the name and residence of the nominee, the committee, if any, appointed to fill vacancies in the nominations, and shall be signed by the presiding officer and a secretary of the body making the nomination. When a nomination is made by a committee other than one composed of members of a state committee or a county committee, a certified copy of the rule or resolution constituting such committee, shall, if a copy thereof shall not have been filed previously, be attached to the certificate.

(L.1976, c. 233, § 1. Amended L.1996, c. 160, § 2, eff. Dec. 1, 1996.)

§ 6–158. Nominating and designating petitions and certificates, conventions; times for filing and holding

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

1. A designating petition shall be filed not earlier than the thirteenth Monday before, and not later than the twelfth Thursday preceding the primary election.

1–a. [Expires and deemed repealed Dec. 31, 2020, pursuant to L.2019, c. 290, § 8.] A designating petition for a presidential primary election shall be filed not earlier than the thirteenth Monday before, and not later than the twelfth Thursday preceding the presidential primary election.

2. A certificate of acceptance or declination of a designation shall be filed not later than the fourth day after the last day to file such designation.

3. A certificate to fill a vacancy in a designation caused by declination shall be filed not later than the fourth day after the last day to decline. A certificate to fill a vacancy in a designa-

tion caused by death or disqualification shall be filed not later than ten days after such death or disqualification or four days before the primary election, whichever is earlier.

4. A petition of enrolled members of a party requesting an opportunity to write in the name of an undesignated candidate for a public office or party position at a primary election shall be filed not later than the eleventh Thursday preceding the primary election. However, where a designating petition has been filed and the person named therein has declined such designation and another person has been designated to fill the vacancy, then in that event, a petition for an opportunity to ballot in a primary election shall be filed not later than the tenth Thursday preceding such primary election.

5. A judicial district convention shall be held not earlier than the Thursday following the first Monday in August preceding the general election and not later than six days thereafter.

6. (a) [Eff. until Dec. 31, 2020, pursuant to L.2019, c. 290, § 8. See, also, par. (a) below.] A certificate of a party nomination made other than at the primary election for an office to be filled at the time of a general election shall be filed not later than thirty days after the June primary election, (b) except that a certificate of nomination for an office which becomes vacant after the seventh day preceding such primary election shall be filed not later than thirty days after the primary election or ten days after the creation of such vacancy, whichever is later, and (c) except, further, that a certificate of party nomination of candidates for elector of president and vice-president of the United States shall be filed not later than seventy-three days after the June primary election, and (d) except still further that a certificate of party nomination made at a judicial district convention shall be filed not later than the day after the last day to hold such convention and the minutes of such convention, duly certified by the chairman and secretary, shall be filed within seventy-two hours after adjournment of the convention. A certificate of party nomination for an office to be filled at a special election shall be filed not later than ten days following the issuance of a proclamation of such election.

6. (a) [Eff. Dec. 31, 2020, pursuant to L.2019, c. 290, § 8. See, also, par. (a) above.] A certificate of a party nomination made other than at the primary election for an office to be

filled at the time of a general election shall be filed not later than thirty days after the June primary election, (b) except that a certificate of nomination for an office which becomes vacant after the seventh day preceding such primary election shall be filed not later than thirty days after the primary election or ten days after the creation of such vacancy, whichever is later, and (c) except, further, that a certificate of party nomination of candidates for elector of president and vice-president of the United States shall be filed not later than seventy-four days after the primary election, and (d) except still further that a certificate of party nomination made at a judicial district convention shall be filed not later than the day after the last day to hold such convention and the minutes of such convention, duly certified by the chairman and secretary, shall be filed within seventy-two hours after adjournment of the convention. A certificate of party nomination for an office to be filled at a special election shall be filed not later than ten days following the issuance of a proclamation of such election.

7. A certificate of acceptance or declination of a party nomination made other than at a primary election for an office to be filled at the time of a general election shall be filed not later than the third day after the last day to file the certificate of such party nomination. A certificate of acceptance or declination of a party nomination for an office to be filled at a special election shall be filed not later than twelve days following the issuance of a proclamation of such election.

8. A certificate to fill a vacancy caused by a declination of a party nomination for an office to be filled at the time of a general election shall be filed not later than four days after the last day to file such declination, except that if such nomination was made at the primary election, such certificate shall be filed not later than ten days after the last day to file such declination. A certificate to fill a vacancy caused by a declination of a party nomination for an office to be filled at a special election shall be filed not later than fourteen days following the issuance of a proclamation of such election. A certificate to fill a vacancy in a nomination caused by death or disqualification shall be filed not later than ten days after such death or disqualification or four days before the election, whichever is earlier.

9. A petition for an independent nomination for an office to be filled at the time of a general election shall be filed not earlier than twenty-four weeks and not later than twenty-three weeks preceding such election. A petition for an independent nomination for an office to be filled at a special election shall be filed not later than twelve days following the issuance of a proclamation of such election.

10. Notwithstanding any other provisions of law, where a vacancy occurs less than fourteen days before the last day for the filing of an independent petition for an office to be filled at the time of a general election, or after the last day to file an independent petition, such petition may be filed for the said office within fourteen days after the vacancy occurs. A certificate of acceptance or declination in such an event shall be filed within two days thereafter and a certificate to fill a vacancy caused by declination shall be filed within two days after such declination has been filed.

11. A certificate of acceptance or declination of an independent nomination for an office to be filled at the time of a general election shall be filed not later than the third day after the twenty-third Tuesday preceding such election except that a candidate who files such a certificate of acceptance for an office for which there have been filed certificates or petitions designating more than one candidate for the nomination of any party, may thereafter file a certificate of declination not later than the third day after the primary election. A certificate of acceptance or declination of an independent nomination for an office to be filled at a special election shall be filed not later than fourteen days following the issuance of a proclamation of such election.

12. A certificate to fill a vacancy caused by a declination of an independent nomination for an office to be filled at the time of a general election shall be filed not later than the sixth day after the twenty-third Tuesday preceding such election. A certificate to fill a vacancy caused by a declination of an independent nomination for an office to be filled at a special election shall be filed not later than sixteen days following the issuance of a proclamation of such election.

13. If a vacancy occurs too late to comply with the provisions of this section, the certificates of nomination, certificates

of acceptance or declination, certificates to fill a vacancy in such nomination and certificates of authorization of a nomination shall be filed as soon as practicable.

14. A vacancy occurring three months before the general election in any year in any office authorized to be filled at a general election, except in the offices of governor, lieutenant-governor, or United States senator shall be filled at the general election held next thereafter, unless otherwise provided by the constitution, or unless previously filled at a special election.

(L.1976, c. 233, § 1. Amended L.1978, c. 373, § 63; L.1982, c. 703, § 1; L.1984, c. 434, § 8; L.1986, c. 378, § 2; L.1986, c. 517, § 5; L.1988, c. 16, § 4; L.1992, c. 79, § 20; L.2011, c. 147, § 5, eff. July 18, 2011, deemed eff. July 1, 2011; L.2015, c. 87, § 5, eff. July 23, 2015, deemed eff. July 1, 2015; L.2015, c. 87, § 6, eff. Dec. 15, 2015; L.2019, c. 5, § 13, eff. Jan. 24, 2019; L.2019, c. 290, § 5, eff. Sept. 13, 2019, deemed eff. July 1, 2019; L.2019, c. 290, § 6, eff. Dec. 15, 2019.)

§ 6–160. Primaries

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

1. If more candidates are designated for the nomination of a party for an office to be filled by the voters of the entire state than there are vacancies, the nomination or nominations of the party shall be made at the primary election at which other candidates for public office are nominated and the candidate or candidates receiving the most votes shall be the nominees of the party.

2. All persons designated for uncontested offices or positions at a primary election shall be deemed nominated or elected thereto, as the case may be, without balloting.

(L.1976, c. 233, § 1. Amended L.1978, c. 373, § 64, eff. June 19, 1978.)

§ 6–162. Primary; New York City, run-off

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

1. In the city of New York, when no candidate for the office of mayor, public advocate or comptroller receives forty percent or more of the votes cast by the members of a political party for such office in a city-wide primary election, the board of elections of such city shall conduct a run-off primary election between the two candidates receiving the greatest number of votes for the same office.

2. In any jurisdiction that authorizes a run-off election after a primary election, if one of the two candidates receiving the greatest number of votes for the same office files with the local board of elections a certificate of withdrawal within three days following such primary election, the board shall accept and certify the withdrawal and declare the remaining candidate the winner and no such run-off primary election shall be held. Such certificate of withdrawal shall be in affidavit or affirmation form as determined by the state board of elections.

(L.1976, c. 233, § 1. Amended L.1978, c. 373, § 65; L.1993, c. 418, § 3, eff. July 21, 1993; L.2010, c. 424, § 1, eff. Sept. 29, 2010.)

§ 6–164. Primary, uncontested; opportunity to ballot

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

Enrolled members of a party entitled to vote in the nomination of a candidate for public office or the election of a candidate for party position in a primary election of such party, and equal in number to at least the number of signers required to designate a candidate for such office or position may file with the officer or board with whom or which are filed designating petitions for such office or position a petition requesting an opportunity to write in the name of a candidate or candidates, who need not be specified, for such office or position. Upon the receipt of such a petition, such office or position shall be deemed contested and the primary ballots of the party shall afford an opportunity to vote thereon. Requests for an opportunity to write in the names of candidates for two or more offices or positions may be included in the same petition. Such petitions shall be subject to objections and court determination thereof in the same manner as designating

petitions so far as the provisions therefor are applicable. All required notices shall be served on the members of the committee named in the petition, and such committee shall have capacity to bring a proceeding under this chapter as if such committee was a candidate named on a petition. A signature to a petition for an opportunity to ballot in primary elections made earlier than sixteen days before the last day to file designating petitions for the primary election shall not be counted.

(L.1976, c. 233, § 1. Amended L.1984, c. 434, § 9; L.1988, c. 16, § 5, eff. Dec. 1, 1988; L.2019, c. 440, § 1, eff. Dec. 15, 2019.)

§ 6–166. Primary; opportunity to ballot, form of petition

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

1. The form of a petition requesting an opportunity to write in the name of an undesignated candidate or undesignated candidates at a primary election shall conform to the requirements for a designating petition, except as otherwise provided herein.

2. Each sheet of such petition shall be signed in ink and shall be substantially in the following form:

I, the undersigned, do hereby state that I am a duly enrolled voter of the ..... party and entitled to vote at the next primary election of such party, that my place of residence is truly stated opposite my signature hereto, and I do hereby request an opportunity to write in the name of an undesignated candidate or candidates for nomination to the public office or offices or for election to the party position or positions, in the political unit or units of representation hereinafter set forth, of such party to be voted on the ...day of ..... 20..., as hereinafter specified.

Public Office or party position	Political unit or unit of representation .....

The appointment of a committee to receive notices, the signatures on the petition with all required information and the signed statement of a witness or authentication by a notary

public or commissioner of deeds, shall be in the form prescribed for a designating petition.

3. Individuals *appointed* to serve on the committee to receive notices, shall, in a certificate signed and acknowledged by him or her, and filed as provided in this article, accept the *appointment* of the committee, otherwise such *appointment* shall be null and void. All certificates of acceptance shall be filed not later than the fourth day after the last day to file petitions for the opportunity to ballot.

(L.1976, c. 233, § 1. Amended L.1978, c. 9, § 50; L.2000, c. 235, § 3, eff. Aug. 16, 2000; L.2019, c. 456, § 1, eff. Nov. 8, 2019; L.2020, c. 33, § 1, eff. Nov. 8, 2019.)

§ 6–168. Designating petitions; candidates for the office of judge of the civil court of the city of New York

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

1. The board of elections of the city of New York, not later than fourteen days before the first day to circulate designating petitions for a primary election, or the day after a vacancy occurs, whichever is later, shall promulgate and have available for public inspection at its main office, a list of all vacancies in the office of judge of the civil court of the city of New York for which nominations will be made at such primary election. Such list shall include the borough and district, if any, in which each such vacancy exists, the name of the judge who was last elected to such seat and a number assigned to each such vacancy by the board of elections.

2. A designating petition for any candidate for any such office shall include in the title of the office for which a designation is being made, the number assigned by the board of elections to the vacancy for which such candidate is designated.

3. If, at any primary election in which more than one nomination is to be made for the office of judge of the civil court of the city of New York in any borough of such city or in any civil court district within any such borough, only one candidate is designated for any such vacancy, such candidate

shall be deemed nominated and his name shall not appear upon the primary ballot unless a petition for opportunity to ballot for such vacancy is filed pursuant to the provisions of this chapter.

4. If more than one person is designated for one or more such vacancies, all such persons shall be listed on the primary ballot as candidates for such office without reference to the seat for which they were designated and those persons, equal to the number of such vacancies, who receive the highest number of votes shall be nominated as candidates for such office.

(Added L.1979, c. 143, § 1. Amended L.1988, c. 17, § 1, eff. Mar. 15, 1988.)

TITLE II—VILLAGE ELECTIONS [1]

[1] So in original. No Title I has been enacted.

Section

6–200. Application of title.
6–202. Party nominations; villages.
6–204. Designating petition; form.
6–206. Independent nominations; petition, form.
6–208. Petitions, qualifications of signers.
6–210. Petitions and certificates; place and times for filing.
6–212. Designations and nominations, objections.

§ 6–200. Application of title

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

1. This title applies to all general and special village elections for officers which are conducted by the board of elections on a date other than the date of the general election and all the provisions of this chapter, not inconsistent with this title, shall apply.

2. For the purposes of this title, a village shall be deemed to be located within a county if more than fifty percent of the population of the village as shown by the last federal decennial, or special census resides in that portion of the village located in that county.

(Added L.1989, c. 359, § 19, eff. Nov. 15, 1989.)

§ 6–202. Party nominations; villages

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

1. Party nominations of candidates for village offices in any county shall be made at a party caucus or at a primary election, as the rules of the county committee, heretofore or hereafter adopted consistent with the provisions of this chapter shall provide. If the rules of the county committee of any political party provide that party nominations for village offices of that party in any or all villages in the county shall be made at a village primary election, such primary election shall be held forty-nine days prior to the date of the village election. In the event there is no village committee with a chairman, the chairman of the county committee, or such other person or body as the rules of such committee may provide, shall designate an enrolled member of the party who is a qualified voter of the village as the village election chairman. The chairman of the county committee of each party in which nominations in any village are made at a primary election shall file with the board of elections, at least one week before the first day to file designating petitions for such primary elections, a list of the name and address of the chairman of the village committee or the village election chairman in each such village. Such village chairman shall have general party responsibility for the conduct of the village caucus or primary election. Such nominations shall be made not more than fifty-six, nor less than forty-nine days prior to the date of the village election.

2. A notice of any village primary held for making party nominations of candidates for village offices to be filled at a village election shall be given by the proper party authorities by publication at least once in each of the two weeks preceding the primary in at least one newspaper of general circulation within the village.

3. A notice of any party caucus held for making party nominations for village offices for village elections shall be given by the proper party authorities by posting such notice in the public areas at the offices of the village clerk and the board of elections and by filing such notice with such clerk and such

board at least ten days preceding the day of the caucus and, either by newspaper publication thereof once within the village at least one week and not more than two weeks preceding the caucus, or by posting such notice in six public places in the village at least ten days preceding the day of the caucus.

4. The notice shall specify the time and place or places, and the purpose of such caucus or primary, including the offices for which candidates will be nominated thereat. There shall be a chairman and a secretary and tellers for each such village primary or caucus, who shall be appointed by the appropriate party officials. No person shall participate in such primary or caucus who is not a resident of the village and an enrolled voter of the party conducting the primary or caucus. At any primary or caucus in which nominees are chosen by vote of the people in attendance, the person eligible and receiving the highest number of votes for an office shall be deemed nominated. Such village primary or caucus shall not be conducted at public expense. The board of elections shall furnish a list of enrolled voters to the chairman of the village caucus or primary.

5. Any party nomination made at any such caucus or village primary shall be evidenced by the filing of a certificate of nomination with the board of elections. There shall be filed, together with such certificate, or within five days after the board of elections sends the notice of failure to file prescribed by this subdivision, a list of enrolled members of the party who have participated in such caucus or primary. If such list is not filed with such certificate, the board of elections shall forthwith send notice of the failure to file such list to the persons who signed such certificate, by first class mail, together with a notice that such list must be filed within five days after such notice was mailed. Such list shall be certified by the presiding officer or secretary of such caucus or primary.

(Added L.1989, c. 359, § 19. Amended L.1996, c. 160, § 3, eff. Dec. 1, 1996.)

§ 6–204. Designating petition; form

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

1. Party designations for elective village offices shall be made on a designating petition containing the signatures in ink of residents of the village who are registered to vote with the appropriate county board of elections at the time of signing and who are enrolled in such political party. The sheets of such a petition shall be numbered. A signer need not himself or herself fill in the date or residence. Each sheet of such petition must be in substantially the following form and shall contain all the information required therein:

PARTY DESIGNATING PETITION

I, the undersigned do hereby state that I am a registered voter of the Village of ..... and a duly enrolled voter of the ..... party and entitled to vote at the next primary election of such party, that my place of residence is truly stated opposite my signature hereto, and I hereby designate the following named person (or persons) as a candidate or (candidates) for nomination of such party for the public office or (public offices) to be voted for at the primary election to be held on the ..... day of ..... 20.... as hereinafter specified.

Name of Candidate	Public Office (include district number, if applicable)	Term	Residence
.....	.....	.....	.....
.....	.....	.....	.....

I do hereby appoint (insert names and addresses of at least three persons, all of whom shall be enrolled voters of said party) as a committee to fill vacancies in accordance with the provisions of the election law.

In witness whereof, I have hereunto set my hand, the day and year placed opposite my signature.

Date	Name	Residence
.....	.....	.....
.....	.....	.....

STATEMENT OF WITNESS

I ..... (name of witness) state: I am a duly qualified voter of the State of New York; and an enrolled voter

of the ..... party. I now reside at ..... (residence address). Each of the persons whose names are subscribed to this petition sheet containing ..... signatures, subscribed his or her name in my presence.

I understand that this statement will be accepted for all purposes as the equivalent of an affidavit and, if it contains a material false statement, shall subject me to the same penalties as if I had been duly sworn.

....
Date: Signature of witness

In lieu of the signed statement of a witness who is a duly qualified voter of the state qualified to sign the petition, the following statement signed by a notary public shall be accepted:

On the dates above indicated before me personally came each of the voters whose signatures appear on this petition sheet containing ..... (fill in number) signatures, who signed same in my presence and who, being by me duly sworn, each for himself or herself, said that the foregoing statement made and subscribed by him or her, was true.

Date .....

.....
(Signature and official title
of officer administering oath)

Page No .....

2. Notwithstanding any other provision of law, the number of signatures required on a designating petition shall be five percent of the number of enrolled voters of the party residing in the village.

(Added L.1989, c. 359, § 19. Amended L.1996, c. 197, § 3; L.1996, c. 709, § 6; L.2000, c. 235, § 4, eff. Aug. 16, 2000; L.2006, c. 447, § 4, eff. Dec. 1, 2006; L.2017, c. 106, § 3, eff. Nov. 22, 2017; L.2017, c. 176, § 3, eff. Aug. 21, 2017.)

§ 6–206. Independent nominations; petition, form

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

1. Independent nominations for elective village offices shall be made by a petition containing the signatures in ink of residents of the village who are registered with the appropriate county board of elections at the time of signing. The sheets of such a petition shall be numbered. A signer need not himself or herself fill in the date or residence. Each sheet of such petition must be in substantially the following form and shall contain all the information required therein:

VILLAGE INDEPENDENT NOMINATING PETITION

I, the undersigned, do hereby state that I am a registered voter of the Village of. . . . . , that my present place of residence is truly stated opposite my signature, and I do hereby nominate the following named person (or persons) as a candidate (or as candidates) for election to public office (or public offices) to be voted for at the election to be held on the. . . . . day of. . . . . , 20. . . . . , and that I select the name. . . . . (fill in name) as the name of the independent body making the nomination (or nominations) and. . . . . (fill in emblem) as the emblem of such body.

Name of Candidate	Public Office (include district number, if applicable)	Term	Residence
. . . . .	. . . . .	. . . . .	. . . . .
. . . . .	. . . . .	. . . . .	. . . . .

I do hereby appoint (insert names and addresses of at least three persons, all of whom shall be registered voters within such village) as a committee to fill vacancies in accordance with the provisions of the election law.

In witness whereof, I have signed this petition on the day and year stated before my signature.

Date	Signature	Residence
. . . . .	. . . . .	. . . . .
. . . . .	. . . . .	. . . . .

STATEMENT OF WITNESS

I, ... state that I am a duly qualified voter of the State of New York. I now reside at . . . . . (residence address). Each of the voters

whose names are subscribed to this petition sheet containing ..... (fill in number) signatures, subscribed his or her name in my presence.

I understand that this statement will be accepted for all purposes as the equivalent of an affidavit and, if it contains a material false statement, shall subject me to the same penalties as if I had been duly sworn.

....
Date Signature of witness

2. In lieu of the signed statement of a witness who is a duly qualified voter of the state qualified to sign the petition, the following statement signed by a notary public shall be accepted:

On the dates above indicated before me personally came each of the voters whose signatures appear on this petition sheet containing ..... (fill in number) signatures, who signed same in my presence and who, being by me duly sworn, each for himself or herself, said that the foregoing statement made and subscribed by him or her, was true.

Date: .....

.....
(Signature and official title
of officer administering oath)

Page No.....

3. The name selected for the independent body making the nomination shall be in the English language and shall not include the name or part of the name, or an abbreviation of the name or of part of the name, of a then existing party. The name and emblem shown upon such petition shall conform to the requirements of this chapter, relating to party names and party emblems. If such a petition shall not show an emblem, or the petition shall fail to select a name for such independent body, the board of elections shall select an emblem or name, or both to distinguish the candidates nominated thereby.

4. An independent nominating petition for a village office must be signed by at least one hundred voters in villages containing a population of five thousand or more; by at least seventy-five voters in villages containing a population of three

thousand and less than five thousand; and by at least fifty voters in villages containing a population of one thousand and less than three thousand; and in villages containing a population of less than one thousand by voters numbering at least five per centum of the number of voters at the last regular village election. For the purposes of this section, the population of a village shall be determined by the last federal decennial or local special population census federally supervised pursuant to section twenty of the general municipal law.

(Added L.1989, c. 359, § 19. Amended L.1996, c. 197, § 4; L.1996, c. 709, § 7; L.2000, c. 235, § 5, eff. Aug. 16, 2000; L.2006, c. 447, §§ 5, 6, eff. Dec. 1, 2006; L.2017, c. 106, § 4, eff. Nov. 22, 2017; L.2017, c. 176, § 4, eff. Aug. 21, 2017.)

§ 6–208. Petitions, qualifications of signers

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

Any village resident who is a registered voter of the village and, in the case of a designating petition, an enrolled member of the party filing the petition may sign an independent nominating petition or a designating petition providing that: (a) such signature was made not more than six weeks prior to the last day to file such petition; (b) he has not signed more than one petition designating or nominating a candidate for mayor or village justice. If he has signed more than one such petition, only the earliest signature for each such office shall be valid; (c) he has not signed more than one petition designating or nominating a candidate for each vacancy which exists for the office of village trustee or village justice if the village has provided for two such justices. If he has signed more than one such petition for each such vacancy, only the earlier signatures shall be valid; or (d) he does not vote at a primary election or party caucus where a candidate was nominated for the same office for each such vacancy.

(Added L.1989, c. 359, § 19.)

§ 6–210. Petitions and certificates; place and times for filing

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

1. Petitions and certificates specified in this title shall be filed with the county board of elections.

2. a. A certificate of party nomination for an office to be filled at the time of a general or special village election for offices shall be filed not earlier than fifty-four days nor later than forty-seven days preceding the election.

b. A certificate of acceptance or declination of a party nomination for an office to be filled at the time of a general or special village election shall be filed not later than forty-four days prior to such election.

c. A certificate to fill a vacancy caused by declination of a party nomination for an office to be filled at the time of a general or special village election shall be filed not later than forty-one days prior to such election.

d. Party designating petitions for a village primary election shall be filed not earlier than twenty-two days nor later than fifteen days prior to the primary election. Upon such a filing, the board of elections shall immediately notify the village election chairman of such party and the person or persons designated in such petition of the fact of such filing and that such petition may be inspected in its office.

e. A written declination of a party designation must be filed within three days of the date of the filing of the designating petition. Upon the filing of such declination, the board of elections shall, within one day notify the committee to fill vacancies named in the petition. A certificate to fill the vacancy caused by a declination or any other reason must be filed within three days after the date of the notice to the committee to fill vacancies and shall have appended thereto the written consent of the person or persons designated.

3. a. An independent nominating petition for an office to be filled at the time of a general or special village election shall

be filed not earlier than forty-two days nor later than thirty-five days preceding the election.

b. A certificate of acceptance or declination of an independent nomination for an office to be filled at the time of a general or special village election shall be filed not later than three days after the last day to file the petition which made such independent nomination.

c. A certificate to fill a vacancy caused by a declination of an independent nomination for an office to be filled at the time of a general or special village election for offices shall be filed not later than three days after the last day to file the certificate of declination, and shall have appended thereto the written consent of the person or persons nominated.

(Added L.1989, c. 359, § 19. Amended L.1994, c. 157, § 1; L.1995, c. 339, § 1, eff. July 28, 1995.)

§ 6–212. Designations and nominations, objections

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

Written objections to a nominating or designating petition or to a certificate of nomination, certificate of acceptance, certificate of authorization, certificate of declination or certificate of substitution with respect to an office to be filled at a general or special village election may be filed not later than the day after the last day to file such petition or certificate, or the day after such petition or certificate is received by the board of elections if such petition or certificate is mailed within the time permitted by law, whichever is later. Written specifications of the grounds for such objections shall be so filed within two days thereafter. A failure to file such written specifications shall render the original objection null and void. Upon receipt of written specifications, the county board of elections shall immediately notify each candidate named in such petition or certificate and take all steps necessary and consistent with this chapter to render a determination on the questions raised in such objections and specifications. When a determination has been made by the county board of elections that the petition is sufficient or insufficient, it shall immediately notify each candi-

date named in the petition or certificate, and, if such determination was made on objection, the objector.

(Added L.1989, c. 359, § 19.)

ARTICLE 7—ELECTION BALLOT

Title		Section
I.	Form of Ballots	7–100
II.	Voting Machines	7–200

TITLE I—FORM OF BALLOTS

Section
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§ 7–100. Ballots; provision for

Ballots shall be provided for every election at which public or party officers are to be nominated or elected.

(L.1976, c. 233, § 1.)

§ 7–102. Ballot; placing names and ballot proposals thereon

1. The names of all candidates and the form of submission of all duly certified ballot proposals shall be printed upon the official ballot except that at a primary election, no ballot proposals or names of candidates for uncontested offices or party positions shall be printed upon the official ballot.

2. In the event that two or more persons with identical names are designated as candidates for the same office or

position at any primary election, a different number shall be included with the name of every candidate for such office or position on such ballot. Such number shall be in arabic numerals and shall be placed at the beginning of each such candidate's name. The board of elections with which the certificates or petitions of designation for such candidates are filed shall determine such numbers by lot not later than ten days after the last day to file such certificates or petitions upon at least five days written notice by first class mail to each such candidate. Such notice shall also contain information concerning the provisions of subdivision four of this section and the deadlines for filing the information provided for in such subdivision four.

3. a. In the event that a candidate in a primary election believes that the name of another candidate for the same office or position at such election is sufficiently similar to his or hers so as to cause confusion among the voters, such candidate may, not later than five days after the last day to file the certificates or petitions of designation, file with the board of elections with which such certificates or petitions of designation are filed, a request that such board determine that such a sufficient similarity exists.

b. The board of elections shall meet to hear arguments on, and make a determination with respect to such a request, not later than seven days after the last day to make such request, upon five days written notice by first class mail to every candidate for such office or position. Such notice shall also contain information concerning the provisions of subdivision four of this section and the deadlines for filing the information provided for in such subdivision four.

c. If such board makes a determination that such a similarity exists, it shall forthwith assign a different number, which it shall determine by lot, to be included with the name of every candidate for such office or position on such ballot. Such number shall be in arabic numerals and shall be placed at the beginning of each such candidate's name.

4. a. If such board assigns numbers to candidates' names pursuant to the provisions of subdivision two or three of this section it shall also prepare for distribution at such election, a leaflet which contains biographical information on each such

candidate, on one side of a single sheet of paper in the order of the numbers it has assigned to such candidates. If such leaflet is published in a second language in addition to English, the two language versions shall appear on opposite sides of the same sheet of paper. Such biographical information may not exceed one hundred words and may only include such candidate's name, address, present and past public offices held, present and past occupations and employers, other public service experience, educational background and organizational affiliations.

b. Each candidate for an office or position for which such numbers are assigned may file with such board, not later than fourteen days after such determination, any or all of the information permitted by paragraph a of this subdivision in the form in which such candidate wishes such information to appear in such leaflet. If such board determines that such filing does not comply with the requirements of this subdivision, it shall notify such candidate forthwith by first class mail. Such candidate may file revised information with such board not later than ten days after such notice was mailed. If a candidate does not make a filing within the times prescribed by this paragraph, the words ''no information supplied'' shall appear next to his name on such leaflet.

(L.1976, c. 233, § 1. Amended L.1976, c. 234, § 33; L.1982, c. 647, § 6; L.1990, c. 371, § 1; L.1992, c. 219, § 1, eff. Dec. 1, 1992; L.2019, c. 411, § 2, eff. July 1, 2020.)

§ 7–104. Ballots; form of

1. All ballots shall be printed and/or displayed in a format and arrangement, of such uniform size and style as will fit the ballot, and shall be in as plain and clear a type or display as the space will reasonably permit, using only sans serif print fonts. Such type or display on the ballot shall satisfy all requirements and standards set forth pursuant to the federal Help America Vote Act.

2. The names of parties or independent bodies which contain more than fifteen letters may, whenever limitations of space so require, be printed on the ballot in an abbreviated form. In printing the names of candidates whose full names contain more than fifteen letters, only the surname must be

printed in full. The officer or board charged with the duty of certifying the candidates for such office shall request each such candidate to indicate, in writing, the shortened form in which, subject to this restriction, his or her name shall be printed. If no such indication is received from such candidate within the time specified in the request, such officer or board shall make the necessary determination.

3. (a) The party name or other designation shall be affixed to the name of each candidate, or, in case of presidential electors, to the names of the candidates for president and vice-president of such party.

(b) A column/row designating number may be affixed to the name of each candidate, or in the case of presidential electors, to the names of the candidates for president and vice-president of such party.

(c) The titles of offices may be arranged horizontally, with the names of candidates for an office and the space, slot or device for write-in votes for such office arranged vertically under the title of the office, or the titles of offices may be arranged vertically, with the names of candidates for an office and the space, slot or device for write-in votes for such office arranged horizontally opposite the title of the office.

(d) Each office shall occupy as many columns or rows on the ballot as the number of candidates to be elected to that office, except where candidate placements due to cross endorsements require additional columns or rows.

4. (a) The names of all candidates nominated by any party or independent body for an office shall always appear in the row or column containing generally the names of candidates nominated by such party or independent body for other offices except as hereinafter provided.

(b) When the same person has been nominated for an office to be filled at the election by more than one party, the voting machine shall be so adjusted that his or her name shall appear in each row or column containing generally the names of candidates for other offices nominated by any such party.

(c) If such candidate has also been nominated by one or more independent bodies, his or her name shall appear only in each row or column containing generally the names of candi-

dates for other offices nominated by any such party and the name of each such independent body shall appear in one such row or column to be designated by the candidate in a writing filed with the officer or board charged with the duty of certifying the candidates for such office, or if such person shall fail to so designate, the names of such independent bodies shall appear in such row or column as such officer or board shall determine.

(d) If any person shall be nominated for any office by one party and two or more independent bodies his or her name shall appear on the ballot twice; once in the row or column containing generally the names of candidates for other offices nominated by such party, and once in the row or column containing generally the names of candidates nominated by the independent body designated by such person in a writing filed with the officer or board charged with the duty of certifying the candidates for such office and in connection with the name of such person in such row or column shall appear the name of each independent body nominating him or her or, if such person shall fail to so designate, the name of such candidate and the names of such independent bodies shall appear in such row or column as such officer or board shall determine.

(e) If any person is nominated for any office only by more than one independent bodies,[1] his or her name shall appear but once upon the machine in one such row or column to be designated by the candidate in a writing filed with the officer or board charged with the duty of providing ballots, or if the candidate shall fail to so designate, in the place designated by the officer or board charged with the duty of certifying the candidates for such office, and in connection with his or her name there shall appear the name of each independent body nominating him or her, but, where the capacity of the ballot will permit, the name of such person shall not appear or be placed in a column or on a horizontal line with the names of persons nominated by a party for other offices.

5. Notwithstanding the provisions of subdivision four of this section, the name of a person who is nominated for the office of governor, or state senator, or member of assembly, shall appear on the ballot as many times as there are parties or independent bodies nominating him or her, and there shall be

a separate voting position at each place in which such name shall appear.

6. If any type of machine used in any county or city contains any feature approved by the state board of elections, the use of which is neither required nor prohibited by the provisions of this chapter, the board of elections may, by resolution, require that one or more of such features shall be used in such county. Thereafter all machines of such type used in such county or city shall be operated in conformity with any such resolution. Any such resolution may thereafter be rescinded by such board and after being so rescinded may be re-adopted. Once re-adopted by any board of elections, such a resolution may not be rescinded again by such board.

7. The ballot shall have printed upon it in black ink for each party or independent row, at the head of the column or the beginning of the row containing the names of candidates, the name of the party or independent body and the designating letter of the row or column.

8. With respect to candidates for the offices of governor and lieutenant governor of a party or independent body, ballots shall be printed so that the names of such candidates for both offices shall appear in the same row or column, with the name of the candidate for governor appearing first and the ballot shall be so adjusted that both offices are voted for jointly and have but one designating number if such column/row designating numbers are utilized.

9. In those counties in which ballots are required by federal law, or otherwise, to be provided in a language other than English, there shall be versions of the ballot printed in English and in each of the additional languages required so that each version of the ballot shall contain English and no more than two other languages. The county board of elections in such counties shall instruct, in their poll worker training and materials, the procedures to be followed to ensure that each voter receives a ballot with the appropriate language as determined by the state board.

10. Each ballot shall contain instructions for marking the ballot. The instructions shall be printed in line lengths no wider than five inches. Ballot instructions may be printed on

the front or back of the ballot or on a separate sheet or card. If such instructions are not printed on the front of the ballot, there shall be printed on the ballot, in the largest size type practicable, the following legend: ''See instructions on the other side'' or ''See instructions (insert where instructions are found)'', whichever is appropriate.

11. The offices appearing on all ballots shall be listed in the customary order.

12. If two or more candidates are nominated for the same office for different terms, the term for which each is nominated shall be printed as a part of the title of the office.

13. The text for ballot instructions shall be substantially as follows, so that it accurately reflects the ballot layout:

INSTRUCTIONS

Mark the (insert ''oval'' or ''square'') to the left of the name of your choice. (Provide illustration of correctly-marked voting position here.) To vote for a candidate whose name is not printed on the ballot, (insert ''mark the oval (or square) to the left of 'write-in' and print the name clearly'' or ''print the name clearly in the box labeled 'write-in''''), staying within the box. Any mark or writing outside the spaces provided for voting may void the entire ballot. The number of choices is listed for each contest. Do not mark the ballot for more candidates than allowed. If you do, your vote in that contest will not count. If you make a mistake, or want to change your vote, ask a poll worker for a new ballot.

14. The state board of elections shall provide line drawing illustrations to supplement these instructions. At a minimum, an illustration of the correct way to mark the ballot shall be provided, but nothing in this section shall be construed to limit the board in providing additional illustrations.

15. When a question or proposal is included on the ballot, instructions substantially like the following shall be included:

Instructions for Voting on Questions and Proposals

To vote on a question or proposal, mark the (insert ''oval'' or ''square'') to the (insert ''left'', ''above'' or ''below'') of your choice. If you make a mistake, or want to change your vote, ask a poll worker for a new ballot.

16. When a question or proposal appears on the back of the ballot, there shall appear on the front of the ballot words or a symbol indicating that the voter should turn over the ballot.

17. The voting oval or square shall be to the left of the name of the candidate.

18. All text, including the name of each candidate as provided in subdivision three of this section, shall be printed using standard capitalization in accordance with instructions provided by the state board of elections and shall not be printed using all capital letters.

19. The ballot shall use one font or font family with enough variations for all text needs.

20. ''Vote for one'' or ''Vote for up to .....'' (the blank space to be filled with the number of persons to be nominated for the office or elected to the position), as applicable, shall be printed immediately below each office title appearing on the ballot.

21. No party emblems shall be printed on the ballot.

22. The names of candidates for the same office shall appear on the same page and in the same column or columns or row or rows of that page of a printed ballot, and may not be separated by a perforation.

23. All text, including the title of each office and the name of each candidate, shall be printed flush left and shall not be centered on the ballot or in any column or row appearing on the ballot; provided however, in a multi-column or multi-row contest, the title and number of allowable selections to be made for each such office may be centered.

24. If used, shading shall be used consistently, so as to differentiate instructions from ballot section dividers and contest information.

25. Above, below, or to the right of the name of each candidate, shall be printed, in less prominent type face than that in which the candidate's name is printed, the name of the political party or independent body by which the candidate was nominated or designated.

26. All paper ballots of the same kind for the same polling place shall be identical.

27. To the extent practicable, the ballot shall also comply with the following specifications:

(a) The instructions in subdivision ten of this section shall be printed in the upper left hand corner of the front of the ballot;

(b) The name of each candidate shall be printed using a font size of not less than nine points;

(c) When the instructions are contained on the ballot, there shall be a clear delineation between the ballot instructions and the first office or ballot question or proposal through the use of white space, illustration, shading, color, font size, or bold type.

(L.1976, c. 233, § 1. Amended L.1978, c. 9, § 51; L.1985, c. 654, § 1; L.1986, c. 262, §§ 3, 4; L.1992, c. 79, § 21; L.2005, c. 181, § 3, eff. July 12, 2005; L.2010, c. 165, § 3, eff. July 7, 2010; L.2019, c. 411, § 3, eff. July 1, 2020.)

[1] So in original.

§ 7–105. Ballot accountability

1. Notwithstanding the provisions of this chapter requiring ballots to include a numbered stub separated from the ballot by a line of perforations, such numbered stubs shall not be required if the board of elections implements a ballot accountability process as prescribed by the New York State Board of Elections which (i) accounts for the number of each ballot style received by the election inspectors, (ii) retains a running count of ballots distributed and spoiled which would permit an interim reconciliation at any time during voting; and (iii) provides for ballot reconciliation at the close of polls to verify that the number of ballots distributed to voters or spoiled when added to unvoted ballots equals the number of ballots received by the inspectors for the election.

2. Notwithstanding the provisions of this chapter requiring that a ballot consisting of two or more sheets be provided to the voter as a single ballot divided by a line of perforations, such perforated ballots shall not be required and such ballot may be provided to the voter as separate, unconnected sheets provided: (i) the ballots clearly inform a voter that the voter must receive the number of ballot sheets the voter is entitled to, specifying such number, and (ii) each such ballot sheet shall be prominently labeled as ''ballot sheet (here insert the number

of the ballot sheet) of (here insert the total number of sheets comprising the ballot).''

3. The state board of elections shall promulgate regulations for ballot accountability consistent with this section which shall include specific ballot accountability requirements applicable to any ballot on demand printing process.

(Added L.2019, c. 63, § 1, eff. July 3, 2019.)

§ 7–106. Ballots; form of, for ballot scanners, general, primary, or special elections; additional requirements

1. In addition to ballot requirements provided for in section 7–104 of this article, all ballots to be used with all ballot scanners shall comply with the following provisions.

2. Paper ballots which are to be counted by a ballot scanner may consist of two or more sheets which are divided into perforated sections which can be separated at the time the ballot is scanned. Such ballots shall be printed on paper of a quality, size, color, and weight specified in the voting system's technical requirements documentation and shall be clearly distinguishable from sample ballots by size, color or other means.

3. All paper ballots of the same kind for the same polling place shall be identical.

4. Each election day ballot shall be printed on the sheet with a stub which shall be separated therefrom by a line of perforations extending across the entire ballot. On the face of the stub shall be printed ''No .....'' the blank to be filled with consecutive number of ballots beginning with ''No. 1'', and increasing in regular numerical order.

5. On such ballot shall be printed the following indorsement, the blanks properly filled in:

Official Ballot for (General, Primary or Special, as applicable) Election
County of .....
(Assembly or Legislative, as applicable) District .....
(Ward and City or town ....., as applicable).....
Election District .....

(Insert date of election.)

(Insert names of election commissioners providing the ballot.)

(L.1976, c. 233, § 1. Amended L.1976, c. 234, § 34; L.1978, c. 9, § 52; L.1982, c. 647, § 7; L.1985, c. 118, § 1; L.1994, c. 156, § 2; L.2003, c. 244, § 1, eff. July 29, 2003; L.2010, c. 165, § 1, eff. July 7, 2010; L.2019, c. 411, § 4, eff. July 1, 2020.)

§ 7–108. Repealed by L.2019, c. 411, § 5, eff. July 1, 2020

§ 7–110. Ballots; form for ballot proposals; additional requirements

Ballot proposals shall appear on the ballot in a separate section or on a separate sheet or card. At the left of, or below or above, each proposal shall appear two voting positions. Next to the first voting position shall be printed the word ''Yes,'' and next to the second voting position shall be printed the word ''No.'' The proposals shall be numbered consecutively on the ballot. The number of each proposal shall appear in front of its designation as an amendment, proposition or question in the following form: ''Proposal one, an amendment; proposal two, a proposition; proposal three, a question''. If the ballot proposal section appears on the ballot face opposite the candidates, a ballot instruction in a format provided by the state board of elections, which may include a graphic arrow, shall indicate the ballot is two-sided.

(L.1976, c. 233, § 1. Amended L.1976, c. 234, § 35; L.1978, c. 9, § 53; L.1982, c. 647, § 8, eff. Jan. 1, 1983; L.2019, c. 409, § 1, eff. Dec. 15, 2019; L.2019, c. 411, § 6, eff. July 1, 2020.)

§ 7–112. Repealed by L.1976, c. 234, § 34, eff. Dec. 1, 1977

§ 7–114. Ballots; form for primary election; additional requirements

1. (a) On the face of the official ballot for a primary election contests and candidates for nomination for public office shall appear first, followed by contests and candidates for party positions. When necessary, a part may be divided into two or more columns or rows, but the names of all persons designated for the same office or party position shall be in the same column or row.

(b) Where a candidate for nomination for the same public office or for election to the same party position is designated by two or more petitions, his or her name shall be placed upon the ballot for the primary election but once as such a candidate.

(c) The ballot shall not contain a space for voting for candidates for uncontested offices and positions, and no ballot shall be printed for a party for which there is no contested office or position unless a petition for opportunity to ballot has been filed.

2. (a) on the official primary election ballot, the ballot endorsement shall include the name of the party for which such ballot is valid.

(b) where two or more candidates are to be elected to a party position, the names of candidates designated by each petition shall be grouped together, and may be referred to collectively on the ballot as a group.

(c) Repealed by L.2019, c. 66, § 1, eff. Jan. 1, 2020.

(L.1976, c. 233, § 1. Amended L.1976, c. 234, § 36; L.1977, c. 461, § 1; L.1978, c. 9, § 54; L.1984, c. 433, § 1; L.2001, c. 92, § 1, eff. July 10, 2001; L.2019, c. 66, § 1, eff. Jan. 1, 2020; L.2019, c. 66, § 2, eff. Oct. 24, 2019; L.2019, c. 411, § 7, eff. July 1, 2020.)

§ 7–116. Ballots; order of names on

1. In printing the names of candidates on the ballot, the candidate or candidates of the party which polled for its candidate for the office of governor at the last preceding election for such office the highest number of votes, shall be row or column A or one and the candidates of the other parties shall be placed on such ballot in descending order of such votes.

2. The officer or board who or which prepares the ballot shall determine the order in which shall appear, below the names of party candidates the nominations made only by independent bodies. Such officer or board also shall determine the order in which shall be printed the names of two or more candidates nominated by one party or independent body, for an office to which two or more persons are to be elected; provided, however, that any such candidate may, by a writing

filed with such board or officer not later than three business days after the adjournment of the convention or one week after the primary election nominating him or her, or otherwise not later than two days after the filing of the petition or certificate nominating him or her, demand that such order be determined by lot, and in that case such order shall be so determined, upon two days notice by mail given by such board or officer to each candidate for such office. The state board of elections shall perform the duties required by this subdivision in all cases affecting nominations filed in its office.

3. The officer or board with whom or which are filed the designations for a public office or party position shall determine by lot, upon two days notice by mail given by such board or officer to each candidate for such office or position and to the committee, if any, named in the designating petition, the order in which shall be printed on the official primary ballot, under the title of the office or position, the names of candidates for public office, the names of candidates for a party position to which not more than one person is to be elected, and the groups of names of candidates for party position where two or more persons are to be elected thereto and any petition designates two or more persons therefor, provided, however, that whenever groups of names for more than one party position are designated by the same petition, the order in which they shall be printed on the official primary ballot shall be determined by a single lot. Candidates for delegate or delegates and alternate delegate or delegates to conventions designated by the same petition shall, for the purpose of this subdivision, be treated as one group. The names of candidates, if any, for a party position to which two or more persons are to be elected, who are designated by individual petitions and not in a group shall be printed after such group or groups, in such order between themselves, as such officer or board shall determine by lot upon the notice specified in this subdivision. The names within a group of candidates designated for party position by one petition shall be printed in the same order in which they appear in the petition, unless they appear in a different order on different pages of the petition, in which case their order within the group shall be determined by such officer or board by lot upon the notice specified in this subdivision. Candidates for members of a state committee designated by a single

petition shall, for the purposes of this subdivision, be treated as one group. However, the notice to a committee of the drawing need not be mailed to more than five members, if there be that many, and as to offices or party positions for which designating petitions are filed with the board of elections of the city of New York the notice shall be given to the committees only.

3–a. The state board of elections shall prescribe the method, or two or more alternative methods, for making the determinations by lot required by subdivisions two and three of this section. Each county board of elections shall adopt one of such methods at least ninety days before any election to which such method shall apply.

4. If a vacancy in a designation or nomination be filled after the making, in the manner provided in this section, of a determination of the order in which the names of candidates for the office or position are to be printed, to the extent practicable, the name of the candidate designated or nominated to fill such vacancy shall be printed in the place so determined for the original candidate.

5. The titles of public offices shall appear on ballots for primary elections in the same consecutive order that they will appear on the general election ballot. The titles of the party positions shall appear in the following order: member of state committee, assembly district leader, associate assembly district leader, members of county committee in the city of New York, delegate or delegates to conventions, alternate delegate or delegates to conventions, and members of county committee in counties outside of the city of New York. Where, pursuant to the rules of the county committee, the party position involved is that of assembly district leader or associate assembly district leader for a part of an assembly district, such part shall be so indicated in the title on the ballot.

6. (a) In cases where a name is added to or removed from the ballot by court order too late to make a complete adjustment to these requirements feasible, the name may be added at the end of the list of candidates in all election districts, or removed from the ballot in all election districts without changing the previously arranged order of other names and without invalidating the election. Any inadvertent error in the order of

names discovered too late to correct the order of the names on the ballots concerned shall not invalidate an election.

(b) Except where a contest or candidate is removed from the ballot by court order too late to make complete compliance with this paragraph feasible, the title of each public office or party position and the names of the candidates for such office or position appearing on any ballot used for primary elections over which the county board of elections has jurisdiction shall appear on such ballot immediately adjacent to one another, either horizontally or vertically; and no blank spaces shall separate the names of candidates actually running for an office or party position on such ballot, and no blank spaces shall separate any two such offices or positions which appear on such ballot in the same column or row.

7. Whenever a county board of elections or the board of elections in the city of New York must conduct a primary election in the respective county or the city of New York in which separate contests for both male and female candidates for the same party position are to be printed upon the ballots, the respective county board of elections or the board of elections in the city of New York shall determine by lot whether to first print the contest for the male candidates or the contest for the female candidates. After such determination, the same order shall be used for all ballots printed by the board of elections for the entire county or city of New York and for all contests where there are elections separated by male and female candidates for the same party position.

(L.1976, c. 233, § 1. Amended L.1976, c. 234, § 37; L.1978, c. 8, § 15; L.1978, c. 9, §§ 55, 56; L.1978, c. 177, § 2; L.1982, c. 701, § 1; L.1990, c. 371, § 2; L.1992, c. 279, § 1; L.1996, c. 143, § 1; L.1997, c. 121, § 1, eff. June 24, 1997; L.2017, c. 173, § 1, eff. Aug. 21, 2017; L.2019, c. 411, § 8, eff. July 1, 2020.)

§ 7–118. Ballots; facsimile and sample

1. The board of elections shall provide facsimile and sample ballots which shall be arranged in the form of a diagram showing such part of the face of the voting machine or ballots as shall be in use at that election. Such facsimile and sample ballots shall be distinguishable from the official ballot by size,

color, or other means and shall contain suitable illustrated directions for voting on the voting machine or ballot.

2. Such facsimile ballots shall be mounted and displayed for public inspection at each polling place during election day.

3. Sample ballots may be mailed by the board of elections to each eligible voter at least three days before the election, or in lieu thereof, a copy of such sample ballot may be published at least once within one week preceding the election in newspapers or on a website maintained by the board of elections. Each county board of elections shall transmit electronically in a format to be determined by the state board of elections, as it is available, a copy of the candidate and contest information contained on each of its ballot styles to the state board of elections. The state board shall create a system to allow such information to be made publicly available via its website, as well as the website of any county board of elections, and in such a way as to be accessible with a computer screen-reading program.

4. One copy of such facsimile shall be sent to each school in the county, providing the ninth through the twelfth years of compulsory education, and in the city of New York to each such school in the city of New York, at least one week before each general election for posting at a convenient place in such school. The board of elections shall also send a facsimile ballot to any other school requesting such a ballot. In the alternative, the requirements of this subdivision may be fully satisfied by publishing such facsimile on a website maintained by the board of elections and notifying each such school of such publication.

(L.1976, c. 233, § 1. Amended L.1978, c. 373, § 66; L.1996, c. 157, § 1, eff. June 18, 1996; L.2019, c. 410, § 1, eff. Jan. 1, 2021; L.2019, c. 411, § 9, eff. July 1, 2020.)

§ 7–120. Ballots; emergency use, to be furnished

1. If any voting machine or voting system for use in any election shall become out of order during an election it shall, if possible, be repaired or another machine or voting system substituted as promptly as possible. In case such repair or substitution cannot be made, emergency ballots, printed or

written, and of any suitable form, shall be provided by the board of elections and may be used for the casting of votes.

2. If the official ballots for an election district shall not be delivered within the time necessary to open the polls, or shall be lost, destroyed or stolen, or if the supply of official ballots shall be exhausted before the polls are closed, the board of elections, or at its direction, the town or city clerk, or the election inspectors of such district, shall cause emergency ballots to be prepared, printed or written, as nearly in the form of the official ballots as practicable. The inspectors shall use the ballots so substituted in the same manner, as near as may be, as the official ballots.

3. It shall be the duty of each board of elections to cause a sufficient number of emergency ballots to be placed at each polling place in which voting machines or voting systems are used, to be employed in the event the voting machines or voting systems break down. At any time during the hour succeeding a breakdown, the inspectors of election may use such emergency ballots, and if such breakdown lasts more than one hour, such emergency ballots must be used. The sample ballots may be used for this purpose in full or reduced size.

(L.1976, c. 233, § 1. Amended L.1976, c. 234, § 38, eff. Dec. 1, 1977; L.2019, c. 411, § 10, eff. July 1, 2020.)

§ 7–121. Ballots which are counted by machine

All ballots printed for use on a voting system approved by the state board of elections may be printed and arranged in a manner which would permit them to be counted by such machine.

(Added L.1986, c. 352, § 1, eff. Nov. 14, 1986. Amended L.2009, c. 464, § 1, eff. Sept. 16, 2009.)

§ 7–122. Ballots; absentee voters

1. (a) Ballots for absentee voters shall be, as nearly as practicable, in the same form as those to be voted in the district on election day, except that such ballots need not have

a stub, and shall have the words ''Absentee Ballot'', endorsed thereon.

(b) All provisions of this chapter not inconsistent with this subdivision shall be applicable to absentee ballots prepared for counting by a ballot scanner or by hand. The instructions for marking an absentee ballot shall be provided and shall be substantially as follows, so that they accurately reflect the ballot layout:

INSTRUCTIONS

Mark the (insert ''oval'' or ''square'') to the left of the name of your choice. (Provide illustration of correctly-marked voting position here.) To vote for a candidate whose name is not printed on the ballot, (insert ''mark the oval (or square) to the left of 'write-in' and print the name clearly'' or ''print the name clearly in the box labeled 'write-in''''), staying within the box. Any mark or writing outside the spaces provided for voting may void the entire ballot. You have a right to a replacement ballot. If you make a mistake or want to change your vote, call the board of elections at (insert phone number here) for instructions on how to obtain a new ballot. The number of choices is listed for each contest. Do not mark the ballot for more candidates than allowed. If you do, your vote in that contest will not count.

(c) When a question or proposal is included on the ballot, instructions substantially similar to those provided in subdivision fifteen of section 7–104 of this article shall be included.

2. The determination of the appropriate county board of elections as to the candidates duly designated or nominated for public office or party position whose name shall appear on the absentee ballot and as to ballot proposals to be voted on shall be made no later than the day after the state board of elections issues its certification of those candidates to be voted for at the general, special or primary election. The determinations of the state board of elections and the respective county boards of elections shall be final and conclusive with respect to such offices for which petitions or certificates are required to be filed with such boards, as the case may be but nothing herein contained shall prevent a board of elections, or a court of competent jurisdiction from determining at a later date that

any such certification, designation or nomination is invalid and, in the event of such later determination, no vote cast for any such nominee by any voter shall be counted at the election.

3. There shall be three envelopes for each absentee ballot issued by mail: the inner affirmation envelope into which a voter places his or her voted ballot, the outer envelope which shall be addressed to the absentee voter, and the mailing envelope which is addressed to the county board of elections. The board of elections shall furnish with each absentee ballot an inner affirmation envelope. On one side of the envelope shall be printed:

OFFICIAL ABSENTEE BALLOT

for

GENERAL (OR PRIMARY OR SPECIAL) ELECTION,

....., 20.....

Name of voter.....
Residence (street and number if any).....
City/or town of.....(village, if any).....
County of.....
Assembly district .....
Legislative District (as applicable) .....
Ward (as applicable) .....
Election District.....
Party Enrollment (in case of primary election).....

4. The date of the election, name of the county, and name of a city, if there be a separate ballot for city voters, shall be printed, and the name of the voter, residence, number of the assembly district, if any, name of town, number of ward, if any, election district and party enrollment, if required, shall be either printed or written or stamped in by the board.

5. There shall also be a place for two board of elections staff members or inspectors of opposite political parties to indicate, by placing their initials thereon, that they have checked and marked the voter's poll record.

6. On the reverse side of such inner affirmation envelope shall be printed the following statement:

AFFIRMATION

I do declare that I am a citizen of the United States, that I am duly registered in the election district shown on the reverse side of this envelope and I am qualified to vote in such district; that I will be unable to appear personally on the day of the election for which this ballot is voted at the polling place of the election district in which I am a qualified voter because of the reason given on my application heretofore submitted; that I have not qualified nor do I intend to vote elsewhere, that I have not committed any act nor am I under any impediment which denies me the right to vote.

I hereby declare that the foregoing is a true statement to the best of my knowledge and belief, and I understand that if I make any material false statement in the foregoing statement of absentee voter, I shall be guilty of a misdemeanor.

Date.....20 .....

.....
Signature or mark of voter

.....
Signature of Witness (required only if voter does not sign his or her own name)

.....
Address of Witness

7. The inner affirmation envelope shall be gummed, ready for sealing, and shall have printed thereon, on the side opposite the statement, instructions as to the duties of the voter after the marking of the ballot, which instructions shall include a specific direction stating when such ballot must be postmarked and when such ballot must reach the office of the board of elections in order to be canvassed.

8. Each inner affirmation ballot envelope shall be enclosed in an outer envelope addressed to the appropriate board of elections and bearing on it a specific direction that if an original application for an absentee ballot is received with the ballot, such application must be completed by the voter and returned in the outer envelope together with the sealed inner affirmation envelope containing the absentee ballot within the time limits for receipt of the absentee ballot itself. Such inner affirmation envelope and outer envelope shall be enclosed in

the third envelope addressed to the absentee voter. The outer and third envelopes shall have printed on the face thereof the words ''Election Material—Please Expedite''.

(L.1976, c. 233, § 1. Amended L.1976, c. 234, § 39; L.1978, c. 8, § 16; L.1978, c. 9, §§ 57, 58; L.1979, c. 381, § 1; L.1982, c. 647, § 9; L.1983, c. 227, § 1; L.1984, c. 416, § 1; L.1985, c. 118, § 2; L.1986, c. 352, §§ 2, 3; L.1988, c. 216, § 1; L.1991, c. 259, § 1; L.1994, c. 156, § 3; L.2000, c. 235, § 6, eff. Aug. 16, 2000; L.2003, c. 244, §§ 2 to 4, eff. July 29, 2003; L.2010, c. 165, §§ 2, 4, eff. July 7, 2010; L.2019, c. 411, § 11, eff. July 1, 2020; L.2019, c. 615, § 1, eff. Dec. 10, 2019.)

§ 7–123. Ballots; military voters

1. The state board of elections, after conferring with federal authorities, if any, authorized to act, shall prescribe the form and cause to be printed by the appropriate boards of elections or otherwise sufficient ballots for military voters to be used at the election, subject to the following limitations:

2. The ballots for military voters shall be the same form as those to be voted by absentee voters in the election district of the military voter on election day. Any instructions that the state board of elections deems pertinent shall accompany such ballots but shall not be affixed thereto in any manner so as to leave any marks on such ballots not found on absentee ballots.

3. There shall be three envelopes for each military absentee ballot issued when the military voter's preferred method of transmission is by mail: the inner affirmation envelope into which a voter places his or her voted ballot, the outer envelope which shall be addressed to the absentee voter, and the mailing envelope which is addressed to the county board of elections. The board of elections shall furnish an inner affirmation envelope with each military ballot upon which envelope shall be printed:

BALLOT FOR MILITARY VOTER

AFFIRMATION

I swear or affirm that:

(a) I am a member of the uniformed services or merchant marine on active duty or an eligible spouse, parent, child or dependent of such a member, and

(b) I am a United States citizen, at least eighteen years of age (or will be by the day of the election), eligible to vote in the requested jurisdiction, and

(c) I have neither been convicted of a felony or other disqualifying offense nor been adjudicated mentally incompetent, or if so, my voting rights have been reinstated, and

(d) I am not registering, requesting a ballot, or voting in any other jurisdiction in the United States, and

(e) My signature and date below indicate when I completed this document, and

(f) The information on this form is true and complete to the best of my knowledge.

I understand that a material misstatement of fact in the completion of this document may constitute grounds for conviction of a crime.

Date ..... 20....

.....
Signature or mark of voter

.....
Signature of Witness (required only if voter does not sign his or her own name)

.....
Address of Witness

4. On the reverse side of the inner affirmation envelope shall be printed:

TO BE FILLED IN BY THE BOARD OF ELECTIONS:

FOR.....ELECTION..... 20.....

County of .....

Name of voter .....

Voting residence (street and number, if any) .....

City (or town) of.....Ward .....

Assembly District.....Election District.....

Party Enrollment (in case of primary election) .....

IMPORTANT TO MILITARY VOTER: YOU MUST SIGN THE AFFIRMATION ON THIS ENVELOPE.

5. The information in subdivision four of this section shall be filled in by the board of elections prior to the mailing of any military ballot and envelopes if the military voter's preferred method of transmission with the board of elections is by mail, or it may be filled in by the board of elections upon the receipt of the returned military ballot and envelope where the ballot and envelope have been transmitted to the military voter other than by mail or in person.

6. The inner affirmation envelope, if delivered by mail or in person, shall be gummed and ready for sealing. Such envelope, or any created by the military voter who has received his or her ballot by facsimile transmission or electronic mail in accordance with the provisions of subdivision seven of this section, shall have printed thereon, on the side opposite the affirmation, instructions as to the duties of the military voter after the marking of the ballot. Such instructions shall include specific directions stating that the ballot must be returned in person or mailed to the appropriate board of elections, when the outer envelope must be postmarked, if mailed, and when such envelope, whether returned in person or mailed, must reach such board of elections in order to be canvassed. Such inner affirmation envelope shall also include a direction that an application for a military ballot should not be enclosed in the inner affirmation envelope containing such ballot.

7. If a military voter has designated a preference to receive his or her ballot by facsimile transmission or electronic mail pursuant to section 10–107 of this chapter, the transmission of the military voter's ballot shall include, together with all information and instructional materials that accompany ballot materials sent by the board of elections to other absentee voters, appropriate instructions as to the folding of same so as to create an inner affirmation envelope containing all of the information set forth in subdivisions three, four and six of this section.

8. Such inner affirmation envelope containing the military ballot shall be enclosed in an outer envelope, addressed to the appropriate board of elections, and bearing on it the words ''Official Election Ballot—Via Air Mail''. The outer envelope shall include specific directions that if an original completed application for a military ballot has not already been returned

in person or mailed to the military voter's board of elections, such application must be completed by the military voter and returned in the outer envelope with the sealed inner affirmation envelope containing the military ballot within the time limits for the receipt of the military ballot itself. Such envelope shall provide lines in the upper left corner for the military voter to write his or her name and complete military address.

9. The outer envelope addressed to the appropriate board of elections and the inner affirmation envelope which contains the ballot shall be mailed to the military voter in a third envelope on which is printed the words ''Official Election Ballot—Via Air Mail''.

10. At the side opposite the address on the outer envelope, below the gummed seal, for a ballot delivered by mail or in person, or below the flap for a ballot transmitted to the military voter by facsimile transmission or electronic mail, shall be printed:

This ballot was mailed on _____ which is not later than the
(date)
day before the election.

. . . .

in the form prescribed by this chapter for absentee ballots, except that on either the front or the back of the ballot shall be printed or stamped the words ''Official Ballot—Special Federal Voter'', provided, however, that at any election at which special federal voters may vote for all the offices and positions on the ballot, no such separate ballot shall be printed and the ballot for special federal voters shall be the same as the ballot provided to absentee voters in such election.

2. There shall be three envelopes for each special federal absentee ballot issued by mail: the inner affirmation envelope into which a voter places his or her voted ballot, the outer envelope which shall be addressed to the absentee voter, and the mailing envelope which is addressed to the county board of elections. The board of elections shall furnish an inner affirmation envelope with each special federal ballot upon which envelope shall be printed:

I swear or affirm that:

(a) I am a United States citizen residing outside the United States, and

(b) I am at least eighteen years of age (or will be by the day of the election), eligible to vote in the requested jurisdiction, and

(c) I have neither been convicted of a felony or other disqualifying offense nor been adjudicated mentally incompetent, or if so, my voting rights have been reinstated, and

(d) I am not qualified to register, request a ballot, or vote in any other jurisdiction in the United States, and

(e) My signature and date below indicate when I completed this document, and

(f) The information on this form is true and complete to the best of my knowledge.

I understand that a material misstatement of fact in the completion of this document may constitute grounds for conviction of a crime.

Date..... 20.....

.....

Signature or mark of voter

.....

Signature of Witness (required only if voter does not sign his or her own name)

.....

Address of Witness

3. On the reverse side of the inner affirmation envelope shall be printed:

TO BE FILLED IN BY THE BOARD OF ELECTIONS

FOR.....ELECTION..... 20.....

Name of voter .....

Residence from which vote is being cast:

Street and number .....

City or town .....

County .....

Assembly District or Ward .....

Election District .....

Party Enrollment (in case of primary election) .....

IMPORTANT TO SPECIAL FEDERAL VOTER: YOU MUST SIGN THE AFFIRMATION ON THIS ENVELOPE.

4. The information in subdivision three of this section shall be filled in by the board of elections prior to the mailing of any special federal ballot and envelopes if the special federal voter's preferred method of transmission with the board of elections is by mail, or it may be filled in by the board of elections upon receipt of the returned special federal ballot and envelope when the ballot and envelope have been transmitted to the special federal voter other than by mail or in person.

5. The inner affirmation envelope, if delivered by mail or in person, shall be gummed and ready for sealing. Such envelope, or any created by the special federal voter whose ballot was delivered by facsimile transmission or electronic mail in accordance with subdivision six of this section, shall have printed thereon, on the side opposite the affirmation, instructions as to the duties of the voter after the marking of the ballot. Such instructions shall include specific directions stating that the ballot must be returned in person or mailed to the appropriate board of elections, when the outer envelope must

be postmarked, if mailed, and when such envelope, whether returned in person or mailed, must reach such board of elections in order to be canvassed. Such inner affirmation envelope shall also include a direction that an application for a special federal ballot should not be enclosed in the inner affirmation envelope containing such ballot.

6. If a special federal voter has designated a preference to receive his or her ballot by facsimile transmission or electronic mail pursuant to section 11–203 of this chapter, the transmission of the special federal voter's ballot shall include, together with all information and instructional materials that accompany ballot materials sent by the board of elections to other absentee voters, appropriate instructions as to the folding of same so as to create an envelope containing all of the information set forth in subdivisions two, three and five of this section.

7. Such inner affirmation envelope containing the special federal ballot shall be enclosed in an outer envelope addressed to the appropriate board of elections, and bearing on it the words ''Official Election Ballot—Via Air Mail''. The outer envelope shall include specific directions that if an original completed application for a special federal ballot has not already been delivered or mailed to the special federal voter's board of elections, such application must be completed by the special federal voter and returned in the outer envelope with the sealed inner affirmation envelope containing the special federal ballot within the time limits for the receipt of the special federal ballot itself. Such envelope shall provide lines in the upper left corner for the special federal voter to write his or her name and complete special federal address.

8. The outer envelope addressed to the appropriate board of elections and the inner affirmation envelope which contains the ballot shall be mailed to the special federal voter in a third envelope on which is printed the words ''Official Election Ballot—Via Air Mail''.

9. If the special federal voter's preferred method of transmission is facsimile transmission or electronic mail, the electronic transmittal of the special federal voter's ballot materials shall include appropriate instructions as to the folding of same

so as to create an outer envelope containing all of the information set forth in subdivision eight of this section.

(Added L.1978, c. 8, § 18. Amended L.1978, c. 9, § 60; L.1981, c. 163, § 1; L.1983, c. 227, § 3; L.1984, c. 26, § 1; L.1984, c. 247, § 2; L.1984, c. 416, § 3; L.1988, c. 216, § 2; L.1989, c. 99, § 1; L.1991, c. 259, § 2; L.2000, c. 235, § 8, eff. Aug. 16, 2000; L.2010, c. 104, § 3, eff. June 2, 2010; L.2019, c. 411, § 13, eff. July 1, 2020.)

§ 7–125. Ballots; special presidential voters

1. The ballots for special presidential voters shall provide for voting for presidential and vice presidential electors only and shall be in the form prescribed for absentee ballots, except that either on the front or the back they shall be endorsed with the words printed or stamped, ''Official Ballot-Special Presidential Voter'' and ''Presidential Electors''.

2. There shall be three envelopes for each special presidential absentee ballot issued by mail: the inner affirmation envelope into which a voter places his or her voted ballot, the outer envelope which shall be addressed to the absentee voter, and the mailing envelope which is addressed to the county board of elections. The board of elections shall furnish with each special presidential ballot an envelope. On one side of the envelope shall be printed:

OFFICIAL BALLOT, SPECIAL PRESIDENTIAL VOTERS,

FOR GENERAL ELECTION,

NOVEMBER....., 20....

Name of voter .....

Residence from which vote is being cast:

Street and number .....

City or town .....

County .....

Assembly District or Ward .....

Election District .....

The date of the election and name of the county shall be printed, and the name of the voter, residence, name of the city or town, number of ward or assembly district, if any, and

election district shall be printed, written or stamped in by the board.

3. On the reverse side of such envelope shall be printed the following statement:

STATEMENT OF SPECIAL PRESIDENTIAL VOTER

I do declare I am a qualified special presidential voter of said district; that I am not qualified and am not able to qualify to vote elsewhere than as set forth on the reverse side of this envelope; that I am a citizen of the United States; that on the date of the election for which this ballot is voted, I will be at least eighteen years of age; and that I have not committed any act, nor am I under any impediment, which denies me the right to vote.

I hereby declare that the foregoing is a true statement to the best of my knowledge and belief, and I understand that if I make any material false statement in the foregoing statement, I shall be guilty of a misdemeanor.

Date.....20 ....
Signature or mark of voter

.....
Signature of Witness (required only if voter does not sign his or her own name)

.....
Address of Witness

4. The envelope shall be gummed, ready for sealing, and shall have printed thereon, on the side opposite the statement, instructions as to the duties of the voter after the marking of the ballot, which instructions shall include a specific direction stating that the envelope must be delivered or mailed to the appropriate board of elections and a specific direction stating when such envelope must be delivered or postmarked and when such envelope, if so mailed, must reach such board of elections in order to be canvassed.

5. Each ballot envelope shall be enclosed in a second envelope addressed to the board of elections and bearing a specific direction that if an application for special presidential ballot is received with the ballot, such application must be

completed by the voter and returned in such envelope together with the envelope containing the special presidential ballot. Such second envelope shall be enclosed in a third envelope addressed to the special presidential voter. The second and third envelopes shall have printed on the face thereof the words ''Election Material–Please Expedite''.

(L.1976, c. 233, § 1. Amended L.1976, c. 234, § 40; L.1978, c. 373, § 70; L.1983, c. 227, § 4; L.1984, c. 416, § 4; L.1989, c. 99, §§ 2, 3; L.1991, c. 259, § 3; L.2000, c. 235, § 9, eff. Aug. 16, 2000; L.2019, c. 411, § 14, eff. July 1, 2020.)

§ 7–126. Ballots; pasters, or stickers, use of

No pasters or stickers shall be affixed to any official ballot by any voter. The board of elections may authorize election officials to affix a paster or sticker upon unvoted ballots. All of the voted ballots for which the use of a paster or sticker shall have been authorized shall be manually canvassed and shall not be canvassed by a ballot scanner.

(L.2015, c. 395, § 3, eff. Oct. 26, 2015.)

§ 7–128. Ballots; inspection of

1. Each officer or board charged with the duty of providing official ballots for an election shall have sample ballots open to public inspection fifty days, except in the case of extraordinary circumstances in which case on the earliest day practicable, before the election for which the ballots have been prepared and the official ballots open to such inspection fifty days, except in the case of extraordinary circumstances in which case on the earliest day practicable, before such election except that the sample and official ballots for a village election held at a different time from a general election shall be open to public inspection at least two days before such election. During the times within which the ballots are open for inspection, such officer or board shall deliver to each voter applying therefor a sample of the ballot which he or she is entitled to vote.

2. a. Each officer or board charged with the duty of preparing ballots to be used in any election shall give written notice, by first class mail, to all candidates, except candidates for member of the county committee, who are lawfully entitled to have their names appear thereon, of the time when, and the

place where, they may inspect the ballots to be used for such election. The candidates or their designated representatives may appear at the time and place specified in such notice to inspect such ballots, provided, however, that the time so specified shall be no later than forty-six days before the election at which the ballots will be used.

b. A candidate, whose name appears on the ballot or his or her designated representative, may, in the presence of the election officer attending the ballot, inspect the ballot to see that his or her ballot position is in its proper place or places.

3. Each officer or board charged with the duty of preparing ballots to be used with voting machines or systems in any election shall give written notice, by first class mail, to all candidates, except candidates for member of the county committee, who are lawfully entitled to have their names appear thereon, of the time when, and the place where, they may inspect the voting machines or systems to be used for such election. The candidates or their designated representatives may appear at the time and place specified in such notice to view the conduct of the logic and accuracy testing required to be performed on such voting machines or systems, provided however, that the time so specified shall be not less than twenty days prior to the date of the election.

(L.1976, c. 233, § 1. Amended L.2019, c. 411, § 15, eff. July 1, 2020.)

§ 7–130. Ballots; examination by voters and instruction in use of voting machines

One or more voting machines which shall contain the ballot labels, showing the title of officers to be voted for, and which shall so far as practicable contain the names of the candidates to be voted for, shall be placed on public exhibition in some suitable place by the board of elections, in charge of competent instructors, for at least three days during the thirty days next preceding an election. No voting machine which is to be assigned for use in an election shall be used for such purpose after having been prepared and sealed for the election. During such public exhibition, the counting mechanism of the machine shall be concealed from view and the doors may be temporarily opened only when authorized by the board or official having charge and control of the election. Any voter

shall be allowed to examine such machine, and upon request shall be instructed in its use.

(L.1976, c. 233, § 1. Amended L.2019, c. 411, § 16, eff. July 1, 2020.)

TITLE II—VOTING MACHINES

Section

7–200. Adoption and use of voting machine or system.
7–201. Voting machines and systems; examination of.
7–202. Voting machine or system; requirements of.
7–203. Voting machines; requirement of use.
7–204. Contracts for purchase of voting machines or systems.
7–205. Voting machines; use of at primaries.
7–206. Testing of voting and ballot counting machines.
7–207. Voting and ballot counting machines; preparation of, party representatives.
7–208. Escrow requirements.
7–209. Elimination of punch card ballots.

§ 7–200. Adoption and use of voting machine or system

1. The board of elections of the city of New York and other county boards of elections may adopt any kind of voting machine or system approved by the state board of elections, or the use of which has been specifically authorized by law; and thereupon such voting machine or system may be used at any or all elections and shall be used at all general or special elections held by such boards in such city, town or village and in every contested primary election in the city of New York and in every contested primary election outside the city of New York in which there are one thousand or more enrolled voters qualified to vote. No more than two types of voting machines or systems may be used by any local board of elections at a single election. Notwithstanding the other provisions of this subdivision, any local board of elections may borrow or lease for use on an experimental basis for a period of not more than one year each, voting machines or systems of any type approved by the state board of elections.

2. For five years after any voting machine or system of a type approved by the state board of elections pursuant to the election reform and modernization act of 2005 is first used in any election district, the local board of elections which owns such machine or system shall provide a model or diagram of such voting machine or system for each polling place in which any such election district is located. Such models or diagrams

shall meet the standards set forth in regulations promulgated by the state board of elections.

3. Whenever there are more offices to be elected than can be accommodated on the voting machine or system or more candidates have been nominated for an office than can be accommodated on the voting machine or system, the local board of elections may provide for the use of separate paper ballots for such offices, when other offices are voted for on voting machines or systems by voters of the same election district.

(L.1976, c. 233, § 1. Amended L.1986, c. 262, § 5; L.1986, c. 356, § 1; L.2005, c. 181, § 4, eff. July 12, 2005; L.2013, c. 99, § 3, eff. July 8, 2013.)

§ 7–201. Voting machines and systems; examination of

1. Any person or corporation owning or being interested in any voting machine or system may apply to have the state board of elections examine such machine or system. Such applicant shall pay to the board before the examination a fee equal to the cost of such examination. The state board of elections shall cause the machine or system to be examined and a report of the examination to be made and filed in the office of the state board. Such examination shall include a determination as to whether the machine or system meets the requirements of section 7–202 of this title and a thorough review and testing of any electronic or computerized features of the machine or system. Such report shall state an opinion as to whether the kind of machine or system so examined can safely and properly be used by voters and local boards of elections at elections, under the conditions prescribed in this article and the requirements of the federal Help America Vote Act. If the report states that the machine or system can be so used, and the board after its own examination so determines, in accordance with subdivision four of section 3–100 of this chapter, the machine or system shall be deemed approved, and machines or systems of its kind may be adopted for use at elections as herein provided. The voting machine or system shall be examined by examiners or testing laboratories to be selected for such purpose by the state board. Each examiner or laboratory shall receive compensation and expenses for making an examination and report as to each voting machine

or system examined by him or it. Neither any member of the state board of elections nor any examiner or owner or employee of any testing laboratory, shall have any pecuniary interest in any voting machine or system. Any form of voting machine or system not so approved, cannot be used at any election.

1–a. Expired and deemed repealed July 1, 2010, pursuant to L.2007, c. 397, § 2.

2. When any change is made in the operation or material of any feature or component of any machine or system which has been approved pursuant to the provisions of this section, such machine or system must be submitted for such re-examination and reapproval pursuant to the provisions of subdivision one of this section as the state board of elections deems necessary.

3. If at any time after any machine or system has been approved pursuant to the provisions of subdivision one or two of this section, the state board of elections has any reason to believe that such machine or system does not meet all the requirements for voting machines or systems set forth in this article, it shall forthwith cause such machine or system to be examined again in the manner prescribed by subdivision one of this section. If the opinions in the report of such examinations do not state that such machine or system can safely and properly be used by voters at elections under the conditions prescribed by this article, the state board of elections shall forthwith rescind its approval of such machine or system. After the date on which the approval of any machine or system is rescinded, no machines or systems of such type may be purchased for use in this state. The state board of elections shall examine all machines or systems of such type which were previously purchased, to determine if they may continue to be used in elections in this state.

4. The state board of elections may authorize, for use on an experimental basis, one or more types of voting machine, system or equipment not previously approved by such board pursuant to the provisions of this section and may authorize a local board of elections to rent or borrow a limited number of one such type of machine, system or equipment for use in a primary, special, general or village election. Authorization for such use of such a machine, system or equipment may be given for all or part of any city, town or village for any such election.

5. The board shall deposit all fees collected pursuant to the provisions of subdivision one of this section to the credit of the voting machine and system examination fund established pursuant to section ninety-two-p of the state finance law.

(L.1976, c. 233, § 1; formerly § 3–110. Renumbered § 7–201, L.1976, c. 234, § 7. Amended L.1986, c. 262, § 6; L.1986, c. 352, §§ 4 to 6; L.1987, c. 400, §§ 1, 2; L.2005, c. 181, § 5, eff. July 12, 2005; L.2006, c. 26, § 1, eff. April 18, 2006; L.2007, c. 397, § 1, eff. Aug. 1, 2007.)

§ 7–202. Voting machine or system; requirements of

1. A voting machine or system to be approved by the state board of elections shall:

a. be constructed so as to allow for voting for all candidates who may be nominated and on all ballot proposals which may be submitted and, except for elections at which the number of parties and independent bodies on the ballot exceeds the number of rows or columns available, so that the amount of space between the names of any two candidates of any party or independent body in any row or column of such machine or system at any election is no greater than the amount of space between the names of any other candidates of such party or independent body at such election;

b. permit a voter to vote for any person for any office, whether or not nominated as a candidate by any party or independent body without the ballot, or any part thereof, being removed from the machine at any time;

c. be constructed so that a voter cannot vote for a candidate or on a ballot proposal for whom or on which he or she is not lawfully entitled to vote;

d. if the voter selects votes for more than one candidate for a single office, except where a voter is lawfully entitled to vote for more than one person for that office, notify the voter that the voter has selected more than one candidate for a single office on the ballot, notify the voter before the ballot is cast and counted of the effect of casting multiple votes for the office, and provide the voter with the opportunity to correct the ballot before the ballot is cast and counted;

e. provide the voter an opportunity to privately and independently verify votes selected and the ability to privately and

independently change such votes or correct any error before the ballot is cast and counted;

f. be provided with a ''protective counter'' which records the number of times the machine or system has been operated since it was built and a ''public counter'' which records the number of persons who have voted on the machine at each separate election;

g. be provided with a lock or locks, or other device or devices, the use of which, immediately after the polls are closed or the operation of the machine or system for such election is completed, will absolutely secure the voting or registering mechanism and prevent the recording of additional votes;

h. be provided with sufficient space to display the information required herein, provided, however, in the alternative, such information may be displayed within the official ballot;

i. be provided with a device for printing or photographing all counters or numbers recorded by the machine or system before the polls open and after the polls close which shall be a permanent record with a manual audit capacity available for canvassing the votes recorded by the machine or system; such paper record shall be preserved in accordance with the provisions of section 3–222 of this chapter;

j. retain all paper ballots cast or produce and retain a voter verified permanent paper record which shall be presented to the voter from behind a window or other device before the ballot is cast, in a manner intended and designed to protect the privacy of the voter; such ballots or record shall allow a manual audit and shall be preserved in accordance with the provisions of section 3–222 of this chapter;

k. provide sufficient illumination to enable the voter to see the ballot;

l. be suitable for the use of election officers in examining the counters such that the protective counters and public counters on all such machines or systems must be located so that they will be visible to the inspectors and watchers at all times while the polls are open;

m. be provided with a screen and hood or curtain or privacy features with equivalent function which shall be so made and adjusted as to conceal the voter and his or her action while voting;

n. contain a device which enables all the election inspectors and poll watchers at such election district to determine when the voting machine or system has been activated for voting and when the voter has completed casting his or her vote;

o. permit the primaries of at least five parties to be held on such machine or system at a single election, and accommodate such number of multiple ballots at a single election as may be required by the state board of elections but in no case less than five;

p. be constructed to allow a voter in a wheelchair to cast his or her vote;

q. permit inspectors of elections to easily and safely place the voting machine or system in a wheelchair accessible position;

r. ensure the integrity and security of the voting machine or system by:

(i) being capable of conducting both pre-election and post-election testing of the logic and accuracy of the machine or system that demonstrates an accurate tally when a known quantity of votes is entered into each machine; and

(ii) providing a means by which a malfunctioning voting machine or system shall secure any votes already cast on such machine or system;

s. permit alternative language accessibility pursuant to the requirements of section 203 of the Voting Rights Act of 1965 (42 U.S.C. 1973aa–1a) such that it must have the capacity to display the full ballot in the alternative languages required by the federal Voting Rights Act if such voting machine or system is to be used where such alternative languages are required or where the local board deems such feature necessary; and

t. not include any device or functionality potentially capable of externally transmitting or receiving data via the internet or via radio waves or via other wireless means.

2. The state board of elections shall approve, for use at each polling place at least one voting machine or system at such polling place which, in addition to meeting the requirements in subdivision one of this section, shall:

a. be equipped with a voting device with tactile discernible controls designed to meet the needs of voters with limited reach and limited hand dexterity;

b. be equipped with an audio voting feature that communicates the complete content of the ballot in a voice which permits a voter who is blind or visually impaired to cast a secret ballot using voice-only or tactile discernible controls; and

c. be capable of being equipped with a pneumatic switch voting attachment which can be operated orally by gentle pressure or the creation of a vacuum through the inhalation or exhalation of air by the voter including, but not limited to, a sip-and-puff switch voting attachment.

3. The state board of elections may, in accordance with subdivision four of section 3–100 of this chapter, establish by regulation additional standards for voting machines or systems not inconsistent with this chapter.

4. Local boards of elections which obtain voting machines pursuant to this chapter may determine to purchase direct recording electronic machines or optical scan machines in conformance with the requirements of this chapter.

(Added L.2005, c. 181, § 6, eff. July 12, 2005.)

§ 7–203. Voting machines; requirement of use

1. The board of elections shall provide a sufficient number of voting machines to fully equip all election districts within its jurisdiction. Such voting machines shall be used at all general, special and primary elections conducted pursuant to this chapter.

2. Notwithstanding any provision of law to the contrary, the state board of elections shall establish, in accordance with subdivision four of section 3–100 of this chapter, for each election, the minimum number of voting machines required in each polling place and the maximum number of voters that can vote on one voting machine. Such minimum number of

voting machines shall be based on the voting machine in use, taking into account machine functionality and capability, including the ability to tabulate multiple official ballots and the need for efficient and orderly elections and, in the case of a general or special election, the number of registered voters, excluding voters in inactive status, in the election district or, in the case of a primary election, the number of enrolled voters, excluding voters in inactive status, therein.

3. In the event that the board of elections shall not agree upon, or the county shall not execute a contract or contracts for the purchase of, the necessary voting machines, such contract or contracts shall be awarded, made and executed by the state board of elections, in accordance with subdivision four of section 3–100 of this chapter, on approval of the attorney general as to form. The expense of making and entering into such contracts, including the preparation and printing of specifications, and also all payments for voting machines to be made thereunder, shall be chargeable to the county, except in the city of New York where such expense shall be chargeable to such city, and it shall be the duty of the comptroller or other chief fiscal officer of the county or city, as the case may be, to pay the same upon the certificate of the officer making such contract, or upon the certificate of the state board of elections in the event that such contract be made by it. No provision of any charter or other law or ordinance governing the purchase of patented articles shall be deemed to apply to the purchase of voting machines pursuant to the provisions of this section. Nothing in this section shall be construed to prevent the state board of elections from distributing voting machines to boards of elections pursuant to other provisions of this chapter without charge.

4. The board of elections may purchase voting machines for use in demonstration and as extra machines within the county.

(L.1976, c. 233, § 1; formerly § 7–202. Renumbered § 7–203, L.1976, c. 234, § 41. Amended L.1985, c. 161, § 2; L.1994, c. 659, § 43; L.2005, c. 180, § 14, eff. Nov. 15, 2005; L.2009, c. 462, § 1, eff. Sept. 16, 2009.)

§ 7–204. Contracts for purchase of voting machines or systems

1. All contracts for purchase of voting machines or systems of types approved by the state board of elections shall include,

but not be limited to, requirements that the vendors provide assistance in training board of elections personnel in the operation of such machines or systems and any ancillary equipment, assistance in the conduct of all elections conducted during the first year in which each such machine or system is used and at least five years of service for all such machines or systems and ancillary equipment.

2. All such contracts shall also require the vendor to guarantee in writing to keep such machines and systems in good working order for at least five years without additional cost and to perform satisfactorily its training and service obligations under the contract and to give a sufficient bond conditioned to that effect.

3. The state board of elections, in consultation with the office of general services, shall issue regulations specifying the manner in which contracts must be drawn in order to comply with the provisions of this section.

4. Purchase contracts for purchase of voting machines or systems of types approved by the state board of elections may not become effective until a date at least ten days after copies of such contracts are received by the state board of elections unless, within such ten day period, such board of elections notifies the local board of elections which submitted such contract that such contract does not meet requirements of this chapter or the regulations of the state board of elections.

(Added L.1986, c. 262, § 11, eff. Oct. 29, 1986. Amended L.2005, c. 181, § 7, eff. eff. July 12, 2005.)

§ 7–205. Voting machines; use of at primaries

1. The board of elections of any county outside the city of New York may adopt, and shall adopt when required by local law in any city or by action of the county legislative body in any county, the use of voting machines for contested primary elections in any or all parts of such city or county for any office or position for which such board is not required to use such machines. Wherever voting machines are used for primary elections, the board of elections having jurisdiction over elections in the city, county or town concerned shall issue directions for such use for each primary election which shall be in conformity with the provisions of this section and of all

other applicable provisions of this chapter and which shall be binding on all election officials in the area involved.

2. Additional voting machines may be acquired for this purpose. If the voting machines used are equipped with a mechanism by which a voter of one party may be permitted to vote for any candidate of his own party but prevented from voting for any candidates of other parties, the same machines may be used for the primaries of all parties or of more than one party. In the use of such a machine an inspector assigned for the purpose by the board of inspectors shall set the machine before each voter enters the voting booth so that it can be operated only for candidates of the party in which the voter is enrolled. If the face of a single machine will not hold the candidates of all parties, two or more machines may be used in a single election district, but all the candidates of any one party for whose primary contests voting machines are used must appear on the same machine except as provided in subdivision five of this section.

3. If the voting machines are not thus adapted to use for the primary contests of more than one party on the same machine, a separate voting machine shall be provided for the primary contests of each party for which such voting machines are used. Voting machines of both types may be used in the same primary election in different election districts or in the same election district for different parties.

4. Wherever voting machines are used for primary elections, they shall be used in accordance with the following provisions of this section for all primary contests so far as the available supply of voting machines will permit, except that the use of voting machines in all contested primary elections in the city of New York shall be mandatory except as provided in subdivision five. Outside the city of New York, if the available supply of voting machines is insufficient to contain all primary contests, paper ballots shall be used insofar as necessary. If there are not enough voting machines to cover all election districts for all parties therein, preference shall be given in the use of machines, first to contests for nomination for public office over contests for election to party position and, second to the contests which are held in the greatest numbers of election districts. If a voting machine used for a party in a particular

election district will not accommodate all the candidates of the party therein, as many as possible of the contests of such party shall be carried on the voting machine subject to the following priorities: first to contests for nomination for public office, and second to offices voted for in such party in the most election districts. Subject to these requirements, the board of elections of any county outside the city of New York shall designate which election districts and which parties therein shall use voting machines for primary contests, and which contests shall appear on a voting machine when the machine will not accommodate all the contests of a party.

5. To provide an opportunity for voting for offices or party positions for which more candidates have been designated than can be accommodated on the voting machines, the board of elections may provide for the use of a separate paper ballot for such offices and positions when other offices and positions are voted for on voting machines by voters of the same party.

6. When voting machines are used for primary elections the provisions of the other sections of this article shall be observed so far as applicable, except that the provisions for party rows or columns and the use of party names and emblems for each individual candidate shall be disregarded. When primary candidates of more than one party appear on the same voting machine, the candidates of each party shall appear together on one part of the machine distinctly and prominently separated from the part or parts used for candidates of other parties and prominently labeled with the name of the party. When a voting machine is used for the primary candidates of one party only, the machine shall be prominently labeled with the name of that party.

7. The state board of elections shall have power to issue supplementary instructions for the use of voting machines in primary elections in accordance with the provisions of this section. Subject to such instructions and to the provisions of this section the board of elections shall have power to make all necessary or desirable provisions for such use.

(Formerly § 7–204, L.1976, c. 233, § 1. Amended L.1978, c. 587, § 1. Renumbered § 7–205 and amended L.1986, c. 262, §§ 8, 9, eff. Oct. 29, 1986.)

§ 7–206. Testing of voting and ballot counting machines

1. The state board of elections shall test every voting machine of a type approved after September first, nineteen hundred eighty-six and every ballot counting machine to insure that each such machine functions properly before such machines may be used in any election in this state.

2. Such testing shall include, but not be limited to, a verification of the authenticity and integrity of the resident vote tabulation programming in open, encrypted, compiled, assembled, or any other form, in each voting machine of such types, by comparison of such resident vote tabulation programming with the programming which was in the machine of such type which was approved for use in this state and the recording of at least eight hundred votes on each such voting machine and a sufficient number of votes on each such ballot counting machine, by a method which may be mechanical or electronic, to determine if such machine accurately records such votes.

3. At least annually, the board of elections of each county in which any such voting or ballot counting machines are in use shall test each such machine in a manner prescribed by the state board of elections under conditions supervised by such state board. Such tests shall include, but not be limited to the tests required by subdivision two of this section.

4. Upon the discovery of a discrepancy during the recanvass required by subdivision three of section 9–208 of this chapter, the ballot scanner shall be retested pursuant to 9 NYCRR 6210.2. No ballot scanner shall be returned to service until any such discrepancy has been resolved.

(Added L.1986, c. 262, § 11. Amended L.1986, c. 352, § 7, eff. Oct. 29, 1986; L.2010, c. 163, § 1–a, eff. July 7, 2010.)

§ 7–207. Voting and ballot counting machines; preparation of, party representatives

1. It shall be the duty of the board of elections to cause the proper ballot labels to be prepared and placed on those voting machines which require ballot labels, to cause the machines and any removable electronic or computerized devices which operate such machines or record the vote thereon to be placed in proper order for voting, to examine all voting machines and

all such electronic or computerized devices before they are sent out to the different polling places, to see that all the registering counters are set at zero, to cause a printed record of all the ballot label programming data, for each election, which is entered into each voting machine of a type approved after September first, nineteen hundred eighty-six, or which is entered into any removable electronic or computerized device which operates such machine or records the vote thereon, to be produced directly from the device on which such ballot label programming data was entered and to lock all voting machines so that the counting machinery can not be operated and to seal each one with a numbered seal.

2. (a) Before preparing or programming the voting and ballot counting machines and any removable electronic or computerized devices which operate such machines or record the vote thereon for any election, written notices shall be mailed to the chairman of the county committees of the major political parties, stating the times when and place or places where the machines and devices will be prepared or programmed; at which times and place or places, one representative of each of such political parties, certified by the respective chairmen of the county committees of such parties, shall be entitled to be present and see that the machines and devices are properly prepared and placed in proper condition and order for use at the election. The party representatives shall take the constitutional oath of office, which shall be filed in the office of the board of elections.

(b) It shall be the duty of such party representatives to be present at the preparation of the voting machines for election and see that the machines are properly prepared and that all registering counters are set at zero by examining such counters or by examining the printed or photographic record produced by such voting machine or by examining the printed record of the ballot label programming data on such machine. When the machines have been prepared for election, it shall be the duty of the custodian or custodians of voting machines and party representatives, to make a certificate in writing which shall be filed in the office of the board of elections, stating the number of machines, whether or not all the machines are set

at zero, the number registered on the protective counter, and the number on the seal with which the machine is sealed.

3. No custodian or other employee of the board of elections shall in any way prevent free access to and examination of all voting machines that are to be used at the election, by the duly appointed party representatives. The board of elections and its employees shall afford the party representatives every facility for the examination of all voting machines and devices and the registering counters, the printed or photographic record of the counters or the printed record of the ballot label programming data on such machines, if any, the protective counters and the public counters of each and every voting machine. All such printed or photographic records shall be public records at the offices of the boards of elections.

4. It shall be the duty of the board of elections to cause such voting machine or machines, prepared as provided pursuant to this section to be delivered at each of the respective polling places in which they are to be used, at least one hour before the time set for the opening of the polls. After the machine has been delivered, it shall be set up in the proper manner for use at the election, and it shall be the duty of the local authorities to provide ample protection against tampering with the machines.

5. The party representatives shall be paid for their services an amount that shall be fixed by the board of elections, such amount shall, however, be approved by the governing body of the municipality wherein said machines are used and paid by such municipality.

(Formerly § 7–206, L.1976, c. 233, § 1. Renumbered § 7–207 and amended L.1986, c. 262, §§ 8, 10. Amended L.1986, c. 352, § 8, eff. Oct. 29, 1986; L.2005, c. 180, § 15, eff. Nov. 15, 2005.)

§ 7–208. Escrow requirements

Prior to the use of any voting machine or system in any election in the state, on or after September first, two thousand six, the state board of elections and the local board of elections using such voting machine or system shall:

1. Require that the manufacturer and/or vendor of such voting machine, system or equipment shall place into escrow

with the state board of elections a complete copy of all programming, source coding and software employed by the voting machine, system or equipment which shall be used exclusively for purposes authorized by this chapter and shall be otherwise confidential.

2. Require that the manufacturer and/or vendor of such voting machine, system or equipment file with the state board of elections and the appropriate local boards of elections a waiver, prepared by the state board of elections, which shall waive all rights of the vendor or manufacturer to assert intellectual property or trade secret rights in any court of competent jurisdiction hearing a challenge to the results of any election and requesting that programming source coding, firmware, and software as well as voting machines or systems be tested by independent experts under court supervision and at the conclusion of such proceeding shall be sealed.

3. Require that the manufacturer and/or vendor of such equipment file with the state board of elections and the appropriate local boards of elections a consent to having and cooperating in the testing of any programming, source coding, firmware, or software, pursuant to an order of any board of elections or court of competent jurisdiction. Any such board or agent thereof shall be required to maintain the confidentiality of any proprietary material.

(Added L.2005, c. 181, § 8, eff. July 12, 2005.)

§ 7–209. Elimination of punch card ballots

Notwithstanding any other provision of law, on or after September first, two thousand six, no punch card ballot or punch card voting system shall be used in any manner in the conduct of any election.

(Added L.2005, c. 181, § 9, eff. July 12, 2005.)

ARTICLE 8—CONDUCT OF ELECTIONS

Title		Section
I.	**Polling Places**	**8–100**
II.	**Election Inspectors**	**8–202**
III.	**Casting the Ballot**	**8–300**
IV.	**Absentee Voting**	**8–400**
V.	**Challenging Voters**	**8–500**
VI.	**Early Voting**	**8–600**

TITLE I—POLLING PLACES

Section
8–100. Elections; dates of and hours for voting.
8–102. Polls; opening of.
8–104. Polls.
8–106. Polling places; attendance for educational purposes.

§ 8–100. Elections; dates of and hours for voting

1. (a) [Eff. until Dec. 31, 2020, pursuant to L.2019, c. 290, § 8. See, also, par. (a) below.] A primary election shall be held on the fourth Tuesday in June before every general election unless otherwise changed by an act of the legislature. Members of the state and county committees and assembly district leaders and associate district leaders and all other party positions to be elected shall be elected at such primary and all nominations for public office required to be made at a primary election in such year shall be made at such primary. In the year two thousand twenty in which electors of president and vice president of the United States are to be elected an additional primary election, to be known as the presidential primary, shall be held on April twenty-eight, two thousand twenty unless otherwise changed by an act of the legislature, for the purpose of electing delegates and alternate delegates to the national convention.

1. (a) [Eff. Dec. 31, 2020, pursuant to L.2019, c. 290, § 8. See, also, par. (a) above.] A primary election shall be held on the fourth Tuesday in June before every general election unless otherwise changed by an act of the legislature. Members of the state and county committees and assembly district leaders and associate district leaders and all other party positions to be elected shall be elected at such primary and all nominations for public office required to be made at a primary election in

such year shall be made at such primary. In the year two thousand twenty in which electors of president and vice president of the United States are to be elected an additional primary election, to be known as the presidential primary, shall be held on April twenty-eight, two thousand twenty unless otherwise changed by an act of the legislature, for the purpose of electing delegates and alternate delegates to the national convention.

(b) In the event a run-off primary election is required in the city of New York, it shall be held on the fourth Tuesday next succeeding the date on which the initial primary election was held.

(c) The general election shall be held annually on the Tuesday next succeeding the first Monday in November.

2. Polls shall be open for voting during the following hours: a primary election from six o'clock in the morning until nine o'clock in the evening; the general election from six o'clock in the morning until nine o'clock in the evening; a special election called by the governor pursuant to the public officers law, and, except as otherwise provided by law, every other election, from six o'clock in the morning until nine o'clock in the evening; early voting hours shall be as provided in title six of this article. Early voting times shall be as provided in section 8–600 of this article.

3. In any election district in which a primary of any party is uncontested, no primary of such party shall be held. In any election district in which the primaries of all parties are uncontested on the day of any primary election, no primaries shall be held on such day and the polling place shall not be opened for voting.

4. No primary, special or general election for any state or local office or for the election of officers of any corporation which is funded in whole or in part by federal, state or municipal moneys shall be held on a Saturday or Sunday.

(L.1976, c. 233, § 1. Amended L.1977, c. 458, § 2; L.1978, c. 373, § 71; L.1981, c. 524, § 1; L.1981, c. 557, § 1; L.1981, c. 628, § 1; L.1982, c. 97, § 1; L.1983, c. 432, § 1; L.1994, c. 652, § 1; L.1997, c. 132, § 1, eff. July 25, 1997; L.2000, c. 335, § 1, eff. Jan. 1, 2001; L.2007, c. 17, § 1, eff. April 9, 2007; L.2007, c. 228, § 4, eff. July 3, 2007, deemed eff. July 1, 2007; L.2011, c. 147, § 1, eff. July 18, 2011, deemed eff. July 1, 2011; L.2013, c.

99, § 4, eff. July 8, 2013; L.2015, c. 87, § 1, eff. July 23, 2015, deemed eff. July 1, 2015; L.2017, c. 367, § 1, eff. Jan. 1, 2018; L.2019, c. 5, § 14, eff. Jan. 24, 2019; L.2019, c. 6, § 3, eff. Jan. 24, 2019; L.2019, c. 55, pt. BBB, § 1, eff. Jan. 1, 2020; L.2019, c. 290, § 1, eff. Sept. 13, 2019, deemed eff. July 1, 2019.)

§ 8–102. Polls; opening of

1. The inspectors of election, and clerks, if any, shall meet at the polling place at least one-half hour before the time set for opening the polls of election. The inspectors of election shall:

(a) See that the American flag is displayed.

(b) Cause the facsimile ballots and voter information posting to be posted conspicuously within the polling place.

(c) Cause the distance markers to be placed at a distance of one hundred feet from the polling place.

(d) Establish a guard-rail by delineating and marking out the voting area by a suitable means. The ballot scanner, ballot marking device, ballot boxes and secure storage containers, privacy booths, all ballots and all equipment shall be kept within such guard-rail.

(e) Place the books, ballots and sample ballots, blanks, stationery and supplies so that they will be ready and convenient for use.

(f) Affix or attach to their clothing and cause the clerks, if any, to affix or attach to their clothing the proper identification buttons, badges or emblems issued by the board of elections pursuant to the provisions of this chapter. The inspectors and clerks shall wear no other buttons, badges or emblems which are similar in design.

(g) See that the privacy booths contain conspicuous instructions on how to properly mark ballots and that voters are provided with appropriate writing instruments for marking ballots.

(h) Unlock all ballot boxes and secure storage containers to be used to hold election day paper ballots, see that they are empty, allow them to be examined by the watchers present, and lock them up again in such a manner that the watchers and the persons just outside the guard-rail may see that the

boxes are empty when re-locked; provided, however, the ballot boxes or secure storage containers holding unused ballots shall be inspected to confirm that only the number of unused election day paper ballots provided by the board of elections are contained therein.

(i) Inspect the ballot scanner and ballot marking device to see that it is in good working order. Inspect the placement of privacy booths to preserve the secrecy of voting; inspect the screen of the ballot scanner and ballot marking device; inspect the polling place to make certain there is no way that anyone can view any voting action by a voter at the ballot scanner, ballot marking device, or in a privacy booth; and affix a conspicuous notice, in the form prescribed by the state board of elections, in a prominent place near the ballot scanner and in the privacy booth, instructing the voter on how to properly mark a ballot in order to have his or her vote counted. Such notice shall be printed in English and such other languages as the board of elections may determine to be appropriate.

(j) Announce that the polls are open for voting and the time when the polls will close.

(k) Voting at each polling place for early voting shall be conducted in a manner consistent with the provisions of this article, with the exception of the tabulation and proclamation of election results which shall be completed according to subdivisions eight and nine of section 8–600 of this article.

2. The keys to the ballot scanner and ballot marking device shall be delivered to the inspectors at least one-half hour before the time set for the opening of the polls, in a sealed envelope, on which shall be written or printed the ballot scanner or ballot marking device serial number and location of the polling place, as reported by the voting machine custodian. The envelope containing the keys shall not be opened until at least one inspector from each of the two parties shall be present in the polling place and shall have examined the envelope to see that it has not been opened. Before opening the envelope, such election inspectors present shall examine the serial number on the machine, and shall see if they are the same as the numbers written on the envelope containing the keys. If found not to agree, the envelope must not be opened until the voting machine custodian, or other authorized per-

son, shall have been notified and shall have arrived at the polling place for the purpose of re-examining such machine and shall certify that it is properly arranged. If the serial number on the machine is found to agree with the number on the envelope, the inspectors, except as hereinafter provided, shall turn on the machine. The inspectors shall carefully examine the printed record produced by the machine to see that each counter registers zero, and shall allow watchers to examine the printed record. The inspectors shall then sign a certificate showing the delivery of the keys in a sealed envelope, the serial number on the machine, the number registered on the protective counter, that all the counters are set at zero and that the public counter is set at zero. The machine shall remain secured against voting until the polls are formally opened and shall not be operated except by voters when voting or by election officials upon the instructions of the board of elections. If any counter is found not to register zero, the inspectors of election shall immediately notify the board of elections.

(L.1976, c. 233, § 1. Amended L.1978, c. 9, § 61; L.1985, c. 537, § 1; L.2003, c. 263, § 1, eff. Oct. 27, 2003; L.2010, c. 164, § 1, eff. July 7, 2010; L.2019, c. 6, § 4, eff. Jan. 24, 2019.)

§ 8–104. Polls

1. The American flag shall be kept displayed at each polling place throughout the election. Facsimile ballots, voter information posting and distance markers shall not be taken down, torn or defaced during the election. While the polls are open no person shall do any electioneering within the polling place, or in any public street, within a one hundred foot radial measured from the entrances designated by the inspectors of election, to such polling place or within such distance in any place in a public manner; and no political banner, button, poster or placard shall be allowed in or upon the polling place or within such one hundred foot radial. While the polls are open no person shall consume any alcoholic beverages within the polling place. *While the polls are open no person shall make any change, alteration or modification to any entrance to or exit from the polling place unless such change, alteration or modification allows for increased access for persons with disabilities or is necessary to maintain public safety due to the*

occurrence of an emergency. Any such change, alteration or modification shall be clearly marked on signage placed adjacent to the former entrance or exit.

1–a. The election inspectors shall conspicuously post in the polling place before the opening of the polls, a voter information posting, which shall include: (a) the sample ballot and instructions for the use of ballot scanners and ballot marking devices required pursuant to section 7–118 of this chapter; (b) a statement that ''today is election day'' and the hours during which polling places will be open; (c) instructions on how to cast an affidavit ballot and a concise statement of a voter's right to such a ballot; (d) instructions relating to requirements for voting on ballot scanners by those registrants who must provide identification pursuant to the federal Help America Vote Act of 2002; (e) instructions for first-time voters; (f) a voter's bill of rights describing voter's rights under applicable federal and state law, including the right of accessibility and alternate language accessibility; (g) information pertaining to voting by election day paper ballot, including information about the consequence of casting an overvote, steps to prevent unintentional undervoting and spoiled ballots; (h) instructions on how to contact the appropriate officials if a voter's right to vote or right to otherwise participate in the electoral process has been violated; and (i) general information on federal and state laws regarding prohibitions on acts of fraud and misrepresentation. The state board of elections shall prescribe the form and content of the voter information posting, which may be comprised of one or more pages, provided each page shall be posted separately. The state board of elections shall prescribe an official version of such voter information posting for every language which appears on any general, primary or special election ballot in any election district in the state and for such other languages as such board, in its opinion, determines is appropriate. Such posting shall be used in all jurisdictions, and a separate posting shall be made by election inspectors for each language appearing on the ballot and for such additional languages as the board of elections may require. A board of elections may modify or supplement the voter information posting used in its jurisdiction to provide additional or local information; provided, however, any such

modification or supplementation shall be submitted to the state board of elections for prior approval.

2. The ballot boxes, other secure storage containers and all official ballots shall be kept within the guard-rail, and at least six feet therefrom, from the opening of the polls until the announcement of the result of the canvass and the signing of the inspectors' returns thereof. No person shall be admitted within the guard-rail during such period except the election officers, authorized watchers, persons admitted by the inspectors to preserve order or enforce the law, voters duly admitted for the purpose of voting and children under the age of sixteen accompanying their voting parents or guardians; provided, however, that candidates voted for at the polling place may be within the guard-rail during the canvass.

3. The provisions of this chapter concerning the preservation of order and apprehension for crime on a day of registration, shall apply to a day of election, but a person taken into custody shall not be prohibited thereby from voting.

4. After a ballot box or other secure storage container has been locked for the purposes of election, it shall not be opened until it is opened at the close of the polls for purposes of canvass or by election officials upon the instructions of the board of elections. Each inspector shall be responsible personally for the custody of each ballot box and other secure storage container and its contents from the time the election begins until the box or container is delivered, according to law, to the person entitled to receive it.

5. Voters entitled to vote who are on line or in the polling place at the time fixed by law for the closing of the polls shall be allowed to vote.

6. In the city of New York, during days of primary, general, special and community school board elections, at each premises wherein a polling place or places are located, at least one police officer or peace officer designated by the police commissioner of such city pursuant to the provisions of article two of the criminal procedure law shall be assigned for duty from the opening until the closing of the polls. Additional police officers or peace officers may be assigned as is deemed appropriate by the police commissioner of such city.

7. This section shall apply on all early voting days as provided for in section 8–600 of this article.

(L.1976, c. 233, § 1. Amended L.1978, c. 9, § 62; L.1978, c. 373, § 72; L.1986, c. 86, § 2; L.1991, c. 413, § 70; L.2003, c. 263, § 2, eff. Oct. 27, 2003; L.2010, c. 164, § 2, eff. July 7, 2010; L.2019, c. 6, § 5, eff. Jan. 24, 2019; L.2020, c. 232, § 1, eff. Oct. 7, 2020.)

§ 8–106. Polling places; attendance for educational purposes

1. Notwithstanding any inconsistent provision of law, in order to facilitate education and participation in the electoral process, a number of students in grades eight to twelve, inclusive, not to exceed four at any one time in any polling place, may enter any polling place between twelve o'clock noon and three o'clock p.m. for the purpose of observing the activities taking place therein and, when allowed by the inspectors, for the purposes of subdivision two of this section, provided there is proper parental or teacher supervision present, and provided further, any such student who in any way interferes with the orderly process of voting shall not be allowed to remain in the polling place.

2. Notwithstanding any inconsistent provision of law, each board of elections may provide a spare voting machine inside any polling place or in a room adjacent to any polling place for the educational use of students in grades eight to twelve, inclusive. Each such board shall establish procedures for the use of the machine including, but not limited to, location and preparation of the machine and duties of the machine tenders. At least four weeks prior to an election, each board intending to provide a voting booth for the educational use of students shall notify each school district within its jurisdiction of the location of the spare voting machine. Upon such notice, but not later than two weeks prior to such election, each school district intending to utilize the spare voting machine made available for educational use as herein provided shall notify the board of such intention. Any ballot used in connection with such spare voting machine shall be in the form prescribed by section 7–118 of this chapter for facsimile or sample ballots.

3. Notwithstanding any inconsistent provision of law, in order to facilitate education and foster early participation in

the electoral process, any persons younger than the age of sixteen on election day shall be permitted to accompany a duly qualified voting parent or guardian into the appropriate polling place and voting booth for the specific purpose of observing that parent or guardian vote, and for the general purpose of observing the electoral process. Any voting parent or guardian permitting a child to accompany them while voting shall provide appropriate supervision so as not to allow a child to interfere with the orderly process of voting.

(Added L.1991, c. 90, § 25, eff. Dec. 1, 1991. Amended L.1996, c. 158, § 1, eff. June 18, 1996.)

TITLE II—ELECTION INSPECTORS

Section

8–202. Board of inspectors; conduct of.

§ 8–202. Board of inspectors; conduct of

1. The chair of the board of inspectors theretofore appointed shall continue to act as such, and the inspectors shall act as a board, and a majority thereof shall decide questions. Two inspectors who are not of the same political faith shall have charge of the registration poll ledgers or computer generated registration lists, subject to inspection thereof by any inspector and his or her participation in the decision of any question. Of the inspectors in charge of the registration poll ledgers or computer generated registration lists, one shall be assigned to the duty of comparing the signatures of voters. Inspectors shall be assigned to the foregoing duties by majority vote of the board of inspectors, before the opening of the polls. Such assignments shall be by lot if a majority cannot agree. The duties of an inspector or clerk may be changed during the day. If there be clerks, the board of inspectors may direct a clerk, who is not otherwise engaged, to perform any duty of an inspector of the same party, except to vote upon a question to be decided by such board. Where an oath is required or permitted by this article at any election, any inspector may administer it. Where ballot scanners, ballot marking devices, privacy booths, ballot boxes or other secure storage containers are used, clerks or inspectors shall attend such ballot scanners, ballot marking devices, privacy booths, boxes or containers.

2. The exterior of any ballot scanner, ballot marking device and privacy booth and every part of the polling place shall be in plain view of the election inspectors and watchers. The ballot scanners, ballot marking devices, and privacy booths shall be placed at least four feet from the table used by the inspectors in charge of the poll ledger or computer generated registration list. The guard-rail shall be at least three feet from the machine and the table used by the inspectors. The election inspectors shall not themselves be, or allow any other person to be, in any position or near any position, that will permit one to see or ascertain how a voter votes, or how he or she has voted nor shall they permit any other person to be less than three feet from the ballot scanner, ballot marking device, or privacy booth while occupied. The election inspectors or clerks attending the ballot scanner, ballot marking device, or privacy booth shall regularly inspect the face of the ballot scanner, ballot marking device, or the interior of the privacy booth to see that the ballot scanner, ballot marking device, or privacy booth has not been damaged or tampered with. During elections the door or other covering of the counter compartment of the machine shall not be unlocked or opened except by a member of the board of elections, a voting machine custodian or any other person upon the specific instructions of the board of elections.

(L.1976, c. 233, § 1. Amended L.1978, c. 373, § 73; L.1992, c. 91, § 5, eff. May 17, 1992; L.2010, c. 164, § 3, eff. July 7, 2010; L.2019, c. 55, pt. XX, § 7, eff. April 12, 2019.)

TITLE III—CASTING THE BALLOT

Section

8–300. Voting; manner of.
8–302. Voting; verification of registration.
8–303. Initial voter identification.
8–304. Voters; signature identification.
8–306. Voters; assistance to.
8–308. Voting; voting machine write-in.
8–310. Repealed.
8–312. Voting; election day paper ballots, marking and casting, delivery to voter.
8–314. Voting; primary election, missing enrollment record.
8–316. Ballots; mutilated or spoiled.

§ 8–300. Voting; manner of

1. The inspectors shall admit within the voting area only two voters at a time for each ballot scanner, ballot marking device, or privacy booth and shall ascertain whether each such voter is entitled to vote. If he or she is found to be entitled to vote, he or she shall be permitted to proceed to the ballot scanner, ballot marking device, or privacy booth to vote.

2. The operating of the ballot scanner by the voter while voting or the use of a privacy booth or ballot marking device for marking a ballot shall be secret and obscured from all other persons except as provided by this chapter in cases of voting by assisted voters or in cases of children under the age of sixteen accompanying their voting parents or guardians.

3. No voter shall remain within a privacy booth or at a ballot scanner longer than a reasonable amount of time and if he or she shall refuse to leave after the lapse of such time, he or she shall be removed by the inspectors.

(L.1976, c. 233, § 1. Amended L.1996, c. 158, § 2; L.2005, c. 181, § 13, eff. July 12, 2005; L.2010, c. 164, § 4, eff. July 7, 2010.)

§ 8–302. Voting; verification of registration

1. At all elections held pursuant to the provisions of this chapter two inspectors representing different political parties shall act together at all times in supervising the use of the registration records and in verifying the rights of persons to vote on the basis of such records.

2. The voter shall give the voter's name and the voter's residence address to the inspectors. An inspector shall then loudly and distinctly announce the name and residence of the voter.

2–a. (a) If a voter's name appears in the ledger or computer generated registration list with a notation indicating that the voter's identity was not yet verified as required by the federal Help America Vote Act, the inspector shall require that the voter produce one of the following types of identification before permitting the voter to cast his or her vote on the voting machine:

(i) a driver's license or department of motor vehicles non-driver photo ID card or other current and valid photo identification;

(ii) a copy of a current utility bill, bank statement, government check, paycheck or other government document that shows the name and address of the voter.

(b) If the voter produces an identification document listed in paragraph (a) of this subdivision, the inspector shall indicate so in the ledger or computer generated registration list, the voter will be deemed verified as required by the federal Help America Vote Act and the voter shall be permitted to cast his or her vote on the voting machine.

(c) If the voter does not produce an identification document listed in paragraph (a) of this subdivision, the voter shall only be entitled to vote by affidavit ballot unless a court order provides otherwise.

3. (a) If an applicant is challenged, the board, without delay, shall either enter his name in the second section of the challenge report together with the other entries required to be made in such section opposite the applicant's name or make an entry next to the voter's name in the computer generated registration list or in the place provided in the computer generated registration list.

(b) A person who claims to have moved to a new address within the election district in which he or she is registered to vote shall be permitted to vote in the same manner as other voters unless challenged on other grounds. The inspectors shall enter the names and new addresses of all such persons in either the first section of the challenge report or in the place provided in the computer generated registration list and shall also enter the new address next to such person's address on such computer generated registration list. When the registration poll records of persons who have voted from new addresses within the same election district are returned to the board of elections, such board shall change the addresses on the face of such registration poll records without completely obliterating the old addresses and shall enter such new addresses and the new addresses for any such persons whose names were in

computer generated registration lists into its computer records for such persons.

(c) A person who claims a changed name shall be permitted to vote in the same manner as other voters unless challenged on other grounds. The inspectors shall either enter the names of all such persons in the first section of the challenge report or in the place provided in the computer generated registration list, in the form in which they are registered, followed in parentheses by the name as changed or enter the name as changed next to such voter's name on the computer generated registration list. The voter shall sign first on the registration poll record or in the computer generated registration list, the name under which the voter is registered and, immediately above it, the new name, provided that in such registration list, the new name may be signed in the place provided. When the registration poll record of a person who has voted under a new name is returned to the board of elections, such board shall change the voter's name on the face of each registration record without completely obliterating the old one, and thereafter such person shall vote only under his or her new name. If a voter has signed a new name in a computer generated registration list, such board shall enter such voter's new name and new signature in such voter's computer record.

(d) If an applicant requests assistance in voting and qualifies therefor, the board shall provide assistance as directed by this chapter, and shall without delay either enter such applicant's name and the other entries required in the third section of the challenge report or make an entry next to such applicant's name in the computer generated registration list or in the place provided in such registration list.

(e) Whenever a voter presents himself or herself and offers to cast a ballot, and he or she claims to live in the election district in which he or she seeks to vote but no registration poll record can be found for him or her in the poll ledger or his or her name does not appear in the computer generated registration list or his or her signature does not appear next to his or her name in such registration list or his or her registration poll record or the computer generated registration list does not show him or her to be enrolled in the party in which he or she claims to be enrolled, a poll clerk or election inspector shall

consult a map, street finder or other description of all of the polling places and election districts within the political subdivision in which said election district is located and if necessary, contact the board of elections to obtain the relevant information and advise the voter of the correct polling place and election district for the residence address provided by the voter to such poll clerk or election inspector. Thereafter, such voter shall be permitted to vote in said election district only as hereinafter provided:

(i) He or she may present a court order requiring that he or she be permitted to vote. At a primary election, such a court order must specify the party in which the voter is permitted to vote. The voter shall be required to sign their full name on top of the first page of such order, together with the voter's registration serial number, if any, and the voter's name and the other entries required shall then be entered without delay in the fourth section of the challenge report or in the place provided in the computer generated registration list, or, if such person's name appears on such registration list, the board of elections may provide a place to make such entry next to his or her name on such list. The voter shall then be permitted to vote in the manner otherwise prescribed for voters whose registration poll records are found in the ledger or whose names are found on the computer generated registration list; or

(ii) He or she may swear to and subscribe an affidavit stating that he or she has duly registered to vote, the address in such election district from which he or she registered, that he or she remains a duly qualified voter in such election district, that his or her registration poll record appears to be lost or misplaced or that his or her name and/or his or her signature was omitted from the computer generated registration list or such record indicates the voter already voted when he or she did not do so or that he or she has moved within New York state since he or she last registered, the address from which he or she was previously registered and the address at which he or she currently resides, and at a primary election, the party in which he or she is enrolled. The inspectors of election shall offer such an affidavit to each such voter whose residence address is in such election district. Each such affidavit shall

be in a form prescribed by the state board of elections, shall be printed on an envelope of the size and quality used for an absentee ballot envelope, and shall contain an acknowledgment that the affiant understands that any false statement made therein is perjury punishable according to law. Such form prescribed by the state board of elections shall request information required to register such voter should the county board determine that such voter is not registered and shall constitute an application to register to vote. The voter's name and the entries required shall then be entered without delay and without further inquiry in the fourth section of the challenge report or in the place provided in the computer generated registration list, with the notation that the voter has executed the affidavit hereinabove prescribed, or, if such person's name appears in such registration list, the board of elections may provide a place to make such entry next to his or her name in such list. The voter shall then, without further inquiry, be permitted to vote an affidavit ballot provided for by this chapter. Such ballot shall thereupon be placed in the envelope containing his or her affidavit, and the envelope sealed and returned to the board of elections in the manner provided by this chapter for protested official ballots, including a statement of the number of such ballots.

3–a. The inspectors shall also give to every person whose address is in such election district for whom no registration poll record can be found and, in a primary election, to every voter whose registration poll record does not show him to be enrolled in the party in which he wishes to be enrolled or who claims to be incorrectly identified as having already voted, a copy of a notice, in a form prescribed by the state board of elections, advising such person of his right to, and of the procedures by which he may, cast an affidavit ballot or seek a court order permitting him to vote, and shall also give every such person who does not cast an affidavit ballot, an application for registration by mail.

3–b. In every election district in which the candidates for any office or position in a primary election have been assigned numbers by the board of elections because of identical or similar names, the inspectors shall also give to every person eligible to vote in such primary, a copy of a leaflet prepared by

the board of elections which contains biographical information about such candidates.

3–c. At the time that an individual casts an affidavit ballot, the appropriate state or local election official shall give the individual written information that states that any individual who casts an affidavit ballot will be able to ascertain under the system established under subdivision four of section 9–212 of this chapter whether the vote was counted, and, if the vote was not counted, the reason that the vote was not counted.

4. At a primary election, a voter whose registration poll record is in the ledger or computer generated registration list shall be permitted to vote only in the primary of the party in which such record shows the voter to be enrolled unless the voter shall present a court order pursuant to the provisions of subparagraph (i) of paragraph (e) of subdivision three of this section requiring that the voter be permitted to vote in the primary of another party, or unless the voter shall present a certificate of enrollment issued by the board of elections, not earlier than one month before such primary election, pursuant to the provisions of this chapter which certifies that the voter is enrolled in a party other than the one in which such record shows the voter to be enrolled, or unless he or she shall subscribe an affidavit pursuant to the provisions of subparagraph (ii) of paragraph (e) of subdivision three of this section.

5. Except for voters unable to sign their names, no person shall be permitted to vote without first identifying himself or herself as required by this chapter.

(L.1976, c. 233, § 1. Amended L.1976, c. 234, § 42; L.1978, c. 9, §§ 63, 64; L.1978, c. 373, §§ 74, 75; L.1981, c. 573, §§ 1, 2; L.1984, c. 62, § 1; L.1984, c. 96, § 1; L.1984, c. 648, §§ 2, 3; L.1985, c. 511, § 1; L.1988, c. 43, § 2; L.1990, c. 371, § 3; L.1992, c. 89, § 1; L.1994, c. 659, §§ 44 to 46; L.1996, c. 200, § 20; L.2005, c. 179, § 4, eff. Jan. 1, 2006; L.2009, c. 489, § 3, eff. Oct. 28, 2009; L.2010, c. 62, § 4, eff. April 28, 2010; L.2010, c. 164, § 5, eff. July 7, 2010; L.2011, c. 125, § 3, eff. July 15, 2011; L.2019, c. 3, § 2, eff. March 25, 2019; L.2019, c. 6, § 6, eff. Jan. 24, 2019; L.2019, c. 55, pt. XX, § 8.)

§ 8–303. Initial voter identification

1. Applicability. Each board of elections, in a uniform and nondiscriminatory manner, shall require a voter to meet the requirements of subdivision two of this section if:

(a) the individual registered to vote in a jurisdiction by mail on or after January first, two thousand three; and

(b) the individual has not previously voted in an election for federal office in the jurisdiction of the board of elections.

2. Requirements. (a) In general. An individual meets the requirements of this subdivision if the individual:

(1) in the case of an individual who votes in person: (i) presents to the appropriate election inspector, clerk or coordinator a current and valid photo identification; or

(ii) presents to the appropriate election inspector, clerk or coordinator a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter; or

(2) in the case of an individual who votes by mail, submits in the outer envelope with the envelope containing the ballot: (i) a copy of a current and valid photo identification; or

(ii) a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter.

(b) Fail-safe voting. (1) An individual who desires to vote in person, but who does not meet the requirements of subparagraph one of paragraph (a) of this subdivision, may cast an affidavit ballot, and notwithstanding this section of law, such affidavit ballot shall be duly cast and counted, even though such individual does not meet the requirements of subparagraph one of paragraph (a) of this subdivision, provided such individual casting such ballot is an otherwise eligible voter pursuant to law, provided further that such ballot otherwise complies with the requirements of law.

(2) An individual who desires to vote by mail but who does not meet the requirements of subparagraph two of paragraph (a) of this subdivision may cast such a ballot by mail and such ballot shall be duly cast and counted, notwithstanding this section, provided the voter is determined to be an eligible voter and provided further that such ballot otherwise complies with the requirements of law.

3. Inapplicability. Subdivisions one and two of this section shall not apply in the case of a person: (a) who registers to vote by mail and submits as part of such registration either:

(1) a copy of a current and valid photo identification; or

(2) a copy of a current utility bill, bank statement, government check, paycheck, or government document that shows the name and address of the voter;

(b)(1) who registers to vote by mail and submits with such registration either:

(i) a driver's license or a department of motor vehicles non-driver photo ID number; or

(ii) at least the last four digits of the individual's social security number; and

(2) with respect to whom a local board of elections matches the information submitted under subparagraph one of this paragraph with an existing state identification record bearing the number, name and date of birth of such voter; or

(c) who is: (1) entitled to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–1 et seq.);

(2) provided the right to vote otherwise than in person under section 3 (b) (2) (B) (ii) of the Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee–1 (b) (2) (B) (ii)); or

(3) entitled to vote otherwise than in person under any other federal law.

(Added L.2004, c. 420, § 1, eff. Sept. 7, 2004. Amended L.2005, c. 160, § 1, eff. June 30, 2005.)

§ 8–304. Voters; signature identification

1. A person before being allowed to vote shall be required, except as provided in this chapter, to sign his or her name on the back of his or her registration poll record on the first line reserved for his or her signature at the time of election which is not filled with a previous signature, or in the space provided in the computer generated registration list reserved for the voter's signature. The two inspectors in charge shall satisfy themselves by a comparison of this signature with the voter's

registration signature and by comparison of the voter's appearance with the descriptive material on the face of the registration poll record that the voter is the person registered. If they are so satisfied they shall enter the other information required for the election on the same line with the voter's latest signature, shall sign their names or initials in the spaces provided therefor, and shall permit the applicant to vote. Any inspector or inspectors not satisfied shall challenge the applicant forthwith.

2. If a person who alleges an inability to sign his or her name presents himself or herself to vote, the board of inspectors shall permit such person to vote, unless challenged on other grounds, provided the voter had been permitted to register without signing the voter's name. The board shall enter the words ''Unable to Sign'' in the space on the voter's registration poll record reserved for the voter's signature or on the line or space the computer generated registration list reserved for the voter's signature at such election. If the voter's signature appears upon the voter's registration record or in the computer generated registration list the board shall challenge the voter forthwith, except that if such a person claims that he or she is unable to sign his or her name by reason of a physical disability incurred since the voter's registration, the board, if convinced of the existence of such disability, shall permit him or her to vote, shall enter the words ''Unable to Sign'' and a brief description of such disability in the space reserved for the voter's signature at such election. At each subsequent election, if such disability still exists, the voter shall be entitled to vote without signing their name and the board of inspectors, without further notation, shall enter the words ''Unable to Sign'' in the space reserved for the voter's signature at such election.

3. The voter's facsimile signature shall be effectively concealed from the voter by a blotter or other means until after the voter shall have completed the signature.

4. In any case where a person who has heretofore voted has placed his voting signature on the back of his registration poll record on the first or any succeeding line or lines at the time or times of an election, instead of on the last line of the space thereon required to be reserved for such voting signa-

tures and on any lines next running upward therefrom, the inspectors of election shall obliterate such misplaced signature or signatures, initial the obliteration and require such voter to sign his name again in the correct place on such registration poll record.

5. Any person who has heretofore registered and who at such time placed his or her registration signature on the back of the registration poll record otherwise than in the space required to be provided therefor at the bottom of such poll record, shall, before being permitted to vote at any election thereafter, subscribe a new registration signature for himself on the last line at the bottom of such poll record, and, at the same time, if the inspectors of election are satisfied that the signatures were made by the same person, obliterate his original registration signature placed elsewhere than on the bottom of such record. Such obliterations may be made by crossing out the signature so as to completely efface the same or by affixing thereover a piece of gummed tape of a size sufficient only to cover such signature and of a type adequate to fully conceal the same.

(L.1976, c. 233, § 1. Amended L.1978, c. 9, § 65; L.1986, c. 425, § 4, eff. Nov. 18, 1986; L.2019, c. 55, pt. XX, § 9, eff. April 12, 2019.)

§ 8–306. Voters; assistance to

1. A voter who states under oath to the board of inspectors that he requires assistance may be assisted in the manner and subject to the conditions and requirements provided for in this section.

2. A board of inspectors of election shall assist any voter:

(a) who informs such board, under oath, that he cannot read and therefore requires assistance, or

(b) who cannot even with the aid of glasses see the names printed on the official ballot, or

(c) who is so physically handicapped that he cannot do what is needed at that election to turn down the levers or use a write-in slot on a voting machine, or mark a paper ballot, or

(d) who, unless aided by another person, cannot enter a voting booth.

3. Any voter who requires assistance to vote by reason of blindness, disability or inability to read or write may be given assistance by a person of the voter's choice, other than the voter's employer or agent of the employer or officer or agent of the voter's union. A voter entitled to assistance in voting who does not select a particular person may be assisted by two election inspectors not of the same political faith. The inspectors or person assisting a voter shall enter the voting machine or booth with the voter, help the voter in the preparation of the voter's ballot and, if necessary, in the return of the voted ballot to the inspectors for deposit in the ballot box. The inspectors shall enter in the space provided for such voter in the computer generated registration list, the name of each officer or person rendering such assistance.

4. An election officer or other person assisting a voter shall not in any manner request or seek to persuade or induce the assisted voter to vote any particular ticket, or for any particular candidate, or for or against any particular ballot proposal, and shall not keep or make any memorandum or entry of anything occurring within the voting booth and shall not, directly or indirectly, reveal to any other person the name of any candidate voted for by such voter, or which ticket he has voted, except when required pursuant to law to give testimony as to such matter in a judicial proceeding.

5. A person other than an inspector, who assists a voter in voting, shall make an oath before entering the booth that he ''will not in any manner request, or seek to persuade or induce the voter to vote any particular ticket or for any particular candidate, and that he will not keep or make any memorandum or entry of anything occurring within the booth, and that he will not, directly or indirectly, reveal to any person the name of any candidate voted for by the voter, or which ticket he had voted, or anything occurring within the voting booth, except when required pursuant to law to give testimony as to such a matter in a judicial proceeding.''

6. If a voter makes any false representation to obtain assistance in voting, he shall be punishable therefor as prescribed by law.

7. For the instruction of voters, there may be so far as practicable, in each polling place, a mechanically operated

model of a portion of the face of the voting machine. Such model, if furnished, shall be located during the election on the inspectors' table or in some other place which the voters must pass to reach the machine. Each voter, before entering the machine, shall, upon request, be instructed regarding its operation and such instruction illustrated on the model and the voter given opportunity personally to operate the model. The voter's attention shall also be called to the facsimile ballot so that the voter can become familiar with the location of the ballot proposals, if any, and the location of the respective offices to be filled at the election. If any voter, after entering the voting machine booth and before the closing of such booth, shall ask for further instructions concerning the manner of voting, two inspectors of opposite political faith shall give such instructions to him. No inspector or other election officer or other person instructing a voter, shall, in any manner, request, suggest or seek to persuade or induce any such voter to vote any particular ticket, or for any particular candidate or for or against any particular ballot proposal. After giving such instructions, the inspectors shall retire and such voter shall then close the booth and vote as in the case of an unassisted voter.

8. In no event shall an inspector or any other person enter a voting machine or booth for the purpose of giving instructions to a voter, after the voter has closed such booth, except as permitted herein.

9. Any voter requesting a sample ballot shall be furnished one if available and he may take it away from the polling place.

(L.1976, c. 233, § 1. Amended L.1978, c. 8, § 19; L.1978, c. 9, § 66; L.1982, c. 647, § 10; L.1986, c. 425, § 5; L.1991, c. 154, § 1, eff. May 31, 1991; L.2019, c. 55, pt. XX, § 10, eff. April 12, 2019.)

§ 8–308. Voting; voting machine write-in

1. Ballots voted for any person whose name does not appear on the machine as a nominated or designated candidate for public office or party position are referred to in this article as write-in ballots.

2. No write-in ballot shall be voted for any person for any office whose name appears on the machine as a nominated or designated candidate for the office or position in question; any write-in ballot so voted shall not be counted.

3. A write-in ballot must be cast in its appropriate place on the machine, or it shall be void and not counted.

4. A write-in ballot may also be cast by the use of a name stamp. The use of name stickers, labels or pasters is prohibited.

(L.1976, c. 233, § 1. Amended L.1978, c. 9, § 67; L.1988, c. 13, § 2; L.1994, c. 156, § 4, eff. June 7, 1994; L.2015, c. 395, § 1, eff. Oct. 26, 2015.)

§ 8–310. Repealed by L.2009, c. 464, § 2, eff. Sept. 16, 2009

§ 8–312. Voting; election day paper ballots, marking and casting, delivery to voter

1. On receiving his or her ballot, the voter forthwith shall retire alone, unless he or she is entitled to assistance in voting or is accompanied by a child under sixteen years of age, to an unoccupied privacy booth and mark his or her ballot using a writing instrument supplied by the board of elections. He or she shall not occupy a privacy booth more than five minutes if other voters are waiting to occupy it. If the voter wrongly marks, defaces or tears a ballot, he or she may successively obtain others, one ballot at a time, not exceeding three ballots in all, upon returning to the inspectors or clerks each ballot already received.

2. When the voter shall have marked the ballot, he or she shall leave the privacy booth with the ballot, proceed at once to the ballot scanner, insert such ballot into the ballot scanner and wait for the notice that the ballot has been successfully scanned. If no such notice appears, the voter shall seek the assistance of an election inspector.

3. Upon voting, the voter forthwith shall pass outside the guardrail, unless he or she is a person authorized to remain for other purposes than voting.

4. When a person shall have received a paper ballot from any clerk, or inspector, as hereinbefore provided, he or she shall be deemed to have commenced the act of voting, and if, after receiving such official ballot, he or she shall leave the space inclosed by the guard-rail before the deposit of his or her ballot in the ballot scanner, ballot box or other secure storage container, as hereinbefore provided, he or she shall not be

entitled to pass again within the guard-rail for the purpose of voting, or to receive any further ballots.

5. No ballot without the official indorsement shall be allowed to be deposited in the ballot scanner or, when a ballot scanner is inoperable or otherwise unable to scan the ballot, in a ballot box or other secure storage container except for emergency ballots as provided in subdivision two of section 7–120 of this chapter. No person to whom any election day paper ballot shall be delivered shall leave the space within the guard-rail until after he or she shall have scanned the ballot, deposited the ballot in a ballot box or other secure storage container or delivered the ballot back to the inspectors or to the clerks.

6. Election day paper ballots being used with optical scan voting systems or intended to be counted by hand pursuant to subdivision one of section 7–200 of this chapter shall be delivered to the voter in a manner consistent with the rules and regulations promulgated by the state board of elections.

(L.1976, c. 233, § 1. Amended L.2009, c. 464, § 3, eff. Sept. 16, 2009; L.2010, c. 164, § 6, eff. July 7, 2010.)

§ 8–314. Voting; primary election, missing enrollment record

If a registered voter marked an enrollment blank, but his enrollment as so indicated was not entered or entered incorrectly, he nevertheless shall be permitted to vote at the primary election, with the party under whose name he marked such blank, if he produces a certificate of the board of elections that he marked an enrollment blank, specifying the party, and that the entry of his enrollment on the registration poll record was omitted or incorrectly entered by inadvertence or mistake and he is qualified to vote at the primary election in the party set forth in such certificate. In such a case the board of elections shall issue such certificate on demand. The inspectors shall then and there enter the enrollment on the record.

(L.1976, c. 233, § 1. Amended L.1978, c. 373, § 76, eff. June 19, 1978.)

§ 8–316. Ballots; mutilated or spoiled

If a ballot is found to be defective or mutilated before it is delivered to the voter, its stub and the stubs of all other ballots

in the set shall be detached immediately and placed in the box for stubs, by the clerks, or if there are no clerks by the inspector assigned to the duty of delivering ballots, and all the ballots of that set immediately shall be marked ''cancelled'', and placed in the box for spoiled and mutilated ballots. If a voter returns a ballot as defective, mutilated, defaced, or wrongly marked, he shall also return all the other ballots of the set, if any, and such clerks or inspector shall likewise remove their stubs, placing all the stubs in the box for stubs and all the ballots of the set in the box for spoiled or mutilated ballots, first marking the ballots ''cancelled''. In each case, the voter shall receive another ballot or set of ballots, unless not entitled thereto.

(L.1976, c. 233, § 1.)

TITLE IV—ABSENTEE VOTING

Section

8–400. Absentee voting; application for ballot.
8–402. Absentee voting; review of application by board of elections.
8–404. Absentee voting; hospitalized veterans, special provisions.
8–406. Absentee ballots, delivery of.
8–407. Voting by residents of nursing homes, residential health care facilities, facilities operated or licensed, or under the jurisdiction of, the department of mental hygiene or hospitals or facilities operated by the Veteran's Administration of the United States.
8–408. Repealed.
8–410. Absentee voting; method of.
8–412. Absentee ballots; deadline for receipt, and delivery to polling place.

§ 8–400. Absentee voting; application for ballot

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

1. A qualified voter may vote as an absentee voter under this chapter if, on the occurrence of any village election conducted by the board of elections, primary election, special election, general election or New York city community school board district or city of Buffalo school district election, he or she expects to be:

(a) absent from the county of his or her residence, or, if a resident of the city of New York absent from said city; or

(b) [Eff. until Jan. 1, 2022, pursuant to L.2020, c. 139, § 2. See, also, par. (b) below.] unable to appear personally at the polling place of the election district in which he or she is a qualified voter because of illness or physical disability or duties related to the primary care of one or more individuals who are ill or physically disabled, or because he or she will be or is a patient in a hospital, *provided that, for purposes of this paragraph, ''illness'' shall include, but not be limited to, instances where a voter is unable to appear personally at the polling place of the election district in which they are a qualified voter because there is a risk of contracting or spreading a disease that may cause illness to the voter or to other members of the public*; or

(b) [Eff. Jan. 1, 2022, pursuant to L.2020, c. 139, § 2. See, also, par. (b) above.] unable to appear personally at the polling place of the election district in which he or she is a qualified voter because of illness or physical disability or duties related to the primary care of one or more individuals who are ill or physically disabled, or because he or she will be or is a patient in a hospital; or

(c) a resident or patient of a veterans health administration hospital; or

(d) absent from his or her voting residence because he or she is detained in jail awaiting action by a grand jury or awaiting trial, or confined in jail or prison after a conviction for an offense other than a felony, provided that he or she is qualified to vote in the election district of his or her residence.

2. A qualified voter desiring to vote at such election as an absentee voter for any reason specified in subdivision one hereof must make application for an absentee ballot on a form to be obtained and filed as provided herein or by letter as provided in paragraph (d) of this subdivision.

(a) Application forms shall be furnished by and may be obtained from any board of elections at any time until the day before such election. Application forms shall also be supplied by the board of inspectors of the election district in which applicant is a qualified voter on all of the days provided for local registration. In addition, application forms shall be supplied upon the request of the person authorized to vote

pursuant to this section, any such person's spouse, parent or child, a person residing with the applicant as a member of his household, or the applicant's duly authorized agent. Application forms sent outside of the United States to a country other than Canada or Mexico, shall be sent airmail. Any reference to ''board of elections'' in the remaining provisions of this section, except with respect to the furnishing and obtaining of applications for absentee ballots, means only the board of elections of the county or city in which the applicant is a qualified voter.

(b) Applications may be filed either with the board of elections or in person with the board of inspectors of the election district in which the applicant is a qualified voter, on one of the days provided for local registration.

(c) All applications must be mailed to the board of elections not later than the seventh day before the election for which a ballot is first requested or delivered to such board not later than the day before such election.

(d) [Eff. until Dec. 31, 2020, pursuant to L.2020, c. 91, § 7. See, also, subd. (d) below.] The board of elections shall mail an absentee ballot to every qualified voter otherwise eligible for such a ballot, *when such voter* requests an absentee ballot from such board of elections in writing in a letter, telefax indicating the address, phone number and the telefax number from which the writing is sent or other written instrument, *or an electronic application submitted by the voter by electronic mail or through an electronic transmittal system or web portal established by the state board of elections or city or county board of elections*, which is received by the board of elections not later than the seventh day before the election for which the ballot is first requested and which states the address where the voter is registered and the address to which the ballot is to be mailed; provided, however, a military voter may request a military ballot or voter registration application or an absentee ballot application in a letter as provided in subdivision three of section 10–106 of this chapter; and provided further, a special federal voter may request a special federal ballot or voter registration application or an absentee ballot application in a letter as provided in paragraph d of subdivision one of section 11–202 of this chapter. The board of elections shall enclose

with such ballot a form of application for absentee ballot if the applicant is registered with such board of elections.

(d) [Eff. Dec. 31, 2020, pursuant to L.2020, c. 91, § 7. See, also, subd. (d) above.] The board of elections shall mail an absentee ballot to every qualified voter otherwise eligible for such a ballot, who requests such an absentee ballot from such board of elections in writing in a letter, telefax indicating the address, phone number and the telefax number from which the writing is sent or other written instrument, which is signed by the voter and received by the board of elections not earlier than the thirtieth day nor later than the seventh day before the election for which the ballot is first requested and which states the address where the voter is registered and the address to which the ballot is to be mailed; provided, however, a military voter may request a military ballot or voter registration application or an absentee ballot application in a letter as provided in subdivision three of section 10–106 of this chapter; and provided further, a special federal voter may request a special federal ballot or voter registration application or an absentee ballot application in a letter as provided in paragraph d of subdivision one of section 11–202 of this chapter. The board of elections shall enclose with such ballot a form of application for absentee ballot if the applicant is registered with such board of elections.

3. The application for an absentee ballot when filed must contain in each instance the following information:

(a) Applicant's full name, date of birth, and residence address, including the street and number, if any, rural delivery route, if any, mailing address if different from the residence address and his or her town or city and an address to which the ballot shall be mailed.

(b) A statement that the applicant is a qualified and registered voter.

(c) A statement, as appropriate, that on the day of such election the applicant expects in good faith to be in one of the following categories:

(i) absent from the county of his or her residence, or if a resident of the city of New York absent from said city; provided, however, if the applicant expects to be absent from such

county or city for a duration covering more than one election and seeks an absentee ballot for each election, he or she shall state the dates when he or she expects to begin and end such absence; or

(ii) unable to appear at a polling place because of illness or physical disability or duties related to the primary care of one or more individuals who are ill or physically disabled; or

(iii) a resident or patient of a veterans health administration hospital; or

(iv) detained in jail awaiting action by a grand jury or awaiting trial or confined in jail or prison after a conviction for an offense other than a felony and stating the place where he or she is so detained or confined.

(d) Such application shall permit the applicant to apply for an absentee ballot for either a primary election or the general election in any year and for those persons who will be continuously absent from their county of residence during the period between the fall primary election and the general election in any year to apply for ballots for both such elections in such year. A voter who applies for an absentee ballot shall be sent an absentee ballot for any special election or winter primary that occurs during the period of absence specified in the application.

4. A voter who claims permanent illness or physical disability may make application for an absentee ballot and the right to receive an absentee ballot for each election thereafter as provided herein without further application, by filing with the board of elections an application which shall contain a statement to be executed by the voter. Upon filing of such application the board of elections shall cause the registration records of the voter to be marked ''Permanently Disabled'' and thereafter shall send an absentee ballot for each succeeding primary, special or general election to such voter at his or her last known address by first class mail with a request to the postal authorities not to forward such ballot but to return it in five days in the event that it cannot be delivered to the addressee. The mailing of such ballot for each election shall continue until such voter's registration is cancelled.

5. The application for an absentee ballot shall contain the following language printed in bold face directly above the signature line: ''I CERTIFY THAT THE INFORMATION IN THIS APPLICATION IS TRUE AND CORRECT AND UNDERSTAND THAT THIS APPLICATION WILL BE ACCEPTED FOR ALL PURPOSES AS THE EQUIVALENT OF AN AFFIDAVIT AND, IF IT CONTAINS A MATERIAL FALSE STATEMENT, SHALL SUBJECT ME TO THE SAME PENALTIES AS IF I HAD BEEN DULY SWORN.'' Such application shall be accepted for all purposes as the equivalent of an affidavit and if it contains a material false statement shall subject the person signing it to the same penalties as if he had been duly sworn.

6. For purposes of this section, the use of titles, initials or customary abbreviations of given names by the signers of, or witnesses to, an absentee ballot request letter, an absentee ballot application form or an absentee ballot envelope, or the use of customary abbreviations of addresses of such signers or witnesses, shall not invalidate such voter's signature or witness's signature on an application for an absentee ballot or upon canvass or recanvass of the ballot pursuant to this chapter.

7. If a person entitled to an absentee ballot is unable to sign his application because of illness, physical disability or inability to read, he shall be excused from signing upon making a statement, in substantially the following form, which shall be witnessed by one person:

''I hereby state that I am unable to sign my application for an absentee ballot without assistance because I am unable to write by reason of my illness or physical disability or because I am unable to read. I have made, or have received assistance in making, my mark in lieu of my signature.''

(Date) . . . . . .

. . . . . (Mark)

(Name of Voter)

''I, the undersigned, hereby certify that the above named voter affixed his mark to this application in my presence and I know him to be the person who affixed his mark to said application and understand that this statement will be accepted for all purposes as the equivalent of an affidavit and if it contains a material false statement, shall subject me to the same penalties as if I had been duly sworn.''

. . . . . .
(Signature of Witness)

. . . . . .
(Address of Witness)

Such statement shall be included in the application form furnished by the board of elections.

8. Printed forms of applications for absentee ballots in accordance with the requirements of this section shall be provided by the board of elections. An appropriate number shall be retained by the board of elections for the purpose of furnishing an application form to each qualified voter who applies therefor before the board of elections, either in person or by mail, and an appropriate number shall be delivered to each board of inspectors on registration days with the election supplies, and the board of inspectors shall retain the completed and unused applications and return them to the board of elections with their election supplies and an appropriate number shall be available for distribution to officers of political parties, county clerks, city, town and village clerks, colleges, libraries, hospitals, nursing homes, senior citizens centers and any other convenient distribution source which is approved by the local or state board of elections and which requests such forms.

9. The provisions of this section for absentee voting in primary elections shall not apply to the party positions of members of the ward, town, city or county committee.

10. The state board of elections shall prescribe a standard application form for use under this section. The use of any application form which substantially complies with the provisions of this section shall be acceptable and any application filed on such a form shall be accepted for filing.

(L.1976, c. 233, § 1. Amended L.1976, c. 234, §§ 43, 43–a; L.1978, c. 9, §§ 68, 69; L.1978, c. 223, § 1; L.1978, c. 371, § 1; L.1980, c. 446, § 1; L.1980, c. 447, § 1; L.1980, c. 666, § 1; L.1981, c. 684, §§ 1, 2; L.1983, c. 518, § 1; L.1984, c. 78, § 1; L.1984, c. 416, § 5; L.1985, c. 163, § 1; L.1986, c. 373, §§ 1, 2; L.1988, c. 216, §§ 3, 4; L.1988, c. 321, § 1; L.1989, c. 359, § 20; L.1991, c. 263, § 8, eff. Dec. 1, 1991; L.2009, c. 40, § 1, eff. Jan. 1, 2010; L.2009, c. 165, § 1, eff. July 11, 2009; L.2009, c. 426, §§ 1, 2, eff. Sept. 16, 2009; L.2010, c. 63, § 1, eff. April 28, 2010; L.2010, c. 97, § 1, eff. Jan. 1, 2011; L.2010, c. 104, § 4, eff. June 2, 2010; L.2015, c. 375, §§ 2, 3, eff. Oct. 26, 2015; L.2020, c. 91, § 1, eff. June 30, 2020; L.2020, c. 138, § 1, eff. Aug. 20, 2020; L.2020, c. 139, § 1, eff. Aug. 20, 2020.)

§ 8–402. Absentee voting; review of application by board of elections

1. Upon receipt of an application for an absentee ballot the board of elections shall forthwith determine upon such inquiry as it deems proper whether the applicant is qualified to vote and to receive an absentee ballot, and if it finds the applicant is not so qualified it shall reject the application after investigation as hereinafter provided.

2. The county board of elections, whenever it is not satisfied from an examination of an application for an absentee ballot that the applicant is entitled to such a ballot, may order an investigation through any officer or employee of the state or county board of elections, police officer, sheriff or deputy sheriff, or a special investigator appointed by the state board of elections pursuant to the provisions of this chapter and, if it deems necessary, may exercise the powers to issue subpoenas and administer oaths which are conferred upon it by this chapter.

3. An affidavit or a signed statement executed by any person authorized to conduct an investigation pursuant to this section which indicates that the applicant for an absentee ballot meets or fails to meet any of the requirements entitling the applicant to same shall be sufficient authority for a determination by the board as to the applicant's right to an absentee voter's ballot, but shall not preclude the board from making such other determination as it shall deem proper. Such affidavit or statement shall contain sufficient information to permit verification of the information contained in the statement and identification of the source.

4. Any investigation shall be concluded and determination made as to all applicants not later than the day before the election for which a ballot is first requested, or if such ballot is to be sent by mail, such determination shall be made at a time which will afford sufficient time for the transmission of the ballot to the voter, one secular day for the voter to mark such ballot and execute the statement of absentee voter, and time for the return of such ballot to the board of elections by the deadline for its receipt. If the board can not complete its

investigation within the time provided for herein, it shall, if it finds the voter to be duly registered, deliver to such applicant an absentee ballot.

5. If the board shall determine that the applicant is not entitled to an absentee ballot it shall immediately notify the applicant, giving him the reason for such rejection.

6. In the case of a primary election, the board shall deliver only the ballot of the party in which the records of the board of elections show the applicant to be enrolled. In the event a primary election is uncontested in the applicant's election district for all offices or positions except the party position of member of the ward, town, city or county committee, no ballot shall be delivered to such applicant for such election; and the applicant shall be advised why he is not being sent a ballot.

7. The board shall keep a record of applications for absentee ballots as they are received, showing the names and residences of the applicants, and their party enrollment in the case of primary elections, and, as soon as practicable shall, when requested, give to the chairman of each political party or independent body in the county, and shall make available for inspection to any other qualified voter upon request, a complete list of all applicants to whom absentee voters' ballots have been delivered or mailed, containing their names and places of residence as they appear on the registration record, including the election district and ward, if any, and in the city of New York and the county of Nassau, the assembly district, and their party enrollment in the case of primary elections.

(L.1976, c. 233, § 1. Amended L.1976, c. 234, § 43–b; L.1978, c. 223, § 2; L.1978, c. 373, § 77; L.1980, c. 666, § 2, eff. June 30, 1980.)

§ 8–404. Absentee voting; hospitalized veterans, special provisions

1. After entering upon the registration records, the application for registration of a resident or patient of a veterans health administration hospital as to whom the medical superintendent or medical head of such hospital has attested that he or she expects that he or she will not be discharged prior to the day following the next general or special village, primary, special, general or New York city community school board district or city of Buffalo school district election, and the application for

registration by the spouse, parent or child of such resident or patient, accompanying or being with him or her, if a qualified voter and a resident of the same election district, the board of elections, without further investigation and without further application by the applicant, shall send to him or her at such hospital an absentee ballot and shall record in the signature column on the back of his or her permanent personal registration poll record that such ballot has been sent.

(a) Any voter who is duly registered and whose registration records are marked ''Hospitalized Veteran'' or ''Hospitalized Veteran's Relative'' need not thereafter make application for an absentee ballot. Sixty days before each election, the board of elections shall compile and send a list to each veterans health administration hospital of all residents and patients of veterans health administration hospitals who appear by the records of such board to be ''hospitalized veterans'' entitled to receive absentee ballots at each such hospital pursuant to the provisions of this section. Each veterans health administration hospital shall no later than fifteen days following the receipt of such list, return it with notations made thereon showing whether the resident or patient continues to be confined therein or has been discharged therefrom. Upon the receipt of such returned list from each veterans health administration hospital with the proper notations showing that a ''hospitalized veteran'' continues to be confined in such hospital, the board of elections, by mail addressed to such ''hospitalized veteran'' at his or her last known hospital address and by mail addressed to such ''hospitalized veteran's relative'' at his or her last known address shall send an absentee ballot for the ensuing election to such ''hospitalized veteran'' and such ''hospitalized veteran's relative'' an absentee ballot in the same manner as provided in this section for a qualified voter entitled to an absentee ballot because of permanent disability. The board shall record on the back of his or her registration poll record in the space reserved for his or her signature at such election, the fact that such ballot has been sent.

(b) If the returned list from a veterans' administration hospital contains a notation showing that a ''hospitalized veteran'' is no longer a resident or patient at the veterans health administration hospital where he or she is recorded as staying, or if such letter containing an absentee voter's ballot for a ''hospi-

talized veteran'' or a ''hospitalized veteran's relative'' is returned by the post office as undeliverable, the board of elections shall ascertain whether the ''hospitalized veteran'' or ''hospitalized veteran's relative'' is residing at the address given on his or her registration records as his or her permanent address. If he or she is residing there, the board shall not send him or her any further absentee ballots unless he or she applies therefor in the regular way. If he or she is not residing at the place of residence given on his or her registration records but the board ascertains that he or she has been transferred to another veterans health administration hospital, the board shall cause a central board of registration to make the necessary changes of temporary address on his or her registration records and shall continue sending him or her absentee ballots at the veterans health administration hospital where he or she is staying. If he or she is not residing at the place of residence given on his or her registration records and the board cannot ascertain that he or she has been transferred to another veterans health administration hospital, the board shall cancel his or her registration. Whenever a registration is cancelled pursuant to this paragraph notice shall be mailed to the veteran or his or her relative at his or her permanent residence address and last temporary address.

2. The board of elections shall furnish to each party county chairman in such county a list of the names and residence addresses of the hospitalized veterans and hospitalized veterans' relatives to whom absentee ballots have been sent.

3. Such ballots shall be mailed, voted, returned, counted, and canvassed as provided in this chapter for other absentee voters' ballots.

(L.1976, c. 233, § 1. Amended L.1978, c. 373, § 78; L.1980, c. 446, § 2; L.1980, c. 446, § 2; L.1980, c. 447, § 2; L.1989, c. 359, § 21, eff. Nov. 15, 1989; L.2015, c. 375, § 4, eff. Oct. 26, 2015.)

§ 8–406. Absentee ballots, delivery of

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

If the board shall find that the applicant is a qualified voter of the election district containing his residence as stated in his

statement and that his statement is sufficient, it shall, as soon as practicable after it shall have determined his right thereto, mail to him at an address designated by him, or deliver to him, or to any person designated for such purpose in writing by him, at the office of the board, such an absentee voter's ballot or set of ballots and an envelope therefor. If the ballot or ballots are to be sent outside of the United States to a country other than Canada or Mexico, such ballot or ballots shall be sent by air mail. However, if an applicant who is eligible for an absentee ballot is a resident of a facility operated or licensed by, or under the jurisdiction of, the department of mental hygiene, or a resident of a facility defined as a nursing home or residential health care facility pursuant to subdivisions two and three of section two thousand eight hundred one of the public health law, or a resident of a hospital or other facility operated by the Veteran's Administration of the United States, such absentee ballot need not be so mailed or delivered to any such applicant but, may be delivered to the voter in the manner prescribed by section 8–407 of this chapter if such facility is located in the county or city in which such voter is eligible to vote.

(L.1976, c. 233, § 1. Amended L.1976, c. 234, § 44; L.1980, c. 666, § 3; L.1988, c. 296, § 1, eff. July 25, 1988.)

§ 8–407. Voting by residents of nursing homes, residential health care facilities, facilities operated or licensed, or under the jurisdiction of, the department of mental hygiene or hospitals or facilities operated by the Veteran's Administration of the United States

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

1. The board of elections of a county or city in which there is located at least one facility operated or licensed, or under the jurisdiction of, the department of mental hygiene, or a facility defined as a nursing home or residential health care facility pursuant to subdivisions two and three of section two thousand eight hundred one of the public health law or an adult care facility subject to the provisions of title two of article seven of the social services law, or a hospital or other facility

operated by the Veteran's Administration of the United States shall provide that residents of each such facility for which such board has received twenty-five or more applications for absentee ballots from voters who are eligible to vote by absentee ballot in such city or county at such election, may vote by absentee ballot only in the manner provided for in this section. Such board may, in its discretion, provide that the procedure described in this subdivision shall be applicable to all such facilities in such county or city without regard to the number of absentee ballot applications received from the residents of any such facility.

2. Such a board of elections shall appoint, in the same manner as other inspectors, one or more bi-partisan boards of inspectors, each composed of two such inspectors. Such inspectors may be regular employees of such board of elections.

3. Not earlier than thirteen days before or later than the day before such an election such a board of inspectors shall, between the hours of nine o'clock in the morning and five o'clock in the evening, attend at each such facility for the residents of which the board of elections has custody of twenty-five or more absentee ballots or, if the board of elections has so provided, each such facility for which the board has custody of one or more such absentee ballots, pursuant to the provisions of this chapter.

4. Each such board of inspectors may attend at more than one facility, provided, however, that no such board of inspectors shall be assigned to attend at more facilities than it reasonably can be expected to complete within the time specified by this section.

5. The board of elections shall deliver to each board of inspectors all the absentee ballots in the custody of such board of elections which are addressed to residents of the facilities which such board of inspectors is assigned to attend, together with one or more portable voting booths of a type approved by the state board of elections and such other supplies as such board of inspectors will require to discharge its duties properly.

6. The board of elections, at least twenty days before each such election, or on the day after it shall have received the requisite number of applications for absentee ballots from the

residents of any such facility, whichever is later, shall communicate with the superintendent, administrator or director of each such facility to arrange the day and time when the board of inspectors will attend at such facility. The board of elections shall keep a list of the day and time at which the board of inspectors will attend at each such facility as a public record at its office.

7. It shall be the duty of each such superintendent, administrator or director to assist the board of inspectors attending such facility in the discharge of its duties, including, but not limited to making available to such board of inspectors space within such facility suitable for the discharge of its duties.

8. The board of inspectors shall deliver each absentee ballot addressed to a resident of each such facility to such resident. If such resident is physically disabled the inspectors shall, if necessary, deliver the ballot to such voter at his bedside.

9. The board of inspectors shall arrange the portable voting booth or booths provided and effect such safeguards as may be necessary to provide secrecy for the votes cast by such residents.

10. If such a resident is unable to mark his ballot, he may be assisted in marking such ballot by the two members of the board of inspectors or such other person as he may select. If a voter is unable to mark the ballot and unable to communicate how he wishes such ballot marked, such ballot shall not be cast. No person who assists a voter to mark his ballot pursuant to the provisions of this section, shall disclose to any other person how any such ballot was marked.

11. Except as otherwise provided in this section, all ballots cast pursuant to this section shall be cast in the manner provided by this chapter for the casting of absentee ballots.

12. After such ballots have been cast and sealed in the appropriate envelopes, they shall be returned to such inspectors.

13. Upon completion of its duties, the board of inspectors shall forthwith return all such ballots to the board of elections.

14. Any person, political committee or independent body entitled to appoint watchers for the election district in which any such facility is located at the election for which such

absentee ballots are cast, shall be entitled to appoint a watcher to attend such board of inspectors at such facility.

15. All ballots cast pursuant to the provisions of this section which are received before the close of the polls on election day by the board of elections charged with the duty of casting and canvassing such ballots, may be delivered to the inspectors of election in the manner prescribed by this chapter or retained at the board of elections and cast and canvassed pursuant to the provisions of section 9–209 of this chapter as such board shall, in its discretion, determine pursuant to the provisions of subdivision one of this section.

(Added L.1988, c. 296, § 2. Amended L.1989, c. 326, §§ 1, 6; L.2001, c. 195, § 1, eff. Aug. 20, 2001.)

§ 8–408. Repealed by L.1982, c. 178, § 1, eff. June 8, 1982

§ 8–410. Absentee voting; method of

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

The absentee voter shall mark an absentee ballot as provided for paper ballots or ballots prepared for counting by ballot counting machines. He shall make no mark or writing whatsoever upon the ballot, except as above prescribed, and shall see that it bears no such mark or writing. He shall make no mark or writing whatsoever on the outside of the ballot. After marking the ballot or ballots he shall fold each such ballot and enclose them in the envelope and seal the envelope. He shall then take and subscribe the oath on the envelope, with blanks properly filled in. The envelope, containing the ballot or ballots, shall then be mailed or delivered to the board of elections of the county or city of his residence.

(L.1976, c. 233, § 1. Amended L.1986, c. 352, § 9, eff. Nov. 14, 1986.)

§ 8–412. Absentee ballots; deadline for receipt, and delivery to polling place

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

1. [Eff. until Dec. 31, 2020, pursuant to L.2020, c. 91, § 7. See, also, subd. 1 below.] The board of elections shall cause all absentee ballots received by it before the close of the polls on election day and all ballots contained in envelopes showing a cancellation mark of the United States postal service or a foreign country's postal service, or showing a dated endorsement of receipt by another agency of the United States government, with a date which is ascertained to be not later than the day *of the* election and received by such board of elections not later than seven days following the day of election to be cast and counted. *For purposes of this section, any absentee ballot received by the board of elections by mail that does not bear or display a dated postmark shall be presumed to have been timely mailed or delivered if such ballot bears a time stamp of the receiving board of elections indicating receipt by such board on the day after the election.*

1. [Eff. Dec. 31, 2020, pursuant to L.2020, c. 91, § 7. See, also, subd. 1 above.] The board of elections shall cause all absentee ballots received by it before the close of the polls on election day and all ballots contained in envelopes showing a cancellation mark of the United States postal service or a foreign country's postal service, or showing a dated endorsement of receipt by another agency of the United States government, with a date which is ascertained to be not later than the day *of the* election and received by such board of elections not later than seven days following the day of election to be cast and counted except that the absentee ballot of a voter who requested such ballot by letter, rather than application, shall not be counted unless a valid application form, signed by such voter, is received by the board of elections with such ballot. *For purposes of this section, any absentee ballot received by the board of elections by mail that does not bear or display a dated postmark shall be presumed to have been timely mailed or delivered if such ballot bears a time stamp of the receiving board of elections indicating receipt by such board on the day after the election.*

2. Absentee ballots received by the board of elections shall be retained at the board of elections and cast and canvassed pursuant to the provisions of section 9–209 of this chapter.

(L.1976, c. 233, § 1. Amended L.1978, c. 8, § 20; L.1982, c. 514, § 1; L.1984, c. 251, § 2; L.1988, c. 216, § 5; L.1988, c. 321, § 2; L.1994, c. 155,

§ 1, eff. Sept. 1, 1994; L.2011, c. 308, § 1, eff. Aug. 3, 2011; L.2013, c. 99, § 5, eff. July 8, 2013; L.2020, c. 91, § 2, eff. June 7, 2020; L.2020, c. 140, § 1, eff. Aug. 20, 2020; L.2020, c. 140, § 2.)

Validity

For validity of this section, see Gallagher v. New York State Bd. of Elections, 477 F.Supp.3d 19 (S.D.N.Y. 2020)

TITLE V—CHALLENGING VOTERS

Section

8–500. Watchers; provision for.
8–502. Challenges; generally.
8–504. Challenges; of voter at the polling place.
8–506. Challenges; absentee, military, special federal and special presidential ballots.
8–508. Challenge report; preparation of.
8–510. Challenge report; completion of and procedure after.

§ 8–500. Watchers; provision for

1. At any general, special, town or village election, any party committee, any independent body whose candidates are upon the ballot, and any political committee supporting or opposing a ballot proposal may have for each election district three watchers at any one time, not more than one of whom may be within the guard rail at any one time. Watchers shall be appointed by the chair or other officer of any such party committee, independent body or political committee.

2. At any primary election, any party committee and any candidate on the ballot may have for each election district three watchers at any one time, not more than one of whom may be within the guard rail at any one time. Watchers shall be appointed by the chair or other officer of any such party committee or by any candidate.

3. Watchers may be present at the polling place at least fifteen minutes before the unlocking and examination of any voting machine or ballot box at the opening of the polls, until after the signing of the inspectors' returns and proclamation of the result.

4. The appointment of watchers for any election shall be by a certificate in writing issued by the appointing authority. Such certificate shall be delivered to an inspector at the election district.

5. Each watcher must be a qualified voter of the city or county in which he or she is to serve. No person shall be appointed or act as a watcher who is a candidate for any public office to be voted for by the voters of the election district in the same election in which the watcher is to serve. Nothing in this subdivision shall be construed as prohibiting any such candidate from visiting a polling place in such district on an election day while the polls are open.

(L.1976, c. 233, § 1. Amended L.1978, c. 9, § 71, eff. Mar. 7, 1978; L.1978, c. 373, § 79, eff. June 19, 1978; L.2014, c. 254, § 1, eff. Aug. 11, 2014; L.2019, c. 418, § 1, eff. Oct. 29, 2019.)

§ 8–502. Challenges; generally

Before his vote is cast at an election any person may be challenged as to his right to vote, or his right to vote by absentee, military, special federal or special presidential ballot. Such challenge may be made by an inspector or clerk, by any duly appointed watcher, or by any registered voter properly in the polling place. An inspector shall challenge every person offering to vote, whom he shall know or suspect is not entitled to vote in the district, and every person whose name appears on the list of persons to be challenged on election day which is furnished by the board of elections.

(L.1976, c. 233, § 1. Amended L.1978, c. 9, § 72, eff. Mar. 7, 1978; L.1978, c. 373, § 80, eff. June 19, 1978.)

§ 8–504. Challenges; of voter at the polling place

1. When an applicant is challenged, an inspector shall administer to him the following oath, which shall be known as ''The preliminary oath'': ''You do solemnly swear (or affirm) that you will make true answers to such questions as may be put to you concerning your qualifications as a voter''. If the applicant shall refuse to take such oath he shall not be permitted to vote.

2. If the applicant shall take the preliminary oath, the inspector shall ask the applicant such questions as may pertain to the reason his right to vote at such election in such district was challenged. If any applicant shall refuse to answer fully any questions which may be put to him, he shall not be permitted to vote.

3. After receiving the answers as above specified, of any applicant, the board shall, if it believes the applicant to be qualified or the challenge is withdrawn, permit him to vote. Otherwise, the board shall point out to him the qualifications, if any, in respect of which he shall appear deficient. If, after such deficiencies have been so indicated, the applicant shall persist in his claim to vote, an inspector shall administer to him the following oath, which shall be known as ''The Qualification Oath'': ''You do swear (or affirm) that you are eighteen years of age, that you are a citizen of the United States and that you have been a resident of this state, and of this county (of the city of New York) (village) for thirty days next preceding this election, that you still reside at the same address from which you have been duly registered in this election district, that you have not voted at this election, and that you do not know of any reason why you are not qualified to vote at this election. You do further declare that you are aware that it is a crime to make any false statement. That all the statements you have made to the board have been true and that you understand that a false statement is perjury and you will be guilty of a misdemeanor.''

4. If the applicant shall be challenged for the causes stated in section three of article two of the constitution of this state, which would exclude him from the right to vote, such inspector shall administer to him the following additional oath, which shall be known as ''The Bribery Oath'': ''You do swear (or affirm) that you have not received or offered, do not expect to receive, have not paid, offered or promised to pay or contributed, offered or promised to contribute to another, to be paid or used; any money or any other valuable thing as a compensation or reward for the giving or withholding of a vote at this election, and have not made any promise to influence the giving or withholding of any such vote, and that you have not made, or become directly or indirectly interested in any bet or wager depending upon the result of this election.''

5. If the applicant shall be challenged on the ground of having been convicted of a felony, such inspector shall administer to him the following additional oath, which shall be known as ''The Conviction Oath'': ''You do swear (or affirm) that you have not been convicted of any felony, or if so

convicted, that you have been pardoned, or restored to all the rights of a citizen, or the maximum term of imprisonment to which you were sentenced has expired, or you have been discharged from parole or your sentence has been suspended.''

6. If the applicant shall be challenged on the ground of having been adjudged incompetent, such inspector shall administer to him the following additional oath, which shall be known as ''The Incompetency Oath'': ''You do swear (or affirm) that you have not been adjudged incompetent by order of competent judicial authority, or if so adjudged, that you have since been adjudged competent which fully warrants your right to vote.''

7. If any person shall refuse to take any oath so tendered he shall not be permitted to vote, but if he shall take the oath or oaths tendered to him he shall be permitted to vote.

8. The inspectors shall enter the challenge date in the space reserved therefor on the back of the voter's registration poll record and shall make a record of each challenge on the challenge report as required herein. Where registration poll records are not being used, the inspectors shall in the remarks column for the election opposite the name of the voter enter a note of the challenge and shall make a record of each challenge on the challenge report.

(L.1976, c. 233, § 1. Amended L.1978, c. 9, § 73; L.1978, c. 373, § 81; L.1982, c. 82, § 2, eff. May 11, 1982.)

§ 8–506. Challenges; absentee, military, special federal and special presidential ballots

1. During the examination of absentee, military, special federal and special presidential voters' ballot envelopes, any inspector shall, and any watcher or registered voter properly in the polling place may, challenge the casting of any ballot upon the ground or grounds allowed for challenges generally, or (a) that the voter was not entitled to cast an absentee, military, special federal or special presidential ballot, or (b) that notwithstanding the permissive use of titles, initials or customary abbreviations of given names, the signature on the ballot envelope does not correspond to the signature on the registration poll record, or (c) that the voter died before the day of the election.

2. The board of inspectors forthwith shall proceed to determine each challenge. Unless the board by majority vote shall sustain the challenge, an inspector shall endorse upon the envelope the nature of the challenge and the words ''not sustained'', shall sign such endorsement, and shall proceed to cast the ballot as provided herein. Should the board, by majority vote, sustain such challenge, the reason and the word ''sustained'' shall be similarly endorsed upon the envelope and an inspector shall sign such endorsement. The envelope shall not be opened and such envelope shall be returned unopened to the board of elections. If a challenge is sustained after the ballot has been removed from the envelope, but before it has been deposited in the ballot box, such ballot shall be rejected without being unfolded or inspected and shall be returned to the envelope. The board shall immediately enter the reason for sustaining the challenge on such envelope and an inspector shall sign such endorsement.

3. If the board of inspectors determines by majority vote that it lacks sufficient knowledge and information to determine the validity of a challenge, the inspectors shall endorse upon the ballot envelope the words ''unable to determine'', enter the reason for the challenge in the appropriate section of the challenge report and return the envelope unopened to the board of elections. Such ballots shall be cast and canvassed pursuant to the provisions of section 9–209 of this chapter.

(L.1976, c. 233, § 1. Amended L.1978, c. 8, § 21; L.1978, c. 9, § 74; L.1985, c. 153, § 1; L.2009, c. 40, § 2, eff. Jan. 1, 2010.)

§ 8–508. Challenge report; preparation of

1. The board of elections shall furnish to the board of inspectors of election in each election district on each election day a challenge report. Such report shall be divided into four sections and shall contain the following information and space to insert the information herein required.

2. (a) The first section of such report shall be reserved for the inspectors of election to enter the name, address and registration serial number of each person who claims a change in name, or a change of address within the election district, together with the new name or address of each such person. In lieu of preparing section one of the challenge list, the board

of elections may provide, next to the name of each voter in the computer generated registration list, a place for the inspectors of election to record the information required to be entered in such section one, or provide elsewhere in such registration list, a place for the inspectors of election to enter such information.

(b) The second section of such report shall be reserved for the board of inspectors to enter the name, address and registration serial number of each person who is challenged at the time of voting together with the reason for the challenge. If no voters are challenged, the board of inspectors shall enter the words ''No Challenges'' across the space reserved for such names. In lieu of preparing section two of the challenge report, the board of elections may provide, next to the name of each voter in the computer generated registration list, a place for the inspectors of election to record the information required to be entered in such section two, or provide elsewhere in such registration list, a place for the inspectors of election to enter such information.

(c) The third section of such report shall be reserved for the board of inspectors to enter the name, address and registration serial number of each voter given assistance, together with the reason the voter was allowed assistance, the name of the person giving such assistance and his address if not an inspector. If no voters are given assistance, the board of inspectors shall enter the words ''No Assistance'' across the space reserved for such names. In lieu of providing section three of the challenge report, the board of elections may provide, next to the name of each voter in the computer generated registration list, a place for the inspectors of election to record the information required to be entered in such section three, or provide elsewhere in such registration list, a place for the inspectors of election to enter such information.

(d) The fourth section of such report shall be reserved for the board of inspectors to enter the name, address and registration serial number of each person who was permitted to vote pursuant to a court order, or to vote on a paper ballot which was inserted in an affidavit envelope. If there are no such names, such board shall enter the word ''None'' across the space provided for such names. In lieu of providing section four of such report, the board of elections may provide,

next to the name of each voter in the computer generated registration list, a place for the inspectors of election to record the information required to be entered in such section four, or provide elsewhere in such registration list, a place for the inspectors of election to enter such information.

(e) At the foot of such report or at the end of any such computer generated registration list, if applicable, shall be a certificate that such report or list contains the names of all persons who were challenged on the day of election, and that each voter so reported as having been challenged took the oaths as required, that such report or list contains the names of all voters to whom such board gave or allowed assistance and lists the nature of the disability which required such assistance to be given and the names and family relationship, if any, to the voter of the persons by whom such assistance was rendered; that each such assisted voter informed such board under oath that he required such assistance and that each person rendering such assistance took the required oath; that such report or list contains the names of all voters who were permitted to vote although their registration poll records were missing; that the entries made by such board are a true and accurate record of its proceedings with respect to the persons named in such report or list.

(f) Upon the return of such report or lists to the board of elections, it shall complete the investigation of voting qualifications of all persons named in the second section thereof or for whom entries were placed in such computer generated registration lists in lieu of the preparation of the second section of the challenge report, and shall forthwith proceed to cancel the registration of any person who, as noted upon such report, or in such list, was challenged at such election and refused either to take a challenge oath or to answer any challenge question.

(g) The state board of elections shall prescribe a form of challenge report for use pursuant to the provisions of this section. Such form may require the insertion of such other information as the state board shall deem appropriate.

(L.1976, c. 233, § 1. Amended L.1978, c. 9, § 75; L.1978, c. 373, § 82; L.1988, c. 43, § 4; L.1992, c. 89, § 2; L.1994, c. 659, § 47; L.1996, c. 200, § 21, eff. June 25, 1996; L.2019, c. 6, § 7, eff. Jan. 24, 2019; L.2019, c. 55, pt. XX, § 11, eff. April 12, 2019.)

§ 8–510. Challenge report; completion of and procedure after

1. Immediately after the close of the polls the board of inspectors of election shall verify the entries which it has made on the challenge report or in the spaces provided in the computer generated registration list by comparing such entries with the information appearing on the registration poll records of the affected voters or the information appearing in the spaces provided in the computer generated registration list. If it has made no entries in section two, three or four of such report it shall write across or note in such section the words ''No challenges'', ''No assistance'' or ''None'', as the case may be, as directed in this chapter.

2. After completing such report the inspectors shall sign a certificate in the spaces provided by the county board of elections for such report.

3. The inspectors shall place such completed report, and each court order, if any, directing that a person be permitted to vote, in the secure container provided by the county board of elections for such ledger of registration records or computer generated registration lists and then shall close and seal each ledger of registration records or computer generated registration lists, lock such ledger in the carrying case furnished for that purpose and enclose the keys in a sealed package or seal such list in the envelope provided for that purpose.

(L.1976, c. 233, § 1. Amended L.1988, c. 43, § 5; L.1992, c. 89, § 3; L.1992, c. 91, § 6; L.1996, c. 200, § 22, eff. June 25, 1996; L.2019, c. 55, pt. XX, § 12, eff. April 12, 2019.)

TITLE VI—EARLY VOTING

Section

8–600. Early voting.
8–602. State board of elections; powers and duties for early voting.

§ 8–600. Early voting

1. Beginning the tenth day prior to any general, primary, run-off primary pursuant to subdivision one of section 6–162 of this chapter or special election for any public or party position except for such an election held pursuant to title two of article six or article fifteen of this chapter, and ending on and includ-

ing the second day prior to such general, primary, run-off primary or special election for such public office or party position, persons duly registered and eligible to vote at such election shall be permitted to vote as provided in this title. The board of elections shall establish procedures, subject to approval of the state board of elections, to ensure that persons who vote during the early voting period shall not be permitted to vote subsequently in the same election.

2. (a) The board of elections shall designate polling places for early voting, which may include the offices of the board of elections, for persons to vote early pursuant to this title*; provided, however, that the municipality with the highest population in each county based on the latest federal decennial census shall have at least one polling place designated for early voting, and to the extent practicable if such municipality has public transportation routes, such polling place shall be situated along such transportation routes*. There shall be so designated at least one early voting polling place for every full increment of fifty thousand registered voters in each county; provided, however, the number of early voting polling places in a county shall not be required to be greater than *ten unless required by any other provision of law*, and a county with fewer than fifty thousand voters shall have at least one early voting polling place.

(b) The board of elections of each county or the city of New York may establish additional polling places for early voting in excess of the minimum number required by this subdivision for the convenience of eligible voters.

(c) Notwithstanding the minimum number of early voting poll sites otherwise required by this subdivision, for any primary or special election, upon majority vote of the board of elections, the number of early voting sites may be reduced when the board of elections determines a lesser number of sites is sufficient to meet the needs of early voters.

(d) Polling places for early voting shall be located so that voters in the county have adequate and equitable access, taking into consideration population density, travel time to the polling place, proximity to other early voting poll sites , public transportation routes, commuter traffic patterns and such other factors the board of elections deems appropriate. The provi-

sions of section 4–104 of this chapter, except subdivisions four and five of such section, shall apply to the designation of polling places for early voting except to the extent such provisions are inconsistent with this section.

3. Any voter may vote at any polling place for early voting established pursuant to subdivision two of this section in the county where such voter is registered to vote; provided, however, if it is impractical to provide each polling place for early voting all of the election district ballots or if early voting at any such polling place makes ensuring that no voter has not previously voted early during such election, the board of elections may assign election districts to a particular early voting poll site. All voters in each county shall have one or more polling places at which they are eligible to vote throughout the early voting period on a substantially equal basis. If the board of elections does not agree by majority vote to plan to assign election districts to early voting poll sites, all voters in the county must be able to vote at any poll site for early voting in the county.

4. (a) Polls shall be open for early voting for at least eight hours between seven o'clock in the morning and eight o'clock in the evening each week day during the early voting period.

(b) At least one polling place for early voting shall remain open until eight o'clock in the evening on at least two week days in each calendar week during the early voting period. If polling places for early voting are limited to voters from certain areas pursuant to subdivision three of this section, polling places that remain open until eight o'clock shall be designated such that any person entitled to vote early may vote until eight o'clock in the evening on at least two week days during the early voting period.

(c) Polls shall be open for early voting for at least five hours between nine o'clock in the morning and six o'clock in the evening on each Saturday, Sunday and legal holiday during the early voting period.

(d) Nothing in this section shall be construed to prohibit any board of elections from establishing a greater number of hours for voting during the early voting period beyond the number of hours required in this subdivision.

(e) Early voting polling places and their hours of operation for early voting at a general election shall be designated by May first of each year pursuant to subdivision one of section 4–104 of this chapter. Notwithstanding the provisions of subdivision one of section 4–104 of this chapter early voting polling places and their hours of operation for early voting for: (i) a primary or special election shall be made not later than forty-five days before such primary or special election; and (ii) a run-off primary pursuant to subdivision one of section 6–162 of this chapter shall be made as soon as practicable.

5. Each board of elections shall create a communication plan to inform eligible voters of the opportunity to vote early. Such plan may utilize any and all media outlets, including social media, and shall publicize: the location and dates and hours of operation of all polling places for early voting; an indication of whether each polling place is accessible to voters with physical disabilities; a clear and unambiguous notice to voters that if they cast a ballot during the early voting period they will not be allowed to vote election day; and if polling places for early voting are limited to voters from certain areas pursuant to subdivision three of this section, the location of the polling places for early voting serving the voters of each particular city, town or other political subdivision.

6. The form of paper ballots used in early voting shall comply with the provisions of article seven of this chapter that are applicable to voting by paper ballot on election day and such ballot shall be cast in the same manner as provided for in section 8–312 of this article, provided, however, that ballots cast during the early voting period shall be secured in the manner of voted ballots cast on election day and such ballots shall not be canvassed or examined until after the close of the polls on election day, and no unofficial tabulations of election results shall be printed or viewed in any manner until after the close of polls on election day.

7. Voters casting ballots pursuant to this title shall be subject to challenge as provided in sections 8–500, 8–502 and 8–504 of this article.

8. Notwithstanding any other provisions of this chapter, at the end of each day of early voting, any early voting ballots that have not been scanned because a ballot scanner was not

available or because the ballot has been abandoned by the voter at the ballot scanner shall be cast in a manner consistent with section 9–110 of this chapter, except that such ballots which cannot then be cast on a ballot scanner shall be held inviolate and unexamined and shall be duly secured until after the close of polls on election day when such ballots shall be examined and canvassed in a manner consistent with subdivision two of section 9–110 of this chapter.

9. The board of elections shall secure all ballots and scanners used for early voting from the beginning of the early voting period through the close of the polls on election day; provided, however, the state board of elections may by regulation duly adopted by a majority of such board establish a procedure whereby ballot scanners used for early voting may also be used on election day if the portable memory devices used during early voting containing the early voting election information and vote tabulations are properly secured apart from the scanners, and the results therefrom shall be duly canvassed after the close of polls on election day.

10. After the close of polls on election day, inspectors or board of elections employees appointed to canvass ballots cast during early voting shall follow all relevant provisions of article nine of this chapter that are not inconsistent with this section, for canvassing, processing, recording, and announcing results of voting at polling places for early voting, and securing ballots, scanners, and other election materials. Such canvass may occur at the offices of the board of elections, at the early voting polling place or such other location designated by the board of elections.

11. Notwithstanding the requirements of this title requiring the canvass of ballots cast during early voting after the close of polls on election day, such canvass may begin one hour before the scheduled close of polls on election day provided the board of elections adopts procedures to prevent the public release of election results prior to the close of polls on election day and such procedures shall be consistent with the regulations of the state board of elections and shall be filed with the state board of elections at least thirty days before they shall be effective.

(Added L.2019, c. 6, § 8, eff. Jan. 24, 2019. Amended L.2020, c. 344, § 1, eff. Jan. 1, 2021.)

§ 8–602. State board of elections; powers and duties for early voting

The state board of elections shall promulgate rules or regulations necessary for the implementation of the provisions of this title. Such rules and regulations shall include, but not be limited to, provisions to (i) ensure that ballots cast early, by any method allowed under law, are counted and canvassed as if cast on election day, (ii) ensure an efficient and fair early voting process that respects the privacy of the voter, and (iii) require that the voting history record for each voter be continually updated to reflect each instance of early voting by such voter.

(Added L.2019, c. 6, § 8, eff. Jan. 24, 2019.)

ARTICLE 9—CANVASS OF RESULTS

Title		Section
I.	Canvass at Polling Places	9–100
II.	Canvass by Board of Elections	9–200

TITLE I—CANVASS AT POLLING PLACES

Section
9–100. Canvass; required.
9–102. Canvass; general provisions for.
9–104. Repealed.
9–106. Official ballots; accounting for number used.
9–108. Canvass; ballots, verifying number cast.
9–110. Canvass; election day paper ballots that have not been scanned; method of.
9–112. Canvass ballots; validity of ballot.
9–114. Counting ballots; objections to.
9–116. Tallying ballots; generally.
9–118. Repealed.
9–120. Returns of canvass; generally.
9–122. Proclamation of result.
9–124. Returns of canvass, procedure after.
9–126. Unofficial tally of election results.
9–128. Repealed.

§ 9–100. Canvass; required

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

At the close of the polls the inspectors of election shall, in the order set forth herein, close polls, account for the paper ballots, canvass the machine, cast and canvass all the ballots, canvass and ascertain the total vote and they shall not adjourn until the canvass be fully completed.

(L.1976, c. 233, § 1. Amended L.1976, c. 234, § 45, eff. Dec. 1, 1977; L.2013, c. 334, § 2, eff. Aug. 21, 2013.)

§ 9–102. Canvass; general provisions for

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

1. As soon as the polls of the election are closed, the inspectors of election thereat shall, in the order set forth herein: (a) place an inspector at the ballot scanner to prevent further voting; (b) reconcile the paper ballots pursuant to section 9–106 of this title; (c) remove surplus ballots, if any, pursuant to section 9–108 of this title; (d) scan the ballots contained in the emergency box or other secure storage container pursuant to section 9–110 of this title; (e) hand count and secure ballots that cannot be scanned pursuant to section 9–110 of this title; (f) initiate the ballot scanner, close the poll mechanism, print the tabulated results tape, and post the results tape or announce its contents or both; (g) remove one of the portable memory devices from the ballot scanner for the purpose of reporting the unofficial tally of election results pursuant to section 9–126 of this title; (h) post or announce the results of any hand counts and sign the return of canvass pursuant to subdivisions 2 and 3 of this section; (i) close, lock and seal the machine; and (j) sign the close of poll certificate, as provided by the board of elections.

1–a. Deleted by L.2019, c. 437, § 2, eff. Oct. 30, 2019.

2. (a) The inspectors shall canvass the ballot scanner tabulated results by printing the results tape in the presence of the watchers and all other persons who may be lawfully within the polling place, giving full view of the tabulated results tape numbers. An inspector shall, under the scrutiny of an inspector of a different political party, either post the results tape or read and announce in the order of the offices as their titles are arranged on the tabulated results tape, in distinct tones the public office or party position, candidate name, political party and the results as shown on the tabulated results tape and then shall announce the number of write-in votes recorded for each office. The inspectors shall also in the same manner post or announce the results for each ballot proposal.

(b) The results on the tabulated results tape shall be entered on or the tabulated results tape (representing the aggregate results of votes cast on the ballot scanner or the results by election district as applicable) shall be affixed to the return of canvass for that ballot scanner or election district pursuant to section 9–120 of this title by an inspector under the scrutiny of an inspector of a different political party, in the space indicat-

ed. If any election day paper ballots were hand counted pursuant to this section and subdivision two of section 9–110 of this title, an inspector shall, under the scrutiny of an inspector of a different political party, either post or read and announce the results of such hand count. The tally sheet of any such hand counting shall be signed by the inspectors conducting same and affixed to or recorded on the return of canvass. The return of canvass and tabulated results tape shall be signed by two inspectors of each major political party.

(c) The results tape shall include a certificate which the inspectors shall sign, stating the number of voters as shown on the public counter and the number on the protective counter.

(d) If the machine is provided with a removable electronic or computerized device which records the total of the votes cast on such machine (for purposes of this section a ''portable memory device''), such device shall be removed from the machine after copies of the results tape, sufficient to meet the requirements of this chapter and the regulations of the board of elections, have been produced. After the portable memory device is removed from the machine, the inspectors shall place such device in the secure envelope or other secure container provided for its return to the board of elections. Such secure container shall be signed by the inspectors upon the securing of the device therein.

3. (a) During the canvass time any candidate or duly accredited watcher who may desire to be present shall be admitted to the polling place. During the proclamation of the result, ample opportunity shall be given to any person lawfully present to compare the results so posted or announced with the sum of the votes appearing on the tabulated results tape and any hand counted election day ballots, if any, and any necessary corrections shall then and there be made on the return of canvass by the inspectors. Thereafter, the voting machine shall be closed and locked. The first copy of the results tape for each voting machine should be posted on the wall of the polling place forthwith; provided, however, that if only one copy of such results tape can be printed by any such machine at any election, such copy shall be used in preparation of the returns of canvass required by this title.

(b) Election day paper ballots that have not been scanned shall be canvassed and tallied pursuant to this section and sections 9–108 and 9–110 of this title.

(c) At a primary election, the ballots of the parties represented on the board of inspectors shall be canvassed before the ballots of other parties are canvassed.

4. All types of ballots, enclosed in properly sealed envelopes respectively, and properly endorsed shall be filed with the original return of canvass, as provided for in section 9–106 of this title.

5. The inspector or other courier assigned by the board filing the returns shall deliver to the board or officer from whom received, the keys of the voting machine, enclosed in a sealed envelope having indorsed thereon a certificate of the inspectors stating the number of the machine, the election district(s), ward(s) or assembly district(s) where it has been used, the number on the seal and the number on the protective counter. In the city of New York, police officers or peace officers designated by the police commissioner of such city shall provide such delivery of the devices.

6. The room in which such canvass is made shall be clearly lighted, ingress and egress through the main entrance thereto shall be freely permitted, and such canvass shall be made in plain view of those entitled to be present. The ballots shall at all times be kept on top of the table and in plain view of all persons entitled to examine them, until they have been repackaged and sealed for return to the board of elections as elsewhere provided. If requested by any person entitled to be present the inspectors shall, during the canvass of any ballots, exhibit to him or her the ballot then being canvassed, fully opened and in such a condition that he or she may fully and carefully read and examine it, but no inspector shall allow any ballot to be taken from his or her hand or to be touched by any person but an inspector.

(L.1976, c. 233, § 1. Amended L.1976, c. 234, § 46; L.1978, c. 8, § 22; L.1978, c. 9, §§ 76, 77; L.1978, c. 140, § 1; L.1982, c. 647, § 11; L.1986, c. 262, §§ 12, 13, eff. Oct. 19, 1986; L.2001, c. 92, § 2, eff. July 10, 2001; L.2010, c. 163, §§ 2, 3, 5, eff. July 7, 2010; L.2010, c. 163, § 4; L.2013, c. 334, § 3, eff. Aug. 21, 2013; L.2019, c. 437, § 2, eff. Oct. 30, 2019.)

§ 9–104. Repealed by L.2010, c. 163, § 5–a, eff. July 7, 2010

§ 9–106. Official ballots; accounting for number used

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

After the polls of the election are closed and before any boxes or envelopes containing voted ballots are opened, the clerks, or if there be no clerks, two inspectors representing different parties designated by the chair, shall account for all of the paper ballots furnished to the election district or poll site. On a reconciliation form supplied by the board of elections, they shall count, verify and record on such form the number of unused ballots, the number of ballots spoiled before delivery to voters in the poll site, the number of ballots spoiled and returned by voters and the number of affidavit ballots cast. These numbers shall be added to the number of ballots cast as recorded by the public counter number appearing on the ballot scanner screen(s) or results tape(s). The sum shall be recorded on the ballot reconciliation form. This resulting number shall be deducted from the number of ballots originally delivered to the election district or poll site, and the remainder number shall be determined to be the number of ballots secured in the emergency ballot box(es) or other secure storage container(s) provided by the board of elections. This remainder number shall be recorded on the ballot reconciliation form. If such remainder number is zero and there are no ballots in the emergency ballot box(es) or other such secure container(s), inspectors shall initiate the ballot scanners' close the polls mechanism and produce results tapes. The clerks or inspectors shall then separate, label and place each type of ballot in the box or container provided by the board of elections, and securely lock or seal each such box or container and record such seal number on the ballot reconciliation form. They shall then sign such reconciliation form. If such remainder number is not zero or there are unscanned voted election day ballots in the emergency ballot box(es) or other such secure container(s), the inspectors or clerks shall proceed with the process provided for in section 9–108 and 9–110 of this title. Upon completion of such process, the clerks or inspectors shall then sepa-

rate, label and place each type of ballot in the box(es) or container(s) provided by the board of elections, and securely lock or seal each such box(es) or container(s). They shall then sign such amended reconciliation form.

(L.1976, c. 233, § 1. Amended L.2010, c. 163, § 6, eff. July 7, 2010; L.2013, c. 334, § 4, eff. Aug. 21, 2013; L.2019, c. 437, § 3, eff. Oct. 30, 2019.)

§ 9–108. Canvass; ballots, verifying number cast

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

1. For all election day paper ballots cast when a ballot scanner is not available, ballots abandoned by a voter at the ballot scanner, as defined in 9 NYCRR 6210.13(a)(11)(a) or ballots submitted by the voter which are otherwise non-machine processable, as defined in 9 NYCRR 6210.13(a)(8), the board of inspectors, at the beginning of the canvass, shall count the number of unscanned ballots found in each emergency box or other secure storage container provided by the board of elections, ascertaining that each ballot is single, and shall compare the number of ballots found in such box or container with the remainder number of ballots, as determined pursuant to section 9–106 of this title.

2. If the ballots found in any box shall be more than the number of ballots so shown to have been deposited therein, such ballots shall all be replaced, without being unfolded, in the box from which they were taken, and shall be thoroughly mingled therein, and one of the inspectors shall, with his or her back to the box, publicly draw out as many ballots as shall be equal to such excess and, without unfolding them forthwith shall enclose them in an envelope which he or she shall then and there seal and endorse ''excess ballots for the general election, presidential electors, or party ballots or otherwise'', as the case may be, and shall sign his or her name thereto, and place such envelope in the box for defective or spoiled ballots.

3. If two or more ballots shall be found in a ballot box so folded together as to present the appearance of a single ballot, and if the whole number of ballots in such box exceeds the whole number of ballots so shown to have been deposited

therein, those ballots, or enough of them to reduce the ballots to the proper number, selected without examination of any voting mark thereon, shall be similarly removed as excess ballots.

4. If, however, there lawfully be more than one ballot box for the reception of ballots, no ballot found in the wrong ballot box shall for that reason be rejected, but it shall be placed in its proper box by the inspectors upon the count of the ballots before the canvass, and counted in the same manner as if it was found in the proper ballot box, if such ballot shall not, together with the ballots found in the proper ballot box, make a total of more ballots than are shown to have been deposited in such box.

5. No ballot that is not an official ballot prepared for the election shall be counted except for those ballots voted in accordance with the provisions for emergency ballots.

(L.1976, c. 233, § 1. Amended L.1976, c. 234, § 47, eff. Dec. 1, 1997; L.2010, c. 163, § 7, eff. July 7, 2010; L.2013, c. 334, § 5, eff. Aug. 21, 2013.)

§ 9–110. Canvass; election day paper ballots that have not been scanned; method of

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

1. Election day paper ballots that have not been scanned because a ballot scanner was not available or because the ballot has been abandoned by a voter at the ballot scanner shall be canvassed as follows: a bipartisan team of inspectors shall cast such ballots on a ballot scanner, if one is available, at the close of the polls before the tabulated results tape is printed. If a ballot does not scan because of an overvote or blank ballot warning on the ballot scanner screen, the inspectors shall cause the ballot scanner to eject such ballot to be hand counted pursuant to subdivision two of this section.

2. Election day paper ballots that cannot be scanned, as provided in subdivision one of section 9–102 of this title as applicable and subdivision one of this section shall be canvassed as follows: The inspectors shall unfold each ballot of

the kind then to be canvassed and shall place all such ballots upon the table in one pile face down. The chair shall take up each ballot in order, turn it face up and announce loudly and distinctly the vote registered on each section, in the order of the sections upon the ballot, or that the ballot is void or the section blank, as the case may be. If more than one person is to be elected to the same office or party position the chair, if the ballot is void or the ballot or section is wholly blank, shall announce as many void or blank votes as there are persons to be elected to the office or party position. On a primary ballot a ''section,'' as the term is used above, shall mean the space occupied by the title of an office or party position, names of candidates therefor and the voting squares therewith. The canvass of each ballot must be completed before the next ballot is taken up. When the tallies of the votes of all such ballots are proven, and the results announced, the inspectors shall affix tally sheets to or record the results from same on the return of canvass.

3. Nothing in this section shall be construed to require or permit affidavit ballots to be canvassed at the poll site on election day.

(L.1976, c. 233, § 1. Amended L.1976, c. 234, § 48; L.1978, c. 9, § 78; L.1982, c. 647, § 12, eff. Jan. 1, 1983; L.2010, c. 163, § 8, eff. July 7, 2010; L.2013, c. 334, § 6, eff. Aug. 21, 2013; L.2019, c. 437, § 4, eff. Oct. 30, 2019.)

§ 9–112. Canvass ballots; validity of ballot

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

1. The whole ballot is void if the voter (a) does any act extrinsic to the ballot such as enclosing any paper or other article in the folded ballot or (b) defaces or tears the ballot except that a ballot card which is in perforated sections shall not be void because it has been separated into sections or (c) makes any erasure thereon or (d) makes any mark thereon other than a cross X mark or a check V mark in a voting square, or filling in the voting square, or (e) writes, other than in the space provided, a name for the purpose of voting;

except that an erasure or a mark other than a valid mark made in a voting square shall not make the ballot void, but shall render it blank as to the office, party position or ballot proposal in connection with which it is made. No ballot shall be declared void or partially blank because a mark thereon is irregular in form. The term ''voting square'' shall include the voting space provided for a voter to mark his or her vote for a candidate or ballot proposal.

2. A cross X mark or a check V mark, made by the voter, in a voting square at the left of a candidate's name, or the voter's filling in such voting square, shall be counted as a vote for such candidate.

3. A vote shall be counted for a person whose name is written in under the title of an office or party position only if such name is written by the voter upon the ballot in the proper space provided therefor and only if such name is not printed under the title of such office or position. A voting mark before or after such written in name shall not invalidate the vote.

4. If, in the case of a candidate whose name appears on the ballot more than once for the same office, the voter shall make a cross X mark or a check V mark in each of two or more voting squares before the candidate's name, or fill in two or more such voting squares only the first vote shall be counted for such candidate. If such vote was cast for the office of governor, such vote shall not be recorded in the tally sheet or returns in a separate place on the tally sheet as a vote not for any particular party or independent body.

5. If a voter makes a cross X mark or a check V mark in a voting square following the word ''Yes'' or the word ''No'', before a ballot proposal, or fills in such square, such mark shall be counted in the affirmative or negative, as so indicated.

6. If the voter marks more names than there are persons to be elected or nominated for an office, or elected to a party position, or makes a mark in a place or manner not herein provided for, or if for any reason it is impossible to determine the voter's choice of a candidate or candidates for an office or party position or his or her vote upon a ballot proposal, his or her vote shall not be counted for such office or position or

upon the ballot proposal, but shall be returned as a blank vote thereon.

(L.1976, c. 233, § 1. Amended L.1976, c. 234, § 49; L.1978, c. 9, § 79; L.1982, c. 647, § 13; L.1986, c. 352, § 10, eff. Nov. 14, 1986; L.2013, c. 334, § 7, eff. Aug. 21, 2013; L.2019, c. 437, § 5, eff. Oct. 30, 2019.)

§ 9–114. Counting ballots; objections to

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

1. If objection be made to the counting of any ballot or as to any section of any such ballot, the board of inspectors shall forthwith and before canvassing any other ballot or section thereof, rule upon the objection. If the objection be continued after this ruling, the chair or an inspector under the scrutiny of an inspector of the opposite party shall write in ink upon the back of the ballot a memorandum of the ruling and objection. The memorandum of the ruling shall be in the words ''Counted void'', or ''Counted blank'', or ''Counted for (naming the candidate or candidates or the presidential ticket)'', or, in the case of a ballot proposal ''Counted for Proposal No. . . . . ,'' or ''Counted against Proposal No. . . . . '', as the case may be. The memorandum of the objection shall be in the words ''Objected to'', followed by a brief statement of the nature of the objection, the name and address of the challenger and the signature of the chair or inspector.

2. Any ballot to which objection is not taken but which is wholly blank or is void shall be indorsed in ink by the chair of the board of inspectors or an inspector under the scrutiny of an inspector of the opposite party with the words ''Wholly blank'' or ''Void'', as the case may be, and signed by the chair or inspector.

3. When all the ballots of any one kind shall have been canvassed, the inspectors shall ascertain the total number of all such ballots and the number of ballots to which any objection was taken and shall enter such numbers in the place provided therefor in the inspectors' returns of such canvass.

(L.1976, c. 233, § 1. Amended L.1982, c. 647, § 14, eff. Jan. 1, 1983; L.2013, c. 334, § 8, eff. Aug. 21, 2013; L.2019, c. 437, § 6, eff. Oct. 30, 2019.)

§ 9–116. Tallying ballots; generally

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

1. As each vote for any office or position, or upon any ballot proposal, is announced, a clerk, or, if there be no clerks, an inspector, under the scrutiny of a clerk or inspector of opposite political party immediately shall tally it in ink, with a downward stroke from right to left upon the official tally sheet. Each such clerk or inspector, as he or she tallies a vote, shall announce clearly the name of the person for whom he or she tallies it, or that he or she tallies the vote blank or void as the case may be, or, in the case of a ballot proposal, that he or she tallies the vote ''yes'' or ''no''. When the name of a person voted for is not printed on the tally sheet, such clerks or inspectors shall write it in full thereon in ink in the place provided therefor.

2. When all the votes upon the same office, position or ballot proposal shall have been canvassed the tally thereof shall be verified by adding together all the votes tallied thereupon. Whenever the total number of votes tallied (including blank and void votes) for any office or party position, divided by the number of persons to be nominated or elected thereto, or tallied for any ballot proposal, does not exactly equal the number of ballots cast (including blank and void ballots), a recanvass must be made immediately in order to correct the error.

In applying this section to a primary election the term ''ballots'' means the ballots of the party whose tallied votes for an office or party position are counted as above provided. Upon a recanvass the clerks or inspectors must keep the tally in ink from left to right across the previous tally marks.

3. When the errors if any have been corrected such clerks or inspectors shall indicate the last tally opposite each name by forthwith drawing in ink a long horizontal line immediately after the last tally mark opposite such name. Such tally sheets having thus been prepared, verified and closed, such clerks or

inspectors shall sign their initials on each sheet, in any blank space thereof.

(L.1976, c. 233, § 1. Amended L.1978, c. 140, § 2; L.1982, c. 647, § 15; L.1988, c. 13, § 3, eff. Mar. 11, 1988; L.2013, c. 334, § 9, eff. Aug. 21, 2013.)

§ 9–118. Repealed by L.1988, c. 13, § 4, eff. Mar. 11, 1988

§ 9–120. Returns of canvass; generally

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

1. Upon completing the canvass, the inspectors shall prepare their returns of the canvass on a printed form supplied to them by the board of elections. The results tape(s) and the tally sheet(s) for any office, party position or ballot proposal, if separate from such form, shall be securely attached by the chair or an inspector under the scrutiny of an inspector of the opposite party to such form returns and it shall not be necessary to transcribe information provided by such results tapes onto such form. Results tape(s) or a tally sheet(s), when so annexed, or forming part of the same paper as the return, shall be treated as part of the return. The inspectors, and clerks, if any, shall subscribe in ink the certificate at the end of the set of returns. Each set of returns shall be securely sealed in an envelope properly endorsed on the outside by the inspectors. At an election at which voting machines are not used, the ballot boxes, if any, supplied by the board of elections, may when securely locked be used instead of sealed envelopes.

2. The form for the return or returns of the canvass shall be printed in a format approved by the state board of elections. The form of such return of canvass shall provide for the total number of votes for each candidate in each contest, or upon each ballot proposal, including the total number of unscanned voted ballots canvassed in accordance with section 9–110 of this title.

3. In the event that there is more than one election district at a polling place, the board of elections may authorize the use of one or more returns of canvass that consolidate the report of the number of votes for each candidate, or upon each ballot

proposal, for more than one election district or more than one ballot scanner, provided that such consolidated returns of canvass have attached to them the results tape(s) produced by the ballot scanner(s) that identify the number of votes for each candidate, or upon each ballot proposal, within each such election district and each such ballot scanner.

(L.1976, c. 233, § 1. Amended L.1978, c. 140, § 3; L.1982, c. 647, § 16; L.1986, c. 262, § 14, eff. Oct. 29, 1986; L.2013, c. 334, § 10, eff. Aug. 21, 2013.)

§ 9–122. Proclamation of result

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

Upon the completion of the canvass and of the returns of the canvass, the chair of the board of inspectors or an inspector under the scrutiny of an inspector of the opposite party shall make public oral proclamation of the total number of votes cast at the election at the polling place for all candidates for each office, or, if it be a primary election, the total number of party votes of each party so cast for all candidates for each office or party position; upon each ballot proposal, if any and the total number of write-in votes recorded for each office. As an alternative to such oral proclamation, such chair or inspector may cause to be posted the results tape(s), tally sheet(s), and any other materials necessary to ascertain such total numbers of votes cast.

(L.1976, c. 233, § 1. Amended L.1982, c. 647, § 17, eff. Jan. 1, 1983; L.2013, c. 334, § 11, eff. Aug. 21, 2013.)

§ 9–124. Returns of canvass, procedure after

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

1. After the returns of the canvass are made out and signed, the inspectors shall enclose the ballot stubs, protested and void ballots and the ballots cast in affidavit envelopes in separate sealed envelopes or containers and endorse thereon a certifi-

cate signed by each of them stating the number of the district and the number of ballots contained in such envelopes or containers. The inspectors shall enclose the unscanned voted ballots canvassed in accordance with section 9–110 of this title in a separate sealed envelope or container and endorse thereon a certificate signed by each of them stating the number of the district, ballot scanner identification information and the number of ballots contained in such envelope or container. The inspectors shall then package and seal the other voted ballots and place them in one or more boxes or containers, and include within such boxes or containers one portable memory device from each ballot scanner pursuant to paragraph (d) of subdivision two of section 9–102 of this title, and any absentee, military, special federal, or special presidential ballots which may have been delivered to the poll site during election day, and securely lock and seal such boxes or containers. Notwithstanding the preceding sentence, such portable memory device from each ballot scanner with the corresponding results tape may be enclosed in a sealed container and transported prior to and separately from other materials referenced in this section for the purpose of using such device to provide an unofficial tally of results as required by section 9–126 of this title.

2. Each box, envelope, or container containing the ballots and stubs, if any, and all items described in subdivision one of this section shall be deposited by an inspector designated for that purpose with the officer or board from whom or which the board of inspectors received it. In the city of New York, every such box, envelope, or container shall be delivered at the polling place to police or peace officers designated by the police commissioner of such city, who shall deposit them with the board of elections.

3. (a) Except in the city of New York, the registration poll records or computer generated registration lists, the returns of canvass with results tapes and tally sheets, if any, annexed, the voted ballots, stubs, opened packages of unused ballots and ballot envelopes, any absentee, military, special federal, or special presidential ballots which may have been delivered to the poll site during election day, the challenge report records, keys and the package of protested and void ballots shall be filed with the board of elections.

(b) Records and supplies to be filed with a city, town or village clerk shall be so filed or delivered immediately after the completion of the returns of the canvass, by an inspector designated by the board of inspectors. Returns, papers and registration poll records or computer generated registration lists to be filed with the board of elections shall be so filed by the chairman of the board of inspectors within twenty-four hours after the completion of such returns. The person receiving such returns in the board of elections shall give to the person delivering the returns a receipt stating therein the date and hour of delivery, the name of the person making the delivery, and to whom said returns were delivered and shall keep a duplicate of said receipt on file in the office of the board of elections.

(c) In the city of New York, the board of inspectors shall deliver to police or peace officers designated by the police commissioner of such city, at the polling place the registration poll records or computer generated registration lists, challenge report, records, keys, other election supplies, including two copies of the returns of the canvass and any absentee, military, special federal, or special presidential ballots which may have been delivered to the poll site during election day, voted ballots, stubs, open packages of unused ballots and ballot envelopes. Such police or peace officers shall file the returns, the package of void and protested ballots, if any, and the absentee, military, special federal, special presidential ballots which may have been delivered to the poll site during election day; and emergency ballots, stubs and ballot envelopes, if any, within twenty-four hours after the close of the polls, in the office of the board of elections or its branch office within the borough, as the case may be.

(L.1976, c. 233, § 1. Amended L.1978, c. 9, § 80; L.1978, c. 140, § 4; L.1989, c. 359, § 22; L.1991, c. 413, §§ 71, 72; L.1992, c. 91, § 7; L.1994, c. 659, § 48; L.2013, c. 334, § 12, eff. Aug. 21, 2013; L.2019, c. 437, § 7, eff. Oct. 30, 2019.)

§ 9–126. Unofficial tally of election results

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

1. In an election district of the county of Nassau, the chair of the board of inspectors, upon the completion of the return of canvass, and the announcement thereof in a primary or general election, shall deliver to the police officer on duty at the polling place a statement signed by the board of inspectors stating the number of votes received by each person voted for and the number of votes cast for and the number of votes cast against each ballot proposal. Such officer forthwith shall convey the statement to the stationhouse of the police precinct in which such place of canvass is located, and shall deliver it inviolate to the officer in command thereof, who shall immediately transmit by telegraph, telephone or messenger, the contents of such statement to the officer commanding the police department of such county who shall immediately make the contents of such statement available for the press. The chair of the board of inspectors in each election district of such county shall make two copies of the statement hereinbefore provided for, which shall be taken to the police station, whence one such copy shall be transmitted without delay to police headquarters, or such other location as may be designated by the officer commanding the police department, where it shall be made immediately available to the press for purposes of tabulation. The other copy shall be transmitted within twenty-four hours to the board of elections. All statements made pursuant to this section shall be preserved for six months by the police and shall be presumptive evidence of the result of such canvass.

2. (a) Except in the county of Nassau, the chair of the board of inspectors, upon completion of the return of canvass and the announcement thereof, in a general or primary election, shall immediately communicate such results by telephone, or delivery, to the board of elections. Such results shall include the number of votes received by each person voted for and the number of votes cast for and against each ballot proposal.

(b) The board of elections shall remain open after the close of the polls and shall receive and tabulate the voting results as they are received. The board of elections shall make such unofficial results available to the media and the state board of

elections, and shall post running totals in a public place and on the internet as the results become known to it.

3. The results made public pursuant to this section shall be released as the unofficial tally.

4. A county board of elections may require the chair of the board of inspectors in each election district to report unofficial election night results by telephone, fax or other means. Such results shall include the total aggregate number of votes received by each person voted for, the total aggregate number of write-ins and the number of votes cast for and against each ballot proposal.

5. (a) The board of elections of counties in which voting machines which have portable memory devices are used, may establish written procedures consistent with the provisions of this section and filed with the state board of elections by which such devices may be used to provide the unofficial tally of results required by this section.

(b) Such procedures may include: the installation, at the board of elections or at town or city halls, police stations, sheriff's offices or other public buildings, of machines which record and transmit the totals recorded in such devices to the board of elections or directly to a representative of the press; the delivery of the devices from the polling places to such locations and the removal of such devices, by at least two clerks or other agents of such board of elections of opposite political parties, from the containers or envelopes in which they were sealed at the polling places and the insertion of such devices into such machines.

(c) In the city of New York, unless the board of elections of such city designates two clerks or other agents of opposite political parties for delivery of the devices from the polling places to such locations, police officers or peace officers designated by the police commissioner of such city shall provide such delivery as soon as practicable.

(d) The board of elections shall provide containers, at all such locations other than the offices of such board, into which all such devices shall be placed by the clerks or other agents of such board of elections after they are removed from such machines. Such containers shall be sealed by such clerks or

agents who shall also enter on a certificate which shall be printed on each such container, the total number of such devices placed in such container and the election districts from which such devices came. Such clerks shall also sign such certificate in the places provided.

(e) Such containers shall be delivered to the board of elections by the public officials in whose offices such machines were installed within twenty-four hours after the closing of the polls. In the city of New York, unless the board of elections of such city designates two clerks or other agents of opposite political parties for delivery of such containers to the board of elections, police officers or peace officers designated by the police commissioner of such city shall deliver such containers. The board of elections shall give such officials, police officers, or peace officers a receipt therefor which states therein the date and hour of delivery, the name of the person making the delivery and the name of the person to whom such delivery was made. The board of elections shall keep a duplicate of such receipt on file at the office of such board.

(f) The cost of installing such machines at locations other than the board of elections and the cost of transmitting the results from such machines may be paid by the board of elections or by a representative of the press. If such results are transmitted from a location other than the board of elections directly to a representative of the press, such cost shall be paid by such representative of the press.

(L.1976, c. 233, § 1. Amended L.1982, c. 647, § 18; L.1986, c. 262, § 15, eff. Oct. 29, 1986; L.1986, c. 356, § 2, eff. Oct. 29, 1986; L.2013, c. 334, § 13, eff. Aug. 21, 2013.)

§ 9–128. Repealed by L.2013, c. 334, § 14, eff. Aug. 21, 2013

TITLE II—CANVASS BY BOARD OF ELECTIONS

Section

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Section

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§ 9–200. Canvass of primary returns by board of elections; notices to delegates; certificates

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

1. The board of elections shall canvass the returns of primary elections filed with it. It shall canvass first the votes of the delegates and alternates to judicial district conventions and complete such canvass at the earliest time possible. It shall complete the canvass otherwise within thirteen days from the day upon which the primary election is held. Upon the completion of the canvass the board shall make and file in its office tabulated statements, signed by the members of such board or a majority thereof, of the number of votes cast for all the candidates for nomination to each public office or for election to each party position, and the number of votes cast for each such candidate. The candidate receiving the highest number of votes for nomination for a public office or for election to a party position voted for wholly within the political unit for which such board is acting, shall be the nominee of his party for such office or elected to such party position and the board, if requested by a candidate elected to a party position, shall furnish to him a certificate of election.

2. The board forthwith upon the completion of the canvass for members of a state committee and delegates and alternates to a national, state or judicial district convention, shall trans-

mit to the state board of elections a certificate stating the name and residence of each member of a state committee and delegate and alternate elected from a district wholly within the jurisdiction of such board, except that, in respect to a judicial district convention in the first, second, eleventh, twelfth and thirteenth judicial districts, the board of elections, instead of transmitting such certificate, shall compile the roll of the convention and transmit it to the chairman or secretary of the committee which, by party rules, is empowered to fix the time and place of the convention. The board of elections shall send by mail to each delegate and alternate elected a notice of his election. The certificate or roll of the convention shall list the delegates and alternates elected at a primary in the order of the votes received by each delegate or alternate, with the delegate or alternate receiving the highest number of votes listed first. Tie votes shall be indicated in a manner prescribed by the state board of elections. If there shall have been no contested election for alternates, the names of the alternates shall appear on the certificate or roll in the order in which their names appeared on the petition which designated them.

3. The board forthwith, upon the completion of the canvass, shall file with the state board of elections a certified copy of its tabulated statement of the votes cast for each nomination or party position in a district extending beyond the political unit for which the board is acting.

4. The state board of elections, upon the request of the chairman of the state committee of any political party, shall furnish to him a list of the duly elected members of the state committee of such party.

5. There shall be included in the official compilation of the canvass of the returns, the names of the persons who shall have been nominated for public office or elected to party position without balloting, and in each such case the word ''uncontested'' shall be placed in such compilation wherever the vote cast for such a candidate is required to be stated.

(L.1976, c. 233, § 1. Amended L.1976, c. 234, § 50; L.1977, c. 876, § 2; L.1978, c. 8, § 24; L.1978, c. 9, § 82; L.1983, c. 29, § 2; L.1984, c. 250, § 1, eff. June 19, 1984; L.2016, c. 42, § 1, eff. June 1, 2016; L.2019, c. 5, § 15, eff. Jan. 24, 2019.)

§ 9–202. Canvass of primary returns by state board of elections; convention rolls

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

The state board of elections upon receipt by it from boards of elections of the tabulated statements of votes at a primary election required to be filed with it shall proceed forthwith to canvass such statements. Upon the completion of the canvass it shall make, certify and file in its office tabulated statements of the number of votes cast for all the candidates for nomination to each public office or for election to each party position, and the number of votes cast for each such candidate. The candidate receiving the highest number of votes shall be the nominee of his party for such office or shall be elected to such party position, as the case may be, and the board, if requested, shall furnish to the elected candidates a certificate of election. From such certified statements of the votes for delegates and alternates elected to a state or judicial district convention of any party, other than a judicial district convention in the first, second, eleventh, twelfth and thirteenth judicial districts, the state board shall forthwith compile the roll of each such convention in duplicate and transmit it, if for a state convention, to the chairman and secretary of the state committee of the party, and if for a judicial district convention, to the chairman and secretary of the committee which, by party rules, is empowered to fix the time and place of the convention. The roll of the convention shall list the candidates elected at a primary in the order of the votes received by each candidate together with the number of votes received by each such candidate. If there shall have been no contested election for alternates, the names of the alternates shall appear on the roll in the order in which their names appear on the petition which designated them. The state board of elections shall transmit copies of the certified statements of the votes for delegates and alternates to a national convention of a party to

the chairman and secretary of the state committee of such party.

(L.1976, c. 233, § 1; L.1977, c. 876, § 3. Amended L.1981, c. 89, § 1; L.1983, c. 29, § 3; L.1992, c. 218, § 1, eff. June 23, 1992; L.2016, c. 42, § 2, eff. June 1, 2016.)

§ 9–204. County boards of canvassers

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

The board of elections of each county or city shall be the county board of canvassers of such county, or each county within such city. Such board also shall be the city board of canvassers of any city or cities within the county for a city election. Such board shall also be the board of canvassers of the towns of the county. Such board shall also be the board of canvassers of villages in which village elections are conducted by the board of elections. The secretary of the board of elections, or, if he is absent, or unable to act, a member or chief clerk designated by the board shall be the secretary of the canvassing board. Each canvassing board shall meet at the place where it usually meets in other capacities on the day following the election, but its duties may be performed in any or all of the offices of the board of elections.

(L.1976, c. 233, § 1. Amended L.1989, c. 359, § 23, eff. Nov. 15, 1989.)

§ 9–206. Canvass of election district returns of general and special elections

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

The canvassing board shall canvass the votes cast within the county for state, county, city and town offices; also the vote cast on any ballot proposal. The canvass by the county board of canvassers relating to the offices of president and vice president of the United States, governor, lieutenant-governor, state comptroller, attorney-general, United States senator, member of the house of representatives, member of the state

senate, member of the assembly and any ballot proposal shall show in each election district the total number of persons voting at such election, the number of votes cast for each candidate, the number of unrecorded or blank votes for each of the above-mentioned offices and each ballot proposal. Write-in votes cast for president or vice president for persons who were not certified by the state board of elections as write-in candidates for such offices shall not be canvassed for such candidates but such votes shall be canvassed as void votes. If, during the canvass, there shall clearly appear to be any omission or clerical mistake in the return for any district filed with the board of elections, the canvassing board may summon the election officers before the board, and such officers shall meet forthwith and make any necessary correction, in order that their canvass may be correctly stated, but they shall not alter any decision theretofore made by them.

(L.1976, c. 233, § 1. Amended L.1978, c. 9, § 83; L.1978, c. 140, § 6; L.1982, c. 647, § 20; L.1986, c. 262, § 16; L.1988, c. 13, § 5, eff. Mar. 11, 1988.)

§ 9–208. Provisions for recanvass of vote in every election district in the state; procedure in case of discrepancy

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

1. Within fifteen days after each general or special election, and within twenty days after a primary election, and within seven days after every village election conducted by the board of elections at which ballot scanners are used, the board of elections, or a bipartisan committee of or appointed by said board shall, in each county using ballot scanners, make a record of the serial number of each ballot scanner used in each election district in such general, special or primary election. No person who was a candidate at such election shall be appointed to membership on the committee. Such board of elections or bipartisan committee shall recanvass the tabulated result tape from each ballot scanner used in each election

district by comparing such tape with the numbers as recorded on the return of canvass. The said board or committee shall also make a recanvass of any election day paper ballots that have not been scanned and were hand counted pursuant to subdivision two of section 9–110 of this article and compare the results with the number as recorded on the return of canvass. The board or committee shall then recanvass write-in votes, if any, on ballots which were otherwise scanned and canvassed at polling places on election night. The board or committee shall validate and prove such sums. Before making such canvass the board of elections, with respect to each election district to be recanvassed, shall give notice in writing to the voting machine custodian thereof, to the state and county chair of each party or independent body which shall have nominated candidates for the said general or special election or nominated or elected candidates at the said primary election and to each individual candidate whose name appears on the office ballot, of the time and place where such canvass is to be made; and the state and county chair of each such party or independent body and each such individual candidate may send a representative to be present at such recanvass. Each candidate whose name appears on the official ballot, or his or her representative, shall have the right personally to examine and make a record of the vote recorded on the tabulated result tape and any ballots which were hand counted.

2. If upon such recanvass, it shall be found that the original canvass of the returns of an election district has been incorrectly made from any tabulated result tape plus any ballots which were hand counted, a statement in writing shall be prepared giving the details for any corrections made for such election district. The result of the recanvass, and such statement shall be witnessed by the persons required to be present and shall be filed with the board of elections. Such recanvass of votes made pursuant hereto shall thereupon supersede the returns filed by the inspectors of election of the election district in which the canvass was made.

3. If upon the recanvass of an election district, it shall be found that a discrepancy exists between the number of voters

who cast a vote in an election district and the number of votes recorded on the tabulated results tape plus any election day paper ballots counted by hand the board of elections, or the committee thereof, shall proceed thoroughly to examine all the election day paper ballots in that election district to determine the result from such election district. The result of this examination of election day ballots shall supersede the returns filed by the inspectors of election of the election district in which the canvass was made. After the completion of such examination, the board of elections, or the committee thereof, shall then and there prepare a statement in writing giving in detail the result thereof, and such statement shall be witnessed by the persons required to be present and shall be filed in the office of the board of elections.

4. (a) The board of elections or a bipartisan committee appointed by the board shall conduct a full manual recount of all ballots for a particular contest:

i. Where the margin of victory is twenty votes or less; or

ii. Where the margin of victory is 0.5% or less; or

iii. In a contest where one million or more ballots have been cast and the margin of victory is less than 5,000 votes.

(b) For the purposes of this section, the term margin of victory shall mean the margin between all votes cast in the entire contest following the recanvass of votes.

(c) Where the contest involves portions of two or more counties, the margin of victory shall be determined by the state board of elections based on the most recent recanvass results for the contest submitted by the boards of elections of the counties involved.

(d) The result of the manual recount of ballots shall supersede the returns filed by the inspectors of election of the election district in which the canvass was initially made.

(L.1976, c. 233, § 1. Amended L.1976, c. 234, § 51; L.1978, c. 9, § 84; L.1978, c. 373, § 85; L.1986, c. 262, § 17; L.1986, c. 352, § 11; L.1989, c. 359, § 24, eff. Nov. 15, 1989; L.2010, c. 163, § 8–a, eff. July 7, 2010; L.2019, c. 5, § 16, eff. Jan. 24, 2019; L.2020, c. 55, pt. JJ, § 1, eff. Jan. 1, 2021.)

§ 9–209. Canvass of absentee, military and special ballots and ballots cast by voters with registration poll records missing on days of election or voters who have not had their identity previously verified or who have moved after registering

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

[Eff. until April 12, 2021, or contingency pursuant to L.2019, c. 55, pt. CCC, § 6. See, also, opening par. below.] Before completing the canvass of votes cast in any primary, general, special, or other election at which voters are required to sign their registration poll records before voting, the board of elections shall proceed in the manner hereinafter prescribed to cast and canvass any absentee, military, special presidential, special federal or other special ballots and any ballots voted by voters who moved within the state after registering, voters who are in inactive status, voters whose registration was incorrectly transferred to another address even though they did not move, voters whose registration poll records were missing on the day of such election, voters who have not had their identity previously verified and voters whose registration poll records did not show them to be enrolled in the party in which they claimed to be enrolled and voters incorrectly identified as having already voted. Each such ballot shall be retained in the original envelope containing the voter's affidavit and signature, in which it is delivered to the board of elections until such time as it is to be cast and canvassed.

[Eff. April 12, 2021, or upon contingency pursuant to L.2019, c. 55, pt. CCC, § 6. See, also, opening par. above.] Before completing the canvass of votes cast in any primary, general, special, or other election at which voters are required to sign their registration poll records before voting, the board of elections shall proceed in the manner hereinafter prescribed to cast and canvass any absentee, military, special presidential, special federal or other special ballots and any ballots voted by voters who moved within the state after registering, voters who are in inactive status, voters whose registration was incorrectly transferred to another address even though they did not move,

voters whose registration poll records were missing on the day of such election, voters who have not had their identity previously verified, voters who submitted a voter registration application through the electronic voter registration transmittal system but did not provide the required exemplar signature, and voters whose registration poll records did not show them to be enrolled in the party in which they claimed to be enrolled and voters incorrectly identified as having already voted. Each such ballot shall be retained in the original envelope containing the voter's affidavit and signature, in which it is delivered to the board of elections until such time as it is to be cast and canvassed.

1. (a) The board of elections shall designate itself or such of its employees as it shall deem appropriate as a set of poll clerks to cast and canvass such ballots, and fix a time and place for their meeting for such purpose, provided that such meeting shall be no more than fourteen days after a general or special election and no more than eight days after a primary election at which such ballots are voted. The board may designate additional sets of poll clerks and if it designates more than one such set shall apportion among all such sets the election districts from which such ballots have been received, provided that all such ballots from a single election district shall be assigned to a single set of clerks, and that each such set shall be divided equally between representatives of the two major political parties. Each such set of clerks shall be deemed a central board of inspectors for purposes of this section.

(b) At least five days prior to the time fixed for such meeting, the board shall send notice by first class mail to each candidate, political party, and independent body entitled to have had watchers present at the polls in any election district in the board's jurisdiction. Such notice shall state the time and place fixed by the board for such canvass.

(c) Each such candidate, political party, and independent body shall be entitled to appoint such number of watchers to attend upon each central board of inspectors as such candidate, political party, or independent body was entitled to appoint at such election in any one election district for which such central board of inspectors is designated to act.

2. (a)(i) Upon assembling at the time and place fixed for such meeting, each central board of inspectors shall examine, cast, and canvass the envelopes and the ballots therein contained as nearly as practicable in the following manner:

(A) If a person whose name is on an envelope as a voter has already voted in person at such election, or if his or her name and residence as stated on the envelope are not on a registration poll record, or the computer generated list of registered voters or the list of special presidential voters, or if there is no name on the envelope, or if the envelope is not sealed, such envelope shall be laid aside unopened.

(B) If there is more than one ballot envelope executed by the same voter, the one bearing the later date of execution shall be accepted and the other rejected. If it cannot be determined which envelope bears the later date, then all such envelopes shall be rejected.

(C) If such person is found to be registered and has not voted in person, an inspector shall compare the signature, if any, on each envelope with the signature, if any, on the registration poll record, the computer generated list of registered voters or the list of special presidential voters, of the person of the same name who registered from the same address. If the signatures are found to correspond, such inspector shall certify thereto by placing his or her initials in the space provided in the computer generated list of registered voters.

(D) If such person is found to be registered and has not voted in person, and if no challenge is made, or if a challenge made is not sustained, the envelope shall be opened, the ballot or ballots withdrawn without unfolding, and the ballot or ballots deposited in the proper ballot box or boxes, or envelopes, provided however that, in the case of a primary election, the ballot shall be deposited in the box only if the ballot is of the party with which the voter is enrolled according to the entry on the back of his or her registration poll record or in the computer generated registration list; if not, the ballot shall be rejected without inspection or unfolding and shall be returned to the envelope which shall be endorsed ''not enrolled.'' At the time of the deposit of such ballot or ballots in the box or envelopes, the inspectors shall enter the words ''absentee vote''

or ''military vote'' in the space reserved for the voter's signature on the aforesaid list or in the ''remarks'' space as appropriate, and shall enter the year and month of the election on the same line in the spaces provided therefor.

(E) As each envelope is opened, if one or more of the different kinds of ballots to be voted at the election are not found therein, the clerks, or inspectors, shall make a memorandum showing what ballot or ballots are missing. If a ballot envelope shall contain more than one ballot for the same offices, all the ballots in such envelope shall be rejected. When the casting of such ballots shall have been completed the clerks or inspectors shall ascertain the number of such ballots of each kind which have been deposited in the ballot box by deducting from the number of envelopes opened the number of missing ballots, and shall make a return thereof. The number of absentee voters' ballots deposited in the ballot box shall be added to the number of other ballots deposited in the ballot box, in order to determine the number of all ballots of each kind to be accounted for in the ballot box.

(ii) If the board of inspectors determines that a person was entitled to vote at such election it shall cast and canvass such ballot if such board finds that ministerial error by the board of elections or any of its employees caused such ballot envelope not to be valid on its face.

(iii) If the board of elections determines that a person was entitled to vote at such election, the board shall cast and canvass such ballot if such board finds that the voter appeared at the correct polling place, regardless of the fact that the voter may have appeared in the incorrect election district.

(iv) [Eff. April 12, 2021, or upon contingency pursuant to L.2019, pt. CCC, c. 55, § 6.] If the board of elections finds that a voter submitted a voter registration application through the electronic voter registration transmittal system and signed the affidavit ballot, the board shall cast and canvass such ballot.

(v) If the board of elections determines that a person was entitled to vote at such election, the board shall cast and canvass such ballot if such board finds that the voter substantially complied with the requirements of this chapter. *For purposes of this subparagraph, substantially complied shall*

mean the board can determine the voter's eligibility based on the statement of the affiant or records of the board.

(vi) If the board of elections finds that the statewide voter registration list supplies sufficient information to identify a voter, failure by the voter to include on the envelope the address where such voter was previously registered shall not be a fatal defect and the board shall cast and canvass such ballot.

(vii) [Eff. Jan. 1, 2023.] If the board of elections finds that the voter registered (or pre-registered) to vote for the first time pursuant to title nine of article five of this chapter at least twenty-five days before a primary, appeared at such primary election, and indicated on the affidavit ballot envelope the intent to enroll in such party, the affidavit ballot shall be cast and counted if the voter is otherwise qualified to vote in such election.

(b)(i) Such board of inspectors shall also cast and canvass any federal write-in absentee ballots validly cast by an absentee voter, a military voter or a special federal voter for the offices of president and vice-president, United States senator and representative in congress. Such board of inspectors shall also cast and canvass any federal write-in absentee ballots validly cast by a military voter for all questions or proposals, public offices or party positions for which a military voter is otherwise eligible to vote as provided in section 10–104 of this chapter.

(ii) Federal write-in absentee ballots shall be cast and canvassed only if: (A) an application for an absentee, military or special federal ballot was received from the absentee, military or special federal voter at least thirty days before election day; (B) the federal write-in absentee ballot was submitted from inside or outside the United States by a military voter or was submitted from outside the United States by a special federal voter; (C) such ballot is received by the board of elections not later than thirteen days following the day of election or seven days after a primary election; and (D) the absentee, military or special federal ballot which was sent to the voter is not received by the board of elections by the thirteenth day following the day of a general or special election or the seventh day after a primary election.

(iii) [Eff. until Dec. 31, 2020, pursuant to L.2020, c. 91, § 7. See, also, subpar. (iii) below.] If such a federal write-in absentee ballot is received after election day, the envelope in which it is received must contain: (A) a cancellation mark of the United States postal service or a foreign country's postal service; (B) a dated endorsement of receipt by another agency of the United States government; or (C) if cast by a military voter, the signature and date of the voter and one witness thereto with a date which is ascertained to be not later than the day *of the* election.

(iii) [Eff. Dec. 31, 2020, pursuant to L.2020, c. 91, § 7. See, also, subpar. (iii) above.] If such a federal write-in absentee ballot is received after election day, the envelope in which it is received must contain: (A) a cancellation mark of the United States postal service or a foreign country's postal service; (B) a dated endorsement of receipt by another agency of the United States government; or (C) if cast by a military voter, the signature and date of the voter and one witness thereto with a date which is ascertained to be not later than the day before election day.

(iv) If such a federal write-in absentee ballot contains the name of a person or persons in the space provided for a vote for any office, such ballot shall be counted as a vote for such person or persons. A vote for a person who is the candidate of a party or independent body either for president or vice-president shall be deemed to be a vote for both the candidates of such party or independent body for such offices. If such a ballot contains the name of a party or independent body in the space provided for a vote for any office, such ballot shall be deemed to be a vote for the candidate or candidates, if any, of such party or independent body for such office. In the case of the offices of president and vice-president a vote cast for a candidate, either directly or by writing in the name of a party or independent body, shall also be deemed to be votes for the electors supporting such candidate. Any abbreviation, misspelling or other minor variation in the form of the name of a candidate or a party or independent body shall be disregarded in determining the validity of the ballot, if the intention can be ascertained.

(c) The following provisions shall apply to casting and canvassing of all such ballots which are counted by machine and all other provisions of this chapter with respect to casting and canvassing such ballots which are not inconsistent with this paragraph shall be applicable to such ballots.

(i) Such ballots may be separated into sections before being placed in the counting machine.

(ii) Any write-in ballots and any ballots which cannot be counted by the machine shall be counted manually subject to all the applicable provisions of this chapter with respect to counting of ballots.

(iii) The record of the vote counted by machine for each candidate and for and against each ballot proposal, printed by election district, shall be preserved in the same manner and for the same period as the returns of canvass for the election.

(d) Any person lawfully present may object to the refusal to cast or canvass any ballot on the grounds that the voter is a properly qualified voter of the election district, or in the case of a party primary duly enrolled in such party, or to the casting or canvassing of any ballot on the grounds that the voter is not a properly qualified voter of the election district, or in the case of a party primary not duly enrolled in such party, or otherwise not entitled to cast such ballot. When any such objection is made, the central board of inspectors shall forthwith proceed to determine such objection and reject or cast such ballot according to such determination. If the board cannot agree as to the validity of the ballot it shall set the ballot aside, unopened, for a period of three days at which time the ballot envelope shall be opened and the vote counted unless otherwise directed by an order of the court.

(e) Upon completing the casting and canvassing of ballots as hereinabove provided for any election district, the central board of inspectors shall thereupon, as nearly as practicable in the manner provided in this chapter for absentee ballots, verify the number of ballots so cast, tally the votes so cast, add such tally to the previous tally of all votes cast in such election district, and announce the result.

3. (a) Upon the board of elections determination at or before the time of canvass that an absentee ballot affirmation envelope

is unsigned or that an affirmation ballot envelope signature does not correspond to the registration signature or there is no required witness to a mark or that the envelope is returned without an affirmation envelope in the return envelope, the board shall, within one day of such determination, send to the absentee voter's address indicated in the registration records and, if different, the mailing address indicated on the absentee ballot application, a notice explaining the reason for such rejection and the procedure to cure the rejection. The board shall also contact the voter by either electronic mail or telephone, if such information is available to the board in the voter's registration information, in order to notify the voter of the deficiency and the opportunity and the process to cure the deficiency.

(b) The voter may cure the aforesaid defects by filing a duly signed affirmation attesting to the same information required by the affirmation envelope and attesting that the signer of the affirmation is the same person who submitted such absentee ballot envelope. The board shall include a form of such affirmation with the notice to the voter. The affirmation shall be in a form prescribed by the state board of elections.

(c) Such cure affirmation shall be filed with the board no later than seven business days after the board's mailing of such curable rejection notice. Provided the board determines that such affirmation addresses the curable defect, the rejected ballot shall be reinstated and duly canvassed. If the board of elections is split as to the sufficiency of the cure affirmation, such envelope shall be set aside for three days and then canvassed unless the board is directed otherwise by court order.

(d) When the board of elections invalidates a ballot envelope and the defect is not curable, the voter shall be notified by mail sent within three business days of such rejection.

3–a. If an absentee ballot affirmation envelope is received by the board of elections prior to the election and is found to be unsealed and thus invalid, the board shall forthwith notify the voter of such defect and notify the voter of other options for voting, and, if time permits, provide the voter with a new absentee ballot.

(L.1976, c. 233, § 1. Amended L.1978, c. 9, § 85; L.1981, c. 573, § 3; L.1984, c. 251, § 4; L.1986, c. 352, § 12; L.1987, c. 94, § 1; L.1992, c. 79, § 22; L.1994, c. 155, §§ 2, 3; L.1994, c. 659, §§ 49, 50; L.2001, c. 381, § 3,

eff. Oct. 29, 2001; L.2003, c. 256, § 2, eff. July 29, 2003; L.2005, c. 179, § 5, eff. Jan. 1, 2006; L.2005, c. 237, § 2, eff. July 19, 2005; L.2009, c. 165, § 2, eff. July 11, 2009; L.2009, c. 248, § 1, eff. July 28, 2009; L.2010, c. 104, § 5, eff. June 2, 2010; L.2010, c. 163, § 8–b, eff. July 7, 2010; L.2011, c. 308, § 2, eff. Aug. 3, 2011; L.2019, c. 3, § 6, eff. March 25, 2019; L.2019, c. 6, § 9, eff. Jan. 24, 2019; L.2019, c. 55, pt. XX, § 13, eff. April 12, 2019; L.2019, c. 55, pt. CCC, §§ 4, 5, eff. April 12, 2021; L.2019, c. 717, § 1, eff. Dec. 20, 2019; L.2020, c. 55, pt. XX, subpt. N, § 1, eff. Dec. 20, 2019; L.2020, c. 91, § 3, eff. June 7, 2020; L.2020, c. 141, § 1, eff. Aug. 21, 2020; L.2020, c. 350, § 4, eff. Jan. 1, 2023.)

§ 9–210. Statements of canvass by canvassing boards

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

Upon the completion of the canvass the canvassing board shall make statements thereof, showing separately the result for each office and ballot proposal. Each such statement shall set forth, in words written out at length, all votes cast for all candidates for each office; the name of each candidate; the number of votes so cast for each, and, in the case of a candidate who was nominated by two or more parties or independent bodies, the number, separately stated, of votes cast for him as the candidate of each party or independent body by which he was nominated; and all votes so cast upon any ballot proposal, and all the votes so cast in favor of and against the same respectively. Such statements shall show the total number of unrecorded or blank votes and the total number of votes cast for each office and each ballot proposal.

Such statements shall be certified as correct over the signatures of the members of the board, or a majority of them, and such statements together with any tabulation sheets showing the vote by election districts from which such statements were made, shall be filed in the office of the board of elections. The separate statement relating to electors of president and vice-president shall be so filed immediately upon the making, signing and certification thereof. To facilitate its work, the board of elections may cause copies of such tabulation sheets to be printed in pamphlet form.

(L.1976, c. 233, § 1. Amended L.1978, c. 9, § 86; L.1982, c. 647, § 21, eff. Jan. 1, 1983.)

§ 9–211. Audit of voter verifiable audit records

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

1. Within fifteen days after each general or special election, within thirteen days after every primary election, and within seven days after every village election conducted by the board of elections, the board of elections or a bipartisan committee appointed by such board shall audit the voter verifiable audit records from three percent of voting machines or systems within the jurisdiction of such board. Such audits may be performed manually or via the use of any automated tool authorized for such use by the state board of elections which is independent from the voting system it is being used to audit. Voting machines or systems shall be selected for audit through a random, manual process. At least five days prior to the time fixed for such selection process, the board of elections shall send notice by first class mail to each candidate, political party and independent body entitled to have had watchers present at the polls in any election district in such board's jurisdiction. Such notice shall state the time and place fixed for such random selection process. The audit shall be conducted in the same manner, to the extent applicable, as a canvass of paper ballots. Each candidate, political party or independent body entitled to appoint watchers to attend at a polling place shall be entitled to appoint such number of watchers to observe the audit.

2. The audit tallies for each voting machine or system shall be compared to the tallies recorded by such voting machine or system, and a report shall be made of such comparison which shall be filed in the office of the state board of elections.

3. The state board of elections shall, in accordance with subdivision four of section 3–100 of this chapter, promulgate regulations establishing a uniform statewide standard to be used by boards of elections to determine when a discrepancy between the audit tallies and the voting machine or system tallies shall require a further voter verifiable record audit of additional voting machines or systems or a complete audit of all machines or systems within the jurisdiction of a board of

elections. Any board of elections shall be empowered to order that any such audit shall be conducted whenever any such discrepancy exists.

4. If a complete audit shall be conducted, the results of such audit shall be used by the canvassing board in making the statement of canvass and determinations of persons elected and propositions rejected or approved. The results of a partial voter verifiable record audit shall not be used in lieu of voting machine or system tallies.

5. Notwithstanding subdivision four of this section, if a voting machine or system is found to have failed to record votes in a manner indicating an operational failure, the board of canvassers shall use the voter verifiable audit records to determine the votes cast on such machine or system, provided such records were not also impaired by the operational failure of the voting machine or system.

(Added L.2005, c. 181, § 14, eff. July 12, 2005. Amended L.2015, c. 515, § 1, eff. Nov. 20, 2015; L.2019, c. 5, § 17, eff. Jan. 24, 2019.)

§ 9–212. Determinations by county canvassing boards

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

1. The canvassing board shall determine each person elected by the greatest number of votes to each county office, and each person elected by the greatest number of votes to each city, town or village office of a city, town or village of which it is the board of canvassers. The canvassing board shall also determine whether any ballot proposal submitted only to the voters of the county, or only to the voters of a city, town or village of which it is the board of canvassers, as the case may be, has by the greater number of votes been adopted or rejected.

2. All such determinations shall be in writing and signed by the members of the canvassing board or a majority of them and filed and recorded in the office of the board of elections. Except in the city of New York and in the counties of Nassau, Orange and Westchester, the board of elections shall cause a

copy of such determinations, and of the statements filed in its office upon which such determinations were based, to be published once in each of the newspapers designated to publish election notices and the official canvass. The statement of canvass to be published, however, shall not give the vote by election districts but shall contain only the total vote for a person, or the total vote for and the total vote against a ballot proposal, cast within the county, or within the portion thereof, if any, in which an office is filled or ballot proposal is decided by the voters if the canvass of the vote thereon devolves upon the county board of canvassers. Such totals shall be expressed in arabic numerals.

3. The board of elections shall prepare and forthwith transmit to each person determined by the canvassing board to have been elected a certified statement, naming the office to which such canvassing board has declared him elected.

4. The appropriate state or local election official shall establish a free access system (such as a toll-free telephone number or an internet website) that any individual who casts an affidavit ballot may access to discover whether the vote of that individual was counted, and, if the vote was not counted, the reason that the vote was not counted.

(L.1976, c. 233, § 1. Amended L.1982, c. 647, § 22; L.1990, c. 635, § 5; L.2005, c. 179, § 6, eff. Jan. 1, 2006.)

§ 9–214. Transmission of statements of canvassing boards to state board of elections and secretary of state

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

The board of elections shall transmit by mail or cause to be delivered personally to the state board of elections, a certified copy of the statement of the canvassing board relating to the offices of electors of president and vice-president of the United States, United States senator, representatives in congress and state offices, including members of the state senate and assembly, and to the votes cast on any ballot proposal submitted to all the voters of the state, within twenty-five days after the election. If any certified copy shall not be received by the state

board on or before the twenty-fifth day following a general election, or a special election, it shall dispatch a special messenger to obtain such certified copy, and the board of elections, immediately upon demand of such messenger at its office, shall make and deliver a certified copy to such messenger who shall deliver it forthwith to the state board.

The board of elections shall transmit to the secretary of state within twenty-five days after a general election, and within twenty days after a special election, a list of the names and residences of all persons determined by the canvassing board to be elected to any county office.

The board of elections shall transmit to the state board, on or before the tenth day of December following an election for governor, a certified tabulated statement, by election districts, of the official canvass of the votes cast for candidates for governor, to include, in the case of a candidate who was nominated by two or more parties or independent bodies, a separate statement of the number of votes cast for him as the candidate of each party or independent body by which he was nominated and if the county contains more than one assembly district or parts of more than one assembly district, a statement of the number of votes cast for governor by assembly district.

(L.1976, c. 233, § 1. Amended L.1976, c. 234, § 52; L.1978, c. 373, § 86; L.1982, c. 647, § 23; L.1983, c. 286, § 1, eff. Sept. 1, 1983; L.2011, c. 4, § 4, eff. March 9, 2011; L.2013, c. 99, § 6, eff. July 8, 2013.)

§ 9–216. Canvass of statements of general and special elections by state board of canvassers

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

1. The state board of elections shall be the state board of canvassers. The records of the state board of canvassers shall be kept in the custody of the state board of elections, which shall assign a deputy or other assistant to act as the clerk of said board of canvassers.

2. The state board of canvassers shall canvass the certified copies of the statements of the county board of canvassers of

each county. They shall canvass first the statements, if any, for the offices of president and vice-president and next the statements, if any, for the office of member of the state senate, and next the statements, if any, for the office of member of the state assembly. Three members of the board shall constitute a quorum. The state board of canvassers shall meet on or before the fifteenth day, or, in a year when electors of president and vice-president are chosen on or before the first Monday after the first Wednesday, of December next after each general election, and within forty days after each special election, to canvass such statements. The board may adjourn from day to day, not exceeding a term of five days. If any member of the board shall dissent from a decision of the board or shall protest against any of the proceedings of the board as irregular, he shall state such dissent or protest in a writing signed by him setting forth his reasons and file it in the office of the state board of elections.

3. Upon the completion of the canvass the board shall make separate tabulated statements, signed by the members of the board or a majority thereof, of the number of votes cast for all the candidates for each office voted for, the number of votes cast for each of such candidates, the number of votes cast in each county for each of them and if the voters of any one district of the state voted for any such candidate, the name and number of such district, the determination of the board as to the persons elected to each office, the number of votes cast upon each ballot proposal, the number of votes cast in favor of and against each respectively, and the determination of the board as to whether it was adopted or rejected.

4. Such tabulated statements shall be filed and recorded in the office of the state board of elections. Thereupon, the state board of elections shall transmit a certified copy of each such statement of votes cast for candidates for any office to the person shown thereby to have been elected to such office. The state board of elections shall prepare a general certificate under the seal of the state and attested by the members of the state board of elections, addressed to the house of representatives of the United States, of the due election of all persons chosen at that election as representatives of this state in congress, and shall transmit the same to the house of represen-

tatives. If any person so chosen at such election shall have been elected to fill a vacancy in the office of representative in congress, the statement of the state board of elections shall so specify.

(L.1976, c. 233, § 1. Amended L.1982, c. 647, § 24; L.1983, c. 286, § 2; L.1988, c. 175, § 4, eff. June 27, 1988.)

§ 9–218. Proceedings by boards of canvassers to carry into effect a court order

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

1. Upon the re-convening of the state board of canvassers or any county board of canvassers, or of the board of elections of the city of New York as a county or city board of canvassers, by order of a court of competent jurisdiction, for the purpose of correcting an error or of performing a duty imposed by law or by an order of the court granted pursuant to law, the meeting for that purpose shall be deemed a continuance of its regular session, and any new or corrected statement, determination or certificate which is made to give effect to the order shall stand in lieu of the original statement, determination or certificate.

2. When a new or corrected statement or certificate, to give effect to an order of the court, shall vary from the original statement or certificate respecting the votes cast for an office for which the state board of canvassers is required to canvass statements made by county boards, the board of elections forthwith shall transmit certified copies of the new or corrected statement or certificates to the state board of elections. The state board of canvassers shall meet within five days after such a certified copy has been received by the state board of elections. From such certified copy, such board shall make a new statement as to the votes for such office cast in the state or political subdivision in which such office is filled, and shall determine and declare what person or persons whose votes are affected by such new or corrected statement have been, by the greatest number of votes, duly elected to the office or offices. The state board of canvassers and the state board of elections

shall, respectively, have the same powers and duties in respect to new or corrected statements that they have in respect to original statements.

(L.1976, c. 233, § 1. Amended L.1983, c. 286, § 3, eff. Sept. 1, 1983.)

§ 9–220. Record in office of secretary of state of county officers elected

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

The secretary of state shall enter in a book to be kept in his office, the names of the respective county officers elected in this state, specifying the counties for which they were severally elected, and their places of residence, the offices to which they were elected, and their terms of office.

(L.1976, c. 233, § 1. Amended L.1976, c. 234, § 53, eff. Dec. 1, 1977.)

ARTICLE 10—VOTING BY MEMBERS OF ARMED FORCES

Section

10–100. Repealed.
10–102. Military voters; definitions.
10–104. Military voters; right to vote.
10–106. Military voters; registration and application for ballots.
10–107. Military voters; designation of means of transmission by military voters.
10–108. Military voters; distribution of ballots to.
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10–110. Repealed.
10–112. Military voter; voting.
10–114. Military ballots; deadline for receipt, and delivery to polling place.
10–116. Military ballots; determination of candidates thereon.
10–118. Military voting; costs of.
10–120. Repealed.
10–122. Military voter; absentee ballot, right to.
10–124. Military voting; state board of elections; regulatory powers.
10–125. Military voters; prohibiting refusal to accept voter registration and military ballot applications, marked military ballots, and federal write-in absentee ballots for failure to meet certain requirements.
10–126. Military voting; applicability of general provisions.

§ 10–100. Repealed by L.1976, c. 234, § 54, eff. Dec. 1, 1977

§ 10–102. Military voters; definitions

As used in this article the following terms have the following meanings.

1. ''Military service'' means the military service of the state, or of the United States, including the army, navy, marine corps, air force, coast guard, merchant marine and all components thereof, and the coast and geodetic survey, the public health service, the national guard when in the service of the United States pursuant to call as provided by law, and the cadets or midshipmen of the United States Military Academy, United States Naval Academy, United States Air Force Academy and United States Coast Guard Academy.

2. ''Military voter'' means a qualified voter of the state of New York who is in the actual military service, as defined in the preceding paragraph of this section, and by reason of such military service is absent from his election district of residence on the day of registration or election, or a voter who is

discharged from such military service within thirty days of an election and the spouse, parent, child or dependent of such voter accompanying or being with him or her, if a qualified voter and a resident of the same election district.

3. ''Military ballot'' means the ballot prepared, printed and supplied for use by the military voter for a general election, primary election or special election.

4. ''Military address'' means the mailing address of a military voter other than his residence address in his election district.

5. ''Appropriate board of elections'' means the board of elections in whose jurisdiction the military voter resides as a qualified voter.

(L.1976, c. 233, § 1. Amended L.1978, c. 373, § 87; L.1995, c. 88, § 3, eff. Dec. 1, 1995; L.2010, c. 104, § 6, eff. June 2, 2010.)

§ 10–104. Military voters; right to vote

A military voter of this state shall be entitled to vote as fully as if he were present at his polling place and to register and vote in the manner hereinafter provided except that the provisions of this article for absentee voting in primary elections shall not apply to the party positions of members of the ward, town, city or county committee.

(L.1976, c. 233, § 1.)

§ 10–106. Military voters; registration and application for ballots

1. On or before the thirty-fifth day preceding an election the names and addresses of all military voters who have filed applications for military ballots by such day and who were not already registered shall be registered by the board of elections in the election district of residence of such military voter as hereinafter provided.

2. Such board of elections shall cause such military voter to be registered in the manner provided by this chapter, and in the space designated ''other remarks'' shall be entered the military address of such voter or such military address shall be entered into the computer files from which the computer generated registration list is prepared. Such registration poll

records shall be stamped or marked conspicuously with the legend ''Military Voter'' or the records of such military voters in such computer files shall be coded in a manner which distinguishes such voters from the other voters in such files. The foregoing provisions of this subdivision as to entry of the military address may be altered by the state board of elections to such extent as may be necessary to the security and safety of the United States. A military voter shall not be required to register personally. An application for a military ballot shall constitute permanent personal registration and a military voter shall be deemed registered under the rules and regulations prevailing under permanent personal registration upon the filing of his application and the entering of his name in the appropriate registration records.

3. (a) In addition to any other method of registering to vote or of applying for a military ballot, a military voter may request a voter registration application or military ballot application by facsimile transmission to the board of elections or pursuant to the Uniformed and Overseas Citizens Absentee Voting Act [1] or by electronic mail. When making such a request, the military voter may designate a preference for transmission of such voter registration application and military ballot application pursuant to section 10–107 of this article.

(b) The military ballot application shall allow the military voter to designate a preference for transmission of the military ballot pursuant to section 10–107 of this article.

(c) The procedures for receiving documents from and transmitting documents to a military voter shall, to the extent practicable, protect the security and integrity of the military voter registration and military ballot application request process and protect the privacy of the military voter, including the voter's identity and other personal data. Nothing in this paragraph shall limit the information that may be obtained pursuant to section 3–220 of this chapter.

4. Not earlier than the ninetieth or later than the seventy-fifth day before each general election, each county or city board of elections shall send, in accordance with the preferred method of transmission designated by the voter pursuant to section 10–107 of this article, to each person who is registered as a military voter and to every other military voter in such

county or city for whom it has a military address, an application for a military ballot for such general election in a form prescribed by the state board of elections, which shall include a place for such military voter to enroll in a party, and shall include the return address of such board of elections.

5. The state board of elections shall forward to the appropriate board of elections all applications for military ballots received by it. An application from a military voter not previously registered must be received by the appropriate board of elections not later than ten days before a general or special election or twenty-five days before a primary election in order to entitle the applicant to vote at such election. An application from a military voter who is already registered must be received at least seven days before an election in order to entitle the applicant to vote at such election; except that an application from such a military voter who delivers his application to the board of elections in person, must be received not later than the day before the election.

6. The board of elections shall immediately add to such registration records the name and residence and military address of every military voter, who was not previously registered, pursuant to this chapter, from whom it receives a valid application for a military ballot. If a valid application for a military ballot is received by a board of elections from a person already registered, other than as a military voter, from the residence address set forth in such application, such board shall mark the registration records of such voter in the same manner as the registration records of other military voters.

7. The board of elections in each year shall cause a list of names, residence addresses and, for a primary election, party enrollments of military voters appearing on such registration poll records to be prepared not later than seven days preceding an election. One copy shall be kept at the office of the board of elections for public inspection. The board shall transmit one copy to the chairman of each political party in the county, upon written request.

7–a. If a federal post card application form is received from a person who is qualified to vote as a military voter but who has not previously registered pursuant to the provisions of this article, such federal post card application form shall be treated

in all respects as an application for registration and enrollment as a military voter and for a military ballot pursuant to the provisions of this article. If such a federal post card application form is received from a person already registered as a military voter pursuant to the provisions of this article, such application shall be treated in all respects as an application for a military ballot pursuant to the provisions of this article.

8. If the board of elections denies the application of a person in military service to register to vote or to receive a military ballot, such board of elections shall immediately send the applicant a written explanation for such denial.

9. Repealed.

10. A qualified voter who shall have been inducted into or who shall have enlisted in the military service and who shall not have taken his oath of allegiance prior to thirty days preceding a general or special election, or the spouse, parent or child residing in the same election district as, and accompanying such voter, may register before the board of elections of his county of residence, on or before the tenth day preceding such election, provided he shall, on or before the day of such election, actually be in the military service. Such voter shall then receive a military ballot. Such registration record shall be stamped with the legend ''military voter''.

11. A board of elections may send to any spouse, parent, or adult child, brother or sister of a military voter serving inside or outside of the continental limits of the United States, an application for a military ballot, in a form prescribed by the state board of elections. Such application shall be on a postcard addressed to the appropriate board of elections and shall include the statement ''I understand that this application will be accepted for all purposes as the equivalent of an affidavit and, if it contains a material false statement, shall subject me to the same penalties as if I had been duly sworn''. Such application may be signed by the spouse, parent or adult child, brother or sister of such military voter. Upon receipt of such an application from such a relative of a military voter, the board of elections shall mail a military ballot to such military voter together with an application for a military ballot and instructions that such application must be completed and returned together with the envelope containing the military bal-

lot. No ballot sent to a military voter upon the application of a relative of such military voter shall be cast or canvassed unless a completed application for military ballot signed by such military voter is returned within the time limits for the receipt of the military ballot itself.

12. If the board of elections receives notice from a military voter that such voter has left the military service and is residing at his residence address, such board shall cross out or otherwise obliterate the ''Military Voter'' legend on such voter's registration records and thereafter treat such records in the manner provided by this chapter for regularly registered voters.

(L.1976, c. 233, § 1. Amended L.1976, c. 234, § 55; L.1978, c. 9, § 87; L.1978, c. 373, § 88; L.1984, c. 254, § 1; L.1984, c. 434, § 11; L.1985, c. 451, §§ 2, 3; L.1986, c. 66, § 1; L.1991, c. 90, § 23; L.1991, c. 290, §§ 3, 3–a, 4; L.1991, c. 348, § 1; L.1992, c. 91, § 8; L.2003, c. 262, §§ 2, 3, eff. Dec. 15, 2003; L.2009, c. 165, § 3, eff. July 11, 2009; L.2010, c. 104, § 7, eff. June 2, 2010.)

[1] 52 USCA 20301 et seq.

§ 10–107. Military voters; designation of means of transmission by military voters

1. A military voter may designate a preference to receive a voter registration application, a military ballot application or a military ballot by mail, facsimile transmission or electronic mail. Such designation shall remain in effect until revoked or changed by the military voter. If a military voter does not designate a preference, the board of elections shall transmit the voter registration application, military ballot application or military ballot by mail. If a military voter designates a preference for facsimile transmission or electronic mail but does not provide the necessary facsimile number or e-mail address, the board of elections shall transmit the voter registration application, military ballot application or military ballot by mail and request the omitted information. All communications to the military voter shall include the mailing address of the board of elections.

2. Irrespective of the preferred method of transmission designated by a military voter, a military voter's original completed voter registration application, military ballot application

and military ballot must be returned by mail or in person notwithstanding that a prior copy was sent to the board of elections by facsimile transmission or electronic mail.

(Added L.2010, c. 104, § 8, eff. June 2, 2010.)

§ 10–108. Military voters; distribution of ballots to

1. (a) Ballots for military voters shall be mailed or otherwise distributed by the board of elections, in accordance with the preferred method of transmission designated by the voter pursuant to section 10–107 of this article, as soon as practicable but in any event not later than forty-six days before a primary or general election a New York city community school board district or city of Buffalo school district election; fourteen days before a village election conducted by the board of elections; and forty-five days before a special election. A voter who submits a military ballot application shall be entitled to a military ballot thereafter for each subsequent election through and including the next two regularly scheduled general elections held in even numbered years, including any run-offs which may occur; provided, however, such application shall not be valid for any election held within seven days after its receipt. Ballots shall also be mailed to any qualified military voter who is already registered and who requests such military ballot from such board of elections in a letter, which is signed by the voter and received by the board of elections not later than the seventh day before the election for which the ballot is requested and which states the address where the voter is registered and the address to which the ballot is to be mailed. The board of elections shall enclose with such ballot a form of application for military ballot. In the case of a primary election, the board shall deliver only the ballot of the party with which the military voter is enrolled according to the military voter's registration records. In the event a primary election is uncontested in the military voter's election district for all offices or positions except the party position of member of the ward, town, city or county committee, no ballot shall be delivered to such military voter for such election; and the military voter shall be advised of the reason why he or she will not receive a ballot.

(b) Upon the proclamation of a special election by the governor or otherwise pursuant to law, each board of elections shall, not later than three days after the establishment of the date of such special election, transmit by mail, facsimile transmission or electronic mail in accordance with the preferred method of transmission designated by the voter pursuant to section 10–107 of this article, a federal write-in absentee ballot to all military voters eligible to vote by military ballot in such special election.

(c) Each board of elections which is served with a court order restraining or enjoining the issuance of ballots in any election, other than a special election, in which any military voter is entitled to receive a ballot shall immediately notify the state board of elections of such fact and shall transmit in accordance with the preferred method of transmission designated by the voter, a federal write-in absentee ballot to all military voters eligible to vote in such election.

(d) A military voter who has received a federal write-in absentee ballot shall be entitled to receive a certified ballot notwithstanding the prior transmission of a federal write-in absentee ballot to such voter pursuant to paragraph (b) or (c) of this subdivision. Such certified military ballot shall be sent by the board of elections in accordance with the preferred method of transmission designated by the voter pursuant to section 10–107 of this article, or expedited mail if the military voter has not expressed a preference to receive same by facsimile transmission or electronic mail, and his or her request for a military ballot was made at least thirty-two days before the election.

2. In the event that the board of elections of any county shall not mail or otherwise distribute ballots to the military voters of such county by the date required by this section, such board shall notify the state board of elections in writing of the facts and reasons for such non-compliance.

3. Thereafter, ballots shall be so distributed to persons whose names and military addresses are added to the registration poll ledgers as military voters, except that the military ballots may be delivered by hand to military voters who personally file an application with the board of elections of their county of residence. The military ballot shall be delivered to

such military voter together with a ballot envelope and a second envelope addressed to the appropriate board of elections on which is printed ''Official Election Balloting Material–Via Air Mail''.

(L.1976, c. 233, § 1. Amended L.1976, c. 234, § 56; L.1978, c. 9, § 88; L.1980, c. 446, § 3; L.1980, c. 447, § 3; L.1984, c. 434, § 12; L.1986, c. 373, § 3; L.1988, c. 216, § 6; L.1989, c. 359, § 25; L.1991, c. 290, § 5; L.2003, c. 262, § 4, eff. Dec. 15, 2003; L.2010, c. 104, § 9, eff. June 2, 2010; L.2011, c. 4, § 5, eff. March 9, 2011; L.2011, c. 147, § 8, eff. July 18, 2011, deemed eff. July 1, 2011; L.2013, c. 99, § 7, eff. July 8, 2013; L.2015, c. 87, § 9, eff. Dec. 15, 2015; L.2019, c. 5, § 18, eff. Jan. 24, 2019.)

§ 10–109. Military voters; cancellation of registration

1. Voters registered pursuant to this article shall be eligible to vote in every election in which military voters are eligible to vote which is held more than ten days after the date of the receipt of their applications for such registration.

2. If any ballot, application form or other mail sent to a military voter at his military address by the board of elections is returned by the post office as undeliverable, the board of elections shall ascertain whether the military voter is residing at the address given on his registration records as his permanent address. If he is residing at such address, the board shall not send him any further military ballots unless he applies for them in the regular way, giving a new military address. If such military voter is not residing at such permanent address, the board of elections shall send a confirmation notice to such military voter at his last military address pursuant to the provisions of section 5–712 of this chapter and shall place the registration of such voter in inactive status. However, if such a voter notifies the board of elections that he has moved to a new military address, the board shall restore the registration of such voter to active status in the manner prescribed by section 5–213 of this chapter.

3. The board of elections shall process and preserve the records of such registrations, including the original applications for such registrations, in the same manner and for the same period of time as the records of other voters registered under permanent personal registration.

4. A military voter whose registration is cancelled pursuant to the provisions of section 5–400 of this chapter shall be eligible to reregister in the manner provided by this article.

5. Upon cancelling the registration of a military voter pursuant to the provisions of section 5–400 of this chapter, the board of elections shall forthwith notify such voter at his last military address and at his permanent residence address of the fact of the cancellation, the reason therefor, and of his right to reregister pursuant to this article.

6. Redesignated 5.

(Added L.1978, c. 373, § 89. Amended L.1984, c. 174, § 1; L.1985, c. 168, § 1; L.1985, c. 451, § 4; L.1989, c. 359, § 26; L.1991, c. 263, § 9; L.1991, c. 290, § 6; L.1992, c. 91, § 9; L.1996, c. 200, § 23, eff. June 25, 1996.)

§ 10–110. Repealed by L.1978, c. 9, § 89, eff. Mar. 7, 1978

§ 10–112. Military voter; voting

The military voter shall mark the military ballot provided for in this article in the same manner as an absentee ballot. After marking the ballot, he or she shall fold such ballot and enclose it in the inner affirmation envelope bearing the military voter's affirmation on the outside of the envelope and seal the envelope. He or she shall then sign the affirmation, with the blanks properly filled in. The inner affirmation envelope containing the military ballot shall then be inserted in the outer envelope addressed to the appropriate board of elections, which shall be mailed or personally delivered to such board of elections of his or her county of residence within the time limits provided by this chapter.

(L.1976, c. 233, § 1. Amended L.1978, c. 8, § 25; L.1982, c. 514, § 2; L.1991, c. 290, § 7; L.1994, c. 155, § 4, eff. Sept. 1, 1994; L.2010, c. 104, § 10, eff. June 2, 2010.)

§ 10–114. Military ballots; deadline for receipt, and delivery to polling place

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

1. [Eff. until Dec. 31, 2020, pursuant to L.2020, c. 91, § 7. See, also, subd. 1 below.] The board of elections shall cause all military ballots received by it before the close of the polls on election day and all ballots contained in envelopes showing a cancellation mark of the United States postal service or a foreign country's postal service, or showing a dated endorsement of receipt by another agency of the United States government or are signed and dated by the voter and one witness thereto, with a date which is ascertained to be not later than the day *of the* election and received by such board of elections not later than seven days following the day of a primary election and not later than thirteen days following the day of a general or special election to be cast and counted.

1. [Eff. Dec. 31, 2020, pursuant to L.2020, c. 91, § 7. See, also, subd. 1 above.] The board of elections shall cause all military ballots received by it before the close of the polls on election day and all ballots contained in envelopes showing a cancellation mark of the United States postal service or a foreign country's postal service, or showing a dated endorsement of receipt by another agency of the United States government or are signed and dated by the voter and one witness thereto, with a date which is ascertained to be not later than the day before election and received by such board of elections not later than seven days following the day of a primary election and not later than thirteen days following the day of a general or special election to be cast and counted.

2. The board of elections shall thereafter process such ballots in the manner provided in this chapter for processing absentee ballots.

(L.1976, c. 233, § 1. Amended L.1978, c. 8, § 26; L.1982, c. 514, § 3; L.1987, c. 94, § 2; L.1988, c. 208, § 1; L.1991, c. 290, § 8; L.1994, c. 155, § 5; L.2001, c. 381, § 2, eff. Oct. 29, 2001; L.2003, c. 256, § 1, eff. July 29, 2003; L.2005, c. 237, § 1, eff. July 19, 2005; L.2009, c. 165, § 4, eff. July 11, 2009; L.2013, c. 99, § 8, eff. July 8, 2013; L.2020, c. 91, § 4, eff. June 7, 2020.)

§ 10–116. Military ballots; determination of candidates thereon

The state board of elections and the county boards of elections shall determine, three days before the first day for distribution of military ballots, the names of all candidates duly

nominated for public office and the amendments, referenda, propositions and questions to be voted for on such ballots. If at a later date the nomination of any candidate named on a military ballot is found invalid, the ballot shall still be valid, but no vote cast for any such candidate on such ballot shall be counted at the election. The failure of the county board of elections to include the name of any candidate or any amendment, referendum, proposition or question on the military ballot shall in no way affect the validity of the election with respect to the office for which the nomination was made or the validity of the military ballot as to any other matter.

(L.1976, c. 233, § 1. Amended L.1991, c. 290, § 9, eff. July 15, 1991.)

§ 10–118. Military voting; costs of

The cost of printing, mailing, return postage, and all other costs and expenses incurred in connection with the administration of this article (other than those of the state board of elections), shall be a county charge, and in the city of New York, shall be a city charge, and shall be appropriated and paid in the same manner as all other election costs.

(L.1976, c. 233, § 1. Amended L.1991, c. 290, § 9, eff. July 15, 1991.)

§ 10–120. Repealed by L.1978, c. 9, § 89, eff. Mar. 7, 1978

§ 10–122. Military voter; absentee ballot, right to

Any military voter may vote by absentee ballot rather than military ballot provided that he complies with the provisions of this chapter relating thereto.

(L.1976, c. 233, § 1.)

§ 10–124. Military voting; state board of elections; regulatory powers

1. The state board of elections is hereby authorized to take such steps and do such things as, in its opinion, are necessary to make effective the provisions of any other legislation, in order to utilize fully any federal or other facilities in the distribution of military ballots. The state board of elections shall have power to adopt and promulgate orders or regulations adopting, with respect to the military voters of this state, the provisions of that legislation.

2. The state board of elections shall be responsible for providing information regarding voter registration procedures and absentee ballot procedures applicable to military and special federal voters wishing to register or vote in any jurisdiction of the state.

(L.1976, c. 233, § 1. Amended L.1978, c. 373, § 90; L.1991, c. 290, § 10, eff. July 15, 1991; L.2003, c. 262, § 5, eff. Dec. 15, 2003.)

§ 10–125. Military voters; prohibiting refusal to accept voter registration and military ballot applications, marked military ballots, and federal write-in absentee ballots for failure to meet certain requirements

1. A board of elections shall not refuse to accept and process any otherwise valid voter registration application or military ballot application (including the official post card form prescribed under section 101 of the Uniformed and Overseas Citizens Absentee Voting Act (42 USC 1973ff)) or marked military ballot submitted by mail or personally delivered, solely on the basis of the following:

(a) Notarization requirements;

(b) Restrictions on paper type, including weight and size; or

(c) Restrictions on envelope type, including weight and size.

2. A board of elections shall not refuse to accept and process any otherwise valid federal write-in absentee ballot submitted in any manner by a military voter solely on the basis of the following:

(a) Notarization requirements;

(b) Restrictions on paper type, including weight and size; or

(c) Restrictions on envelope type, including weight and size.

3. The state board of elections, in coordination with county boards of elections, shall develop a free access system by which a military voter may determine whether the military ballot of the military voter has been received by the appropriate board of elections.

(Added L.2010, c. 104, § 11, eff. June 2, 2010.)

§ 10–126. Military voting; applicability of general provisions

The general provisions of this chapter shall apply to this article, except as they are inconsistent herewith. The provisions of this article shall be liberally construed for the purpose of providing military voters the opportunity to vote. The state board of elections shall have power to adopt and promulgate regulations to effectuate the provisions of this article.

(L.1976, c. 233, § 1. Amended L.1991, c. 290, § 10, eff. July 15, 1991.)

ARTICLE 11—SPECIAL PRESIDENTIAL AND SPECIAL FEDERAL VOTERS AND SPECIAL BALLOTS

Title		Section
I.	**Special Presidential Voters**	**11–100**
II.	**Special Federal Voters**	**11–200**
III.	**Special Ballots**	**11–300**

TITLE I—SPECIAL PRESIDENTIAL VOTERS

Section
11–100. Repealed.
11–102. Special presidential voters; change of residence; special qualifications.
11–104. Registration and application for special presidential ballot.
11–106. Processing of applications by board of elections.
11–108. Special presidential voters lists.
11–110. Special presidential ballots; deadline for receipt.
11–112. Application of other provisions.

§ 11–100. Repealed by L.1976, c. 234, § 57, eff. Dec. 1, 1977

§ 11–102. Special presidential voters; change of residence; special qualifications

Any person who shall change his residence from this state to another state or from one county or city of this state to another such county or city, after the thirtieth day next preceding any presidential election shall be entitled to vote for president and vice president of the United States in such election, provided, however, that such person may not vote for any candidate for any other office or any question to be voted for at such election, and provided further that

a. Such person was duly qualified and registered to vote in this state immediately prior to such change of residence;

b. Such person is neither qualified nor able to qualify to vote for such electors either in the state, or in the county or city of this state, or at the residence within the county or city of this state to which such person has removed; and

c. Such person has applied for a special ballot for president and vice president, as provided by this article.

(L.1976, c. 233, § 1. Amended L.1976, c. 234, § 58; L.1988, c. 175, § 5; L.1989, c. 99, § 4; L.1996, c. 200, § 24, eff. June 25, 1996.)

§ 11–104. Registration and application for special presidential ballot

1. a. A person who, pursuant to the provisions of this title, is qualified to vote for president and vice president of the United States may apply to the board of elections of his county of residence next preceding the place of his current residence for a special ballot for president and vice president. Such applications must be mailed to such board of elections not later than the seventh day before the election or delivered to such board not later than the day of such election.

b. Insofar as the provisions of this chapter providing for voting in person or by absentee ballot do not conflict with any provision of this section, such provisions apply to a person authorized to vote under this article. In the case of any such conflict, the provision of this section shall prevail and such other provision of this chapter shall not apply.

2. a. A form of application for a special ballot under this section shall be furnished by the board of elections to the applicant who shall request such form within the time prescribed therefor. In addition, application forms shall be supplied to the applicant's spouse, parent or child, a person residing with the applicant as a member of his household, or the applicant's duly authorized agent.

b. The board of elections shall mail a special presidential ballot to every qualified voter otherwise eligible for such a ballot, who requests such a special presidential ballot from such board of elections in a letter, which is signed by the voter and received by the board of elections not earlier than the thirtieth day nor later than the seventh day before the election and which states the address where the voter is registered and the address to which the voter has moved and the date of such move. The board of elections shall enclose with such ballot a form of application for special presidential ballot.

c. The application shall be made and signed by the applicant at the places thereon provided for such purpose and he shall set forth therein all of the facts required to establish his qualifications to register and vote under this article.

d. The form for use under subdivision one of this section shall be of a distinctive color and in the form prescribed by the state board of elections.

(L.1976, c. 233, § 1. Amended L.1976, c. 234, § 59; L.1978, c. 9, § 90; L.1988, c. 175, § 6; L.1989, c. 99, §§ 5, 6, eff. Dec. 1, 1989.)

§ 11–106. Processing of applications by board of elections

1. The application forms shall be in a form prescribed by the state board of elections.

2. Upon receipt of the application, the board of elections shall determine upon such inquiry as it deems proper whether the applicant has answered all the questions contained in the application and whether the applicant is legally qualified to receive and vote a special presidential ballot, and, if it finds he is not so qualified, shall reject the application and shall notify the applicant of such rejection and give the reason or reasons therefor. All investigations by the board of elections shall be concluded and all determinations made not later than the sixth day before election.

3. If the board of elections shall determine that the applicant making the application provided for in this section is qualified to receive and vote a special presidential ballot, it shall, as soon as practicable after it shall have so determined, mail to him at the residence address shown in his application, or deliver to him, or to any person designated by him in writing for such purpose, at the office of the board, such a special presidential ballot and an envelope therefor.

4. The board of elections shall keep a register of the persons who have made and signed applications for special presidential ballots and of the applicants who have been determined to be qualified. The board shall keep open to public inspection such register of applicants with their names, addresses and application dates and shall give to the chairman of each political party in the county a complete list of applicants for special presidential ballots, containing their names and places of residence, including the election district and ward, if any, and, in the city of New York and the county of Nassau, the assembly district.

5. The board of elections shall file each original application filed with it and shall maintain an alphabetical index thereof for a period of three years after the election.

(L.1976, c. 233, § 1. Amended L.1976, c. 234, § 60; L.1989, c. 99, § 7, eff. Dec. 1, 1989; L.2010, c. 104, § 12, eff. June 2, 2010.)

§ 11–108. Special presidential voters lists

Prior to each general election at which presidential electors are to be elected, each board of elections shall prepare for each election district within its jurisdiction a list containing the names, alphabetically arranged, and the addresses of all persons whom the board of elections has determined to be qualified as special presidential voters in such election district, which list shall contain a column headed ''remarks''. Such list shall be designated ''List of Special Presidential Voters'' and shall include a photostatic copy or duplicate of the signature of each person on such list. In those counties in which special presidential ballots are delivered to the boards of inspectors to be counted, such lists of special presidential voters shall be delivered to such boards of inspectors with the election supplies.

(L.1976, c. 233, § 1. Amended L.1989, c. 99, § 8, eff. Dec. 1, 1989.)

§ 11–110. Special presidential ballots; deadline for receipt

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

1. [Eff. until Dec. 31, 2020, pursuant to L.2020, c. 91, § 7. See, also, subd. 1 below.] To be counted, any ballot cast under the provisions of this article must be received by the appropriate board of elections not later than the close of the polls on election day except that all ballots contained in envelopes showing a cancellation mark of the United States postal service, or a foreign country's postal service with a date which is ascertained to be not later than the day *of the* election, shall be cast and counted if received by the board of elections not later than seven days following the day of election.

1. [Eff. Dec. 31, 2020, pursuant to L.2020, c. 91, § 7. See, also, subd. 1 above.] To be counted, any ballot cast under the provisions of this article must be received by the appropriate board of elections not later than the close of the polls on election day except that all ballots contained in envelopes showing a cancellation mark of the United States postal service, or a foreign country's postal service with a date which is ascertained to be not later than the day before election, shall be cast and counted if received by the board of elections not later than seven days following the day of election.

2. Special presidential ballots received by the board of elections before the close of the polls on election day may be delivered to the inspectors of election in the manner prescribed by this chapter for absentee ballots or retained by the board of elections and cast and canvassed pursuant to the provisions of section 9–209 of this chapter as such board shall, in its discretion, determine by resolution adopted at least thirty days before election day. All ballots received by the board of elections between election day and the seventh day after election day shall be retained at the board and shall be cast and canvassed in the same manner as other ballots retained by such board.

(L.1976, c. 233, § 1. Amended L.1978, c. 8, § 29; L.1982, c. 514, § 4; L.1984, c. 251, § 5; L.1989, c. 99, § 9, eff. Dec. 1, 1989; L.2020, c. 91, § 5, eff. June 7, 2020.)

§ 11–112. Application of other provisions

1. Except as otherwise provided in this title, special presidential ballots shall be furnished, mailed, voted, returned, counted, canvassed and preserved as elsewhere provided in this chapter for absentee voters' ballots.

2. All the provisions of this chapter relating to crimes against the elective franchise shall be deemed to apply with respect to and in connection with the operation of this title.

3. The general provisions of this chapter shall apply with respect to this title except as they are inconsistent with this title, and the provisions of this title shall be construed liberally for the purposes herein expressed or intended.

(L.1976, c. 233, § 1. Amended L.1978, c. 8, § 30, eff. Mar. 7, 1978.)

TITLE II—SPECIAL FEDERAL VOTERS

Section

11–200. Special federal voters; qualifications.
11–202. Registration and enrollment of special federal voters and application for special federal ballot.
11–203. Special federal voters; designation of means of transmission by special federal voters.
11–204. Processing of applications by board of elections.
11–206. Special federal voters; preparation of registration poll records and central file registration records.
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11–212. Special federal ballots; deadline for receipt.
11–214. Use of airmail.
11–216. Forwarding of applications and ballots.
11–218. Application of other provisions.
11–219. Special federal voters; prohibiting refusal to accept voter registration and special federal ballot applications, marked special federal ballots, and federal write-in absentee ballots for failure to meet certain requirements.
11–220. Federal voting; applicability of general provisions.

§ 11–200. Special federal voters; qualifications

1. Every citizen of the United States now residing outside the United States whose last domicile in the United States immediately prior to his departure from the United States was in the state of New York, shall be entitled to vote from such last domicile, as a special federal voter in all primary, special and general elections for the public offices or party positions of president and vice-president of the United States, United States senator, representative in congress and delegates and alternate delegates to a national convention, provided such citizen, at the time of such departure from the United States, could have met all the present qualifications of this chapter to vote in federal elections from such last domicile, except the qualification with respect to minimum voting age, even though such citizen does not now maintain a place of abode or domicile in the state of New York, and provided further that such citizen does not maintain a place of abode or domicile, is not registered to vote and is not voting in any other election district, state, territory or possession of the United States and provided further that such citizen has a valid passport or card of identity and registration issued under the authority of the secretary of state of the United States.

1–a. Every citizen of the United States of voting age, residing outside of the United States, who has never resided within the United States, and who has one parent who qualifies as a special federal voter under subdivision one of this section, may register and vote as a special federal voter, from the qualifying parent's New York address, provided that person is otherwise qualified and eligible to vote.

2. Every person registered pursuant to this title shall continue to be eligible to vote in all elections in which special federal voters are eligible to vote except that in order to vote at a primary election of a party, a voter registered pursuant to this title must have been so registered and enrolled in such party before the previous general election; or, if such voter was not registered in New York state for the previous general election, such voter must so register and enroll in such party not later than twenty-five days before such primary; or, if such voter was registered in New York state for the last general election, such voter must have had the same party enrollment with such registration as such voter sets forth on his application for registration and enrollment as a special federal voter.

3. A special federal voter who moves from one address outside the United States to another address outside the United States shall not have to reregister unless his registration is cancelled pursuant to the provisions of section 5–400 of this chapter.

(Added L.1978, c. 8, § 33. Amended L.1978, c. 9, § 91; L.1986, c. 136, § 1; L.1988, c. 175, § 7; L.1989, c. 99, § 10; L.1992, c. 473, § 2; L.1996, c. 200, § 25; L.1998, c. 403, § 1, eff. July 22, 1998.)

§ 11–202. Registration and enrollment of special federal voters and application for special federal ballot

1. a. A person, who, pursuant to this title, is qualified to vote as a special federal voter may, by application received by the state board of elections or any local board of elections on or before the twenty-fifth day next preceding any election in which such person would be entitled to vote or the last day of local registration for such election, whichever is later, apply to the board of elections of the county in which he resided in person or by personal application by mail for registration and enrollment as a special federal voter. An application for

registration and enrollment pursuant to this article shall be treated as an application for a special federal ballot for every election in which the applicant would be eligible to vote which is held through and including the next two regularly scheduled general elections held in even numbered years, including any run-offs which may occur.

b. A person who, pursuant to the provisions of this title, is already registered as a special federal voter, may, by application received by the state board of elections or any local board of elections, apply to the board of elections of the county in which he is so registered in person or by mail for a special federal ballot. Such an application shall entitle such a voter to receive a ballot for every election in which such voter is entitled to vote which is held through and including the next two regularly scheduled general elections held in even numbered years, including any run-offs which may occur, provided, however, such application shall not apply to any election held on or before the seventh day after receipt of such application.

c. Insofar as the provisions of this chapter providing for permanent personal registration and enrollment, and enrollment by mail or special enrollment, and voting in person or by absentee ballot do not conflict with any provision of this title, such provisions shall apply to a person authorized to register and vote under this title; in the case of any such conflict, the provision of this title shall prevail and such other provision of this chapter shall not apply. For the purposes of this title, any person eligible pursuant to the provisions of this chapter to vote by absentee ballot shall be eligible for absentee registration and enrollment.

d. In addition to any other method of registering to vote or of applying for a special federal ballot, a special federal voter may request a voter registration application or request a special federal ballot application by facsimile transmission to the board of elections or pursuant to the Uniformed and Overseas Citizens Absentee Voting Act [1] or by electronic mail. When making such a request, the special federal voter may designate a preference for transmission of such voter registration application and special federal ballot application pursuant to section 11–203 of this title.

e. The special federal ballot application shall allow the special federal voter to designate a preference to receive the special federal ballot pursuant to section 11–203 of this title.

f. The procedures for receiving documents from and transmitting documents to a special federal voter shall, to the extent practicable, protect the security and integrity of the special federal voter registration and special federal ballot application request process and protect the privacy of the special federal voter, including the voter's identity and other personal data. Nothing in this paragraph shall limit the information that may be obtained pursuant to section 3–220 of this chapter.

2. a. A form of application for registration and enrollment as a special federal voter and for a special federal ballot or a form of application for a special federal ballot by persons registered pursuant to this title shall be furnished by the board of elections to the applicant who shall request such form within the time limited therefor. The application shall be made and signed by the applicant at the places thereon provided for such purpose and such applicant shall set forth therein all of the facts required to establish his qualifications to register and vote under this title.

b. The forms for use under this section shall be of a distinctive color and substantially in the form prescribed by the state board of elections and shall elicit all the information which may be necessary to determine eligibility to register and vote pursuant to the provisions of this title.

(Added L.1978, c. 8, § 33. Amended L.1978, c. 9, § 92; L.1986, c. 373, § 4; L.1991, c. 90, § 24; L.1991, c. 290, §§ 11, 11–a; L.2003, c. 262, § 6, eff. Dec. 15, 2003; L.2009, c. 165, § 5, eff. July 11, 2009; L.2010, c. 104, § 13, eff. June 2, 2010.)

[1] 52 USCA 20301 et seq.

§ 11–203. Special federal voters; designation of means of transmission by special federal voters

1. A special federal voter may designate a preference to receive a voter registration application, a special federal ballot application or a special federal ballot by mail, facsimile transmission or electronic mail. Such designation shall remain in effect until revoked or changed by the special federal voter. If a special federal voter does not designate a preference, the

board of elections shall transmit the voter registration application, special federal ballot application or special federal ballot by mail. If a special federal voter designates a preference for facsimile transmission or electronic mail but does not provide the necessary facsimile number or e-mail address, the board of elections shall transmit the voter registration application, special federal ballot application or special federal ballot by mail and request the omitted information. All communications to the special federal voter shall include the mailing address of the board of elections.

2. Irrespective of the preferred method of transmission designated by a special federal voter, a special federal voter's original completed voter registration application, special federal ballot application and special federal ballot must be returned by mail or in person notwithstanding that a prior copy was sent to the board of elections by facsimile transmission or electronic mail.

(Added L.2010, c. 104, § 14, eff. June 2, 2010.)

§ 11–204. Processing of applications by board of elections

1. The registration application forms shall be in a form prescribed by the state board of elections.

2. Upon receipt of an application, the board of elections shall determine upon such inquiry as it deems proper whether the applicant has answered all the questions contained in the application and whether the applicant is legally qualified to receive and vote a special federal ballot. If it finds he is not so qualified, the board shall reject the application and shall notify the applicant of such rejection and give the reason or reasons therefor in accordance with the preferred method of transmission designated by the voter pursuant to section 11–203 of this title. All investigations by the board of elections shall be concluded and all determinations made not later than the twentieth day before election.

3. If a federal post card application form is received from a person who is qualified to vote as a special federal voter but who has not previously registered pursuant to the provisions of this title, such federal post card application form shall be treated in all respects as an application for registration and

enrollment and a special federal ballot pursuant to the provisions of this title. If such a federal post card application form is received from a person already registered as a special federal voter pursuant to the provisions of this title, such application shall be treated in all respects as an application for a special federal ballot pursuant to the provisions of this title.

4. If the board of elections shall determine that the applicant making the application provided for in this section is qualified to receive and vote a special federal ballot, it shall, as soon as practicable after it shall have so determined, or not later than forty-six days before each general or primary election or special election in which such applicant is qualified to vote, or three days after receipt of such an application, whichever is later, mail to him or her at the residence address outside the United States shown in his or her application, a special federal ballot, an inner affirmation envelope and an outer envelope, or otherwise distribute same to the voter in accordance with the preferred method of transmission designated by the voter pursuant to section 11–203 of this title. The board of elections shall also mail, or otherwise distribute in accordance with the preferred method of transmission designated by the voter pursuant to section 11–203 of this title, a special federal ballot to every qualified special federal voter who is already registered and who requests such special federal ballot from such board of elections in a letter, which is signed by the voter and received by the board of elections not later than the seventh day before the election for which the ballot is first requested and which states the address where the voter is registered and the address to which the ballot is to be mailed. The board of elections shall enclose with such ballot a form of application for a special federal ballot.

5. The board of elections shall keep a list of the persons who have made and signed applications for special federal ballots and of the applicants who have been determined to be qualified. The board shall keep open to public inspection such list of applicants with their names, addresses, party enrollments, and application dates and shall give to the chairman of each political party in the county fifteen days before each election, a complete list of special federal voters eligible to vote in such election. Such list shall contain the names, party enrollments for a primary election and places of previous

residence including the election district and ward, if any, and, in the city of New York and the county of Nassau, the assembly district of all such voters.

(Added L.1978, c. 8, § 33. Amended L.1981, c. 163, § 2; L.1984, c. 434, § 13; L.1988, c. 216, § 7; L.1989, c. 99, § 11; L.2003, c. 262, § 7, eff. Dec. 15, 2003; L.2010, c. 104, § 15, eff. June 2, 2010; L.2011, c. 4, § 6, eff. March 9, 2011; L.2011, c. 147, § 9, eff. July 18, 2011, deemed eff. July 1, 2011; L.2015, c. 87, § 10, eff. Dec. 15, 2015; L.2019, c. 5, § 19, eff. Jan. 24, 2019.)

§ 11–206. Special federal voters; preparation of registration poll records and central file registration records

1. The board of elections shall prepare a registration poll record and a central file registration record for each voter registered pursuant to this title or shall enter the name of each such voter into the computer files from which the computer generated registration list is prepared. Each such registration record shall be endorsed on both the front and rear with the endorsement ''special federal voter''. The records of special federal voters in such computer files shall be coded in a manner which distinguishes such voters from the other voters in such files.

2. *Repealed by L.1981, c. 163, § 3, eff. May 29, 1981.*

3. The central file registration records of special federal voters shall be maintained in a separate file at the appropriate office of the board of elections.

4. The registration poll records of special federal voters shall be filed, in alphabetical order, by election district. At each election at which special federal voters are eligible to vote, the registration poll records of all special federal voters shall be delivered to such inspectors of election together with the other registration poll records or the names of such voters shall be included in the computer generated registration list. Such records shall be delivered either in a separate poll ledger or a separate, clearly marked section, of the main poll ledger or be clearly marked in the computer generated registration list as the board of elections shall determine.

(Added L.1978, c. 8, § 33. Amended L.1978, c. 9, § 93; L.1981, c. 163, § 3; L.1992, c. 91, § 10, eff. May 17, 1992; L.2019, c. 55, pt. XX, § 14, eff. April 12, 2019.)

§ 11–208. Special federal voters; cancellation of registration

1. Voters registered pursuant to this title shall be eligible to vote in every election in which special federal voters are eligible to vote which is held on or after the thirtieth day after receipt of their applications for such registration.

2. If any ballot, application form or other mail sent to a special federal voter at his address outside the United States by such board is returned by the post office as undeliverable, the board of elections shall send a confirmation notice to such special federal voter at such address pursuant to the provisions of section 5–712 of this chapter and shall place the registration of such voter in inactive status. If the board of elections subsequently receives notice of a new address outside the United States for such voter, or notice that the voter is still at the same address outside the United States, the board shall restore the registration of such voter to active status in the manner prescribed by section 5–213 of this chapter.

3. The board of elections shall process and preserve the records of such registrations, including the original applications for such registrations, in the same manner and for the same period of time as the records of other voters registered under permanent personal registration.

4. A special federal voter whose registration is cancelled pursuant to the provisions of section 5–400 of this chapter shall be eligible to reregister in the manner provided by this title.

5. Upon cancelling the registration of a special federal voter pursuant to the provisions of section 5–400 of this chapter, the board of elections shall forthwith notify such voter at his last address outside the United States of the fact of the cancellation, the reason therefor, and of his right to reregister pursuant to this title.

6. Redesignated 5.

(Added L.1978, c. 8, § 33. Amended L.1978, c. 9, § 94; L.1978, c. 373, § 91; L.1985, c. 168, § 2; L.1991, c. 263, § 10; L.1992, c. 91, § 11; L.1996, c. 200, § 26, eff. June 25, 1996.)

§ 11–210. Special federal voters; distribution of applications for ballots

1. Not earlier than sixty or later than forty days before each general or primary election in which special federal voters are eligible to vote, the board of elections shall mail to each voter who is eligible to vote in such election and who was registered pursuant to this title for the previous election at which such voters were eligible to vote, the application for a special federal ballot provided for by this title; provided, however, the board of elections shall not send such an application to any person who has applied for a ballot and who is entitled to receive a ballot for such election.

2. If a special election for representative in congress is called by proclamation of the governor, such an application shall be mailed to each voter registered pursuant to this title, who is eligible to vote in such special election, not later than three days after the issuance of the proclamation for such special election; provided, however, the board of elections shall not send such an application to any person who has applied for a ballot and who is entitled to receive a ballot for such election.

(Added L.1978, c. 8, § 33. Amended L.2003, c. 262, § 8, eff. Dec. 15, 2003.)

§ 11–212. Special federal ballots; deadline for receipt

[Section effective until Dec. 31, 2020, pursuant to L.2020, c. 91, § 7. See, also, § 11–212 effective Dec. 31, 2020, below.]

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

All special federal ballots received by the board of elections before the close of the polls on election day shall be retained by the board of elections and cast and canvassed pursuant to section 9–209 of this chapter. All ballots contained in envelopes showing a cancellation mark of the United States postal service or a foreign country's postal service, or showing a dated endorsement of receipt by another agency of the United States government, with a date which is ascertained to be not later than the day *of the* election, shall be cast and counted if received by the board of elections not later than seven days

following the day of a primary election or thirteen days following the day of a general or special election. All ballots received by the board of elections and all federal write-in ballots received from special federal voters not later than seven days following the day of a primary election or thirteen days following the day of a general or special election, shall be retained at the board and shall be cast and canvassed in the same manner as other ballots retained by such board.

(Added L.1978, c. 8, § 33. Amended L.1981, c. 163, § 3; L.1982, c. 514, § 5; L.1984, c. 251, § 6; L.1985, c. 168, § 3; L.1987, c. 94, § 3; L.1988, c. 216, § 8; L.1994, c. 155, § 6, eff. Sept. 1, 1994; L.2009, c. 165, § 6, eff. July 11, 2009; L.2010, c. 163, § 9, eff. July 7, 2010; L.2020, c. 91, § 6, eff. June 7, 2020.)

§ 11–212. Special federal ballots; deadline for receipt

[Section effective Dec. 31, 2020, pursuant to L.2020, c. 91, § 7. See, also, § 11–212 effective until Dec. 31, 2020, above.]

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

All special federal ballots received by the board of elections before the close of the polls on election day shall be retained by the board of elections and cast and canvassed pursuant to section 9–209 of this chapter. All ballots contained in envelopes showing a cancellation mark of the United States postal service or a foreign country's postal service, or showing a dated endorsement of receipt by another agency of the United States government, with a date which is ascertained to be not later than the day before election, shall be cast and counted if received by the board of elections not later than seven days following the day of a primary election or thirteen days following the day of a general or special election except that the special federal ballot of a voter who requested such ballot by letter, rather than application, shall not be counted unless a valid application form, signed by such voter, is received by the board of elections with such ballot. All ballots received by the board of elections and all federal write-in ballots received from special federal voters not later than seven days following the day of a primary election or thirteen days following the day of a general or special election, shall be retained at the board and

shall be cast and canvassed in the same manner as other ballots retained by such board.

(Added L.1978, c. 8, § 33. Amended L.1981, c. 163, § 3; L.1982, c. 514, § 5; L.1984, c. 251, § 6; L.1985, c. 168, § 3; L.1987, c. 94, § 3; L.1988, c. 216, § 8; L.1994, c. 155, § 6, eff. Sept. 1, 1994; L.2009, c. 165, § 6, eff. July 11, 2009; L.2010, c. 163, § 9, eff. July 7, 2010; L.2020, c. 91, § 6, eff. June 7, 2020.)

§ 11–214. Use of airmail

All ballots, applications, notices or other mail sent, pursuant to the provisions of this title, to addresses outside the United States, Canada or Mexico, shall be sent by airmail.

(Added L.1978, c. 8, § 33. Amended L.1989, c. 99, § 12, eff. Dec. 1, 1989.)

§ 11–216. Forwarding of applications and ballots

1. If the state board of elections receives any applications, requests for applications or ballots from persons who are or may be eligible to vote pursuant to this title, it shall forthwith forward such applications or ballots to the board of elections in whose jurisdiction such persons are or may be so eligible.

2. If a board of elections receives any applications, requests for applications or ballots from persons who are or may be eligible to vote, pursuant to this title, from an address in the jurisdiction of another board of elections, the board receiving such applications or ballots shall forthwith mail them by first class mail to the board of elections in whose jurisdiction such persons are or may be so eligible.

3. (a) Upon the proclamation of a special election by the governor or otherwise pursuant to law, each board of elections shall, not later than three days after the establishment of the date of such special election, transmit by mail, facsimile transmission or electronic mail in accordance with the preferred method of transmission designated by the voter pursuant to section 11–203 of this title, a federal write-in absentee ballot to all special federal voters eligible to vote by special federal ballot in such special election.

(b) Each board of elections which is served with a court order restraining or enjoining the issuance of ballots in any election, other than a special election, in which any special

federal voter is entitled to receive a ballot shall immediately notify the state board of elections of such fact and shall transmit in accordance with the preferred method of transmission designated by the voter, a federal write-in absentee ballot to all special federal voters eligible to vote in such election.

(c) A special federal voter who has received a federal write-in absentee ballot shall be entitled to receive a certified ballot notwithstanding the prior transmission of a federal write-in absentee ballot to such voter pursuant to paragraph (a) or (b) of this subdivision. Such certified special federal ballot shall be sent by the board of elections in accordance with the preferred method of transmission designated by the special federal voter pursuant to section 11–203 of this title, or expedited mail if the special federal voter has not expressed a preference to receive same by facsimile transmission or electronic mail, and his or her request for a special federal ballot was made at least thirty-two days before the election.

(Added L.1978, c. 8, § 33. Amended L.1991, c. 290, § 12, eff. July 15, 1991; L.2010, c. 104, § 16, eff. June 2, 2010.)

§ 11–218. Application of other provisions

1. Except as otherwise provided in this title, special federal ballots shall be furnished, mailed, voted, returned, counted, canvassed and preserved as elsewhere provided in this chapter for absentee voters' ballots.

2. Except as otherwise provided in this title, all the provisions of this chapter with respect to registration, enrollment, special enrollment, correction of enrollment and change of enrollment shall be deemed to apply with respect to and in connection with the operation of this title.

3. All the provisions of this chapter relating to crimes against the elective franchise shall be deemed to apply with respect to and in connection with the operation of this title.

4. The general provisions of this chapter shall apply with respect to this title except as they are inconsistent with this title, and the provisions of this title shall be construed liberally for the purposes herein expressed or intended.

(Added L.1978, c. 8, § 33.)

§ 11–219. Special federal voters; prohibiting refusal to accept voter registration and special federal ballot applications, marked special federal ballots, and federal write-in absentee ballots for failure to meet certain requirements

1. A board of elections shall not refuse to accept and process any otherwise valid voter registration application or special federal ballot application (including the official post card form prescribed under section 101 of the Uniformed and Overseas Citizens Absentee Voting Act (42 USC 1973ff)) or marked special federal ballot submitted by mail or personally delivered, solely on the basis of the following:

(a) Notarization requirements;

(b) Restrictions on paper type, including weight and size; or

(c) Restrictions on envelope type, including weight and size.

2. A board of elections shall not refuse to accept and process any otherwise valid federal write-in absentee ballot submitted in any manner by a special federal voter solely on the basis of the following:

(a) Notarization requirements;

(b) Restrictions on paper type, including weight and size; or

(c) Restrictions on envelope type, including weight and size.

3. The state board of elections, in coordination with county boards of elections, shall develop a free access system by which a special federal voter may determine whether the special federal ballot of the special federal voter has been received by the appropriate board of elections.

(Added L.2010, c. 104, § 17, eff. June 2, 2010.)

§ 11–220. Federal voting; applicability of general provisions

The general provisions of this chapter shall apply to this article, except as they are inconsistent herewith. The provisions of this article shall be liberally construed for the purpose of providing special federal voters the opportunity to vote. The state board of elections shall have power to adopt and promulgate regulations to effectuate the provisions of this article.

(Added L.2010, c. 104, § 17, eff. June 2, 2010.)

TITLE III—SPECIAL BALLOTS

Section

11–300. Special ballots on account of religious scruples.
11–302. Special ballots for board of election employees.
11–304. Repealed.
11–306. Special ballots; victims of domestic violence.
11–308. Special ballots for emergency responders.

§ 11–300. Special ballots on account of religious scruples

A voter may deliver to the inspectors of election of the election district in which he is registered, or to the board of elections, at any time during the period in which an application for absentee ballot may be so delivered pursuant to the provisions of this chapter, a written statement of religious scruples against voting at a polling place located in a premises used for religious purposes. In the event the polling place for any such voter's election district shall be located in a premises used for religious purposes, the board of elections shall permit such voter to cast a special ballot, at an office of such board of elections, not earlier than one week before the election and not later than the close of the polls on election day. Such ballots shall be retained at the board of elections and cast and canvassed pursuant to the provisions of section 9–209 of this chapter.

(Added L.1982, c. 178, § 3. Amended L.1984, c. 251, § 7; L.1990, c. 302, § 1, eff. June 30, 1990; L.2010, c. 163, § 10, eff. July 7, 2010.)

§ 11–302. Special ballots for board of election employees

A person who is an employee of the board of elections or who has been appointed to serve as an inspector of elections, poll clerk or election coordinator at a polling place other than the one at which he or she is registered to vote, may deliver to the inspectors of election of the election district in which he or she is registered, or to the board of elections, at any time during the period in which an application for an absentee ballot may be so delivered pursuant to the provisions of this chapter, a written statement that he or she will be unable to appear at the polling place for such election district on the day of an election because his or her duties as an employee of such board or as an inspector, poll clerk or election coordinator require him or her to be elsewhere. The board of elections

shall provide such voter a special ballot any time prior to the close of the polls on election day, provided however that the distribution of such ballots to such voters shall be timed to afford such voters sufficient time to cast such ballots prior to the close of the polls on election day. Such cast ballots may be delivered to an office of such board of elections or to any board of inspectors not later than the close of the polls on election day. Such ballots shall be retained at the board of elections and cast and canvassed pursuant to the provisions of section 9–209 of this chapter.

(Added L.1982, c. 178, § 3. Amended L.1984, c. 251, § 7; L.1990, c. 302, § 2; L.1991, c. 90, § 8; L.2003, c. 243, § 1, eff. July 29, 2003; L.2010, c. 163, § 11, eff. July 7, 2010; L.2019, c. 257, § 1, eff. Sept. 13, 2019.)

§ 11–304. Repealed by L.2010, c. 163, § 12, eff. July 7, 2010

§ 11–306. Special ballots; victims of domestic violence

1. A voter may deliver to the board of elections, in person or by mail, at any time during the period in which absentee ballot applications may be delivered, a signed written statement swearing or affirming:

(a) that he or she is the victim of domestic violence;

(b) that he or she has left his or her residence because of such violence; and

(c) that because of the threat of physical or emotional harm to himself or herself or to family or household members, he or she wishes to cast a special ballot in the next election. The statement must include the voter's address of registration. The board of elections shall permit such a voter to cast a special ballot at an office of such board of elections not later than the close of the polls on election day, or by mail within the same time and in the same manner in which absentee ballots may be cast, provided however that the distribution of such ballots to such voters shall be timed to afford such voters sufficient time to cast such ballots prior to the close of the polls on election day. Such ballots shall be retained at the board of elections and cast and canvassed pursuant to the provisions of section 9–209 of this chapter.

2. ''Family or household members'' mean the following individuals:

(a) persons related by consanguinity or affinity;

(b) persons legally married to one another;

(c) persons formerly married to one another regardless of whether they still reside in the same household;

(d) persons who have a child in common regardless of whether such persons are married or have lived together at any time; or

(e) persons who are not related by consanguinity or affinity and who are or have been in an intimate relationship regardless of whether such persons have lived together at any time.

(Added L.1996, c. 702, § 1, eff. Oct. 9, 1996. Amended L.2010, c. 38, § 1, eff. April 14, 2010; L.2010, c. 163, § 13, eff. July 7, 2010; L.2019, c. 150, § 1, eff. Aug. 8, 2019.)

§ 11–308. Special ballots for emergency responders

1. A registered voter who serves as an emergency responder in times of emergency, as declared by the governor or a court of competent jurisdiction, may apply to the board of elections by letter or special application via mail, facsimile or e-mail, for a special ballot. Such application or letter may be delivered to the board of elections at any time prior to any election, without regard to deadlines for the receipt of absentee ballot applications.

2. Emergency responders may utilize an absentee ballot application to request a special ballot, or may file a written statement that he or she will be unable to appear at the polling place on the day of an election because his or her duties as an emergency responder require such voter to be elsewhere. The emergency responder shall designate a preference for the receipt of a special ballot. The board of elections shall provide such voter a special ballot immediately upon such request, and shall utilize overnight express delivery for such mail ballot delivery. If the designated preference is for facsimile or electronic transmission, the ballot shall be furnished in the same manner applicable to military voters who request ballots in such format.

3. Such cast ballots may be delivered to any office of any board of elections in the state, or to any open poll site not later than the close of the polls on election day.

4. Emergency responders shall receive assistance from any board of elections in the state in relation to applying for, casting and return delivery of a special ballot, including facsimile and electronic transmission services, ballot envelope templates if necessary, and any other component of the special ballot election process that will help ensure the enfranchisement of such emergency responder.

5. Emergency responder special ballots received by boards of elections from voters under the jurisdiction of another board of elections shall be date and time-stamped and immediately forwarded to the voter's board of elections. Such ballots shall be timely if the time stamp of the first receiving board of elections is timely. Such ballots shall be cast and canvassed pursuant to the provisions of section 9–209 of this chapter and where an emergency responder's ballot and envelope is not standard in appearance, it shall be cast and canvassed consistent with the provisions of section 10–125 of this chapter.

6. For purposes of this section, ''emergency responders'' shall include all persons called upon to provide emergency support, relief or other services, in the response to natural disasters, acts of terrorism or sabotage, fire, power failure, and such other circumstances which prompt the governor or a court of competent jurisdiction to declare such emergency. Emergency responders include, but are not limited to, medical personnel, military personnel, utility company or similar contract employees, fire department personnel, police department personnel, local and state emergency management personnel, and other state and local government employees providing emergency response services.

7. The state board of elections shall develop and distribute to boards of elections, sample forms and procedures to ensure the participation of emergency responders in any election conducted by a board of elections.

(Added L.2016, c. 485, § 1, eff. Nov. 28, 2016.)

ARTICLE 12—PRESIDENTIAL ELECTORS AND FEDERAL ELECTED OFFICERS

Title		Section
I.	**Presidential and Vice Presidential Electors**	**12–100**
II.	**United States Senators**	**12–200**
III.	**Representatives in Congress**	**12–300**
IV.	**Agreement Among the States to Elect the President by National Popular Vote**	**12–400**

TITLE I—PRESIDENTIAL AND VICE PRESIDENTIAL ELECTORS

Section

12–100. Electors of president and vice president.
12–102. Lists of electors; state board of elections to furnish.
12–104. Electoral college; meeting and organization.
12–106. Electoral college; vote of the electors.
12–108. Electoral college; certificate of vote, how distributed.
12–110. Electors; compensation.

§ 12–100. Electors of president and vice president

At the general election in November preceding the time fixed by law of the United States for the choice of president and vice president of the United States, as many electors of president and vice president of the United States shall be elected, as this state shall be entitled to. Each vote cast for the candidates of any party or independent body for president and vice president of the United States and each vote cast for any write-in candidates for such offices shall be deemed to be cast for the candidates for elector of such party or independent body or the candidates for elector named in the certificate of candidacy of such write-in candidates.

(L.1976, c. 233, § 1. Amended L.1988, c. 13, § 6, eff. Mar. 11, 1988; L.1988, c. 175, § 8, eff. June 27, 1988.)

§ 12–102. Lists of electors; state board of elections to furnish

The state board of elections shall prepare seven lists, containing both the names of the persons who were elected as electors and a canvass of the votes cast for each candidate for elector, together with a certificate of determination thereon by the state board of canvassers; procure to the same the signa-

ture of the governor; cause to be affixed thereto the seal of the state, and in behalf of the governor, send one copy of such certified list to the administrator of general services of the United States by registered mail and deliver the six other copies thus signed and sealed to the president of the college of electors immediately after his election.

(L.1976, c. 233, § 1. Amended L.1978, c. 9, § 95, eff. Mar. 7, 1978.)

§ 12–104. Electoral college; meeting and organization

The electors shall convene at the state capitol upon notice from, and at a place fixed by the secretary of state on the first Monday after the second Wednesday in December next following their election. Those of them who shall be assembled at twelve o'clock noon of that day shall immediately at that hour fill, by majority vote, all vacancies in the electoral college occasioned by the death, refusal to serve, or neglect to attend at that hour, of any elector, or any vacancies occasioned by an equal number of votes having been given for two or more candidates. The electoral college being thus completed, they shall then choose a president and one or more secretaries from their own body.

(L.1976, c. 233, § 1. Amended L.1976, c. 234, § 61, eff. Dec. 1, 1977.)

§ 12–106. Electoral college; vote of the electors

Immediately after the organization of the electoral college, the electors shall then and there vote by ballot for president and vice president, but no elector shall vote for more than one person who is a resident of this state. They shall name in separate ballots the persons voted for as president and vice president. They shall make and sign six certificates of all the votes given by them, each of which certificates shall contain two distinct lists, one with the votes for president and one with the votes for vice president. There shall be annexed to each of the certificates one of the lists of electors which shall have been furnished to them by the state board of elections. They shall seal up the certificates so made and certify upon each that the lists of all the votes of this state given for president and vice president are contained therein.

(L.1976, c. 233, § 1.)

§ 12–108. Electoral college; certificate of vote, how distributed

The president of the electoral college shall distribute certificates so made with the lists attached thereto in the following manner:

1. Forthwith, and before the fourth Wednesday in the said month of December, forward one certificate to the president of the United States senate at the seat of the federal government by registered mail.

2. Forthwith, and before the fourth Wednesday in the said month of December deliver two certificates to the state board of elections, one of which shall be held by it subject to the order of the president of the United States senate and the other shall be preserved for one year and shall be a part of the public records of the board and be open to public inspection.

3. On the following day forward two certificates to the administrator of general services at the seat of the federal government by registered mail.

4. Forthwith, and before the fourth Wednesday in the said month of December, deliver the other certificates to the chief judge of the United States District Court of the northern district of the state of New York.

(L.1976, c. 233, § 1.)

§ 12–110. Electors; compensation

Every elector of the state who shall attend at any meeting of the electoral college and give his vote at the time and place appointed by law, shall be entitled to receive for his attendance at such election, the sum of fifteen dollars per day, together with thirteen cents per mile each way from his place of residence by the most usual traveled route, to the place of meeting of such electors, to be audited by the comptroller upon the certificate of the secretary of state.

(L.1976, c. 233, § 1. Amended L.1976, c. 234, § 62, eff. Dec. 1, 1977.)

TITLE II—UNITED STATES SENATORS

Section

12–200. United States senators; election of.

§ 12–200. United States senators; election of

At the general election next preceding the expiration of the term of office of a United States senator from this state, a United States senator shall be elected by the people for a full term of six years. Elections to fill a vacancy for an unexpired term shall be held as provided in the public officers law.

(L.1976, c. 233, § 1.)

TITLE III—REPRESENTATIVES IN CONGRESS

Section

12–300. Representatives in congress; election of.

§ 12–300. Representatives in congress; election of

Representatives in the house of representatives of the congress of the United States shall be chosen in the several congressional districts at the general election held in every even-numbered year. Elections to fill a vacancy for an unexpired term shall be held as provided in the public officers law.

(L.1976, c. 233, § 1. Amended L.1976, c. 234, § 63, eff. Dec. 1, 1977.)

TITLE IV—AGREEMENT AMONG THE STATES TO ELECT THE PRESIDENT BY NATIONAL POPULAR VOTE

Section

12–400. Short title.
12–402. Adoption and text of compact.

§ 12–400. Short title

[Eff. upon contingency pursuant to L.2014, c. 19, § 2.]

This title shall be known and may be cited as ''agreement among the states to elect the president by national popular vote''.

(Added L.2014, c. 19, § 1.)

§ 12–402. Adoption and text of compact

[Eff. upon contingency pursuant to L.2014, c. 19, § 2.]

The agreement among the states to elect the president by national popular vote is adopted and enacted into law as follows:

ARTICLE I

Membership. Any state of the United States and the District of Columbia may become a member of this agreement by enacting this agreement.

ARTICLE II

Right of the people in member states to vote for president and vice president. Each member state shall conduct a statewide popular election for president and vice president of the United States.

ARTICLE III

Manner of appointing presidential electors in member states. 1. Prior to the time set by law for the meeting and voting by the presidential electors, the chief election official of each member state shall determine the number of votes for each presidential slate in each state of the United States and in the District of Columbia in which votes have been cast in a statewide popular election and shall add such votes together to produce a ''national popular vote total'' for each presidential slate.

2. The chief election official of each member state shall designate the presidential slate with the largest national popular vote total as the ''national popular vote winner''.

3. The presidential elector certifying official of each member state shall certify the appointment in that official's own state of the elector slate nominated in that state in association with the national popular vote winner.

4. At least six days before the day fixed by law for the meeting and voting by the presidential electors, each member state shall make a final determination of the number of popular votes cast in the state for each presidential slate and shall communicate an official statement of such determination within twenty-four hours to the chief election official of each other member state.

5. The chief election official of each member state shall treat as conclusive an official statement containing the number of popular votes in a state for each presidential slate made by the day established by federal law for making a state's final

determination conclusive as to the counting of electoral votes by congress.

6. In event of a tie for the national popular vote winner, the presidential elector certifying official of each member state shall certify the appointment of the elector slate nominated in association with the presidential slate receiving the largest number of popular votes within that official's own state.

7. If, for any reason, the number of presidential electors nominated in a member state in association with the national popular vote winner is less than or greater than that state's number of electoral votes, the presidential candidate on the presidential slate that has been designated as the national popular vote winner shall have the power to nominate the presidential electors for that state and that state's presidential elector certifying official shall certify the appointment of such nominees.

8. The chief election official of each member state shall immediately release to the public all vote counts or statements of votes as they are determined or obtained.

9. This article shall govern the appointment of presidential electors in each member state in any year in which this agreement is, on July twentieth, in effect in states cumulatively possessing a majority of the electoral votes.

ARTICLE IV

Other provisions. This agreement shall take effect when states cumulatively possessing a majority of the electoral votes have enacted this agreement in substantially the same form and the enactments by such states have taken effect in each state. Any member state may withdraw from this agreement, except that a withdrawal occurring six months or less before the end of a president's term shall not become effective until a president or vice president shall have been qualified to serve the next term. The chief executive of each member state shall promptly notify the chief executive of all other states of when this agreement has been enacted and has taken effect in that official's state, when the state has withdrawn from this agreement, and when this agreement takes effect generally.

This agreement shall terminate if the electoral college is abolished.

If any provision of this agreement is held invalid, the remaining provisions shall not be affected.

ARTICLE V

Definitions. For purposes of this agreement:

1. ''Chief executive'' shall mean the governor of a state of the United States or the mayor of the District of Columbia.

2. ''Elector slate'' shall mean a slate of candidates who have been nominated in a state for the position of presidential elector in association with a presidential slate.

3. ''Chief election official'' shall mean the state official or body that is authorized to certify the total number of popular votes for each presidential slate.

4. ''Presidential elector'' shall mean an elector for president and vice president of the United States.

5. ''Presidential elector certifying official'' shall mean the state official or body that is authorized to certify the appointment of the state's presidential electors.

6. ''Presidential slate'' shall mean a slate of two persons, the first of whom has been nominated as a candidate for president of the United States and the second of whom has been nominated as a candidate for vice president of the United States, or any legal successors to such persons, regardless of whether both names appear on the ballot presented to the voter in a particular state.

7. ''State'' shall mean a state of the United States and the District of Columbia.

8. ''Statewide popular election'' shall mean a general election in which votes are cast for presidential slates by individual voters and counted on a statewide basis.

(Added L.2014, c. 19, § 1.)

ARTICLE 13—ANNUAL POLITICAL CALENDAR

§ 13–100. Expired and deemed repealed Dec. 31, 2002, pursuant to L.2002, c. 56

§ 13–102. Repealed by L.1982, c. 371, § 1, eff. Dec. 31, 1982

§§ 13–104 to 13–114. Expired Dec. 31, 1981, pursuant to L.1981, c. 1008, § 6

ARTICLE 14—CAMPAIGN RECEIPTS AND EXPENDITURES [Eff. until Nov. 9, 2022. See, also Art. 14 eff. Nov. 9, 2022.]

ARTICLE 14—CAMPAIGN RECEIPTS AND EXPENDITURES; PUBLIC FINANCING [Eff. Nov. 9, 2022. See, also Art. 14 eff. until Nov. 9, 2022.]

Title		Section
I.	**Campaign Receipts and Expenditures**	**14–100**
II.	**Public Financing**	**14–200**

TITLE I—CAMPAIGN RECEIPTS AND EXPENDITURES [Eff. Nov. 9, 2022.]

Section	
14–100.	Definitions.
14–102.	Statements of campaign receipts, contributions, transfers and expenditures to and by political committees.
14–104.	Statements of campaign receipts, contributions, transfers and expenditures by and to candidates.
14–105.	Elimination of duplicate electronic filing.
14–106.	Political communication.
14–107.	Independent expenditure reporting.
14–107–a.	Prohibited spending by independent expenditure committees and political action committees.
14–107–b.	Independent expenditure verification.
14–108.	Time for filing statements.
14–110.	Place for filing statements.
14–112.	Political committee authorization statement.
14–114.	Contributions and receipt limitations.
14–116.	Political contributions by certain organizations.
14–118.	Treasurer and depository of political committee; filing of name and address.
14–120.	Campaign contribution to be under true name of contributor.
14–122.	Accounting to treasurer or candidate; vouchers.
14–124.	Exceptions.
14–126.	Violations; penalties.
14–127.	Notice of civil penalty to authorizing candidate.
14–128.	Disposition of anonymous contributions.
14–130.	Campaign funds for personal use.
14–132.	Disposition of campaign funds.

§ 14–100. Definitions

As used in this article:

1. ''political committee'' means any corporation aiding or promoting and any committee, political club or combination of one or more persons operating or co-operating to aid or to

promote the success or defeat of a political party or principle, or of any ballot proposal; or to aid or take part in the election or defeat of a candidate for public office or to aid or take part in the election or defeat of a candidate for nomination at a primary election or convention, including all proceedings prior to such primary election, or of a candidate for any party position voted for at a primary election, or to aid or defeat the nomination by petition of an independent candidate for public office; but nothing in this article shall apply to any committee or organization for the discussion or advancement of political questions or principles without connection with any vote or to a national committee organized for the election of presidential or vice-presidential candidates; provided, however, that a person or corporation making a contribution or contributions to a candidate or a political committee which has filed pursuant to section 14–118 shall not, by that fact alone, be deemed to be a political committee as herein defined.

2. ''party committee'' means any committee provided for in the rules of the political party in accordance with section two-one hundred of this chapter, other than a constituted committee.

3. ''constituted committee'' means a state committee, a county committee or a duly constituted subcommittee of a county committee;

4. ''duly constituted subcommittee of a county committee'' means, outside the city of New York, a city, town or village committee, and, within the city of New York, an assembly district committee, which consists of all county committee members from the city, town, village or assembly district, as the case may be, and only such members;

5. ''non-candidate expenditures'' means expenditures made by a party committee or a constituted committee to maintain a permanent headquarters and staff and carry on ordinary party activities not promoting the candidacy of specific candidates;

6. ''district'' means the entire state or any part thereof, as the case may be;

7. ''candidate'' means an individual who seeks nomination for election, or election, to any public office or party position to be voted for at a primary, general or special or New York

city community school district election or election for trustee of the Long Island Power Authority, whether or not the public office or party position has been specifically identified at such time and whether or not such individual is nominated or elected, and, for purposes of this subdivision, an individual shall be deemed to seek nomination for election, or election, to an office or position, if he has (1) taken the action necessary to qualify himself for nomination for election, or election, or (2) received contributions or made expenditures, given his consent for any other person to receive contributions or make expenditures, with a view to bringing about his nomination for election, or election, to any office or position at any time whether in the year in which such contributions or expenditures are made or at any other time; and

8. ''legislative leader'' means any of the following: the speaker of the assembly; the minority leader of the assembly; the temporary president of the senate and the minority leader of the senate.

9. ''contribution'' means:

(1) any gift, subscription, outstanding loan (to the extent provided for in section 14–114 of this chapter), advance, or deposit of money or any thing of value, made in connection with the nomination for election, or election, of any candidate, or made to promote the success or defeat of a political party or principle, or of any ballot proposal,

(2) any funds received by a political committee from another political committee to the extent such funds do not constitute a transfer,

(3) any payment, by any person other than a candidate or a political committee authorized by the candidate, made in connection with the nomination for election or election of any candidate, including any payment or expenditure where coordination has occurred as defined in section 14–107 of this article, or any payment made to promote the success or defeat of a political party or principle, or of any ballot proposal including but not limited to compensation for the personal services of any individual which are rendered in connection with a candidate's election or nomination without charge; provided however, that none of the foregoing shall be deemed

a contribution if it is made, taken or performed by a candidate or his spouse or by a person or a political committee independent of the candidate or his agents or authorized political committees. For purposes of this article, the term ''independent of the candidate or his agents or authorized political committees'' shall mean that the candidate or his agents or authorized political committees did not authorize, request, suggest, foster or cooperate in any such activity; and provided further, that the term contribution shall not include:

(A) the value of services provided without compensation by individuals who volunteer a portion or all of their time on behalf of a candidate or political committee,

(B) the use of real or personal property and the cost of invitations, food and beverages voluntarily provided by an individual to a candidate or political committee on the individual's residential premises for candidate-related activities to the extent such services do not exceed five hundred dollars in value, and

(C) the travel expenses of any individual who on his own behalf volunteers his personal services to any candidate or political committee to the extent such expenses are unreimbursed and do not exceed five hundred dollars in value.

10. ''transfer'' means any exchange of funds or any thing of value between political committees authorized by the same candidate and taking part solely in his campaign, or any exchange of funds between a party or constituted committee and a candidate or any of his authorized political committees.

11. ''election'' means all general, special and primary elections, but shall not include elections provided for pursuant to the education law, special district elections, fire district elections or library district elections.

12. ''clearly identified candidate'' means that:

(a) the name of the candidate involved appears;

(b) a photograph or drawing of the candidate appears; or

(c) the identity of the candidate is apparent by unambiguous reference.

13. ''general public audience'' means an audience composed of members of the public, including a targeted subgroup

of members of the public; provided, however, it does not mean an audience solely comprised of members, retirees and staff of a labor organization or members of their households or an audience solely comprised of employees of a corporation, unincorporated business entity or members of a business, trade or professional association or organization.

14. ''labor organization'' means any organization of any kind which exists for the purpose, in whole or in part, of representing employees employed within the state of New York in dealing with employers or employer organizations or with a state government, or any political or civil subdivision or other agency thereof, concerning terms and conditions of employment, grievances, labor disputes, or other matters incidental to the employment relationship. For the purposes of this article, each local, parent national or parent international organization of a statewide labor organization, and each statewide federation receiving dues from subsidiary labor organizations, shall be considered a separate labor organization.

15. ''independent expenditure committee'' means a political committee, that makes only independent expenditures as defined in this article, and does not coordinate with a candidate, candidate's authorized committees or an agent of the candidate as defined in paragraph (g) of subdivision one of section 14–107 of this article.

For purposes of this section, an independent expenditure committee may be created by a person, group of persons, corporation, unincorporated business entity, labor organization or business, trade or professional association, or organization, or political committee.

16. ''political action committee'' means a political committee which makes no expenditures to aid or take part in the election or defeat of a candidate, or to promote the success or defeat of a ballot proposal, other than in the form of contributions, including in-kind contributions, to candidates, candidate's authorized committees, party committees, constituted committees, or independent expenditure committees provided there is no common operational control between the political action committee and the independent expenditure committee; or in the form of communications that are not distributed to a

general public audience as described in subdivision thirteen of this section.

For purposes of this paragraph, ''common operational control'' means that (i) the same individual or individuals exercise actual and strategic control over the day-to-day affairs of both the political action committee and the independent expenditure committee, or (ii) employees of the political action committee and the independent expenditure committee engage in communications related to the strategic operations of either committee.

17. ''foreign national'' means foreign national as such term is defined by subsection (b) of section 30121 of title 52 of the United States code.

(L.1976, c. 233, § 1. Amended L.1978, c. 8, §§ 34, 35; L.1978, c. 9, § 96; L.1982, c. 647, § 25; L.1983, c. 70, § 1; L.1983, c. 955, § 1; L.1986, c. 517, § 7; L.1987, c. 480, § 1; L.1988, c. 71, § 2, eff. May 9, 1988; L.2014, c. 55, pt. H, subpt. C, § 1, eff. June 1, 2014; L.2016, c. 286, pt. A, §§ 6, 7, eff. Sept. 23, 2016; L.2018, c. 59, pt. JJJ, § 2, eff. April 12, 2018.)

§ 14–102. Statements of campaign receipts, contributions, transfers and expenditures to and by political committees

1. The treasurer of every political committee which, or any officer, member or agent of any such committee who, in connection with any election, receives or expends any money or other valuable thing or incurs any liability to pay money or its equivalent shall file statements sworn, or subscribed and bearing a form notice that false statements made therein are punishable as a class A misdemeanor pursuant to section 210.45 of the penal law, at the times prescribed by this article setting forth all the receipts, contributions to and the expenditures by and liabilities of the committee, and of its officers, members and agents in its behalf. Such statements shall include the dollar amount of any receipt, contribution or transfer, or the fair market value of any receipt, contribution or transfer, which is other than of money, the name and address of the transferor, contributor or person from whom received, and if the transferor, contributor or person is a political committee; the name of and the political unit represented by the committee, the date of its receipt, the dollar

amount of every expenditure, the name and address of the person to whom it was made or the name of and the political unit represented by the committee to which it was made and the date thereof, and shall state clearly the purpose of such expenditure. Any statement reporting a loan shall have attached to it a copy of the evidence of indebtedness. Expenditures in sums under fifty dollars need not be specifically accounted for by separate items in said statements, and receipts and contributions aggregating not more than ninety-nine dollars, from any one contributor need not be specifically accounted for by separate items in said statements, provided however, that such expenditures, receipts and contributions shall be subject to the other provisions of section 14–118 of this article.

2. Notwithstanding the provisions of subdivision one hereof, if the expenditures made and liabilities incurred in any calendar year by any political committee for the purpose of aiding or promoting the success or defeat of one or more ballot proposals are less than five thousand dollars and less than fifty percent of all the expenditures made and liabilities incurred by such committee in such year, then such committee shall be required to report only those contributions which are made to such committee exclusively for the purpose of aiding or promoting the success or defeat of such proposal or proposals, but such committee shall be required to report all expenditures made and liabilities incurred for such purposes. Nothing contained in this subdivision shall be construed to relieve any political committee aiding or promoting the success or defeat of a candidate from any of the reporting requirements imposed by this article.

3. The state board of elections shall promulgate regulations with respect to the accounting methods to be applied in preparing the statements required by the provisions of this article and shall provide forms suitable for such statements.

4. Any committee which is required to file statements with any board of elections pursuant to this article shall file all such statements pursuant to the electronic reporting system prescribed by the state board of elections as set forth in subdivision nine-A of section 3–102 of this chapter. Notwithstanding the provisions of this subdivision, upon the filing of a sworn

statement by the treasurer of a political committee which states that such political committee does not have access to the technology necessary to comply with the electronic filing requirements of subdivision nine-A of section 3–102 of this chapter and that filing by such means would constitute a substantial hardship for such political committee, the state board of elections may issue an exemption from the electronic filing requirements of this article.

5. Deleted by L.2019, c. 416, § 1, eff. Dec. 15, 2019.

(L.1976, c. 233, § 1. Amended L.1978, c. 8, § 36; L.1978, c. 9, § 97; L.1983, c. 70, § 2; L.1997, c. 430, § 26, eff. Aug. 20, 1997; L.2005, c. 406, § 2, eff. Jan. 1, 2006; L.2019, c. 416, § 1, eff. Dec. 15, 2019.)

§ 14–104. Statements of campaign receipts, contributions, transfers and expenditures by and to candidates

1. Any candidate for election to public office, or for nomination for public office at a contested primary election or convention, or for election to a party position at a primary election, shall file statements sworn, or subscribed and bearing a form notice that false statements made therein are punishable as a class A misdemeanor pursuant to section 210.45 of the penal law, at the times prescribed by this article setting forth the particulars specified by section 14–102 of this article, as to all moneys or other valuable things, paid, given, expended or promised by him or her to aid his or her own nomination or election, or to promote the success or defeat of a political party, or to aid or influence the nomination or election or the defeat of any other candidate to be voted for at the election or primary election or at a convention, including contributions to political committees, officers, members or agents thereof, and transfers, receipts and contributions to him or her to be used for any of the purposes above specified, or in lieu thereof, any such candidate may file such a sworn statement at the first filing period, on a form prescribed by the state board of elections that such candidate has made no such expenditures and does not intend to make any such expenditures, except through a political committee authorized by such candidate pursuant to this article. Such candidate may designate a committee of no less than three persons who shall be author-

ized to appoint and remove the treasurer of any authorized committee of the candidate. The designation or revocation of the committee shall be evidenced in a writing filed with the state board of elections by the candidate authorizing the committee. The candidate may revoke such designation at any time. A committee authorized by such a candidate may fulfill all of the filing requirements of this act on behalf of such candidate.

2. Statements filed by any political committee authorized by a candidate pursuant to this article which is required to file such statements with any board of elections shall file all such statements pursuant to the electronic reporting system prescribed by the state board of elections as set forth in subdivision nine-A of section 3–102 of this chapter. Notwithstanding the provisions of this subdivision, upon the filing of a sworn statement by the treasurer of a political committee authorized by a candidate pursuant to this article which states that such committee does not have access to the technology necessary to comply with the electronic filing requirements of subdivision nine-A of section 3–102 of this chapter and that filing by such means would constitute a substantial hardship for such committee, the state board of elections may issue an exemption from the electronic filing requirements of this article.

3. Deleted by L.2019, c. 416, § 2, eff. Dec. 15, 2019.

4. Political communications required to be filed with the state board of elections pursuant to section 14–106 of this article or subdivision five of section 14–107 of this article may be filed electronically with the state board of elections.

(L.1976, c. 233, § 1. Amended L.1977, c. 323, § 1; L.1997, c. 430, § 27, eff. Aug. 20, 1997; L.2005, c. 406, § 3, eff. Jan. 1, 2006; L.2016, c. 139, § 1, eff. July 21, 2016; L.2016, c. 286, pt. C, § 1, eff. July 1, 2017; L.2019, c. 416, § 2, eff. Dec. 15, 2019.)

§ 14–105. Elimination of duplicate electronic filing

1. Any candidate or authorized political committee of a candidate required to file electronically with the state board of elections shall be deemed to have satisfied such filing requirements upon making electronic filings with a local campaign finance board, provided the state board of elections determines: (i) the filing format, standards and review and audit of

filings of such campaign finance board meet or exceed the requirements imposed by this article; and (ii) the campaign finance filing data of such local campaign finance board is publicly available in a manner at least substantially equivalent to the board of elections publication of campaign finance filings; and (iii) such local campaign finance board will provide the chief enforcement counsel of the state board of elections notice of filing delinquencies and non-filings.

2. If the state board of elections permits filings with a local campaign finance board to be deemed filings with the state board of elections, such board shall provide a link on its website to the public disclosure and search functions of the website of such local campaign finance board.

3. A determination permitting filings with a local campaign finance board to be deemed filings with the state board of elections shall be revoked upon a determination that the local campaign finance board no longer complies with any *one or more* of the criteria enumerated in paragraphs (i), (ii) and (iii) of subdivision one of this section.

(Added L.2019, c. 465, § 1, eff. Jan. 1, 2020. Amended L.2020, c. 34, § 1, eff. Jan. 1, 2020.)

§ 14–106. Political communication

1. The statements required to be filed under the provisions of this article next succeeding a primary, general or special election shall be accompanied by a copy of all broadcast, cable or satellite schedules and scripts, paid internet or digital, print and other types of advertisements, pamphlets, circulars, flyers, brochures, letterheads and other printed matter purchased or produced, and reproductions of statements or information published to five hundred or more members of a general public audience by computer or other electronic device including but not limited to electronic mail or text message, purchased in connection with such election by or under the authority of the person filing the statement or the committee or the person on whose behalf it is filed, as the case may be. Such copies, schedules and scripts shall be preserved by the officer with whom or the board with which it is required to be filed for a period of one year from the date of filing thereof.

2. All political committees that make an expenditure for a political communication shall be required to disclose the identity of the political committee which made the expenditure for such political communication. The disclosure on printed or digital political communications, including but not limited to brochures, flyers, posters, mailings, or internet advertising shall be printed or typed in an appropriate legible form to read as follows: ''Paid for by:'' followed by the name of the political committee making the expenditure. The disclosure on non-printed or digital political communications shall clearly and prominently display and/or speak the following statement: ''Paid for by:'' followed by the name of the political committee making the expenditure. In the case of a political communication that is not visual, such as radio or automated telephone calls, clearly speaking the statement will satisfy the requirements of this section.

3. Political communications that are considered promotional items which support a particular candidate, election, ballot measure or issue and limit the content of communication to the name, office and brief message of support, shall be exempt from the provisions of subdivision two of this section. Promotional items shall be items that are of nominal value and are distributed to the general public in an effort to promote a particular candidate, election, ballot measure or issue including but not limited to pens, bumper stickers, yard signs, buttons, shirts, bags or balloons.

4. Political communication that is considered digital media which advertises for a particular candidate, election, ballot measure or issue which limits the content of communication to the name, office and brief message shall not be subject to the provisions of subdivision two of this section if such digital media is unable to contain the ''paid for by'' statement due to its small size and contains a link to another webpage where the ''paid for by'' statement is prominently displayed.

(L.1976, c. 233, § 1. Amended L.1978, c. 8, § 37, eff. Mar. 7, 1978; L.2011, c. 399, pt. E, § 2, eff. Aug. 15, 2011; L.2014, c. 55, pt. H, subpt. C, § 3, eff. June 1, 2014; L.2018, c. 59, pt. JJJ, § 3, eff. April 12, 2018; L.2019, c. 454, § 1, eff. Jan. 1, 2020.)

§ 14–107. Independent expenditure reporting

1. For purposes of this article:

(a) ''Independent expenditure'' means an expenditure made by an independent expenditure committee in the form of (i) an audio or video communication via broadcast, cable or satellite, (ii) a written communication via advertisements, pamphlets, circulars, flyers, brochures, letterheads or (iii) other published statements, where such expenditure is conveyed to five hundred or more members of a general public audience, or in the form of any paid internet or digital advertisement targeted to fifty or more members of a general public audience, which: (i) irrespective of when such communication is made, contains words such as ''vote,'' ''oppose,'' ''support,'' ''elect,'' ''defeat,'' or ''reject,'' which call for the election or defeat of the clearly identified candidate, (ii) refers to and advocates for or against a clearly identified candidate or ballot proposal on or after January first of the year of the election in which such candidate is seeking office or such proposal shall appear on the ballot, or (iii) within sixty days before a general or special election for the office sought by the candidate or thirty days before a primary election, includes or references a clearly identified candidate. An independent expenditure shall not include communications where such candidate, the candidate's political committee or its agents, a party committee or its agents, or a constituted committee or its agents or a political committee formed to promote the success or defeat of a ballot proposal or its agents, did authorize, request, suggest, foster or cooperate in such communication.

(b) Independent expenditures do not include expenditures in connection with:

(i) a written news story, commentary, or editorial or a news story, commentary, or editorial distributed through the facilities of any broadcasting station, cable or satellite unless such publication or facilities are owned or controlled by any political party, political committee or candidate; or

(ii) a communication that constitutes a candidate debate or forum; or

(iii) internal communication by members to other members of a membership organization of not more than five hundred members, for the purpose of supporting or opposing a candidate or candidates for elective office, provided such expenditures are not used for the costs of campaign material or

communications used in connection with broadcasting, telecasting, newspapers, magazines, or other periodical publication, billboards, or similar types of general public communications; or

(iv) internal communications by members to other members of a membership organization of not more than five hundred members or communications by a corporation organized for charitable purposes pursuant to § 501(c)(3) of the internal revenue code, within sixty days before a general or special election for the office sought by the candidate or thirty days before a primary election, that includes or references a clearly identified candidate but does not otherwise qualify as an independent expenditure under this section.

(v) a communication published on the Internet, unless the communication is a paid advertisement.

(c) An independent expenditure committee shall not include payments or expenditures made by a party or constituted committee that is required to file disclosure reports under this chapter.

(d) Independent expenditures shall not include payments or expenditures where coordination occurs in the creation, formation, or operation of the independent expenditure committee making the payment or expenditure.

Coordination shall include:

(i) The candidate or the candidate's authorized committee, or an agent of the candidate or candidate's authorized committee, participated in the creation or formation of the independent expenditure committee within two years of the general election, primary or special election in which the candidate is a candidate for nomination or election and the payment or expenditure made is for the benefit of that candidate.

(ii) The candidate or an agent of the candidate appears at any fundraising event hosted by an independent expenditure committee, or its agent, making a payment or expenditure that benefits that candidate within two years of the general election, primary or special election in which the candidate is a candidate for nomination or election.

(iii) The independent expenditure committee making the payment or expenditure, or its agent, employed or retained an individual, other than an individual described in subparagraph (viii) of this paragraph, who was employed by the candidate, the candidate's authorized committee or an agent of the candidate or has held a policymaking, non-administrative position in the office of the candidate's elected office within two years of the general election, primary or special election in which the candidate is a candidate for nomination or election, and the payment or expenditure is made for the benefit of that candidate.

(iv) The independent expenditure committee making the payment or expenditure, or its agent, is a member of the candidate's immediate family or is established, directed, or managed by a member of the immediate family of the candidate, and the payment or expenditure is made for the benefit of that candidate.

(v) The independent expenditure committee making the payment or expenditure benefiting the candidate, republishes, disseminates, or distributes, in whole or in part, any video, audio, written, or other campaign-related material prepared by the candidate or the candidate's authorized committee or by an agent of the candidate or the candidate's authorized committee. This paragraph shall not apply if the independent expenditure committee making the payment or expenditure obtains the communication or materials from a publicly available source.

(vi) The candidate or the candidate's authorized committee, or an agent of the candidate or the candidate's authorized committee, shares or rents space for a campaign-related purpose with or from the independent expenditure committee, or its agent, making the payment or expenditure benefitting the candidate.

(vii) The independent expenditure committee, or its agent, making the payment or expenditure benefitting the candidate has participated in strategic discussions with the candidate, the candidate's authorized committee, or an agent of the candidate or the candidate's authorized committee within two years of the general election, primary or special election in which the candidate is a candidate for nomination or election. Discus-

sions shall be deemed strategic if information about the candidate's or opponent's electoral campaign plans, projects, or activities that is not obtained from a publicly available source is conveyed to the independent expenditure committee, or its agent, making the payment or expenditure. This paragraph shall only apply to discussions occurring after the independent expenditure committee is formed or, one week after the candidate has been certified for that election, whichever occurs first.

(viii) The independent expenditure committee, or its agent, making the payment or expenditure benefitting the candidate, and the candidate or the candidate's authorized committee knowingly retain the same individual or entity to provide professional campaign services within two years of the general election, primary or special election in which the candidate is a candidate for nomination or election, and the professional campaign services provider discloses strategic information regarding one party with the other party. Information shall be deemed strategic if it relates to either party's respective campaign or independent expenditure plans, projects, or activities that are not obtained from a publicly available source. This subparagraph shall not prohibit a candidate, a candidate's authorized committee, or an agent of the candidate or the candidate's authorized committee from retaining the same professional campaign services provider as the independent expenditure committee, or its agent, making the payment or expenditure benefitting the candidate upon the professional campaign services provider entering into a confidentiality agreement with both parties expressly stating that it will not disclose strategic information regarding each party with the other party.

(ix) The independent expenditure committee, or its agent, making the payment or expenditure benefitting the candidate, utilizes strategic information or data related to the candidate, that is not from a publicly available source and is not otherwise available by subscription, from an individual who has been previously compensated, reimbursed or retained by the candidate as a consultant, political, media or fundraising advisor, vendor or contractor within two years of the general election, primary or special election in which the candidate is a candidate for nomination or election.

(e) The following shall not be coordination:

(i) A candidate's or a party or constituted committee's response to an inquiry about that candidate's or party or constituted committee's positions on legislative or policy issues.

(ii) A public communication in which a candidate is clearly identified only in his or her capacity as the owner or operator of a business that existed prior to the candidacy is not a coordinated communication with respect to the clearly identified candidate if: (A) The medium, timing, content, and geographic distribution of the public communication are consistent with public communications made prior to the candidacy; and (B) The public communication does not promote, support, attack, or oppose that candidate or another candidate in their capacity as candidates who seeks the same office as that candidate.

(f) For purposes of this section, the term ''immediate family'' means spouse, child, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate, and the spouses of such persons.

(g) For purposes of this section, ''agent'' means a person authorized by the candidate or the candidate's authorized committee, who acts on behalf of or at the direction of a candidate or the candidate's authorized committee; or a party committee or constituted committee acting on behalf of a candidate; or a person authorized by an independent expenditure committee who acts on behalf of or at the direction of such committee.

2. Whenever any person makes an independent expenditure, such communication shall, in a manner consistent with section 14–106 of this article, clearly state the name of the person who paid for, or otherwise published or distributed the communication and state, with respect to communications regarding candidates, that the communication was not expressly authorized or requested by any candidate, or by any candidate's political committee or any of its agents*; provided, however, that paragraphs three and four of section 14–106 of this article shall not apply to the disclosure requirements under this section*.

3. Any person prior to making any independent expenditure shall first register with the state board of elections as a political committee and as an independent expenditure com-

mittee in conformance with this article provided, however, that no foreign national, government, instrumentality or agent may register as an independent expenditure committee for the purpose of making independent expenditures in any state or local election. Such person shall comply with all disclosure obligations required for political committees by law and shall provide the following additional information upon registration:

(a) Where the person making the statement is an individual, the name, address, occupation and employer of the person.

(b) Where the person making the statement is an entity, the name and employer of any individual who exerts operational or managerial influence or control over the entity, as well as any salaried employee of the entity. The disclosures required by this paragraph shall include the name of at least one natural person.

(c) Identification of individuals named in paragraphs (a) and (b) of this subdivision who have, during the two-year period before the statement is filed, been employed or retained as a political, media, or fundraising adviser or consultant for a candidate, any entity directly controlled by a candidate, or any party committee or constituted committee, or have held a formal position in the office of a candidate's elected office, or any party committee or constituted committee, and the name of the relevant employer.

(d) Identification of individuals named in paragraphs (a), (b) and (c) of this paragraph who are members of a candidate's immediate family.

(e) The information provided pursuant to this subdivision shall be updated within twenty-four hours of any change in ownership or control of any registered entity.

4. (a) Required disclosures. (i) Any independent expenditure committee who has registered pursuant to subdivision three of this section shall disclose to the state board of elections electronically, once a week on Monday any contribution to such committee of one thousand dollars or more, any expenditures, except paid internet and digital advertisements, made by such committee over five thousand dollars, and any independent expenditure in the form of a paid internet or digital advertisement over five hundred dollars made during the reporting period.

(ii) Any independent expenditure committee who has registered with the state board of elections pursuant to subdivision three of this section shall disclose to the state board of elections electronically, within twenty-four hours, any contribution to such independent expenditure committee of one thousand dollars or more or expenditure made by such committee over five thousand dollars made within thirty days before any primary, general, or special election.

(b) The disclosures required by paragraph (a) of this subdivision shall include, in addition to any other information required by law:

(i) the name, address, occupation and employer of the person making the statement;

(ii) For each expenditure or payment made: (1) the dollar amount paid for each independent expenditure, the name and address of the person or entity receiving the payment, the date the payment was made and a description of the independent expenditure;

(2) the election to which the independent expenditure pertains and the name of the clearly identified candidate or the ballot proposal referenced and whether the candidate or ballot proposal is supported or opposed; and

(3) A list of all expenditures made by and liabilities incurred for services rendered during the relevant reporting period.

(iii) For each contribution received the name, address, occupation and employer of any person providing a contribution, gift, loan, advance or deposit of one thousand dollars or more for the independent expenditure, or the provision of services for the same and the date it was given.

5. A copy of all political communications paid for by the independent expenditure, including but not limited to broadcast, cable or satellite schedules and scripts, advertisements, pamphlets, circulars, flyers, brochures, letterheads and other printed matter and statements or information conveyed to one thousand or more members of a general public audience by computer or other electronic devices, and paid internet or digital advertisements, shall be filed with the state board of elections with the statements required by this section.

5–a. The state board of elections shall maintain and make available online for public inspection in a machine readable format, a complete record of any independent expenditure in the form of a paid internet or digital advertisement required to be filed under subdivision five of this section. The record shall be maintained for a period no less than five years from the date of filing and contain a digital copy of the independent expenditure and the information provided on the registration form of the independent expenditure committee making such expenditure pursuant to paragraphs (a) and (b) of subdivision three of this section. The state board of elections shall promulgate rules necessary to comply with the provisions of this subdivision which shall be effective no later than one hundred twenty days after the effective date of this subdivision.

6. Every statement required to be filed pursuant to this section shall be filed electronically with the state board of elections.

7. The state board of elections shall promulgate regulations with respect to the statements required to be filed by this section and shall provide forms suitable for such statements.

8. (a) All criminal liability related to this section shall require knowing and willful violations in accordance with section 14–126 of this article.

(b) A knowing and willful violation of the provisions of subdivisions three and four of this section shall subject the person to a civil penalty equal to five thousand dollars or the cost of the communication, whichever is greater, in a special proceeding or civil action brought by the board.

(Added L.2014, c. 55, pt. H, subpt. C, § 4, eff. June 1, 2014. Amended L.2015, c. 56, pt. CC, § 8, eff. April 13, 2015; L.2016, c. 286, pt. A, §§ 1 to 5, eff. Sept. 23, 2016; L.2018, c. 59, pt. JJJ, §§ 4 to 10, eff. April 12, 2018; L.2019, c. 454, § 2, eff. Jan. 1, 2020; L.2020, c. 87, § 1, eff. Jan. 1, 2020.)

§ 14–107–a. Prohibited spending by independent expenditure committees and political action committees

1. An independent expenditure committee shall not contribute to any candidate, constituted committee, political committee, or party committee.

2. (a) A political action committee shall not make any independent expenditures and may only make contributions to any independent expenditure committee if such committee does not have common operational control. For purposes of this paragraph, ''common operational control'' means that (i) the same individual or individuals exercise actual and strategic control over the day-to-day affairs of both the political action committee and the independent expenditure committee, or (ii) employees of the political action committee and the independent expenditure committee engage in communications related to the strategic operations of either committee.

(b) No candidate, candidate's authorized committee, party committee, or constituted committee shall contribute to an independent expenditure committee that is making expenditures benefitting the candidate or the candidate supported by such party or constituted committee.

(Added L.2016, c. 286, pt. A, § 10, eff. Sept. 23, 2016.)

§ 14–107–b. Independent expenditure verification

1. Upon the purchase of a communication in the form of an independent expenditure, as defined in section 14–107 of this article, each television or radio broadcast station, provider of cable or satellite television, or online platform shall require that the independent expenditure committee making such purchase file with such station, provider or platform a copy of the registration form filed by such committee with the state board of elections pursuant to subdivision three of section 14–107 of this article.

2. The state board of elections shall promulgate regulations defining the scope of the term "online platform" as used in this section. In promulgating such regulations, the state board shall take into account the number of unique United States visitors to the platform and the extent to which the platform publishes paid internet or digital communications. Any public-facing website, web application, or digital application, including, but not limited to, a social network, ad network, or search engine, may be designated an "online platform" pursuant to the state board's regulations. Such regulations shall be

promulgated no later than one hundred twenty days after the effective date of this section.

(Added L.2018, c. 59, pt. JJJ, § 11, eff. April 12, 2018.)

§ 14–108. Time for filing statements

1. The statements required by this article shall be filed at such times as the state board of elections, by rule or regulation, shall specify; provided, however, that in no event shall the board provide for fewer than three filings in the aggregate in connection with any primary, general or special election, or in connection with a question to be voted on and two of said filings shall be before any such election, including one such filing not less than thirty days nor more than forty-five days prior to such election and one such filing not less than eleven days nor more than fifteen days prior to such election. In addition, the board shall provide that every political committee which has filed a statement of treasurer and depository shall make at least one filing every six months between the time such statement of treasurer and depository is filed and the time such committee goes out of business. If any candidate or committee shall be required by the provisions of this section, or by rule or regulation hereunder, to effect two filings within a period of five days, the state board of elections may, by rule or regulation, waive the requirement of filing the earlier of such statements. If a statement filed by a candidate or committee after the election to which it pertains is not a final statement showing satisfaction of all liabilities and disposition of all assets, such candidate or committee shall file such additional statements as the board shall, by rule or regulation provide until such a final statement is filed.

2. Each statement shall cover the period up to and including the fourth day next preceding the day specified for the filing thereof; provided, however, that any contribution or loan in excess of one thousand dollars, if received after the close of the period to be covered in the last statement filed before any primary, general or special election but before such election, shall be reported, in the same manner as other contributions, within twenty-four hours after receipt.

3. Each statement shall be preserved by the officer with whom or the board with which it is required to be filed for a period of five years from the date of filing thereof.

4. Each statement shall constitute a part of the public records of such officer or board and shall be open to public inspection.

5. The state board of elections or other board of elections, as the case may be, shall not later than ten days after the last day to file any such statement notify each person required to file any such statement which has not been received by such board by such tenth day in accordance with this article of such person's failure to file such statement timely. Such notice shall be in writing and mailed to the last known residence or business address of such person by certified mail, return receipt requested. Failure to file within five days of receipt of such notice shall constitute prima facie evidence of a willful failure to file. If the person required to file such statement is a treasurer who has stated that the committee has been authorized by one or more candidates, a copy of such notice shall be sent to each such candidate by first class mail. A copy of any such notice sent by a board of elections other than the state board of elections shall be sent by such other board to the state board.

6. A statement shall be deemed properly filed when deposited in an established post-office within the prescribed time, duly stamped, certified and directed to the officer with whom or to the board with which the statement is required to be filed, but in the event it is not received, a duplicate of such statement shall be promptly filed upon notice by such officer or such board of its non-receipt.

7. On the twentieth day following the date by which such statements were required to be filed, the state board of elections shall prepare and make available for public inspection and distribution a list of those persons and committees from whom it has not yet received such statement.

(L.1976, c. 233, § 1. Amended L.1977, c. 323, § 2; L.1978, c. 9, § 98; L.1983, c. 955, § 2; L.1994, c. 146, §§ 1, 2; L.1997, c. 109, § 1, eff. June 17, 1997.)

§ 14–110. Place for filing statements

The places for filing the statements required by this article shall be determined by rule or regulation of the state board of elections; provided, however, that the statements of a candidate for election to the office of governor, lieutenant governor, attorney general, comptroller, member of the legislature, delegate to a constitutional convention, justice of the supreme court or for nomination for any such office at a primary election and of any committee aiding or taking part in the designation, nomination, election or defeat of candidates for one or more of such offices or promoting the success or defeat of a question to be voted on by the voters of the entire state shall be filed with the state board of elections and in such other places as the state board of elections may, by rule or regulation provide.

(L.1976, c. 233, § 1. Amended L.1984, c. 46, § 1, eff. Apr. 10, 1984.)

§ 14–112. Political committee authorization statement

Any political committee aiding or taking part in the election or nomination of any candidate, other than a political action committee, shall file, in the office in which the statements of such committee are to be filed pursuant to this article, either a sworn verified statement by the treasurer of such committee that the candidate has authorized the political committee to aid or take part in his election or that the candidate has not authorized the committee to aid or take part in his election.

(L.1976, c. 233, § 1. Amended L.1978, c. 8, § 38; L.1978, c. 9, §§ 99, 100; L.1981, c. 930, § 1, eff. July 31, 1981; L.2016, c. 286, pt. A, § 8, eff. Sept. 23, 2016.)

§ 14–114. Contributions and receipt limitations

1. [Eff. until Nov. 9. 2022. See, also, subd. 1 below.] The following limitations apply to all contributions to candidates for election to any public office or for nomination for any such office, or for election to any party positions, and to all contributions to political committees working directly or indirectly with any candidate to aid or participate in such candidate's nomination or election, other than any contributions to any party committee or constituted committee:

a. In any election for a public office to be voted on by the voters of the entire state, or for nomination to any such office, no contributor may make a contribution to any candidate or political committee, and no candidate or political committee may accept any contribution from any contributor, which is in the aggregate amount greater than: (i) in the case of any nomination to public office, the product of the total number of enrolled voters in the candidate's party in the state, excluding voters in inactive status, multiplied by $.005, but such amount shall be not less than four thousand dollars nor more than twelve thousand dollars as increased or decreased by the cost of living adjustment described in paragraph c of this subdivision, and (ii) in the case of any election to a public office, twenty-five thousand dollars as increased or decreased by the cost of living adjustment described in paragraph c of this subdivision; provided however, that the maximum amount which may be so contributed or accepted, in the aggregate, from any candidate's child, parent, grandparent, brother and sister, and the spouse of any such persons, shall not exceed in the case of any nomination to public office an amount equivalent to the product of the number of enrolled voters in the candidate's party in the state, excluding voters in inactive status, multiplied by $.025, and in the case of any election for a public office, an amount equivalent to the product of the number of registered voters in the state excluding voters in inactive status, multiplied by $.025.

b. In any other election for party position or for election to a public office or for nomination for any such office, no contributor may make a contribution to any candidate or political committee and no candidate or political committee may accept any contribution from any contributor, which is in the aggregate amount greater than: (i) in the case of any election for party position, or for nomination to public office, the product of the total number of enrolled voters in the candidate's party in the district in which he is a candidate, excluding voters in inactive status, multiplied by $.05, and (ii) in the case of any election for a public office, the product of the total number of registered voters in the district, excluding voters in inactive status, multiplied by $.05, however in the case of a nomination within the city of New York for the office of mayor, public advocate or comptroller, such amount shall

be not less than four thousand dollars nor more than twelve thousand dollars as increased or decreased by the cost of living adjustment described in paragraph c of this subdivision; in the case of an election within the city of New York for the office of mayor, public advocate or comptroller, twenty-five thousand dollars as increased or decreased by the cost of living adjustment described in paragraph c of this subdivision; in the case of a nomination for state senator, four thousand dollars as increased or decreased by the cost of living adjustment described in paragraph c of this subdivision; in the case of an election for state senator, six thousand two hundred fifty dollars as increased or decreased by the cost of living adjustment described in paragraph c of this subdivision; in the case of an election or nomination for a member of the assembly, twenty-five hundred dollars as increased or decreased by the cost of living adjustment described in paragraph c of this subdivision; but in no event shall any such maximum exceed fifty thousand dollars or be less than one thousand dollars; provided however, that the maximum amount which may be so contributed or accepted, in the aggregate, from any candidate's child, parent, grandparent, brother and sister, and the spouse of any such persons, shall not exceed in the case of any election for party position or nomination for public office an amount equivalent to the number of enrolled voters in the candidate's party in the district in which he is a candidate, excluding voters in inactive status, multiplied by $.25 and in the case of any election to public office, an amount equivalent to the number of registered voters in the district, excluding voters in inactive status, multiplied by $.25; or twelve hundred fifty dollars, whichever is greater, or in the case of a nomination or election of a state senator, twenty thousand dollars, whichever is greater, or in the case of a nomination or election of a member of the assembly twelve thousand five hundred dollars, whichever is greater, but in no event shall any such maximum exceed one hundred thousand dollars.

c. At the beginning of each fourth calendar year, commencing in nineteen hundred ninety-five, the state board shall determine the percentage of the difference between the most recent available monthly consumer price index for all urban consumers published by the United States bureau of labor statistics and such consumer price index published for the

same month four years previously. The amount of each contribution limit fixed in this subdivision shall be adjusted by the amount of such percentage difference to the closest one hundred dollars by the state board which, not later than the first day of February in each such year, shall issue a regulation publishing the amount of each such contribution limit. Each contribution limit as so adjusted shall be the contribution limit in effect for any election held before the next such adjustment.

1. [Eff. Nov. 9, 2022. See, also, subd. 1 above.] The following limitations apply to all contributions to candidates for election to any public office or for nomination for any such office, or for election to any party positions, and to all contributions to political committees working directly or indirectly with any candidate to aid or participate in such candidate's nomination or election, other than any contributions to any party committee or constituted committee:

a. In any election for a public office to be voted on by the voters of the entire state, or for nomination to any such office, no contributor may make a contribution to any candidate or political committee, *participating in the state's public campaign financing system pursuant to title two of this article* and no *such* candidate or political committee may accept any contribution from any contributor, which is in the aggregate amount greater than *eighteen* thousand dollars *divided equally among the primary and general election in an election cycle*; provided however, that the maximum amount which may be so contributed or accepted, in the aggregate, from any candidate's child, parent, grandparent, brother and sister, and the spouse of any such persons, shall not exceed in the case of any nomination to public office an amount equivalent to the product of the number of enrolled voters in the candidate's party in the state, excluding voters in inactive status, multiplied by $.025, and in the case of any election for a public office, an amount equivalent to the product of the number of registered voters in the state excluding voters in inactive status, multiplied by $.025.

b. In any other election for party position or for election to a public office or for nomination for any such office, no contributor may make a contribution to any candidate or political committee *participating in the state's public campaign financing system pursuant to title two of this article* and no

such candidate or political committee may accept any contribution from any contributor, which is in the aggregate amount greater than election for party position, or for nomination to public office, the product of the total number of enrolled voters in the candidate's party in the district in which he is a candidate, excluding voters in inactive status, multiplied by $.05, and (ii) in the case of any election for a public office, the product of the total number of registered voters in the district, excluding voters in inactive status, multiplied by $.05, however in the case of a nomination within the city of New York for the office of mayor, public advocate or comptroller, such amount shall be not less than four thousand dollars nor more than twelve thousand dollars as increased or decreased by the cost of living adjustment described in paragraph c of this subdivision; in the case of an election within the city of New York for the office of mayor, public advocate or comptroller, twenty-five thousand dollars as increased or decreased by the cost of living adjustment described in paragraph c of this subdivision; in the case of a nomination *or election* for state senator, *ten* thousand dollars, *divided equally among the primary and general election in an election cycle*; in the case of an election or nomination for a member of the assembly, *six thousand* dollars, *divided equally among the primary and general election in an election cycle*; provided however, that the maximum amount which may be so contributed or accepted, in the aggregate, from any candidate's child, parent, grandparent, brother and sister, and the spouse of any such persons, shall not exceed in the case of any election for party position or nomination for public office an amount equivalent to the number of enrolled voters in the candidate's party in the district in which he is a candidate, excluding voters in inactive status, multiplied by $.25 and in the case of any election to public office, an amount equivalent to the number of registered voters in the district, excluding voters in inactive status, multiplied by $.25; or twelve hundred fifty dollars, whichever is greater, or in the case of a nomination or election of a state senator, twenty thousand dollars, whichever is greater, or in the case of a nomination or election of a member of the assembly twelve thousand five hundred dollars, whichever is greater, but in no event shall any such maximum exceed one hundred thousand dollars.

c. *In any election for a public office to be voted on by the voters of the entire state, or for nomination to any such office, no contributor may make a contribution to any candidate or political committee in connection with a candidate who is not a participating candidate as defined in subdivision fourteen of section 14–200–a of this article, and no such candidate or political committee may accept any contribution from any contributor, which is in the aggregate amount greater than eighteen thousand dollars, divided equally among the primary and general election in an election cycle; provided however, that the maximum amount which may be so contributed or accepted, in the aggregate, from any candidate's child, parent, grandparent, brother and sister, and the spouse of any such persons, shall not exceed in the case of any nomination to public office an amount equivalent to the product of the number of enrolled voters in the candidate's party in the state, excluding voters in inactive status, multiplied by $.025, and in the case of any election for a public office, an amount equivalent to the product of the number of registered voters in the state, excluding voters in inactive status, multiplied by $.025.*

d. In any nomination or election of a candidate who is not a participating candidate for state senator, ten thousand dollars, divided equally among the primary and general election in an election cycle; in the case of an election or nomination for a member of the assembly, six thousand dollars, divided equally among the primary and general election in an election cycle.

e. (1) At the beginning of each fourth calendar year, commencing in nineteen hundred ninety-five, the state board shall determine the percentage of the difference between the most recent available monthly consumer price index for all urban consumers published by the United States bureau of labor statistics and such consumer price index published for the same month four years previously. The amount of each contribution limit fixed in this subdivision shall be adjusted by the amount of such percentage difference to the closest one hundred dollars by the state board which, not later than the first day of February in each such year, shall issue a regulation publishing the amount of each such contribution limit. Each contribution limit as so adjusted shall be the contribution limit in effect for any election held before the next such adjustment.

(2) Provided, however, that such adjustments shall not occur for candidates seeking statewide office, or the position of state senator or member of the assembly, whether such candidate does or does not participate in the public finance program established pursuant to title two of this article.

f. Notwithstanding any other contribution limit in this section, participating candidates as defined in subdivision fourteen of section 14–200–a of this article may contribute, out of their own money, three times the applicable contribution limit to their own authorized committee.

2. For purposes of this section, contributions other than of money shall be evaluated at their fair market value. The state board of elections shall promulgate regulations, consistent with law, governing the manner of computing fair market value.

3. As used in this section the term ''contributor'' shall not include a party committee supporting the candidate of such party or a constituted committee supporting the candidate of such party.

4. For purposes of this section, a portion of every contribution to a party committee, expended as other than non-candidate expenditures, and a portion of every contribution to a political committee authorized to support more than one candidate, shall be deemed contributed to every candidate supported by such committee. That portion shall be determined by allocating the contributions received by the committee among all the candidates supported by the committee in accordance with any formula based upon reasonable standards established by the committee. The statements filed by such committee in accordance with this article shall set forth, in addition to the other information required to be set forth, the total amount received by the committee from each contributor on behalf of all such candidates and the amount of each such contribution allocated to each candidate by dollar amount and percentage. Nothing in this subdivision shall require allocating contributions expended on non-candidate expenditures to candidates.

5. No constituted committee may expend, in any twelve month period terminating on the day of a general election, other than as non-candidate expenditures, any portion of any

individual contribution which exceeds, in the case of a state committee, one-half of one cent for each registered voter in the state, or, in the case of any other constituted committee, the greater of one cent for each registered voter in the district in which the committee is organized or five hundred dollars. The number of such voters shall be determined as of the date of such general election or as of the date of the general election in whichever of the preceding four years shall result in the greatest number.

6. a. A loan made to a candidate or political committee, other than a constituted committee, by any person, firm, association or corporation other than in the regular course of the lender's business shall be deemed, to the extent not repaid by the date of the primary, general or special election, as the case may be, a contribution by such person, firm, association or corporation.

b. A loan made to a candidate or political committee, other than a constituted committee, by any person, firm, association or corporation in the regular course of the lender's business shall be deemed, to the extent not repaid by the date of the primary, general or special election, as the case may be, a contribution by the obligor on the loan and by any other person endorsing, cosigning, guaranteeing, collateralizing or otherwise providing security for the loan.

c. Lobbyists, as defined by subdivision (a) of section one-c of the legislative law or by subdivision (a) of section 3–211 of the administrative code of the city of New York, political action committees, labor unions, and any person who has registered with the state board of elections as an independent expenditure committee pursuant to subdivision three of section 14–107 of this article are prohibited from making loans to candidates or political committees; provided, however, that a lobbyist shall not be prohibited from making a loan to himself or herself or to his or her own political committee when such lobbyist is a candidate for office.

7. For the purposes of this section, the number of registered or enrolled voters shall be determined as of the date of the general, special or primary election, as the case may be or as of the date of the general election in any of the preceding four years, whichever date shall result in the greatest number

and candidates running jointly for the offices of governor and lieutenant governor in a general or special election shall be deemed to be one candidate.

8. Except as may otherwise be provided for a candidate and his family, no person may contribute, loan or guarantee in excess of one hundred fifty thousand dollars within the state in connection with the nomination or election of persons to state and local public offices and party positions within the state of New York in any one calendar year. For the purposes of this subdivision ''loan'' or ''guarantee'' shall mean a loan or guarantee which is not repaid or discharged in the calendar year in which it is made.

9. Repealed.

10. a. No contributor may make a contribution to a party or constituted committee and no such committee may accept a contribution from any contributor which, in the aggregate, is greater than sixty-two thousand five hundred dollars per annum.

b. At the beginning of each fourth calendar year, commencing in nineteen hundred ninety-five, the state board shall determine the percentage of the difference between the most recent available monthly consumer price index for all urban consumers published by the United States bureau of labor statistics and such consumer price index published for the same month four years previously. The amount of such contribution limit fixed in paragraph a of this subdivision shall be adjusted by the amount of such percentage difference to the closest one hundred dollars by the state board which, not later than the first day of February in each such year, shall issue a regulation publishing the amount of such contribution limit. Such contribution limit as so adjusted shall be the contribution limit in effect for any election held before the next such adjustment.

11. A board of elections, as defined in subdivision twenty-six of section 1–104 of this chapter, shall calculate and publish on its website, on or before the fifteenth day of April, all contribution limits established pursuant to this section for the county, town, city and village offices on the ballot in that year, and within the same time period provide such calculated

contribution limits to the state board of elections in the format required by such board.

(L.1976, c. 233, § 1. Amended L.1978, c. 8, §§ 39–43; L.1978, c. 9, § 101; L.1986, c. 517, § 8; L.1986, c. 689, § 1; L.1992, c. 79, §§ 23 to 25; L.1993, c. 418, § 4; L.1994, c. 659, § 51; L.1997, c. 128, § 1, eff. June 24, 1997; L.2019, c. 55, pt. AAA, § 1, eff. April 12, 2019; L.2019, c. 412, § 1, eff. Dec. 15, 2019; L.2020, c. 58, pt. ZZZ, § 3, eff. Nov. 9, 2022.)

§ 14–116. Political contributions by certain organizations

1. No corporation, limited liability company, joint-stock association or other corporate entity doing business in this state, except a corporation or association organized or maintained for political purposes only, shall directly or indirectly pay or use or offer, consent or agree to pay or use any money or property for or in aid of any political party, committee or organization, or for, or in aid of, any corporation, limited liability company, joint-stock, other association, or other corporate entity organized or maintained for political purposes, or for, or in aid of, any candidate for political office or for nomination for such office, or for any political purpose whatever, or for the reimbursement or indemnification of any person for moneys or property so used. Any officer, director, stockholder, member, owner, attorney or agent of any corporation, limited liability company, joint-stock association or other corporate entity which violates any of the provisions of this section, who participates in, aids, abets or advises or consents to any such violations, and any person who solicits or knowingly receives any money or property in violation of this section, shall be guilty of a misdemeanor.

2. Notwithstanding the provisions of subdivision one of this section, any corporation or an organization financially supported in whole or in part, by such corporation, any limited liability company or other corporate entity may make expenditures, including contributions, not otherwise prohibited by law, for political purposes, in an amount not to exceed five thousand dollars in the aggregate in any calendar year; provided that no public utility shall use revenues received from the rendition of public service within the state for contributions for political purposes unless such cost is charged to the shareholders of such a public service corporation.

3. Each limited liability company that makes an expenditure, or contribution, for political purposes shall file with the state board of elections, by December thirty-first of the year in which the expenditure is made, on the form prescribed by the state board of elections, the identity of all direct and indirect owners of the membership interests in the limited liability company and the proportion of each direct or indirect member's ownership interest in the limited liability company.

(L.1976, c. 233, § 1. Amended L.1978, c. 9, § 102; L.1978, c. 373, § 94; L.1981, c. 260, § 1, eff. Sept. 1, 1981; L.2019, c. 4, § 1, eff. Jan. 31, 2019.)

Validity

For validity of this section, see Hispanic Leadership Fund, Inc. v. Walsh, 42 F.Supp.3d 365 (N.D.N.Y. 2014)

§ 14–118. Treasurer and depository of political committee; filing of name and address

1. Every political committee shall have a treasurer and a depository, and shall cause the treasurer to keep detailed, bound accounts of all receipts, transfers, loans, liabilities, contributions and expenditures, made by the committee or any of its officers, members or agents acting under its authority or in its behalf. All such accounts shall be retained by a treasurer for a period of five years from the date of the filing of the final statement with respect to the election, primary election or convention to which they pertain. No officer, member or agent of any political committee shall receive any receipt, transfer or contribution, or make any expenditure or incur any liability until the committee shall have chosen a treasurer and depository and filed their names in accordance with this subdivision. There shall be filed in the office in which the committee is required to file its statements under section 14–110 of this article, within five days after the choice of a treasurer and depository, a statement giving the name and address of the treasurer chosen, the name and address of any person authorized to sign checks by such treasurer, the name and address of the depository chosen and the candidate or candidates or ballot proposal or proposals the success or defeat of which the committee is to aid or take part; provided, however, that such statement shall not be required of a constituted committee and provided further that a political action committee which makes

no expenditures, to aid or take part in the election or defeat of a candidate, other than in the form of contributions, shall not be required to list the candidates being supported or opposed by such committee and shall also disclose the name and employer for any individual who exerts operational control over the political action committee as well as any salaried employee of the political action committee. Such statement shall be signed by the treasurer and all other persons authorized to sign checks. Any change in the information required in any statement shall be reported, in an amended statement filed in the same manner and in the same office as an original statement filed under this section, within two days after it occurs, except that any change to the mailing address on any such statement filed at the state board may also be made in any manner deemed acceptable by the state board. Only a banking organization authorized to do business in this state may be designated a depository hereunder.

2. No candidate, political committee, or agent thereof may receive from any one person an aggregate amount greater than one hundred dollars except in the form of a check, draft or other instrument payable to the candidate, political committee or treasurer and signed or endorsed by the donor; except that such a candidate, political committee or agent may receive contributions in amounts greater than one hundred dollars which are made by credit card, provided that such candidate, political committee or agent preserves, together with the other accounts which such candidate, committee or agent is required to preserve pursuant to the provisions of this article, a copy of the document which was submitted to secure payment of the funds so contributed. All such checks, drafts or other instruments shall be deposited in the account of the candidate or committee in the designated depository. No candidate or political committee shall expend an amount in excess of one hundred dollars except by check drawn on the depository and signed by the candidate or person authorized to sign checks by him or in the case of a political committee, the treasurer or a person authorized to sign checks by him.

3. (a) Every candidate who receives or expends any money or other valuable thing or incurs any liability to pay money or

its equivalent shall keep and retain detailed, bound accounts as provided in subdivision one of this section.

(b) Every candidate required to file sworn statements pursuant to subdivision one of section 14–104 of this article, other than a candidate who has filed a statement in lieu thereof at or before the first filing period as set forth in that section, shall file, in the office or offices in which he or she is required to file his or her statements under section 14–110 of this article, on a form prescribed by the state board for such purposes, a statement providing the name and address of the depository at which they maintain the accounts from which he or she conducts his or her own campaign financial activity.

(L.1976, c. 233, § 1. Amended L.1977, c. 323, § 3; L.1978, c. 8, § 44; L.1978, c. 9, § 103; L.1981, c. 930, § 2; L.1983, c. 70, § 3; L.1984, c. 309, § 1; L.2010, c. 156, § 1, eff. Oct. 5, 2010; L.2016, c. 286, pt. A, § 9, eff. Sept. 23, 2016.)

§ 14–120. Campaign contribution to be under true name of contributor

1. No person shall in any name except his own, directly or indirectly, make a payment or a promise of payment to a candidate or political committee or to any officer or member thereof, or to any person acting under its authority or in its behalf or on behalf of any candidate, nor shall any such committee or any such person or candidate knowingly receive a payment or promise of payment, or enter or cause the same to be entered in the accounts or records of such committee, in any name other than that of the person or persons by whom it is made.

2. Notwithstanding subdivision one of this section, a partnership, as defined in section ten of the partnership law, may be considered a separate entity for the purposes of this section, and as such may make contributions in the name of said partnership without attributing such contributions to the individual members of the partnership provided that any such contribution made by a partnership to a candidate or to a political committee, shall not exceed, twenty-five hundred dollars. In the event that such partnership contribution to any such candidate or political committee exceeds twenty-five hundred dollars, the aggregate amount of such contribution shall

be attributed to each partner whose share of the contribution exceeds ninety-nine dollars.

3. (a) Notwithstanding any law to the contrary, all contributions made to a campaign or political committee by a limited liability company shall be attributed to each member of the limited liability company in proportion to the member's ownership interest in the limited liability company.

(b) If, by application of paragraph (a) of this subdivision, a campaign contribution is attributed to a limited liability company, the contributions shall be further attributed to each member of the limited liability company in proportion to the member's ownership interest in the limited liability company.

(c) The state board of elections shall enact regulations that prevent the avoidance of the rules set forth in paragraphs (a) and (b) of this subdivision.

(L.1976, c. 233, § 1. Amended L.1978, c. 8, § 45; L.1992, c. 79, § 26, eff. May 8, 1992; L.2019, c. 4, § 2, eff. Jan. 31, 2019.)

§ 14–122. Accounting to treasurer or candidate; vouchers

1. Whoever, acting as an officer, member or agent of a political committee, or as an agent of a candidate for election to public office, or for nomination for public office at a primary election or convention, or for election to party position at a primary election, receives any receipt, contribution or transfer, or makes any expenditure or incurs any liability, shall, within three days after demand and in any event within fourteen days after any such receipt, transfer, contribution, expenditure, or liability, give to the treasurer of such committee, or to such candidate if an agent authorized by him a detailed account of the same, with all vouchers required by this article, which shall be a part of the accounts and files of such treasurer or such candidate.

2. Every payment required to be accounted for, unless the total expense payable to any one person be not in excess of ten dollars; shall be vouched for by a receipted bill stating the particulars of expense.

(L.1976, c. 233, § 1. Amended L.1978, c. 8, § 46; L.1978, c. 9, § 104, eff. Mar. 7, 1978.)

§ 14–124. Exceptions

1. This article shall not apply to any person, association or corporation engaged in the publication or distribution of any newspaper or other publication issued at regular intervals in respect to the ordinary conduct of such business.

2. The filing requirements and the expenditure, contribution and receipt limits of this article shall not apply to any candidate or committee who or which engages exclusively in activities on account of which, pursuant to the laws of the United States, there is required to be filed a statement or report of the campaign receipts, expenditures and liabilities of such candidate or committee with an office or officers of the government of the United States, provided a copy of each such statement or report is filed in the office of the state board of elections.

2–a. The provisions of sections 14–102, 14–112 and subdivision one of section 14–118 of this article shall not apply to a political committee supporting or opposing candidates for state or local office which, pursuant to the laws of the United States, is required to file a statement or report of the campaign receipts, expenditures and liabilities of such committee with an office or officer of the government of the United States, provided that such committee makes no expenditures to aid or take part in the election or defeat of a candidate for state or local office other than in the form of contributions which do not exceed in the aggregate one thousand dollars in any calendar year, and provided further, that a copy of the federal report which lists such contributions is filed with the appropriate board of elections at the same time that it is filed with the federal filing office or officer.

3. The contribution and receipt limits of this article shall not apply to monies received and expenditures made by a party committee or constituted committee to maintain a permanent headquarters and staff and carry on ordinary activities which are not for the express purpose of promoting the candidacy of specific candidates; provided that such monies described in this subdivision shall be deposited in a segregated account.

4. No candidate and no political committee taking part solely in his campaign and authorized to do so by him in

accordance with this article and no committee involved solely in promoting the success or defeat of a ballot proposal shall be required to file a statement required by sections 14–102 and 14–104 of this article if at the close of the reporting period for which such statement would be required neither the aggregate receipts nor the aggregate expenditures by and on behalf of such candidate or to promote the success or defeat of such proposal, by such candidate or such political committee or committees exceed one thousand dollars and such candidate or such committee files, on the filing date otherwise provided, a statement, sworn or subscribed and bearing a form notice that false statements made therein are punishable as a class A misdemeanor pursuant to section 210.45 of the penal law, stating that each of such aggregate receipts and aggregate expenditures does not exceed one thousand dollars.

5. The provisions of sections 14–104 and 14–112, and subdivision a [1] of section 14–118 shall not apply to any candidate for member of a county committee of a political party or any candidate for delegate or alternate delegate to a judicial district convention if the campaign expenditures made by or on behalf of such candidate do not exceed fifty dollars.

6. The provisions of sections 14–102, 14–104 and 14–118 respectively, of this article shall not apply to a candidate or a committee taking part solely in his campaign and authorized to do so by him in accordance with the provisions of this article in a campaign for election to public office or to a committee involved solely in promoting the success or defeat of a ballot proposal in a city, town or village having a population of less than ten thousand, as shown by the latest federal or state census or enumeration, unless the aggregate receipts of said candidate and his authorized committees or the committees promoting the success or defeat of a proposal or the aggregate expenditures made by such candidate and his authorized committees or the committees promoting the success or defeat of a proposal exceed one thousand dollars.

7. No candidate who is unopposed in a primary election and no political committee authorized by him pursuant to the provisions of this article and taking part solely in his campaign shall be required to file the two statements of receipts, expenditures and contributions required by this article to be filed

immediately prior to such uncontested primary election, provided that all the information which would be required to be filed in such statements for a candidate for election to public office shall be contained in the first statement required to be filed in connection with the ensuing general election.

8. A political committee formed solely to promote the success or defeat of any ballot proposal submitted to vote at a public election is exempt from filing statements required by this article until that committee has received or expended an amount in excess of one hundred dollars.

(L.1976, c. 233, § 1. Amended L.1977, c. 323, §§ 4, 5; L.1978, c. 8, § 47; L.1978, c. 9, § 105; L.1982, c. 63, § 1; L.1982, c. 647, § 26; L.1983, c. 70, § 4; L.1983, c. 955, § 3; L.1984, c. 454, § 1; L.1988, c. 71, § 1, eff. May 9, 1988; L.2016, c. 286, pt. B, § 1, eff. Aug. 24, 2016.)

[1] So in original. Probably should read ''1''.

§ 14–126. Violations; penalties

1. (a) Any person who fails to file a statement required to be filed by this article shall be subject to a civil penalty, not in excess of one thousand dollars, to be recoverable in a special proceeding or civil action to be brought by the chief enforcement counsel pursuant to section 16–114 of this chapter. Any person who, three or more times within a given election cycle for such term of office, fails to file a statement or statements required to be filed by this article, shall be subject to a civil penalty, not in excess of ten thousand dollars, to be recoverable as provided for in this subdivision.

(b) All payments received by the state board of elections pursuant to this section shall be retained in the appropriate accounts as designated by the division of the budget for enforcement activities by the board of elections.

2. Any person who, acting as or on behalf of a candidate or political committee, under circumstances evincing an intent to violate such law, unlawfully accepts a contribution in excess of a contribution limitation established in this article, shall be required to refund such excess amount and shall be subject to a civil penalty equal to the excess amount plus a fine of up to ten thousand dollars, to be recoverable in a special proceeding or civil action to be brought by the state board of elections chief enforcement counsel.

3. Any person who falsely identifies or knowingly fails to identify any independent expenditure as required by subdivision two of section 14–107 of this article or any political *communication* as required in section 14–106 of this article shall be subject to a civil penalty up to one thousand dollars or up to the cost of the communication, whichever is greater, in a special proceeding or civil action brought by the state board of elections chief enforcement counsel pursuant to paragraph (a) of subdivision five of section 3–104 of this chapter. For purposes of this subdivision, the term ''person'' shall mean a person, group of persons, corporation, unincorporated business entity, labor organization or business, trade or professional association or organization or political committee.

3–a. Any person who, acting as or on behalf of an independent expenditure committee or a political action committee, knowingly and willfully violates the provisions of section 14–107–a of this article shall be subject to a civil penalty, up to one thousand dollars or up to the cost of the communication, whichever is greater, to be recoverable in a special proceeding or civil action to be brought by the state board of elections.

4. Any person who knowingly and willfully fails to file a statement required to be filed by this article within ten days after the date provided for filing such statement or any person who knowingly and willfully violates any other provision of this article shall be guilty of a misdemeanor.

5. Any person who knowingly and willfully contributes, accepts or aids or participates in the acceptance of a contribution in an amount exceeding an applicable maximum specified in this article shall be guilty of a class A misdemeanor.

6. Any person who shall, acting on behalf of a candidate or political committee, knowingly and willfully solicit, organize or coordinate the formation of activities of one or more unauthorized committees, make expenditures in connection with the nomination for election or election of any candidate, or solicit any person to make any such expenditures, for the purpose of evading the contribution limitations of this article, shall be guilty of a class E felony.

7. Any online platform that fails to comply with the requirements of section 14–107–b of this article shall be subject to a

civil penalty up to one thousand dollars for each violation in a special proceeding or civil action brought by the state board of elections chief enforcement counsel pursuant to paragraph (a) of subdivision five of section 3–104 of this chapter.

(L.1976, c. 233, § 1. Amended L.1978, c. 8, § 48; L.1978, c. 9, § 106; L.1994, c. 128, § 1, eff. Jan. 1, 1995; L.2011, c. 399, pt. E, § 3, eff. Aug. 15, 2011; L.2014, c. 55, pt. H, subpt. B, § 1, eff. June 29, 2014; L.2014, c. 55, pt. H, subpt. C, § 6, eff. June 1, 2014; L.2016, c. 286, pt. A, § 11, eff. Sept. 23, 2016; L.2018, c. 59, pt. JJJ, § 12, eff. April 12, 2018; L.2019, c. 454, § 3, eff. Jan. 1, 2020; L.2020, c. 87, § 2, eff. Jan. 1, 2020.)

§ 14–127. Notice of civil penalty to authorizing candidate

If any person fails to file a statement of campaign receipts and expenditures for a candidate authorized political committee, and thereafter said person is a party to recovery of a civil penalty in a special proceeding or civil action brought by the state board of elections or other board of elections under section 14–126 of this article, said board of elections shall also provide the authorizing candidate with actual notice of the civil penalty, and the special proceeding or civil action by certified mail, return receipt requested, or by personal service.

(Added L.1995, c. 404, § 1, eff. Aug. 2, 1995.)

§ 14–128. Disposition of anonymous contributions

Any anonymous contributions received by a campaign treasurer, political committee or agency thereof shall not be used or expended, but the same shall be paid over to the comptroller of the state of New York for deposit in the general treasury of the state unless, before the date for filing statements and reports as herein provided, the identity of such anonymous contributor shall become known, and, in such event the anonymous contribution shall be returned to such contributor or retained and properly reported as a contribution from such contributor.

(Added L.1977, c. 323, § 6.)

§ 14–130. Campaign funds for personal use

1. Contributions received by a candidate or a political committee may be expended for any lawful purpose. Such funds shall not be converted by any person to a personal use

which is unrelated to a political campaign or the holding of a public office or party position.

2. No contribution shall be used to pay interest or any other finance charges upon monies loaned to the campaign by such candidate or the spouse of such candidate.

3. For the purposes of this section, contributions ''converted by any person to a personal use'' are expenditures that are exclusively for the personal benefit of the candidate or any other individual, not in connection with a political campaign or the holding of a public office or party position. ''Converted by any person to a personal use'', when meeting the definition in this subdivision, shall include, but not be limited to, expenses for the following:

(i) any residential or household items, supplies or expenditures, including mortgage, rent or utility payments for any part of any personal residence of a candidate or officeholder or a member of the candidate's or officeholder's family that are not incurred as a result of, or to facilitate, the individual's campaign, or the execution of his or her duties of public office or party position. In the event that any property or building is used for both personal and campaign use or as part of the execution of his or her duties of public office or party position, personal use shall constitute expenses that exceed the prorated amount for such expenses based on fair-market value.

(ii) mortgage, rent, or utility payments to a candidate or officeholder for any part of any non-residential property that is owned by a candidate or officeholder or a member of a candidate's or officeholder's family and used for campaign purposes, to the extent the payments exceed the fair market value of the property's usage for campaign activities;

(iii) clothing, other than items that are used in the campaign or in the execution of the duties of public office or party position;

(iv) tuition payments unrelated to a political campaign or the holding of a public office or party position;

(v) salary payments or other compensation provided to any person for services where such services are not solely for campaign purposes or provided in connection with the execution of the duties of public office or party position;

(vi) salary payments or other compensation provided to a member of a candidate's family, unless the family member is providing bona fide services to the campaign. If a family member provides bona fide services to a campaign, any salary payments or other compensation in excess of the fair market value of the services provided shall be considered payments for personal use;

(vii) admission to a sporting event, concert, theater, or other form of entertainment, unless such event is part of, or in connection with, a campaign or is related to the holding of public office or party position;

(viii) payment of any fines or penalties assessed against the candidate pursuant to this chapter or in connection with a criminal conviction or by the joint commission for public ethics pursuant to section ninety-four of the executive law or sections seventy-three or seventy-three-a of the public officers law or the legislative ethics commission pursuant to section eighty of the legislative law;

(ix) dues, fees, or gratuities at a country club, health club, recreational facility or other entities with a similar purpose, unless they are expenses connected with a specific fundraising event or activity associated with a political campaign or the holding of public office or party position that takes place on the organization's premises;

(x) travel expenses including automobile purchases or leases, unless used for campaign purposes or in connection with the execution of the duties of public office or party position and usage of such vehicle which is incidental to such purposes or the execution of such duties; and

(xi) childcare expenses, other than expenses incurred in the campaign or in the execution of the duties of public office or party position.

4. Nothing in this section shall prohibit a candidate from purchasing equipment or property from his or her personal funds and leasing or renting such equipment or property to a committee working directly or indirectly with him to aid or participate in his or her nomination or election, including an exploratory committee, provided that the candidate and his or her campaign treasurer sign a written lease or rental agree-

ment. Such agreement shall include the lease or rental price, which shall not exceed the fair lease or rental value of the equipment. The candidate shall not receive lease or rental payments which, in the aggregate, exceed the cost of purchasing the equipment or property.

5. Nothing in this section shall prohibit an elected public officeholder from using campaign contributions to facilitate, support, or otherwise assist in the execution or performance of the duties of his or her public office.

6. The state board of elections shall issue advisory opinions upon request regarding expenditures that may or may not be considered personal use of contributions. Any formal or informal advisory opinions issued by a majority vote of the commissioners of the state board of elections shall be binding on the board, the chief enforcement counsel established by subdivision three-a of section 3–100 of this chapter, and in any subsequent civil or criminal action or proceeding or administrative proceeding.

(Added L.1985, c. 152, § 1, eff. June 4, 1985. Amended L.2015, c. 56, pt. CC, § 9, eff. April 13, 2015; L.2019, c. 136, § 1, eff. Sept. 28, 2019.)

§ 14–132. Disposition of campaign funds

1. Upon the death of a candidate, former candidate or holder of elective office, where such candidate or candidate's authorized committee received campaign contributions, all such funds shall be disposed of by any of the following means, or any combination thereof, within two years of the death of such person:

(a) returning, pro rata, to each contributor the funds that have not been spent or obligated;

(b) donating the funds to a charitable organization or organizations that meet the qualifications of section 501(c)(3) of the Internal Revenue Code;

(c) donating the funds to the state university of New York or the city university of New York;

(d) donating the funds to the state's general fund; or

(e) contributing or transferring the funds to a candidate, party, constituted or political committee in accordance with the applicable limits, if any, set forth in this article.

2. No such candidate's authorized political committee shall dispose of campaign funds by making expenditures for personal use as defined in section 14–130 of this article.

3. If funds are not disposed of within the time required by this section, such funds shall be recoverable by the chief enforcement counsel of the state board of elections in a special proceeding in state supreme court in the manner prescribed by section 16–116 of this chapter and deposited into the state's general fund.

(Added L.2016, c. 286, pt. C, § 2, eff. July 1, 2017.)

TITLE II—PUBLIC FINANCING [Eff. Nov. 9, 2022.]

Section

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§ 14–200. Legislative findings and intent

[Eff. Nov. 9, 2022.]

The legislature finds that reform of New York state's campaign finance system is crucial to improving public confidence in the state's democratic processes and continuing to ensure a government that is accountable to all of the voters of the state regardless of wealth or position. The legislature finds that New York's current system of campaign finance, with its large contributions to candidates for office and party committees, has created the potential for and the appearance of corruption. The legislature further finds that, whether or not this system creates actual corruption, the appearance of such corruption can give rise to a distrust in government and citizen apathy that undermines the democratic operation of the political process.

The legislature also finds that the high cost of running for office in New York discourages qualified candidates from running for office and creates an electoral system that encourages candidates to spend too much time raising money rather than attending to the duties of their office, representing the needs of their constituents, and communicating with voters.

The legislature amends this article creating a new title to this article to reduce the possibility and appearance that special interests exercise undue influence over state officials; to increase the actual and apparent responsiveness of elected officials to all voters; to encourage qualified candidates to run for office; and to reduce the pressure on candidates to spend large amounts of time raising large contributions for their campaigns.

The legislature also finds that the system of voluntary public financing furthers the government's interest in encouraging qualified candidates to run for office. The legislature finds that the voluntary public funding program will enlarge the public debate and increase participation in the democratic process. In addition, the legislature finds that the voluntary expenditure limitations and matching fund program reduce the burden on candidates and officeholders to spend time raising money for their campaigns.

Therefore, the legislature declares that these amendments further the important and valid government interests of reducing voter apathy, building confidence in government, reducing the reality and appearance of corruption, and encouraging qualified candidates to run for office, while reducing candidates' and officeholders' fundraising burdens.

(Added L.2020, c. 58, pt. ZZZ, § 4, eff. Nov. 9, 2022.)

§ 14–200–a. Definitions

[Eff. Nov. 9, 2022.]

For the purposes of this title, the following terms shall have the following meanings:

1. "authorized committee" means the single political committee designated by a candidate pursuant to these recommendations to receive contributions and make expenditures in support of the candidate's campaign for such election.

2. ''PCFB'' means the public campaign finance board established in this title, unless otherwise specified.

3. ''contribution'' shall have the same meaning as appears in subdivision nine of section 14–100 of this article.

4. ''contributor'' means any person or entity that makes a contribution.

5. ''covered election'' means any primary, general, or special election for nomination for election, or election, to the office of governor, lieutenant governor, attorney general, state comptroller, state senator, or member of the assembly.

6. ''election cycle'' means the two-year period starting the day after the last general election for candidates for the state legislature and shall mean the four-year period starting after the day after the last general election for candidates for statewide office.

7. ''expenditure'' means any gift, subscription, advance, payment, or deposit of money, or anything of value, or a contract to make any gift, subscription, payment, or deposit of money, or anything of value, made in connection with the nomination for election, or election, of any candidate. Expenditures made by contract are deemed made when such funds are obligated.

8. ''fund'' means the New York state campaign finance fund established pursuant to section ninety-two-t of the state finance law.

9. ''immediate family'' means a spouse, domestic partner, child, sibling, or parent.

10. ''item with significant intrinsic and enduring value'' means any item, including tickets to an event, that are valued at twenty-five dollars or more.

11. (a) ''matchable contribution'' means a contribution not less than five dollars and not more than two hundred fifty dollars, for a candi-date for public office to be voted on by the voters of the entire state or for nomination to any such office, a contribution for any covered elections held in the same election cycle, made by a natural person who is a resident in the state of New York to a participating candidate, and for a candidate for election to the state assembly or state senate or for nomination to any such office, a contribution for any covered elections held

in the same election cycle, made by a natural person who is also a resident of such state assembly or state senate district from which such candidate is seeking nomination or election, that has been reported in full to the PCFB in accordance with sections 14–102 and 14–104 of this article by the candidate's authorized committee and has been contributed on or before the day of the applicable primary, general, runoff, or special election. Any contribution, contributions, or a portion of a contribution determined to be invalid for matching funds by the PCFB may not be treated as a matchable contribution for any purpose.

(b) The following contributions are not matchable:

(i) loans;

(ii) in-kind contributions of property, goods, or services;

(iii) contributions in the form of the purchase price paid for an item with significant intrinsic and enduring value;

(iv) transfers from a party or constituted committee;

(v) anonymous contributions;

(vi) contributions whose source is not itemized as required by these recommendations;

(vii) contributions gathered during a previous election cycle;

(viii) illegal contributions;

(ix) contributions from minors;

(x) contributions from vendors for campaigns hired by the candidate for such election cycle;

(xi) contributions from lobbyists registered pursuant to subdivision (a) of section one-c of the legislative law; and

(xii) any portion of a contribution when the aggregate contributions are in excess of two hundred fifty dollars from any one contributor to such participating candidate for nomination or election.

13. ''nonparticipating candidate'' means a candidate for a covered election who fails to file a written certification in the form of an affidavit pursuant to these recommendation by the applicable deadline.

14. ''participating candidate'' means any candidate for nomination for election, or election, to the office of governor, lieuten-

ant governor, attorney general, state comptroller, state senator, or member of the assembly, who files a written certification in the form determined by the PCFB.

15. ''post-election period'' means the period following an election when a candidate is subject to an audit.

16. ''qualified campaign expenditure'' means an expenditure for which public matching funds may be used.

17. ''threshold for eligibility'' means the amount of matchable contributions that a candidate's authorized committee must receive in total in order for such candidate to qualify for voluntary public financing under this title.

18. ''transfer'' means any exchange of funds between a party or constituted committee and a candidate or any of his or her authorized committees.

19. ''surplus'' means those funds where the total sum of contributions received and public matchable funds received by a participating candi-date and his or her authorized committee exceeds the total campaign expenditures of such candidate and authorized committee for all covered elections held in the same calendar year or for a special election to fill a vacancy.

(Added L.2020, c. 58, pt. ZZZ, § 4, eff. Nov. 9, 2022.)

§ 14–201. Political committee registration

[Eff. Nov. 9, 2022.]

1. Political committees, as defined pursuant to subdivision one of section 14–100 of this article, shall register with the state board of elections before making any contribution or expenditure. The state board of elections shall publish a cumulative list of political committees that have registered, including on its webpage, and regularly update it.

2. Only one authorized committee per candidate per elective office sought. Before receiving any contribution or making any expenditure for a covered election, each candidate shall notify the PCFB as to the existence of his or her authorized committee that has been approved by such candidate. Each candidate shall have one and only one authorized committee per elective office sought. Each authorized committee shall have a treasurer.

3. (a) In addition to each authorized and political committee reporting to the PCFB every contribution and loan received and every expenditure made in the time and manner prescribed by sections 14–102, 14–104, and 14–108 of this article, each authorized and political committee for participating candidates shall also submit disclosure reports on March fifteenth of each election year reporting to the PCFB every contribution and loan received and every expenditure made. For contributors who make aggregate contributions of one hundred dollars or more, each authorized and political committee shall report to the PCFB the occupation and business address of each contributor and lender. The PCFB shall revise, prepare, and post forms on its webpage that facilitate compliance with the requirements of this section.

(b) The PCFB shall review each disclosure report filed and shall inform authorized and political committees of relevant questions it has concerning: (i) compliance with requirements of this title and of the rules issued by the PCFB, and (ii) qualification for receiving public matching funds pursuant to this title. In the course of this review, it shall give authorized and political committees an opportunity to respond to and correct potential violations and give candidates an opportunity to address questions it has concerning their matchable contribution claims or other issues concerning eligibility for receiving public matching funds pursuant to this title.

(c) Contributions that are not itemized in reports filed with the PCFB shall not be matchable.

(d) Participating candidates may file reports of contributions as frequently as once a week on Monday so that their matching funds may be paid at the earliest allowable date.

(Added L.2020, c. 58, pt. ZZZ, § 4, eff. Nov. 9, 2022.)

§ 14–202. Proof of compliance

[Eff. Nov. 9, 2022.]

Authorized and political committees shall maintain such records of receipts and expenditures for a covered election as required by the PCFB. Authorized and political committees shall obtain and furnish to the PCFB any information it may request relating to financial transactions or contributions and furnish

such documentation and other proof of compliance with this title as may be requested. In compliance with section 14–108 of this article, authorized and political committees shall maintain copies of such records for a period of five years.

(Added L.2020, c. 58, pt. ZZZ, § 4, eff. Nov. 9, 2022.)

§ 14–203. Eligibility

[Eff. Nov. 9, 2022.]

1. Terms and conditions. To be eligible for voluntary public financing under this title, a candidate must:

(a) be a candidate in a covered election;

(b) meet all the requirements of law to have his or her name on the ballot, subject to the requirements of subdivision three of section 1–104 and subdivision one of section 6–142 of this chapter;

(c) in the case of a covered general or special election, be opposed by another candidate on the ballot who is not a write-in candidate;

(d) submit a certification in the form of an affidavit, in such form as may be prescribed by the PCFB, that sets forth his or her acceptance of and agreement to comply with the terms and conditions for the provision of such funds in each covered election and such certification shall be submitted at least four months before a primary election and on the last day in which a certification of nomination is filed in a special election pursuant to a schedule promulgated by the PCFB;

(e) be certified as a participating candidate by the PCFB;

(f) not make, and not have made, expenditures from or use his or her personal funds or property or the personal funds or property jointly held with his or her spouse, or unemancipated children in connection with his or her nomination for election or election to a covered office, but may make a contribution to his or her authorized committee in an amount that does not exceed three times the applicable contribution limit from an individual contributor to candidates for the office that he or she is seeking;

(g) meet the threshold for eligibility set forth in subdivision two of this section;

(h) continue to abide by all requirements during the post-election period; and

(i) not have accepted contributions in amounts exceeding the contribution limits set forth for candidates in paragraphs a and b of subdivision one of section 14–114 of this article during the election cycle for which the candidate seeks certification;

(i) Provided however, that, if a candidate accepted contributions exceeding such limits, such acceptance shall not prevent the candidate from being certified by the PCFB if the candidate in a reasonable time, as determined by rule, pays to the fund or returns to the contributor the portion of any contribution that exceeded the applicable contribution limit.

(ii) If the candidate is unable to return such funds in a reasonable time, as determined by rule, because they have already been spent, acceptance of contributions exceeding the limits shall not prevent the candidate from being certified by the PCFB if the candidate submits an affidavit agreeing to pay to the fund all portions of any contributions that exceeded the limit no later than thirty days before the general election. If a candidate provides the PCFB with such an affidavit, any disbursement of public funds to the candidate shall be reduced by no more than twenty-five percent until the total amount owed by the candidate is repaid.

(iii) Nothing in this section shall be interpreted to require a candi-date who retains funds raised during any previous election cycle to forfeit such funds. Funds raised during a previous election cycle may be retained and used by the candidate for the candidate's campaign in the next election cycle but funds shall not qualify for satisfying the threshold for participating in the public campaign finance program established in this title nor shall they be eligible to be matched. The PCFB shall adopt regulations to ensure that contributions that would satisfy the applicable contribution limits authorized in this title shall be transferred into the appropriate campaign account.

(iv) Contributions received and expenditures made by the candidate or an authorized committee of the candidate prior to the effective date of this title shall not constitute a violation of this title. Unexpended contributions shall be treated the same as campaign surpluses under subparagraph (iii) of this paragraph.

Nothing in this recommendation shall be construed to limit, in any way, any candidate or public official from expending any portion of pre-existing campaign funds for any lawful purpose other than those related to his or her campaign.

(v) A candidate who has raised matchable contributions but, in the case of a covered primary, general or special election, is not opposed by another candidate on the ballot who is not a write-in candidate, or who chooses not to accept matchable funds, may retain such contributions and apply them in accord with this title to the candidate's next campaign, should there be one, in the next election cycle.

2. Threshold for eligibility. (a) The threshold for eligibility for public funding for participating candidates shall be in the case of:

(i) governor, not less than five hundred thousand dollars in contributions including at least five thousand matchable contributions shall be counted toward this qualifying threshold;

(ii) lieutenant governor, attorney general and comptroller, not less than one hundred thousand dollars in contributions including at least one thousand matchable contributions shall be counted toward this qualifying threshold;

(iii) state senator, except as otherwise provided in paragraph (c) of this subdivision, not less than twelve thousand dollars in contributions including at least one hundred fifty matchable contributions shall be counted toward this qualifying threshold; and

(iv) member of the assembly, except as otherwise provided in paragraph (c) of this subdivision, not less than six thousand dollars in contributions including at least seventy-five matchable contributions shall be counted toward this qualifying threshold.

(b) However, solely for purposes of achieving the monetary thresholds in paragraph (a) of this subdivision, the first two hundred fifty dollars of any contribution of more than two hundred fifty dollars to a candidate or a candidate's committee which would otherwise be matchable except that it comes from a contributor who has contributed more than two hundred fifty dollars to such candidate or candidate's committee, is deemed to be a matchable contribution and shall count toward satisfying

such monetary threshold but shall not otherwise be considered a matchable contribution.

(c) With respect to the minimum dollar threshold for participating candidates for state senate and state assembly, in such districts where average median income (''AMI'') is below the AMI as determined by the United States Census Bureau three years before such election for which public funds are sought, such minimum dollar threshold for eligibility shall be reduced by one-third. The PCFB shall make public which districts are subject to such reduction no later than two years before the first primary election for which funding is sought.

(d) Any participating candidate meeting the threshold for eligibility in a primary election for one of the foregoing offices shall be applied to satisfy the threshold for eligibility for such office in any other subsequent election held in the same calendar year. Any participating candidate who is nominated in a primary election and has participated in the public financing program set forth in this title, must participate in the general election for such office.

(Added L.2020, c. 58, pt. ZZZ, § 4, eff. Nov. 9, 2022.)

§ 14–204. Limits on public financing

[Eff. Nov. 9, 2022.]

The following limitations apply to the total amounts of public funds that may be provided to a participating candidate's authorized committee for an election cycle:

1. In any primary election, receipt of public funds by participating candidates and by their participating committees shall not exceed:

(a) for Governor	*$3,500,000*
(b) for Lieutenant Governor, Attorney General or Comptroller	*$3,500,000*
(c) for State Senator	*$375,000*
(d) for Member of the Assembly	*$175,000*

2. In any general or special election, receipt of public funds by a participating candidate's authorized committees shall not exceed:

(a) for Governor and Lieutenant Governor (combined)	*$3,500,000*
(b) for Attorney General	*$3,500,000*
(c) for Comptroller	*$3,500,000*
(d) for State Senator	*$375,000*

(e) for Member of the Assembly *$175,000*

3. No participating candidate for nomination for an office who is not opposed by a candidate on the ballot in a primary election shall be entitled to payment of public matching funds, except that, where there is a contest in such primary election for the nomination of at least one of the two political parties with the highest and second highest number of enrolled members for such office, a participating candidate who is unopposed in the primary election may receive public funds before the primary election, for expenses incurred on or before the date of such primary election, in an amount equal to up to half the sum set forth in paragraph one of this section.

4. Nothing in this section shall be construed to limit the amount of private funds a candidate may receive subject to the contribution limits contained in section 14–114 of this article. Any contributions so received which are not expended in the general election may be applied to the next covered election for an office for which such candidate seeks nomination or election.

5. A candidate only on the ballot in one or more primary elections in which the number of persons eligible to vote for party nominees in each such election totals fewer than one thousand shall not receive public funds in excess of five thousand dollars for qualified campaign expenditures in such election or elections. For the purposes of this section, the number of persons eligible to vote for party nominees in a primary election shall be as determined by the state board of elections for the calendar year of the primary election. A candidate for office on the ballot in more than one primary for such office, shall be deemed, for purposes of this recommendation, to be a single candidate.

(Added L.2020, c. 58, pt. ZZZ, § 4, eff. Nov. 9, 2022.)

§ 14–205. Payment of public matching funds

[Eff. Nov. 9, 2022.]

1. Determination of eligibility. No public matching funds shall be paid to an authorized committee unless the PCFB determines that the participating candidate has met the eligibility requirements of this title. Payment shall not exceed the amounts specified in subdivision two of this section, and shall

be made only in accordance with the provisions of this title. Such payment may be made only to the participating candidate's authorized committee. No public matching funds shall be used except as reimbursement or payment for qualified campaign expenditures actually and lawfully incurred or to repay loans used to pay qualified campaign expenditures.

2. Calculation of payment. (a) In any election for a public office to be voted on by the voters of the entire state or for nomination to any such office, if the threshold for eligibility is met, the participating candidate's authorized committee shall receive payment for qualified campaign expenditures of six dollars of public matching funds for each one dollar of matchable contributions, obtained and reported to the PCFB in accordance with the provisions of this title. The maximum payment of public matching funds shall be limited to the amounts set forth in this section for the covered election.

(b) In any election for state senate or state assembly or for nomination to any such office, if the threshold for eligibility is met, the participating candidate's authorized committee shall receive payment for qualified campaign expenditures for matchable contributions of eligible private funds per contributor, obtained, and reported to the PCFB herein, of: twelve dollars of public matching funds for each of the first fifty dollars of matchable contributions; nine dollars of public matching funds for each of the next one hundred dollars of public matchable contributions; and eight dollars for the each of the next one hundred dollars of public matchable contributions. The maximum payment of public matching funds shall be limited to the amounts set forth in this section for the covered election.

3. Timing of payment. The PCFB shall make any payment of public matching funds to participating candidates as soon as is practicable. But in all cases, it shall verify eligibility for public matching funds within four days, excluding weekends and holidays, of receiving a campaign contribution report filed in compliance with section 14–104 of this article. Within two days of determining that a candidate for a covered office is eligible for public matching funds, it shall authorize payment of the applicable matching funds owed to the candidate. The PCFB shall schedule at least three payment dates in the thirty days prior to a covered primary, general, or special election. If

any of such payments would require payment on a weekend or federal holiday, payment shall be made on the next business day.

4. Notwithstanding any provision of this section to the contrary, the amount of public funds payable to a participating candidate on the ballot in any covered election shall not exceed one-quarter of the maximum public funds payment otherwise applicable and no participating candidate shall be eligible to receive a disbursement of public funds prior to two weeks after the last day to file designating petitions for a primary election unless the participating candidate is opposed by a competitive candidate. The PCFB shall, by regulation, set forth objective standards to determine whether a candidate is competitive and the procedures for qualifying for the payment of public funds.

5. Electronic funds transfer. The PCFB shall, in consultation with the office of the comptroller, promulgate rules to facilitate electronic funds transfers directly from the campaign finance fund into an authorized committee's bank account.

6. Irregularly scheduled elections. Notwithstanding any other provision of this title, the PCFB shall promulgate rules to provide for the prompt issuance of public matching funds to eligible participating candidates for qualified campaign expenditures in the case of any other covered election held on a day different from the day originally scheduled, including special elections. Provided, however in all cases, the PCFB shall: (a) within four days, excluding weekends and holidays, of receiving a report of contributions from a candidate for a covered office claiming eligibility for public matching funds, verify that candidate's eligibility for public matching funds; and (b) within two days of determining that the candidate for a covered office is eligible for public matching funds, it shall authorize payment of the applicable matching funds owed to the candidate.

(Added L.2020, c. 58, pt. ZZZ, § 4, eff. Nov. 9, 2022.)

§ 14–206. Use of public matching funds; qualified campaign expenditures

[Eff. Nov. 9, 2022.]

1. Public matching funds provided pursuant to this title may be used only by an authorized committee for expenditures to further the participating candidate's nomination for election or

election, including paying for debts incurred within one year prior to an election to further the participating candidate's nomination for election or election.

2. Such public matching funds may not be used for:

(a) an expenditure in violation of any law;

(b) an expenditure in excess of the fair market value of services, materials, facilities, or other things of value received in exchange;

(c) an expenditure made after the candidate has been finally disqualified from the ballot;

(d) an expenditure made after the only remaining opponent of the candidate has been finally disqualified from the general or special election ballot;

(e) an expenditure made by cash payment;

(f) a contribution or loan or transfer made to or expenditure to support another candidate or political committee or party committee or constituted committee;

(g) an expenditure to support or oppose a candidate for an office other than that which the participating candidate seeks;

(h) gifts, except brochures, buttons, signs, tee shirts and other printed campaign material;

(i) legal fees to defend against a criminal charge;

(j) any expenditure made to challenge the validity of any petition of designation or nomination or any certificate of nomination, acceptance, authorization, declination, or substitution;

(k) payments made to the candidate or a spouse, domestic partner, child, grandchild, parent, grandparent, brother or sister of the candi-date or spouse or domestic partner of such child, grandchild, parent, grandparent, brother or sister, or to a business entity in which the candidate or any such person has a ten percent or greater ownership interest;

(l) an expenditure made primarily for the purpose of expressly advocating a vote for or against a ballot proposal, other than expenditures made also to further the participating candidate's nomination for election or election;

(m) payment of any settlement, penalty or fine imposed pursuant to federal, state or local law;

(n) payments made through advances, except in the case of individual purchases less than two hundred fifty dollars; or

(o) expenditures to facilitate, support, or otherwise assist in the execution or performance of the duties of public office.

(Added L.2020, c. 58, pt. ZZZ, § 4, eff. Nov. 9, 2022.)

§ 14–207. Composition, powers, and duties of the public campaign finance board

[Eff. Nov. 9, 2022.]

1. There shall be a public campaign finance board within the state board of elections that shall be comprised of the following commissioners: the four state board of elections commissioners and three additional commissioners, one jointly appointed by the legislative leaders of one major political party in each house of the legislature, one jointly appointed by the legislative leaders of the other major political party in each house of the legislature, and one of whom shall be appointed by the governor. Each commissioner must be a New York state resident and registered voter, and may not currently be, or within the previous five years have been, an officer of a political party or political committee as defined in the election law, or a registered lobbyist. The chair of the PCFB shall be designated by the PCFB from among the three additional commissioners. Each of the three additional commissioners shall receive a per diem of three hundred fifty dollars for work actually performed not to exceed twenty-five thousand dollars in any one calendar year. They shall be considered public officers for purposes of sections seventy-three-a and seventy-four of the public officers law. The three commissioners so appointed pursuant to this recommendation will be appointed for a term of five years to commence on July first, two thousand twenty and may be removed by his or her appointing authority solely for substantial neglect of duty, gross misconduct in office, inability to discharge the power or duties of office, after written notice and opportunity to be heard. During the period of his or her term as a commissioner appointed hereunder, each such commissioner is barred from making, or soliciting from other persons, any contributions to candidates for election to the offices of governor, lieutenant governor, attorney general, comptroller, member of the assembly, or state senator. Any vacancy occurring on the PCFB shall be filled within thirty days of its

occurrence in the same manner as the member whose vacancy is being filled was appointed. A person appointed to fill a vacancy occurring other than by expiration of a term of office shall be appointed for the unexpired term of the member he or she succeeds. Four members of the PCFB shall constitute a quorum, and the PCFB shall have the power to act by majority vote of the total number of members of the commission without vacancy. All members of the PCFB shall be appointed no later than the first day of July, two thousand twenty and the PCFB shall promulgate such regulations as are needed no later than the first day of July, two thousand twenty-one.

2. The PCFB and state board of elections may utilize existing state board of elections staff and hire such other staff as are necessary to carry out its duties. It may expand its staffing, as needed, to provide additional candidate liaisons to assist candidates in complying with the terms of this public campaign finance system as provided for in these recommendations, as well as auditors, trainers, attorneys, technical staff and other such staff as the PCFB determines is necessary to administer this system. Annually, on or before the first of every year, the PCFB shall submit to the governor and the division of the budget a request for appropriations for the next state fiscal year to fully support the administration of the public campaign finance program established in this title.

3. The PCFB shall develop a program for informing candidates and the public as to the purpose and effect of the provisions of this title, including by means of a webpage. The PCFB shall prepare in plain language and make available educational materials, including compliance manuals and summaries and explanations of the purposes and provisions of this title. The PCFB shall provide compliance counseling and guidance to candidates seeking to participate in public financing as provided for in this title, as well as to such candidates who participate. The PCFB shall prepare or have prepared and make available materials, including, to the extent feasible, computer software, to facilitate the task of compliance with the disclosure and record keeping requirements of this title.

4. The PCFB shall have the authority to promulgate such rules and regulations and provide such forms as it deems necessary for the administration of this title.

5. The PCFB shall provide an interactive, searchable computer database that shall contain all information necessary for the proper administration of this title, including information on contributions to and expenditures by candidates and their authorized committees, independent expenditures in support or opposition of candidates for covered offices, and distributions of moneys from the fund. Such database shall be accessible to the public on the PCFB's webpage.

6. Any advice provided by PCFB staff to a participating or non participating candidate with regard to an action shall be presumptive evidence that such action, if taken in reliance on such advice, should not be subject to a penalty or repayment obligation where such candidate or such candidate's committee has confirmed such advice in writing to such PCFB staff by registered or certified mail to the correct address, or by electronic or facsimile transmission with evidence of receipt, describing the action to be taken pursuant to the advice given and the PCFB or its staff has not responded to such written confirmation within seven business days disavowing or altering such advice, provided that the PCFB's response shall be by registered or certified mail to the correct address, or by electronic or facsimile transmission with evidence of receipt.

7. The PCFB and its proceedings shall be subject to articles six and seven of the public officers law.

8. Notwithstanding any other provision of law including, but not limited to, subdivision one of section 3–104 of this chapter, the PCFB shall have sole authority to investigate all referrals and complaints relating to the administration of the program established hereunder and violations of any of its provisions, and it shall have sole authority to administer the program established in this title and to enforce such provisions of this program except as otherwise provided in this title.

9. The PCFB may take such other actions as are necessary and proper to carry out the purposes of this recommendation.

(Added L.2020, c. 58, pt. ZZZ, § 4, eff. Nov. 9, 2022.)

§ 14–208. Audits and repayments

[Eff. Nov. 9, 2022.]

1. Audits. (a) The PCFB shall audit and examine all matters relating to the proper administration of this title and shall complete all such audits no later than one and one-half years after the election in question. This deadline shall not apply in cases involving potential campaign-related fraud, knowing and willful violations of this article, or criminal activity.

(b) Every participating candidate for statewide office who receives public funds as provided in this title, and every candidate for any other office who receives five hundred thousand dollars or greater in public funds as provided in this title, shall be audited by the PCFB along with all other candidates in each such race. Such audits shall be completed within one and one-half years of the election in question.

(c) Except as provided in paragraph (b) of this subdivision, the PCFB shall select not more than one-third of all participating candidates in covered elections for audit through a lottery which shall be completed within one year of the election in question. A separate lottery shall be conducted for each office. The PCFB shall select senate and assembly districts to be audited, auditing every candidate in each selected district, while ensuring that the number of audited candidates within those districts does not exceed fifty percent of all participating candidates for the relevant office. The lottery for senate and assembly elections shall be weighted to increase the likelihood that a district for the relevant office is audited based on how frequently it has not been selected for auditing during the past three election cycles. The PCFB shall promulgate rules concerning the method of weighting the senate and assembly lotteries, including provisions for the first three election cycles for each office.

(d) The cost of complying with a post-election audit shall be borne by the candidate's authorized committee using public funds, private funds, or any combination of such funds. Candidates who run in any primary or general election must maintain a reserve of three percent of the public funds received to comply with the post-election audit.

(e) The PCFB shall issue to each campaign audited a final audit report that details its findings.

2. Repayments. (a) If the PCFB determines that any portion of the payment made to a candidate's authorized committee from

the fund was in excess of the aggregate amount of payments that such candidate was eligible to receive pursuant to this title, it shall notify such committee and such committee shall pay to the PCFB an amount equal to the amount of excess payments. Such committee shall first utilize the surplus for repayment of such sums and then such other funds as it may have. Provided, however, that if the erroneous payment was the result of an error by the PCFB, then the erroneous payment will be deducted from any future payment, if any, and if no future payment is to be made then neither the candidate nor the committee shall be liable to repay the excess amount to the PCFB. The candidate and the candidate's authorized committee are jointly and severally liable for any repayments to the PCFB.

(b) If the PCFB determines that any portion of the payment made to a candidate's authorized committee from the fund was used for purposes other than qualified campaign expenditures and such expenditures were not approved by the PCFB, it shall notify such committee of the amount so disqualified and such committee shall pay to the PCFB an amount equal to such disqualified amount. The candidate, the treasurer, and the candidate's authorized committee are jointly and severally liable for any repayments to the PCFB.

(c) If the total sum of contributions received and public matching payments from the fund received by a participating candidate and his or her authorized committee exceed the total campaign expenditures of such candidate and authorized committee for all covered elections held in the same calendar year or for a special election to fill a vacancy, such candidate and committee shall use such surplus funds to reimburse the fund for payments received by such authorized committee from the fund during such calendar year or for such special election. Participating candidates shall make such payments not later than twenty-seven days after all liabilities for the election have been paid and in any event, not later than the day on which the PCFB issues its final audit report for the participating candidate's authorized committee; provided, however, that all unspent public campaign funds for a participating candidate shall be immediately due and payable to the PCFB upon a determination by the PCFB that the participant has delayed the post-election audit. A participating candidate may make post-election expen-

ditures with public funds only for routine activities involving nominal cost associated with winding up a campaign and responding to the post-election audit. Nothing in this title shall be construed to prevent a candidate or his or her authorized committee from using campaign contributions received from private contributors for otherwise lawful expenditures.

3. Rules and regulations. (a) The PCFB shall promulgate regulations for the certification of the amount of funds payable by the comptroller from the fund established pursuant to section ninety-two-t of the state finance law, to a participating candidate that has qualified to receive such payment. These regulations shall include the promulgation and distribution of forms on which contributions and expenditures are to be reported, the periods during which such reports must be filed, and the verification required. The PCFB shall institute procedures which will make possible payment by the fund within four business days after receipt of the required forms and verifications.

(b) All rules and regulations promulgated pursuant to this recommendation shall be promulgated pursuant to the state administrative procedure act. The PCFB's determinations pursuant to such regulations and these recommendations shall be deemed final.

(Added L.2020, c. 58, pt. ZZZ, § 4, eff. Nov. 9, 2022.)

§ 14–209. Enforcement and penalties for violations and other proceedings

[Eff. Nov. 9, 2022.]

1. Civil penalties. Violations of any provisions regarding public campaign financing stated in this title or regulation promulgated pursuant to this title shall be subject to a civil penalty in an amount not in excess of fifteen thousand dollars and such other lesser fines as the PCFB may promulgate in regulation. Candidates may contest alleged failures to file, late reports and reports with noticed deficiencies and have an opportunity to be heard by the PCFB. The PCFB shall promulgate a regulation setting forth a schedule of fines for such infractions including those that it may assess directly on violators. The PCFB shall investigate referrals and complaints. After investigation, it may recommend dismissal, settlement, civil action, or

referral to law enforcement. The PCFB may assess penalties and it is authorized to commence a civil action in court to enforce all penalties and recover money due.

2. Notice of violation and opportunity to be heard. The PCFB shall:

(a) determine whether a violation of any provision of this title or regulation promulgated hereunder has been committed;

(b) serve written notice upon each person or entity it has reason to believe has committed a violation and such written notice shall describe with particularity the nature of the alleged violation including a written reference to a specific law or regulation alleged to have been violated;

(c) provide such person or entity an opportunity to be heard pursuant to the state administrative procedure act and any regulations of the PCFB; and

(d) if appropriate, assess penalties for violations, following such notice and opportunity to be heard.

3. Criminal conduct. Any person who knowingly and willfully furnishes or submits false statements or information to the PCFB in connection with its administration of this title shall be guilty of a misdemeanor in addition to any other penalty as may be imposed under this chapter or pursuant to any other law. The attorney general, upon referral from the PCFB, shall have exclusive authority to prosecute any such criminal violation. The PCFB shall seek to recover any public matching funds obtained as a result of such criminal conduct.

4. Court proceedings. Proceedings as to public financing brought under this title shall have preference over all other causes in all courts.

(a) The determination of eligibility pursuant to this title and any question or issue relating to payments for campaign expenditures pursuant to this title may be contested in a proceeding instituted in the Supreme Court, Albany county by any aggrieved candidate.

(b) A proceeding with respect to such a determination of eligibility or payment for qualified campaign expenditures pursuant to this chapter shall be instituted within fourteen days

after such determination was made. The PCFB shall be made a party to any such proceeding.

(c) Upon the PCFB's failure to receive the amount due from a participating candidate or such candidate's authorized committee after the issuance of written notice of such amount due, as required by this title, the PCFB is authorized to institute a special proceeding or civil action in Supreme Court, Albany county to obtain a judgment for any amounts determined to be payable to the PCFB as a result of an examination and audit made pursuant to this title or to obtain such amounts directly from the candidate or authorized committee after a hearing at the PCFB.

(d) The PCFB shall settle or, in its sole discretion, institute a special proceeding or civil action in Supreme Court, Albany county to obtain a judgment for civil penalties determined to be payable to the PCFB pursuant to this title or to impose such penalty directly after a hearing at the PCFB.

(Added L.2020, c. 58, pt. ZZZ, § 4, eff. Nov. 9, 2022.)

§ 14–210. Reports

[Eff. Nov. 9, 2022.]

The PCFB shall review and evaluate the effect of this title upon the conduct of election campaigns and shall submit a report to the legislature on or before January first, two thousand twenty-five and every second year thereafter, and at any other time upon the request of the governor and at such other times as the PCFB deems appropriate. These reports shall include:

1. a list of the participating and nonparticipating candidates in covered elections and the votes received by each candidate in those elections;

2. the amount of contributions and loans received, and expenditures made on behalf of these candidates;

3. the amount of public matching funds each participating candidate received, spent, and repaid pursuant to this program;

4. analysis of the effect of this title on political campaigns, including its effect on the sources and amounts of private financing, the level of campaign expenditures, voter participation, the number of candidates, the candidates' ability to

campaign effectively for public office, and the diversity of candidates seeking and elected to office; and

5. recommendations for further legislative and regulatory enactments, including changes in contribution limits, thresholds for eligibility, and any other features of the system.

(Added L.2020, c. 58, pt. ZZZ, § 4, eff. Nov. 9, 2022.)

§ 14–211. Debates for candidates for statewide office

[Eff. Nov. 9, 2022.]

The PCFB shall promulgate regulations to facilitate debates among participating candidates who seek election to statewide office. Participating candidates are required to participate in one debate before each election for which the candidate receives public funds, unless the participating candidate is running unopposed. Nonparticipating candidates may participate in such debates.

(Added L.2020, c. 58, pt. ZZZ, § 4, eff. Nov. 9, 2022.)

§ 14–212. Severability

[Eff. Nov. 9, 2022.]

If any clause, sentence, or other portion of paragraph (c) of subdivision two of section 14–203 of this title be adjudged by any court of competent jurisdiction to be invalid, then subparagraphs (iii) and (iv) of paragraph (a) of subdivision two of section 14–203 of this title shall read as follows:

(iii) state senator, except as otherwise provided in paragraph (c) of this subdivision, not less than ten thousand dollars in matchable contributions including at least one hundred and fifty matchable contributions in an amount greater than five dollars and no greater than the limits in this chapter, of which the first two hundred fifty dollars shall be counted toward this qualifying threshold; and

(iv) member of the assembly, except as otherwise provided in paragraph (c) of this subdivision, not less than five thousand dollars in matchable contributions including at least seventy-five matchable contributions in an amount greater than five dollars and no greater than the limits in this chapter, of which

the first two hundred fifty dollars shall be counted toward this qualifying threshold.

(Added L.2020, c. 58, pt. ZZZ, § 4, eff. Nov. 9, 2022.)

§ 14–213. Expired and deemed repealed December 31, 2014, pursuant to L.2014, c. 55, pt. H, subpt. D, § 7

ARTICLE 15—VILLAGE ELECTIONS

Section

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§ 15–100. Application of article

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

This article applies to all general and special village elections for officers and all the provisions of this chapter, not inconsistent with this article, shall apply to all village elections, except that if a village has adopted a resolution pursuant to paragraph c of subdivision one of section 15–104 of this article, the other provisions of this chapter governing the conduct of elections and proceedings relating thereto, including the manner and times for making nominations and proceedings relating to absentee voting, and the provisions of this article not inconsistent with other provisions of this chapter shall apply to such elections.

(L.1976, c. 233, § 1. Amended L.1979, c. 254, § 4; L.1986, c. 128, § 1; L.1989, c. 359, § 27, eff. Nov. 15, 1989.)

§ 15–102. Definitions

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

The terms used in this article shall have the meaning herein defined unless other meaning is clearly apparent in language or context:

1. ''General village election'' means the annual or biennial election for village officers.

2. ''Special village election'' means any election of village officers, other than, the general village election.

3. ''Village election'' means and includes both general and special village elections for officers.

4. ''Publish'' means that any notice or resolution required to be published by a village shall be so printed within the time required in the law requiring publication in the official newspaper of the village, or if none, one of general circulation within the village.

5. ''Village primary'' means any election held by a political party for the purpose of nominating candidates for elective village offices.

(L.1976, c. 233, § 1.)

§ 15–104. General village election

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

1. a. The general village election shall be held on the third Tuesday in March except in any village which presently elects, or hereafter adopts a proposition to elect, its officers on a date other than the third Tuesday in March.

b. In any village in which the general village election, or a special village election for officers pursuant to this chapter, is scheduled to be held on the third Tuesday of March, for any year in which the seventeenth day of March shall fall on such Tuesday, the board of trustees of such village shall provide, by

the resolution prescribed by paragraph b of subdivision three of this section, that such election shall be held on the eighteenth day of March. Any provision of a resolution adopted pursuant to this subdivision shall not otherwise alter the political calendar for any such election, which shall continue to be computed from the third Tuesday of March. Notwithstanding the provisions of subdivision five of this section, any provision of a resolution adopted pursuant to this subdivision shall be effective only if such provision is specifically published as provided by this section.

c. The board of trustees of a village may adopt a resolution, subject to a permissive referendum as provided in article nine of the village law, providing that village elections shall be conducted by the board of elections. The board of trustees of a village which has adopted such a resolution and which is wholly in one county may also adopt a resolution providing that village elections shall occur on the day of the general election provided that all the election districts contained within such village are wholly within such village. Upon approval of such a resolution by the board of trustees and, if requested by petition, approval by a vote of the qualified voters of the village, the county board of elections shall conduct all village elections including in those cases in which such village elections are held on the day of the general election, primary elections, if any. Such resolution shall be effective for all elections in such village held more than six months after such resolution is adopted, provided however, that a resolution providing that village elections shall occur on the day of the general election, shall be effective for such elections in such village for which the primary election is held more than six months after such resolution is adopted.

d. Except as otherwise provided by law, to be elected in a village election, a candidate must receive more votes than any other candidate for the office. In the event of a tie at a village election, a run-off election shall be conducted pursuant to the provisions of section 15–126 of this article; provided, however, that if all candidates receiving an equal number of votes agree to waive a run-off election, the election shall be determined according to the provisions of paragraph d of subdivision two of section 15–126 of this article.

2. A proposition changing the date of the general village election shall not become effective until the next election regularly scheduled to be held more than one hundred twenty days following its adoption. Upon the adoption of such a proposition, the term of any village officer elected at the election at which such proposition is adopted or less than one hundred twenty-one days thereafter, and the term of any village officer whose successor is scheduled to be selected more than one hundred twenty days thereafter shall be extended until the date fixed as a result of such proposition for his successor to take office.

3. a. The village clerk of a village shall, at least four months prior to the general village election publish a notice designating the office or offices to be filled at such election and the term or terms thereof. In the event of a special village election to fill a vacancy as provided in this article, such notice shall be published at least sixty days prior to the date of such special election.

b. The board of trustees of a village shall, at least sixty days before any village election conducted by either the village clerk or the board of elections on a date other than the date of the general election, adopt a resolution which shall state:

(1) the polling place in each election district

(2) the hours during which the polls shall be open, which shall include at least the hours from noon to nine o'clock in the evening.

c. The village clerk shall publish, at least ten days prior to any village election, a notice which shall state:

(1) the polling place in each election district

(2) the hours during which the polls shall be open

(3) the names and addresses of all those who have been duly nominated in accordance with the provisions of this chapter for village office by certificate or petition of nomination duly filed with the village clerk and the office and term of such office for which they have been so nominated

(4) an abstract of any proposition to be voted upon.

4. In addition to such publication, a copy of such notice shall be posted in at least six conspicuous public places within

the village and at each polling place at least one day before the village election.

5. The failure of the village to publish and post all required information shall not invalidate the election provided, however, that a vote on a proposition shall be void if the required notice of election is not given.

(L.1976, c. 233, § 1. Amended L.1977, c. 329, § 3; L.1977, c. 462, § 6; L.1978, c. 8, § 49; L.1978, c. 9, §§ 107, 108; L.1978, c. 373, § 95; L.1979, c. 254, § 5; L.1980, c. 91, § 1; L.1980, c. 167, § 1; L.1983, c. 248, § 1; L.1986, c. 319, § 1; L.1988, c. 95, § 1; L.1989, c. 359, § 28; L.1990, c. 635, § 6; L.1998, c. 565, § 1, eff. Aug. 5, 1998; L.2006, c. 684, § 1, eff. Sept. 13, 2006.)

§ 15–106. Special village elections for officers

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

1. a. In a village where the rules of any party require that any nomination of candidates for village office by such party be made at a primary election, pursuant to this article;

(1) Special village elections shall be held on the third Tuesday of the month preceding the end of the current official year in which no general village election is regularly scheduled, to fill a vacancy or vacancies in an office or offices occurring:

(a) More than one hundred five days prior to such Tuesday;

(b) Less than seventy-five days prior to the third Tuesday of the month preceding the end of the preceding official year;

(2) Such primary election shall be waived, such party nomination or nominations made by the party caucus, and special village elections for officers held:

(a) On the third Tuesday of the month preceding the end of the current official year in which no general village election is regularly scheduled, to fill a vacancy or vacancies in an office or offices occurring between seventy-five and one hundred five days, inclusive, prior to such Tuesday;

(b) On a Tuesday as soon as practicable:

(i) Whenever the day fixed by law for a general village election shall have passed and no election shall have been held

thereon, but in no event on a day less than sixty-one nor more than ninety-five days after the day on which the official call for such special election is made by the board of trustees of the village, whether such official call is made before or after the day fixed by law for such general village election;

(ii) Whenever the day fixed by law for a general village election shall have passed and any office or offices which should have been filled at such election shall have been omitted from the ballot therefor, but in no event on a day less than sixty-one nor more than ninety-five days after the day on which the official call for such special election is made by the board of trustees of the village, whether such official call is made before or after the day fixed by law for such general village election; or

(iii) Whenever vacancies in the village's board of trustees constitute a majority of the seats thereof, but in no event less than sixty-one nor more than ninety-five days after the day on which such vacancies first constitute such majority.

b. In any other village, special village elections shall be held;

(1) On the third Tuesday of the month preceding the end of the current official year in which no general village election is regularly scheduled to fill a vacancy or vacancies in an office or offices occurring:

(a) At least seventy-five days prior to such Tuesday;

(b) Less than seventy-five days prior to the third Tuesday of the month preceding the end of the preceding official year;

(2) On a Tuesday as soon as practicable:

(a) Whenever the day fixed by law for a general village election shall have passed and no election shall have been held thereon, but in no event on a day less than sixty-one nor more than ninety-five days after the day on which the official call for such election is made by the board of trustees of the village, whether such official call for such special election is made before or after the day fixed by law for such general village election;

(b) Whenever the day fixed by law for a general village election shall have passed and any office or offices which

should have been filled at such election shall have been omitted from the ballot therefor, but in no event on a day less than sixty-one nor more than ninety-five days after the day on which the official call for such special election is made by the board of trustees of the village, whether such official call is made before or after the day fixed by law for such general village election; or

(c) Whenever vacancies in the village's board of trustees constitute a majority of the seats thereof, but in no event on a day less than sixty-one nor more than ninety-five days after the day on which such vacancies first constitute such majority.

2. Any officer elected at any such special village election shall fill the office to which elected for the remainder of the current term of such office, and shall enter upon the duties of such office at the end of the current official year, except that such officer shall enter upon the duties of such office immediately whenever:

a. such office is then vacant or becomes vacant prior to the end of the current official year; or

b. such special election is held after the end of any official year during which a general village election was scheduled to be held but was not held; or

c. such special election is held after the end of any official year to fill a vacancy in an office that was to be filled at the preceding general election but was omitted from the ballot therefor.

3. Except as herein otherwise provided, no such election shall be held either in the month of, or in the month prior to, a regularly scheduled general village election.

4. Notice of a special village election for officers shall be given in the same manner as for a general village election. If the offices of all trustees and mayor are vacant the notice shall be given by the village clerk. If the office of village clerk is also vacant the election shall be held at the call of, and noticed by, at least twenty-five residents qualified to vote for village office.

(L.1976, c. 233, § 1. Amended L.1977, c. 329, §§ 1, 2; L.1990, c. 444, §§ 1, 2.)

§ 15–108. Designation and nomination of candidates

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

1. Nominations of candidates for elective village offices shall be made as provided in this section.

2. a. Party nominations of candidates for village offices in any county shall be made at a party caucus or, if the rules of the county committee, heretofore or hereafter adopted consistent with the provisions of this chapter so provide, at a primary election. If the rules of the county committee of any political party provide that party nominations for village offices of that party in any or all villages in the county shall be made at a village primary election, such primary election shall be held forty-nine days prior to the date of the village election. In the event there is no village committee with a chairman, the chairman of the county committee or such other person or body as the rules of such committee may provide, shall designate an enrolled member of the party who is a qualified voter of the village as the village election chairman. Such village chairman shall have general party responsibility for the conduct of the village caucus or primary election. For the purposes of this section, a village shall be deemed to be located within a county for the purposes of county political organization if more than fifty percent of the population of the village as shown by the last federal decennial, or special census resides in that portion of the village located in that county. Such nomination shall be made not more than fifty-six, nor less than forty-nine days prior to the date of the village election.

b. A notice of any village primary held for making party nominations of candidates for village offices to be filled at a village election shall be given by the proper party authorities by publication at least once in each of the two weeks preceding the primary in at least one newspaper of general circulation within the village.

c. A notice of any party caucus held for making party nominations for village offices for village elections shall be given by the proper party authorities by posting such notice in

the public areas at the offices of the village clerk and by filing such notice with such clerk at least ten days preceding the day of the caucus and, either by newspaper publication thereof once within the village at least one week and not more than two weeks preceding the caucus, or by posting such notice in six public places in the village at least ten days preceding the day of the caucus.

d. The notice shall specify the time and place or places, and the purpose of such caucus or primary, including the offices for which candidates will be nominated thereat. For such village primary or caucus there shall be one or more polling places in each subdivision from which a candidate is nominated. There shall be a chairman and a secretary and tellers for each such village primary or caucus, who shall be appointed by the appropriate party officials. No person shall participate in such primary or caucus who is not a resident of the village and an enrolled voter of the party conducting the primary or caucus. At any primary or caucus in which nominees are chosen by vote of the people in attendance, the person eligible and receiving the highest number of votes for an office shall be deemed nominated. Such village primary or caucus shall not be conducted at any expense to the village.

e. Any party nomination made at any such caucus or village primary shall be evidenced by the filing with the village clerk of a certificate of nomination in the form prescribed by this chapter, as provided in subdivision seven of this section. There shall be filed, together with such certificate, or within five days after the village clerk sends the notice of failure to file prescribed by this paragraph, a list of enrolled members of the party who have participated in such caucus or primary. If such list is not filed with such certificate, the village clerk shall forthwith send notice of the failure to file such list to the persons who signed such certificate, by first class mail, together with a notice that such list must be filed within five days after such notice was mailed. Such list shall be certified by the presiding officer or secretary of such caucus or primary.

3. a. Party designations for elective village offices shall be made on a designating petition containing the signatures in ink of residents of the village who are registered to vote with the appropriate county board of elections at the time of signing

and who are enrolled in such political party. The sheets of such a petition shall be numbered. Such petition must set forth in each instance the correct date of signing, the name of the signer, and his or her present address, and may set forth a committee to fill vacancies consisting of at least three qualified voters of the village enrolled in such party and their residence within the village. A signer need not himself or herself fill in the date or residence. Each sheet of such petition must be in substantially the following form and shall contain all the information required therein:

PARTY DESIGNATING PETITION

I, the undersigned do hereby state that I am a registered voter of the Village of ..... and a duly enrolled voter of the ..... party and entitled to vote at the next primary election of such party, that my place of residence is truly stated opposite my signature hereto, and I hereby designate the following named person (or persons) as a candidate (or candidates) for nomination of such party for the public office (or public offices) to be voted for at the primary election to be held on the ..... day of ..... 20.... as hereinafter specified.

Name of Candidate	Public Office (include district number, if applicable)	Term	Residence
.....	.....	.....	.....
.....	.....	.....	.....

I do hereby appoint (insert names and addresses of at least three persons, all of whom shall be enrolled voters of said party) as a committee to fill vacancies in accordance with the provisions of the election law.

IN WITNESS WHEREOF, I have hereunto set my hand, the day and year placed opposite my signature.

Date	Name	Residence
.....	.....	.....
.....	.....	.....

STATEMENT OF WITNESS

I ..... (name of witness) state: I am a duly qualified voter of the State of New York; and an enrolled voter

of the ..... party. I now reside at .....(residence address). Each of the persons whose names are subscribed to this petition sheet containing ..... signatures, subscribed his or her name in my presence.

I understand that this statement will be accepted for all purposes as the equivalent of an affidavit and, if it contains a material false statement, shall subject me to the same penalties as if I had been duly sworn.

b. Notwithstanding any other provision of law, the number of signatures required on a designating petition shall be five percent of the number of enrolled voters of the party residing in the village. For the purpose of determining the number of enrolled voters of a party residing in the village, the clerk shall be furnished with an official certified list of all such enrolled party voters residing in the village by the county board of elections of the county in which all or part of the village is located. Such list shall be filed in the village clerk's office and shall be available upon request for inspection by any interested person.

4. Independent nominations for elective village offices shall be made by a petition containing the signatures in ink of residents of the village who are registered with the appropriate county board of elections at the time of signing or who are residents of the village who were on the list of registered voters for the last village election in such village. The sheets of such a petition shall be numbered. Such petition must set forth in each instance the correct date of signing, the name of the signer and his or her present address, and may set forth a committee to fill vacancies consisting of at least three persons qualified to vote in the village election and their residence within the village. A signer need not himself or herself fill in the date or residence. Each sheet of such petition must be in substantially the following form and shall contain all the information required therein except as may otherwise be permitted by law.

VILLAGE INDEPENDENT NOMINATING PETITION

I, the undersigned, do hereby state that I am a registered voter of the Village of ....., that my present place of residence is truly stated opposite my signature, and I do hereby

nominate the following named person (or persons) as a candidate (or as candidates) for election to public office (or public offices) to be voted for at the election to be held on the ..... day of ....., 20....., and that I select the name ..... (fill in name) as the name of the independent body making the nomination (or nominations) and ..... (fill in emblem) as the emblem of such body.

Name of Candidate	Public Office (include district number, if applicable)	Term	Residence
.....	.....	.....	.....
.....	.....	.....	.....

I do hereby appoint _ _ _ _

Name	Residence
.....	.....
.....	.....

as a committee to fill vacancies in accordance with the provisions of the election law.

IN WITNESS WHEREOF, I have signed this petition on the day and year stated before my signature.

Date	Signature	Residence
.....	.....	.....
.....	.....	.....

STATEMENT OF WITNESS

I, ... state that I am a duly qualified voter of the State of New York. I now reside at ..... (residence address). Each of the voters whose names are subscribed to this petition sheet, containing ..... (fill in number) signatures, subscribed his or her name in my presence.

I understand that this statement will be accepted for all purposes as the equivalent of an affidavit and, if it contains a material false statement, shall subject me to the same penalties as if I had been duly sworn.

Date ....
Signature of Witness

5. The name selected for the independent body making the nomination shall be in the English language and shall not include the name or part of the name, or an abbreviation of the name or of part of the name, of a then existing party. The

name and emblem shown upon such petition shall conform to the requirements of this chapter, relating to party names and party emblems. If such a petition shall not show an emblem, or the petition shall fail to select a name for such independent body, the village clerk shall select an emblem or name, or both to distinguish the candidates nominated thereby.

6. An independent nominating petition for a village office must be signed by at least one hundred voters in villages containing a population of five thousand or more; by at least seventy-five voters in villages containing a population of three thousand and less than five thousand; and by at least fifty voters in villages containing a population of one thousand and less than three thousand; and in villages containing a population of less than one thousand by voters numbering at least five per centum of the number of voters at the last regular village election. For the purposes of this section, the population of a village shall be determined by the last federal decennial or local special population census federally supervised pursuant to section twenty of the general municipal law.

7. a. A certificate of party nomination for an office to be filled at the time of a general or special village election for offices shall be filed not earlier than fifty-four days nor later than forty-seven days preceding the election.

b. A certificate of acceptance or declination of a party nomination for an office to be filled at the time of a general or special village election shall be filed not later than forty-four days prior to such election.

c. A certificate to fill a vacancy caused by declination of a party nomination for an office to be filled at the time of a general or special village election shall be filed not later than forty-one days prior to such election.

d. Party designating petitions for a village primary election shall be filed in the office of the village clerk not earlier than twenty-two days nor later than fifteen days prior to the primary election. Upon such a filing, the village clerk shall immediately notify the village election chairman of such party and the person or persons designated in such petition of the fact of such filing and that such petition may be inspected in his office.

(e) A written declination of a party designation must be filed in the office of the village clerk within three days of the date of the filing of the designating petition. Upon the filing of such declination, the village clerk shall, within one day notify the committee to fill vacancies named in the petition. A certificate to fill the vacancy caused by a declination or any other reason must be filed with the village clerk within three days after the date of the notice to the committee to fill vacancies and shall have appended thereto the written consent of the person or persons designated.

8. a. An independent nominating petition for an office to be filled at the time of a general or special village election shall be filed not earlier than forty-two days nor later than thirty-five days preceding the election.

b. A certificate of acceptance or declination of an independent nomination for an office to be filled at the time of a general or special village election shall be filed not later than three days after the last day to file the petition which made such independent nomination.

c. A certificate to fill a vacancy caused by a declination of an independent nomination for an office to be filled at the time of a general or special village election for offices shall be filed not later than three days after the last day to file the certificate of declination, and shall have appended thereto the written consent of the person or persons nominated.

9. Any village resident who is a registered voter of the village and, in the case of a designating petition, an enrolled member of the party filing the petition, may sign an independent nominating petition or a designating petition providing that: (a) such signature was not made more than six weeks prior to the last day to file such petition; (b) he has not signed more than one petition designating or nominating a candidate for mayor or village justice. If he has signed more than one such petition, only the earliest signature for each such office shall be valid; (c) he has not signed more than one petition designating or nominating a candidate for each vacancy which exists for the office of village trustee or village justice if the village has provided for two such justices. If he has signed

more than one such petition for each such vacancy, only the earlier signatures shall be valid; or (d) he does not vote at a primary election or party caucus where a candidate was nominated for the same office or each such vacancy.

10. A written objection to an independent nominating petition, designating petition or certificate of nomination shall be filed in the office of the village clerk no later than one day following the last date upon which such petition or certificate may be filed or within one day after such petition or certificate is received by the village clerk, if such petition or certificate is mailed as provided by law, whichever is later. Written specifications of the grounds of the objections shall be filed with the village clerk within two days after the filing of the written objection. A failure to file such written specifications shall render the original objection null and void. Upon receipt of such written specification, the village clerk shall forthwith notify each candidate named in the petition or certificate and shall notify the county board of elections of the county in which the village is located. For purposes of this section, a village shall be deemed to be located within a county if more than fifty percent of the population of the village as shown by the last federal decennial or special census resides in that portion of the village located in that county. Upon receipt of the written specifications as herein required, the county board of elections shall immediately take all steps necessary and consistent with this chapter to render a determination on the questions raised in such objections and specifications. When a determination has been made by the county board of elections that the petition is sufficient or insufficient, it shall immediately notify the village clerk and each candidate named in the petition or certificate, and, if such determination was made on objection, the objector.

(L.1976, c. 233, § 1. Amended L.1977, c. 462, §§ 1–5; L.1978, c. 8, §§ 50, 51; L.1978, c. 9, § 109; L.1978, c. 373, § 96; L.1982, c. 352, § 3; L.1982, c. 702, §§ 2, 3; L.1984, c. 189, § 2; L.1985, c. 114, § 2; L.1986, c. 106, § 1; L.1994, c. 157, § 2; L.1996, c. 160, § 4; L.1996, c. 197, § 5; L.1996, c. 709, § 8; L.2000, c. 235, § 10, eff. Aug. 16, 2000; L.2006, c. 447, § 7, eff. Dec. 1, 2006; L.2014, c. 249, § 1, eff. Dec. 1, 2014; L.2017, c. 106, §§ 5, 6, eff. Nov. 22, 2017; L.2017, c. 176, § 5, eff. Aug. 21, 2017.)

§ 15–110. Election districts

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

1. A village shall constitute a single election district for village elections. However, if at a general village election the number of votes cast exceeds eight hundred, the board of trustees, by resolution adopted before the next general village election, may divide such village into election districts each containing not more than eight hundred qualified voters for village offices.

2. Following the establishment of two or more such districts, the number thereof or their boundaries or both may be enlarged, diminished, increased or decreased from year to year by resolution of the board of trustees; provided, however, that, if there is more than one district, no such district shall contain more than eight hundred qualified voters.

3. If village election districts are coterminous with election districts established for general elections other than general village elections, the limitations as to the number of qualified voters set forth in subdivisions one and two of this section shall not be applicable.

4. For the purposes of this section, the number of qualified voters in each election district of a village shall be the average of the number of persons who voted in such district in the three preceding general village elections.

5. Any resolution adopted pursuant to the authority of this section shall be adopted at least one hundred twenty days prior to the general village election; shall specify the boundaries of each election district created or altered; and shall be posted and published with the notice of such election as required.

(L.1976, c. 233, § 1. Amended L.1978, c. 9, § 110; L.1983, c. 248, § 2, eff. Dec. 1, 1983.)

§ 15–112. Registers and poll-books; how used

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

For any village election where permanent personal registration records are not used, all copies of the register in the polling place shall be referred to, if necessary, to determine the persons entitled to vote; but at any such election, including a primary election, ballot numbers shall be entered and other election entries made in only two copies of the register, which shall include the copy used for taking signatures; provided, however, that if the election be one for which poll-books are required to be provided, ballot numbers shall be entered and other entries made in the two poll-books instead of the registers. The signatures of voters taken at the election or at a primary election shall be made or identification numbers entered, in one of the copies of the register having, when the election opens, an unused signature column, if there be any such copy, and otherwise in one of the poll-books, to be known as the signature poll-book.

(L.1976, c. 233, § 1.)

§ 15–114. Number of voting machines

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

Any village that uses voting machines for village elections shall provide one voting machine for each eight hundred or fraction thereof of qualified voters in each election district, as such voters are defined in section 15–110 of this article.

(L.1976, c. 233, § 1. Amended L.1978, c. 373, § 97, eff. June 19, 1978; L.2011, c. 3, § 1, eff. Feb. 25, 2011; L.2014, c. 250, § 1, eff. Aug. 11, 2014.)

§ 15–116. Inspectors of election

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

1. The board of trustees shall, by resolution at least forty days prior to a general village election appoint two or four inspectors of election for each village election district. Such resolution shall fix the compensation of the inspectors and designate a chairman. In addition, the board of trustees may

provide for alternative inspectors who shall assume the office of inspector upon the inability or refusal of an inspector to assume or perform his duties and for any clerical help which they may deem necessary. Such clerical help shall perform their duties under direction and control of the inspectors of election. It shall be the duty of the inspectors of election to preside at all village elections in the district for which they were appointed until their successors are appointed. If at any general village election, both major political parties nominate a candidate or candidates for elective village office then at the next village election following the election for which the nominations are made the inspectors of election shall be appointed equally from enrolled members of such parties. Such equal representation shall be required only as long as such parties nominate a candidate or candidates for elective village office. In those elections in which both such political parties do not nominate candidates, any qualified person may serve as an inspector of election.

2. In Nassau county, appointments as inspectors of election for village elections shall be equally divided between the major political parties. All such inspectors shall be residents of the village in which they serve. Such inspectors shall be appointed from among those persons appointed as inspectors pursuant to the provisions of section 3–420 of this chapter. If the number of inspectors appointed pursuant to such section 3–420 who are eligible and willing to serve in any village is insufficient to fill all the positions in such village, then additional inspectors shall be appointed in the manner so prescribed by such section 3–420.

3. Inspectors of election for village elections shall prior to the assumption of their duties file a constitutional oath of office with the village clerk.

4. If the board of trustees of any village appoints four inspectors of election for each village election district, they may also determine that two of the four inspectors of election shall serve on registration day or days.

(L.1976, c. 233, § 1. Amended L.1982, c. 901, § 1; L.2005, c. 180, § 16, eff. Nov. 15, 2005.)

§ 15–118. Registration of voters

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

1. In a village election conducted by the board of elections pursuant to a resolution adopted as provided in paragraph c of subdivision one of section 15–104 of this article or a village which has adopted a resolution providing that there shall not be any registration day for village elections pursuant to subdivision three of this section, only those persons registered to vote with the board of elections shall be eligible to vote. If such election is held on a date other than the date of the general election, only those persons registered to vote with the board of elections on the tenth day before such election shall be eligible to vote.

2. In any other village election, those persons registered to vote with the board of elections on the tenth day before such election and those persons whose names are placed on the village register pursuant to the provisions of subdivision seven of this section shall be eligible to vote.

3. The board of trustees of a village may adopt a resolution providing that there shall not be any village registration day for village elections. Such resolution shall be effective for all elections in such village which are held more than sixty days after such resolution is adopted and shall remain in effect until the board of trustees adopts a resolution providing that there shall be a village registration day for village elections held more than sixty days after adoption of such a resolution.

4. In villages in which there is a village registration day, the board of trustees shall post in each election district and publish a resolution at least ten days prior to registration day which resolution shall be adopted at least twenty days before registration day which shall designate:

(a) The dates prior to registration day on which the inspectors of election shall meet to commence the preparation of the register.

(b) The place in each district where such meetings, registration and election shall be held.

(c) The hours for such meetings, registration and election; but in no event shall the hours for registration be less than the hours from noon until five o'clock in the afternoon.

5. Registration day shall be held on the tenth day prior to the general village election except in those villages which provide, by resolution adopted at least thirty-seven days prior to the date of the first election for which it shall be effective, for an additional day of registration to be held on the twelfth day prior to the general village election. Such resolution shall remain in effect for subsequent general village elections unless amended, modified or repealed.

6. The board of trustees of any village, by resolution or ordinance, subject to permissive referendum, may determine that personal registration shall be required for village elections.

7. (a) The register for the general village election shall be prepared in each village election district by the inspectors of election thereof at the times and place designated by the resolution of the board of trustees. Such register must be completed not later than the fourth day before the village election. In preparing such register the inspectors of election shall comply with the following procedure.

(b) In all villages wherein personal registration is not required, they shall adopt, use or copy from, the registration lists certified and supplied by the county board of elections the names appearing thereon of all persons, residing in the village and qualified to vote at such forthcoming general village election. In addition, if there is a village registration day in the village, they shall add thereto the names of all persons known to them who then are or who will at the time of such election be qualified to vote and the names of all persons proven to their satisfaction on the registration day to be then, or at the time of such election, qualified to vote.

(c) In villages wherein personal registration is required, they shall follow the same procedure set forth in paragraph (b) above, except that no names shall be added to the register other than the names of persons personally appearing before them on the registration day, if any, and proving to their

satisfaction to be then, or at the time of the election, qualified to vote.

(d) The register for each village election district shall include, as a minimum, space for the name of the voter, his address within the village and a space for his or her signature to be signed by the voter on election day. In villages wherein personal registration is required, such register shall also contain a space for the signature of the voter to be signed by such voter on registration day. The village clerk shall furnish a printed certificate to be signed by a voter who appears personally before the inspectors of election on registration day. Such certificate shall contain a statement that the person possesses all the necessary qualifications for voting in village elections. Such certificate shall be accepted for all purposes as the equivalent of an affidavit and if it contains a material false statement, shall subject the person signing it to the same penalties as if he had been duly sworn, and such provision shall be printed in bold type directly above the signature line of the certificate.

8. The village clerk shall furnish the inspectors of election, at village expense, with all necessary registration books, papers, equipment and supplies. The village clerk shall also deliver to the inspectors a list of all persons who have applied for absentee ballots for the election for which the registration meeting is being held.

9. Registration for special village elections for officers shall be held in the same manner as is provided herein for general village elections and the registration day therefor shall be the same as if said special village election were a general village election.

10. The board of trustees of any village, if it determines that more than one-half of the voters qualified to vote at a forthcoming village election for village officers were personally registered at the last preceding general election other than a village election for officers and that taking the registration for such forthcoming election will be accomplished more efficiently and economically thereby, may, in the resolution required by subdivision seven of this section, provide that for such election a single place and a single board of elections shall be used for taking the registration of two or more village election districts.

If such action is taken the board of trustees shall, in the same resolution, appoint a single board of inspectors of election to conduct such registration for each such two or more village election districts.

(L.1976, c. 233, § 1. Amended L.1979, c. 254, § 6; L.1982, c. 156, § 1; L.1982, c. 702, §§ 4, 5; L.1990, c. 67, § 3; L.1992, c. 217, § 2, eff. Dec. 1, 1992.)

§ 15–120. Absentee voting at village elections

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

1. A qualified voter of a village may vote as an absentee voter under this section if during all the hours of voting on the day of a general or special village election he or she will be:

(a) absent from the county of his or her residence; or

(b) unable to appear at the polling place because of illness or physical disability, or duties related to the primary care of one or more individuals who are ill or physically disabled, or because he or she will be or is a patient in a hospital; or

(c) an inmate or patient of a veteran's administration hospital; or

(d) absent from his or her voting residence because he or she is detained in jail awaiting action by a grand jury or awaiting trial, or confined in jail or prison after a conviction for an offense other than a felony, provided that he or she is qualified to vote in the election district of his or her residence.

2. Each person entitled to vote as an absentee voter pursuant to this section and desirous of obtaining an absentee ballot shall make written application therefor to the village clerk. Application forms for use pursuant to this section shall be in a form prescribed by the state board of elections. The use of any application which is on a form prescribed by the state board of elections shall be acceptable.

3. An application for an absentee ballot must be signed by the applicant. Such application may require that the applicant submit a certificate in lieu of any affidavit which shall state that the information contained in the application is true. Such

certificate shall be accepted for all purposes as the equivalent of an affidavit and shall have the following language printed in bold face type above the signature line:

''I UNDERSTAND THAT THIS CERTIFICATE WILL BE ACCEPTED FOR ALL PURPOSES AS THE EQUIVALENT OF AN AFFIDAVIT AND, IF IT CONTAINS A MATERIAL FALSE STATEMENT, SHALL SUBJECT ME TO THE SAME PENALTIES AS IF I HAD BEEN DULY SWORN.''

4. The application for an absentee ballot when filed must contain in each instance the following information:

(a) Applicant's full name, date of birth, and residence address, including the street and number, if any, rural delivery route, if any, mailing address if different from the residence address and his or her village and an address to which the ballot shall be mailed.

(b) A statement that the applicant is a qualified and registered voter.

(c) A statement, as appropriate, that on the day of such election the applicant expects in good faith to be in one of the following categories:

(i) absent from the county of his or her residence; provided, however, if the applicant expects to be absent from such county for a duration covering more than one election and seeks an absentee ballot for each election, he or she shall state the dates when he or she expects to begin and end such absence; or

(ii) unable to appear at a polling place because of illness or physical disability or duties related to the primary care of one or more individuals who are ill or physically disabled; or

(iii) an inmate or patient of a veteran's administration hospital; or

(iv) detained in jail awaiting action by a grand jury or awaiting trial or confined in jail or prison after a conviction for an offense other than a felony and stating the place where he or she is so detained or confined.

(d) Such application shall permit the applicant to apply for an absentee ballot for either a primary election or the general election in any year and for those persons who will be continu-

ously absent from their county of residence during the period between the fall primary election and the general election in any year to apply for ballots for both such elections in such year. A voter who applies for an absentee ballot shall be sent an absentee ballot for any special election or winter primary that occurs during the period of absence specified in the application.

5. An application must be received by the village clerk no earlier than four months before the election for which an absentee ballot is sought. If the application requests that the absentee ballot be mailed, such application must be received not later than seven days before the election. If the applicant or his or her agent delivers the application to the village clerk in person, such application must be received not later than the day before the election. The village clerk shall examine each application and shall determine from the information contained therein whether the applicant is qualified under this section to receive an absentee ballot. The clerk in making such decision shall not determine whether the applicant is a qualified elector, said determination being reserved to the inspectors of election as is hereinafter provided in subdivision nine of this section.

6. No later than six days before the election for which an application has been received and for which the village clerk has determined the applicant to be qualified to vote by absentee ballot the village clerk shall mail, by regular mail, an absentee ballot to each qualified applicant who has applied before such day and who has requested that such absentee ballot be mailed to him or her at the address set forth in his or her application. If the applicant or his or her agent delivers the application to the village clerk in person after the seventh day before the village election and not later than the day before the election, the village clerk shall forthwith deliver such absentee ballots for those applicants whom he or she determines are qualified to make such applications and to receive such ballots to such applicants or the agents named in the applications when such applicants or agents appear in the village clerk's office.

7. The absentee ballot shall be caused to be prepared and printed by the village clerk as provided by law for paper ballots

or machine ballots, whichever are to be used in said election and appropriate modifications for the purposes of this section. He or she shall also cause to be prepared and printed return envelopes addressed to him or her, conforming so far as may be practicable to the provisions of this chapter stating thereon that in order for the ballot contained therein to be counted it must be received by the village clerk not later than the close of the polls on election day. On the reverse side of each return envelope there shall be written instructions for the voter to insert at designated places his or her signature, his or her name printed, his or her residence address within the village and his or her village election district if there be more than one district within the village.

8. The method of marking, preparing and mailing such ballot for voting shall conform, wherever practicable, to the methods used for absentee ballots for a general election, except that the envelope in which it is contained shall be returned to the village clerk. On the day of the election, the village clerk shall deliver all such ballots, which have been returned to him or her, in the sealed envelopes to the board of inspectors of election of the proper election district. No such ballot shall be deemed to have been voted unless or until it shall have been delivered to the board of inspectors of election of the election district in which the elector casting the ballot resides and shall have been deposited by the chairman of such board in the box provided for receiving such ballot.

9. When such ballots shall have been delivered to the board of inspectors of election of the proper election district and shall have been duly determined by such board to have been lawfully cast by a qualified elector of such district, the chairman of such board shall, after the close of the polls, open the envelopes containing such ballots and, without unfolding such ballots or permitting the face thereof to be exposed to the view of anyone, shall deposit each such ballot in a box specifically furnished for such purpose by the village clerk. If the board of inspectors shall determine that any such ballot has been cast by an elector who would not be qualified under the provisions of this section, then such ballot shall not be counted.

10. After all the ballots shall have been deposited, the box shall be opened and such ballots canvassed in the same man-

ner as other ballots cast at such election and shall be counted and included in the total of all ballots cast at such election.

(L.1976, c. 233, § 1. Amended L.1978, c. 9, § 111; L.1978, c. 373, § 98; L.1982, c. 216, § 1; L.1983, c. 279, § 1; L.1983, c. 333, § 1; L.1984, c. 133, § 1; L.1986, c. 84, § 1, eff. Jan. 1, 1987; L.2014, c. 289, § 1, eff. Aug. 11, 2014.)

§ 15–122. Absentee voting at village elections for persons unable to appear because of illness or physical disability

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

1. A qualified elector of a village, who, on the occurrence of any general or special village election, may be within the county of his residence but unable to appear personally at the polling place in the village of his residence because of illness, physical disability or confinement either at home or in a hospital or institution, other than a mental institution may vote as an absentee voter under this section.

2. Any elector of a village to whom this section may apply shall make application to the village clerk for an absentee ballot. Such application shall set forth the name and village address of the applicant, that he is a qualified voter of the village or election district if any, and that he was advised by his physician, medical superintendent, administrative head of hospital or institution, or Christian Science Practitioner that he will be unable to appear personally at the polling place within the village because of the reasons set forth in subdivision one. Such statement shall be accepted for all purposes as the equivalent of an affidavit, and if false shall subject the applicant to the same penalties as if he had been duly sworn. Such provision shall be printed in bold type directly above the signature line of the application.

3. Such statement, if made by an elector who resides in a village in which personal registration is required shall state that the applicant has registered, giving the date of such registration and his election district if any. If made by an elector who resides in a village in which personal registration

is not required, it shall state that he has nevertheless registered; or that he has registered for the last preceding general election; or that he has voted in either or both of the two preceding general elections.

4. Any elector who is duly registered and who is permanently disabled may make application to the village clerk for a form which such clerk shall supply for the purpose of providing for the mailing of absentee ballots to permanently disabled voters. Such form shall contain an affidavit to be executed by the elector showing the particulars of his disability. Upon the filing of such application the inspectors of election shall investigate the facts stated therein and if satisfied as to the truth thereof may approve such application and in such event shall cause the registration record of the voter, if any, to be marked ''PERMANENTLY DISABLED''. The inspectors shall also cause to be marked ''PERMANENTLY DISABLED'', the registration poll records of those voters who are indicated as permanently disabled on the list of registered voters received from the board of elections. Thereafter, the village clerk shall send an absentee voter's ballot for each election to such elector by first class mail to his last known address with a request to the postal authorities not to forward such ballot but to return it in five days in the event that it cannot be delivered to the addressee. The mailing of such ballot or ballots for each election shall continue as long as the elector remains a qualified voter of the village and unless it appears that such person has failed to return such ballot for the last two successive general village elections. Upon the mailing of such ballot or ballots, the village clerk shall cause the fact and the date of such mailing to be recorded next to the name of the voter in the register of the village or appropriate election district. If the inspectors of election shall determine that such elector is not entitled to an absentee voter's ballot, or if they shall determine that such elector is no longer entitled to receive such ballot without application they shall notify such elector in writing giving him the reason for such rejection or decision.

5. If a person entitled to an absentee ballot under this section is unable to sign his application because of illness or physical disability he shall be excused from signing upon making a statement, which shall be witnessed by one person,

in substantially the following form: ''I hereby state that I am unable to sign any application for an absentee ballot without assistance because I am unable to write by reason of my illness or physical disability. I have made, or have received assistance in making, my mark in lieu of my signature''.

..... (Mark)

....
(Date) (Signature of Witness)

Such statement shall be included in the application blank form furnished by the village clerk.

6. Printed forms containing the application for the absentee ballot, in accordance with the requirements of this section, shall be in the form prescribed by the state board of elections and shall be provided by the village clerk and shall be available at the office of the clerk. Application forms for absentee ballots for use pursuant to this section shall be furnished by the village clerk upon request of the person authorized to vote under this section or by any such person's spouse, parent, child, authorized agent or any nurse charged with the care of such person.

7. *Redesignated 6.*

(L.1976, c. 233, § 1. Amended L.1978, c. 9, §§ 112–114; L.1978, c. 373, § 99; L.1980, c. 666, §§ 4 to 6; L.1984, c. 58, § 2; L.1984, c. 78, § 2; L.1986, c. 84, § 2, eff. Jan. 1, 1987.)

§ 15–124. Duties of village clerk

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

1. In addition to any duties of the village clerk specified in this chapter and the village law, the village clerk shall be the election officer of the village and shall have the responsibility for the general conduct of all village elections and shall have vested in him all authority, consistent with this chapter which may be reasonable and necessary to provide for the proper and orderly conduct of such elections and the proceedings preliminary and subsequent thereto.

2. The police department and the officers and members of such police department, if any, the office of the sheriff in a county in which a village or part of a village is located or any police agency or department charged with the responsibility of law enforcement in any county in which a village or part of a village is located shall, whenever called upon by the village clerk, render to such village clerk all practicable assistance in the enforcement of this chapter. Such assistance shall be rendered to the village clerk at no charge to the village. Such assistance shall include, but not be limited to:

a. the police telephone service;

b. the investigation of any registrant or any applicant for an absentee ballot to determine his qualifications to be registered or vote, and

c. the maintenance of order, regulation of traffic and the control of crowds on any day or days designated for voter registration and voting.

(L.1976, c. 233, § 1.)

§ 15–126. Canvass of election

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

1. The inspectors of election of each election district shall, immediately upon the closing of the polls at each annual or biennial election, proceed to canvass the votes cast thereat and shall complete such canvass without adjournment. They shall, before nine o'clock in the forenoon of the following day, file with the village clerk their certificates setting forth the holding of the election, the total number of votes cast for each office, the number of votes cast for each person for such office, the total number of votes cast upon each proposition voted upon, and the number cast for and against it. They shall also deliver to the village clerk at the same time and place all ballot boxes, if there be such, and all unused supplies and the American flag furnished for use in the polling place. If the village contains more than one election district, the board of trustees of such village shall meet at its usual place of meeting not later than

eight o'clock in the evening of the day after the election. The village clerk shall produce at such meeting the returns of the inspectors of election, at which time the board of trustees shall canvass such returns and file in the office of the village clerk a certificate declaring the result.

2. a. The person or persons eligible and receiving the highest number of votes for an office shall be elected thereto.

b. In the event that more eligible persons than the number remaining to be elected receive for the same office or offices an equal number of votes, the board of trustees shall conduct a run-off election. Such run-off election shall be held on the first Tuesday at least ten days after the final certification of such tie result, subject to the provisions of paragraph b of subdivision three of section 15–104 of this article, provided, however, that the only persons who shall be deemed nominated shall be those persons who shall have received such equal number of votes. The order of the candidates names on the ballot shall be determined by a drawing conducted by a village clerk, in the presence of all those persons who received such equal number of votes, or a representative of such persons.

c. Such run-off election may be waived and the selection made by lot as otherwise provided by this section if each person who shall have received such equal number of votes shall file with the village clerk, no later than two days after such final certification of such tie result, a written notice of consent that such selection be made by lot.

d. If a waiver of such run-off election shall occur, the village clerk, no later than two days after receiving written notice of consent that such selection be made by lot, shall certify such facts in writing to any supreme court justice within the judicial district in which such village is located and shall within three days summon the candidates before him or her and he or she shall by lot determine which of them shall be elected.

3. The village clerk may, and upon written request of any candidate received within two days of the date of the village election, shall cause a recanvass of the vote cast in any village election to be made. The recanvass shall be conducted by the county board of elections of the county in which the village is

located. For the purposes of this section, a village shall be deemed to be located within a county if more than fifty per cent of the population of the village as shown by the last federal decennial, or special census resides in that portion of the village located in that county. The village clerk shall, within one day after the written request for a recanvass is received notify the county board of elections of such request, whereupon the board of elections shall assume the duty of such recanvass and shall take all steps necessary and consistent with this chapter to cause a recanvass of the vote. Such recanvass shall be completed within five days of such notice to the county board of elections. The institution of a recanvass shall immediately stay any further action by, or on behalf of, the village clerk with regard to further election procedures required by this section. Judicial review as provided by this chapter must be commenced no later than three days after the completion of the recanvass by the board of elections. Upon completion of the recanvass, the county board of elections shall notify the village clerk of the result. If no judicial proceedings have been instituted, the clerk shall proceed to notify the persons elected as provided in this article. If judicial proceedings have been instituted, such notice shall not be given until completion of such review.

(L.1976, c. 233, § 1. Amended L.1978, c. 9, § 115; L.1980, c. 91, § 2; L.2006, c. 684, § 2, eff. Sept. 13, 2006.)

§ 15–128. Notice to person chosen to a village office

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

The clerk of the village shall, within three days after the election of a village officer, notify each person elected of his election, and of the date thereof, and that, in order to qualify, he is required to file his oath of office with such clerk before entering upon the duties thereof; and, if an official undertaking be required of him by or in pursuance of law, that he is also required to file the same with such clerk and that upon his failure so to do he will be deemed to have declined the office. In the case of a village justice such notice shall further state

that the filing of his oath with the county clerk of the county is also required. If an undertaking is required of a village officer after entering upon the duties of his office, the clerk of the village shall thereupon serve upon such officer, personally, a written notice that he is required to file such undertaking with the clerk within ten days after the service of the notice and that upon his failure to do so his office will become vacant.

(L.1976, c. 233, § 1. Amended L.1983, c. 248, § 3, eff. Dec. 1, 1983.)

§ 15–130. Election of trustees by wards

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

The board of trustees of any village may, by resolution, and subject to a mandatory referendum, provide for the election of trustees by wards, alter existing ward boundaries or abolish wards and the election of trustees by wards. If a village elects trustees by wards separate ballot boxes or voting machines shall be provided for each ward.

(L.1976, c. 233, § 1.)

§ 15–132. Votes upon propositions to be by ballot or voting machine

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

All votes upon a proposition submitted at a village election shall be by ballot unless the board of trustees of the village has adopted voting machines as provided in this chapter, in which case machines may be used.

(L.1976, c. 233, § 1.)

§ 15–134. Failure to designate terms

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

No election of village officers, held in any village, shall be invalid on account of the failure of the electors to designate in their ballots the respective terms of office of persons to be elected thereat, for the same office, for different terms; but the persons so to be elected to such office, who are eligible and receive the highest number of votes, shall be elected. The person first named on a ballot containing the names of more than one person for such an office, and not designating their respective terms, shall be deemed designated for the longest term, the second, for the next longest term, and so on to the end; and the inspectors of election shall count the ballots and certify the result accordingly.

(L.1976, c. 233, § 1.)

§ 15–136. Refusal of officer to surrender his office

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

If a person who has been an officer of a village refuses or neglects to deliver to his successor in office, within ten days after written notification and request sent by order of board of trustees all the moneys, books, papers, records, property and effects of every description, which have come into his possession or under his control by virtue of his office and which belong to the village or pertain to the office, he shall forfeit and pay to the village the sum of twenty-five dollars for each and every day he shall so neglect or refuse, and he shall also pay all damages, costs and expenses caused by such neglect or refusal.

(L.1976, c. 233, § 1.)

§ 15–138. Judicial review of matters relating to village elections

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

The supreme court or any justice thereof within the judicial district and the county court or any judge thereof within the county, in which the village is located, shall have summary

jurisdiction to determine any question arising and make such order as justice may require, in respect to village elections and registration therefor.

(L.1976, c. 233, § 1.)

ARTICLE 16—JUDICIAL PROCEEDINGS

Section

16–100. Jurisdiction; supreme court, county court.
16–102. Proceedings as to designations and nominations, primary elections, etc.
16–104. Proceedings as to form of ballot, party name, etc.
16–106. Proceedings as to the casting and canvass of ballots.
16–108. Proceedings as to registration and voting.
16–110. Proceedings as to enrollment.
16–112. Proceedings for examination or preservation of ballots.
16–113. Proceeding with respect to voter verifiable records.
16–114. Proceedings to compel filing of statements or corrected statements of campaign receipts, expenditures and contributions.
16–115. Proceedings with respect to utilizing certain buildings as polling places.
16–116. Proceedings; provisions in relation thereto.
16–118. Proceedings to review removal of committee member or officer.
16–120. Enforcement proceedings.

§ 16–100. Jurisdiction; supreme court, county court

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

1. The supreme court is vested with jurisdiction to summarily determine any question of law or fact arising as to any subject set forth in this article, which shall be construed liberally.

2. The county court is vested with jurisdiction to summarily determine any question of law or fact except proceedings as to a nomination or election at a primary election or a nomination at a judicial convention, proceedings as to the casting and canvass of ballots, proceedings for examination or preservation of ballots and proceedings to enforce the provisions of article fourteen of this chapter.

(L.1976, c. 233, § 1. Amended L.2011, c. 399, pt. E, § 4, eff. Aug. 15, 2011.)

§ 16–102. Proceedings as to designations and nominations, primary elections, etc.

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

1. The nomination or designation of any candidate for any public office or party position or any independent nomination, or the holding of an uncontested primary election, by reason of a petition for an opportunity to ballot having been filed, or the election of any person to any party position may be contested in a proceeding instituted in the supreme court by any aggrieved candidate, or by the chairman of any party committee or by a person who shall have filed objections, as provided in this chapter, except that the chairman of a party committee may not bring a proceeding with respect to a designation or the holding of an otherwise uncontested primary.

2. A proceeding with respect to a petition shall be instituted within fourteen days after the last day to file the petition, or within three business days after the officer or board with whom or which such petition was filed, makes a determination of invalidity with respect to such petition, whichever is later; except that a proceeding with respect to a petition for a village election or an independent nomination for a special election shall be instituted within seven days after the last day to file the petition for such village election or independent nomination or within three business days after the officer or board with whom or which such petition was filed, makes a determination of invalidity with respect to such petition, whichever is later. A proceeding with respect to a primary, convention, meeting of a party committee, or caucus shall be instituted within ten days after the holding of such primary or convention or the filing of the certificate of nominations made at such caucus or meeting of a party committee.

3. The court may direct reassembling of any convention or the holding of a new primary election, or caucus where it finds there has been such fraud or irregularity as to render impossible a determination as to who rightfully was nominated or elected.

4. A final order including the resolution of any appeals in any proceeding involving the names of candidates on ballots or voting machines shall be made, if possible, at least five weeks before the day of the election at which such ballots or voting machines are to be used, or if such proceeding is commenced

within five weeks of such election, no later than the day following the day on which the case is heard.

(L.1976, c. 233, § 1. Amended L.1978, c. 9, § 116; L.1978, c. 373, § 100; L.1981, c. 305, § 1; L.1986, c. 135, § 1; L.1986, c. 710, § 1; L.1992, c. 79, § 27, eff. May 8, 1992; L.2019, c. 5, § 20, eff. Jan. 24, 2019.)

§ 16–104. Proceedings as to form of ballot, party name, etc.

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

1. The form and content of any ballot, or portion thereof, to be used in an election, and the right to use any emblem design, party or independent body name, may be contested in a proceeding instituted in the supreme court by any aggrieved candidate or by the chairman of any party committee or independent body.

2. The wording of the abstract or form of submission of any proposed amendment, proposition or question may be contested in a proceeding instituted by any person eligible to vote on such amendment, proposition or question.

3. A proceeding pursuant to subdivision two of this section must be instituted within seven days after the last day to certify the wording of any such abstract or form of submission.

4. A final order including the resolution of any appeals in any proceeding involving the contents of official ballots on voting machines shall be made, if possible, at least five weeks before the day of the election at which such voting machines are to be used, or if such proceeding is commenced within five weeks of an election, no later than the day following the day on which the case is heard.

(L.1976, c. 233, § 1. Amended L.1978, c. 136, § 2; L.1978, c. 373, § 101; L.1985, c. 117, § 2, eff. May 28, 1985; L.2019, c. 5, § 21, eff. Jan. 24, 2019; L.2019, c. 66, § 3, eff. Jan. 1, 2020.)

§ 16–106. Proceedings as to the casting and canvass of ballots

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

1. The casting or canvassing or refusal to cast challenged ballots, blank ballots, void or canvass absentee, military, special federal, federal write-in or emergency ballots and ballots voted in affidavit envelopes by persons whose registration poll records were not in the ledger or whose names were not on the computer generated registration list on the day of election or voters in inactive status, voters who moved to a new address in the city or county or after they registered or voters who claimed to be enrolled in a party other than that shown on their registration poll record or on the computer generated registration list and the original applications for a military, special federal, federal write-in, emergency or absentee voter's ballot may be contested in a proceeding instituted in the supreme or county court, by any candidate or the chairman of any party committee, and by any voter with respect to the refusal to cast such voter's ballot, against the board of canvassers of the returns from such district, if any, and otherwise against the board of inspectors of election of such district. If the court determines that the person who cast such ballot was entitled to vote at such election, it shall order such ballot to be cast and canvassed if the court finds that ministerial error by the board of elections or any of its employees caused such ballot envelope not to be valid on its face.

2. The canvass of returns by the state, or county, city, town or village board of canvassers may be contested, in a proceeding instituted in the supreme court by any voter, except a proceeding on account of the failure of the state board of canvassers to act upon new returns of a board of canvassers of any county made pursuant to the order of a court or justice, which may be instituted only by a candidate aggrieved or a voter in the county.

3. The attorney general, on behalf of the state, and the chairman of the state committee of a party, may institute any proceeding allowed herein relating to the returns of canvass by inspectors upon the vote of any ballot proposal submitted to the people of the state.

4. The court may direct a recanvass or the correction of an error, or the performance of any duty imposed by law on such a state, county, city, town or village board of inspectors, or canvassers.

5. A proceeding under subdivisions one and three of this section must be instituted within twenty days and under subdivision two, within thirty days after the election or alleged erroneous statement or determination was made, or the time when the board shall have acted in the particulars as to which it is claimed to have failed to perform its duty, except that such a proceeding with respect to a village election must be instituted within ten days after such election, statement, determination or action.

(L.1976, c. 233, § 1. Amended L.1982, c. 647, § 27; L.1989, c. 359, § 29; L.1992, c. 91, § 12; L.1994, c. 659, § 52.)

§ 16–108. Proceedings as to registration and voting

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

1. The supreme court, by a justice thereof within the judicial district, or the county court, by a county judge within his county, in a proceeding instituted by any voter to whom registration has been unlawfully refused, shall compel, by order, the registration of such voter, and, in a proceeding instituted by any voter duly qualified to vote in this state, or by the state board of elections, shall, by order, direct the cancellation of the registration of any person who shall unlawfully be registered, and shall order the board of elections or other official charged with the conduct of registration to carry out such order.

2. In any such proceeding the board of elections or other official charged with the conduct of the election, in which it is claimed the registration of the voter unlawfully was refused or unlawfully registered, shall be a necessary party and the person whose name is sought to be stricken from the register shall likewise be a necessary party, and the board and such person shall receive such notice as the court, justice or judge shall direct.

3. Such court, in a proceeding instituted by any voter unlawfully denied the right to vote by the inspectors, shall, by order, direct that he be allowed to vote at his polling place and within the hours established by law. Such order shall, where

necessary, direct the board of elections to complete the voter's registration and enrollment records.

4. Such court, justice or judge, in a proceeding instituted by any voter unlawfully denied an absentee ballot or the application therefor, shall compel, by order, the delivery to such voter of a ballot or application.

5. An affidavit by any officer or employee of the board of elections, or by any police officer, sheriff or deputy sheriff, or by any special investigator appointed by the state board of elections, that he visited the premises claimed by the applicant as his residence and that he interrogated an inmate, housed-weller, keeper, caretaker, owner, proprietor or landlord thereof or therein as to the applicant's residence therein or thereat, and that he was informed by one or more of such persons, naming them, that they knew the persons residing upon such premises and that the applicant did not reside upon such premises thirty days before the election, shall be presumptive evidence against the right of the voter to register from such premises.

6. For each primary, special and general election, the presiding justice of the appellate division of the first and second judicial department shall, and the presiding justice of the appellate division of the third and fourth judicial departments may assign one or more justices of the supreme court to sit at such offices of the board of elections and such other locations as may be designated to hear and determine all cases arising under this chapter relating to eligibility for voting of such election.

(L.1976, c. 233, § 1.)

§ 16–110. Proceedings as to enrollment

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

1. The supreme court, by a justice thereof within the judicial district, or the county court, by a judge within his county, in a proceeding instituted by a duly enrolled voter of a party, not later than the second Friday before a primary election,

shall direct the enrollment of any voter with such party to be cancelled if it appears that any material statement in the declaration of the voter upon which he was enrolled is false or that the voter has died or does not reside at the address on his registration record.

2. The chairman of the county committee of a party with which a voter is enrolled in such county, may, upon a written complaint by an enrolled member of such party in such county and after a hearing held by him or by a sub-committee appointed by him upon at least two days' notice to the voter, personally or by mail, determine that the voter is not in sympathy with the principles of such party. The Supreme Court or a justice thereof within the judicial district, in a proceeding instituted by a duly enrolled voter of the party at least ten days before a primary election, shall direct the enrollment of such voter to be cancelled if it appears from the proceedings before such chairman or sub-committee, and other proofs, if any, presented, that such determination is just.

(L.1976, c. 233, § 1. Amended L.1978, c. 373, § 102, eff. Dec. 1, 1978.)

§ 16–112. Proceedings for examination or preservation of ballots

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

The supreme court, by a justice within the judicial district, or the county court, by a county judge within his county, may direct the examination by any candidate or his agent of any ballot or voting machine upon which his name appeared, and the preservation of any ballots in view of a prospective contest, upon such conditions as may be proper.

(L.1976, c. 233, § 1.)

§ 16–113. Proceeding with respect to voter verifiable records

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

The supreme court, by a justice within the judicial district, or the county court, by a county judge within his or her county, in a special proceeding by any candidate or his or her agent, may direct a manual audit of the voter verifiable audit records applicable to any candidate running for office within such judicial district or county where (1) the uniform statewide standard promulgated by regulation by the state board of elections pursuant to subdivision three of section 9–211 of this chapter with respect to discrepancies between manual audit tallies and voting machines or systems tallies requires a further voter verifiable record audit of additional voting machines or systems or all voting machines or systems applicable to such election, or (2) where evidence presented to the court otherwise indicates that there is a likelihood of a material discrepancy between such manual audit tally and such voting machine or system tally, or a discrepancy as defined in subdivision three of section 9–208 of this chapter, which creates a substantial possibility that the winner of the election as reflected in the voting machine or system tally could change if a voter verifiable record audit of additional voting machines or systems or of all voting machines or systems applicable to such election were conducted.

(Added L.2005, c. 181, § 15, eff. July 12, 2005. Amended L.2010, c. 129, § 1, eff. June 15, 2010; L.2010, c. 163, § 14, eff. July 7, 2010.)

§ 16–114. Proceedings to compel filing of statements or corrected statements of campaign receipts, expenditures and contributions

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

1. The supreme court or a justice thereof, in a proceeding instituted by any candidate voted for at the election or primary or by any five qualified voters or by the state or other board of elections may compel by order, any person required to file a statement of receipts, expenditures or contributions for campaign purposes, who has not filed any such statement within the time prescribed by this chapter, to file such statement within five days after notice of the order.

2. The supreme court or a justice thereof, in a proceeding instituted by any candidate voted for at the election or primary or by any five qualified voters, or by the state or other board of elections in accordance with the provision of this chapter may compel by order any person required under the provisions of this chapter to file a statement of receipts, expenditures or contributions for campaign purposes, who has filed a statement which does not conform to the requirements of this chapter in respect to its truth, sufficiency in detail or otherwise, to file a new or supplemental statement which shall make the statement or statements true and complete within five days after notice of the order. The state board of elections shall be a necessary party in any such proceeding.

3. The supreme court or a justice thereof, in a proceeding instituted by any candidate voted for at the election or primary or by any five qualified voters, or by the state or other board of elections may compel by order any person who has failed to comply, or the members of any committee which has failed to comply, with any of the provisions of this chapter, to comply therewith.

4. In every proceeding instituted under this section, except a proceeding to compel the filing of a statement by a candidate for nomination to a public office at a primary election or for election thereto, or by the treasurer of a political committee, who has failed to file any statement, the petitioner or petitioners, upon the institution of the proceeding shall file with the county clerk an undertaking in a sum to be determined and with sureties to be approved by a justice of the supreme court conditioned to pay any costs imposed against him or them; provided, however, that no such undertaking shall be required in a proceeding instituted by the state or other board of elections.

(L.1976, c. 233, § 1. Amended L.1978, c. 9, § 117, eff. Mar. 7, 1978.)

§ 16–115. Proceedings with respect to utilizing certain buildings as polling places

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

The supreme court or a justice thereof, in a proceeding instituted by any board or body empowered to designate polling places, may compel by order, any person or entity which owns or operates a building or facility which is required by this chapter to be made available as a place of registration and voting to make such building or facility available for such purposes and in a proceeding instituted by any person or entity which owns or operates such a building or facility, may vacate a determination by such a board or body that such a building is suitable for registration and voting upon a finding that such building is not required to be made available as a place of registration and voting.

(Added L.1989, c. 694, § 3, eff. Dec. 1, 1989.)

§ 16–116. Proceedings; provisions in relation thereto

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

A special proceeding under the foregoing provisions of this article shall be heard upon a verified petition and such oral or written proof as may be offered, and upon such notice to such officers, persons or committees as the court or justice shall direct, and shall be summarily determined. The proceeding shall have preference over all other causes in all courts. The petition in any such proceeding instituted by the state or other board of elections shall be verified by the persons specified in accordance with rules promulgated by the state board of elections. In the city of New York, a proceeding relating to a run-off primary brought pursuant to this article shall have first preference over all other proceedings.

(L.1976, c. 233, § 1.)

§ 16–118. Proceedings to review removal of committee member or officer

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

The action of any political committee or independent body in removing a member or officer thereof may be reviewed by a proceeding pursuant to article seventy-eight of the civil practice law and rules.

(L.1976, c. 233, § 1. Amended L.1978, c. 373, § 103, eff. June 19, 1978.)

§ 16–120. Enforcement proceedings

[See Executive Order 202 (NY LEGIS EXEC ORDER 202 (2020)), related to the COVID–19 State of Emergency, and Executive Orders issued subsequent thereto for suspension or modification of this section.]

1. The supreme court or a justice thereof, in a proceeding instituted by the state board of elections, may impose a civil penalty, as provided for in subdivisions one and two of section 14–126 of this chapter.

2. Upon proof that a violation of article fourteen of this chapter, as provided in subdivision one of this section, has occurred, the court may impose a civil penalty, pursuant to subdivisions one and two of section 14–126 of this chapter, after considering, among other factors, the severity of the violation or violations, whether the subject of the violation made a good faith effort to correct the violation and whether the subject of the violation has a history of similar violations. All such determinations shall be made on a fair and equitable basis without regard to the status of the candidate or political committee.

(Added L.2011, c. 399, pt. E, § 5, eff. Aug. 15, 2011.)

ARTICLE 17—VIOLATIONS OF THE ELECTIVE FRANCHISE

Section

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§ 17–100. Definitions

1. The word ''election'' as used in this article shall be deemed to apply to and include all general, special and primary elections, unofficial primaries and all local elections

relating to candidates, ballot proposals, proceedings for the nominations of candidates by petition, and all elections held pursuant to Article 52A of the education law.

2. The word ''candidate'' shall be deemed to apply to any person seeking a nomination, designation, or election to a public office or party office.

3. The term ''election officer'' shall mean any person who, pursuant to the provisions of this chapter, performs any duty or function in the electoral process.

4. The term ''public officer'' as used in this article shall be deemed to apply to any person who holds an elective or appointive office of the state, separate authority or any political subdivision of the state with authority to supervise other personnel within such subdivisions. The term ''public employee'' shall be deemed to apply to all other personnel of the state or such authorities or subdivisions.

(L.1976, c. 233, § 1. Amended L.1982, c. 647, § 28, eff. Jan. 1, 1983.)

§ 17–102. Misdemeanors at, or in connection with, primary elections, caucuses, enrollment in political parties, committees, and conventions

Any person who:

1. At a primary election or caucus of a party, wilfully votes, or attempts to vote, without being entitled to do so, or votes, or attempts to vote under any other name than his own or on the same day more than once under his own name; or,

2. Votes, or offers to vote, at a primary election or caucus of a party, having voted at the primary election or caucus of any other political party on the same day, or being at the time enrolled in a party other than the party at whose primary or caucus he votes or offers to vote; or, who causes his name to be placed upon the rolls of a party organization of one party while his name is by his consent or procurement upon the rolls of a party organization of another party; or,

3. At a primary election or caucus, for the purpose of affecting the result thereof, votes or attempts to vote two or more ballots, or adds, or attempts to add, any ballot to those lawfully cast, by fraudulently introducing the same into the ballot box before or after the ballots therein have been count-

ed, or who adds to or mixes with, or attempts to add to or mix with, the ballots lawfully cast, another ballot or other ballots before the votes have been counted or canvassed, or while the votes are being counted or canvassed; or at any time abstracts any ballots lawfully cast, with intent to change the result of such election or to change the count thereat in favor of or against any person voted for at such election, or to prevent the ballots being recounted or used as evidence; or carries away, destroys, loses, conceals, detains, secretes, mutilates, or attempts to carry away, destroy, conceal, detain, secrete, or mutilate, any tally lists, ballots, ballot boxes, enrollment books, certificates of return, or any official documents provided for by the election law or otherwise by law, for the purpose of affecting or invalidating the result of such election, or of destroying evidence; or in any manner interferes with the officers holding any primary election or conducting the canvass of the votes cast thereat, or with voters lawfully exercising, or seeking to exercise, their right of voting at such primary election; or,

4. For the purpose of securing enrollment as a member of a political party, or for the purpose of being allowed to vote at a primary election or caucus as a member of a political party makes, deposits or files with a board of inspectors, or with any public officer or board, a false declaration of party affiliation or wilfully makes a false declaration of residence, either by an enrollment blank or otherwise, or falsely answers any pertinent question asked him by the board of election inspectors, or by a member thereof; or,

5. Fraudulently or wrongfully does any act tending to affect the result of any primary election, caucus or convention; or,

6. Induces or attempts to induce any poll clerk, election inspector, election coordinator, or officer, clerk or employee of the board of elections discharging any duty or performing any act required or made necessary by the election law at a primary election or in connection with the registration or enrollment of voters, to do any act in violation of his duty or in violation of the election law; or,

7. Directly, or indirectly, by himself or through any other person, pays, or offers to pay, money or other valuable thing, or promises a place or position, or offers any other consider-

ation or makes any other promise, to any person, to induce any voter to vote, or refrain from voting, at a primary election or caucus, or convention, for or against any particular person; or does or offers to do, anything to hinder or delay any elector from taking part in or voting at a primary election or caucus; or,

8. By menace or other unlawful or corrupt means, directly or indirectly, influences or attempts to influence, the vote of any person entitled to vote at a primary election or caucus, or convention, or obstructs such person in voting, or prevents him from voting thereat; or,

9. Directly or indirectly, by himself or through another person, receives money or other valuable thing, or a promise of a place or position, before, at, or after any primary election or caucus, or convention, for voting or refraining from voting for or against any person, or for voting or refraining from voting at a primary election, caucus or convention; or,

10. Being an officer, teller, canvasser, or inspector, at a primary election or caucus, knowingly permits any fraudulent vote to be cast, or knowingly receives and deposits in the ballot box any ballots offered by any person not qualified to vote; or permits the removal of ballots from the polling place before the close of the polls, or refuses to receive ballots intended for the electors of the district, or refuses to deliver to any elector ballots intended for the electors of the district which have been delivered to the board of inspectors, or permits electioneering within the polling place or within one hundred feet therefrom, or fails to keep order within the polling place, or permits any person other than the inspectors, or other persons permitted by this chapter to render assistance, to accompany an elector into a voting booth, or enters the voting booth with any elector, except one entitled to receive such assistance in the preparation of his ballot, or permits any person, other than a voter who has not voted, or a watcher to come within the guard rail or removes or permits another to remove any mark placed upon a ballot for its identification; or,

11. Being an officer, clerk or employee of the board of elections, election inspector, poll clerk or election coordinator, knowingly puts opposite the name of an elector in an enrollment book any enrollment number other than the number

opposite such name in the registration poll records of such district, or knowingly delivers to or receives from any elector on the day of registration an enrollment blank or envelope on which is any other enrollment number than the one opposite his name in such registration poll records or knowingly transcribes from an enrollment blank to the enrollment books any refusal to enroll or enrollment not indicated on the enrollment blank of the elector of such district whose enrollment number appears on such enrollment blank, or refuses or wilfully neglects to transcribe from any enrollment blank to the proper enrollment books any refusal to enroll or enrollment indicated on the enrollment blank of such an elector, enrolls or attempts to enroll as a member of a political party upon any of the enrollment books, any person not qualified to enroll as such, or fraudulently enters thereupon the name of any person who has not enrolled as a member of any political party, or refuses or wilfully neglects to enroll upon any of the enrollment books the name of any qualified person who has demanded to be enrolled as a member of a political party, or at any time strikes from any of the enrollment books the name of any person duly enrolled, or at any time adds to any of the enrollment books the name of any person not qualified to be enrolled as a member of a political party, or the name of any person who in fact has not enrolled as such; or makes marks upon, mutilates, carries away, conceals, alters, or destroys any enrollment blank or enrollment envelope used or deposited by an elector on a day of registration for the purpose of enrolling or refusing to enroll himself as a member of a political party; or mutilates, carries away, conceals, alters or destroys, any statement or declaration made by a qualified voter for the purpose of enrolling as a member of the party; or, prior to the close of the last meeting for registration in any year, mutilates, carries away, conceals, alters, or destroys any enrollment blanks or enrollment envelopes not then delivered to electors; or,

12. Being an officer, teller, canvasser, election inspector, clerk or employee of the board of elections or any officer of a political committee or a convention, wilfully omits, refuses or neglects to do any act required by this chapter or otherwise by law, or violates any of the provisions of the election law, or makes or attempts to make any false canvass of the ballots cast

at a primary election, caucus or convention, or a false statement of the result of a canvass of the ballots cast thereat; or,

13. Being an officer, clerk or employee of the board of elections, or an officer of a political committee or a convention, who is charged with, or assumes, the duty of compiling the roll of any convention, wilfully includes in such roll the name of any person not certified to be elected thereto in accordance with the provisions of law, or who wilfully omits from such roll the name of any person who is so certified to be a delegate to such convention, is guilty of a misdemeanor.

(L.1976, c. 233, § 1. Amended L.1978, c. 373, § 104; L.1991, c. 90, § 9, eff. Dec. 1, 1991.)

§ 17–104. False registration

Any person who:

1. Registers or attempts to register as an elector in more than one election district for the same election, or more than once in the same election district; or,

2. Registers or attempts to register as an elector, knowing that he will not be a qualified voter in the district at the election for which such registration is made; or

3. Registers or attempts to register as an elector under any name but his own; or

4. Knowingly gives a false residence within the election district when registering as an elector; or

5. Knowingly permits, aids, assists, abets, procures, commands or advises another to commit any such act, is guilty of a felony.

(L.1976, c. 233, § 1.)

§ 17–106. Misconduct of election officers

Any election officer who wilfully refuses to accord to any duly accredited watcher or to any voter or candidate any right given him by this chapter, or who wilfully violates any provision of the election law relative to the registration of electors or to the taking, recording, counting, canvassing, tallying or certifying of votes, or who wilfully neglects or refuses to perform any duty imposed on him by law, or is guilty of any

fraud in the execution of the duties of his office, or connives in any electoral fraud, or knowingly permits any such fraud to be practiced, is guilty of a felony.

(L.1976, c. 233, § 1. Amended L.1978, c. 9, § 118, eff. Mar. 7, 1978.)

§ 17–108. False affidavits; mutilation, destruction or loss of registry list or affidavits

1. Any person who wilfully loses, alters, destroys or mutilates the list of voters or registration poll ledgers in any election district, or a certified copy thereof, is guilty of a misdemeanor.

2. An applicant for registration who shall make, incorporate or cause to be incorporated a material false statement in an application for registration, or in any challenge or other affidavit required for or made or filed in connection with registration or voting, and any person who knowingly takes a false oath before a board of inspectors of election, and any person who makes a material false statement in a medical certificate or an affidavit filed in connection with an application for registration, is guilty of a misdemeanor.

3. A person who shall wilfully suppress, mutilate or alter, or, except as authorized by this chapter, shall destroy, any signed challenge or other affidavit required for or made or filed in connection with registration or voting, and any person who, except as authorized by this chapter, shall remove such an affidavit from the place of registration or polling place, is guilty of a felony.

4. A person other than the applicant who, prior to the filing of the application, shall willfully suppress, mutilate, materially alter, or, except as authorized by this chapter, destroy a signed application for registration by mail, is guilty of a misdemeanor.

(L.1976, c. 233, § 1. Amended L.1978, c. 373, § 105; L.1982, c. 694, § 1, eff. Sept. 1, 1982.)

§ 17–110. Misdemeanors concerning police commissioners or officers or members of any police force

Any person who, being a police commissioner or any officer or member of any police force in this state:

1. Uses or threatens or attempts to use his official power or authority, in any manner, directly or indirectly, in aid of or against any political party, organization, association or society, or to control, affect, influence, reward or punish, the political adherence, affiliation, action, expression or opinion of any citizen; or

2. Appoints, promotes, transfers, retires or punishes an officer or member of a police force, or asks for or aids in the promotion, transfer, retirement or punishment of an officer or member of a police force because of the party adherence or affiliation of such officer or member, or for or on the request, direct or indirect, of any political party, organization, association or society, or of any officer, member of a committee or representative official or otherwise of any political party, organization, association or society; or

3. Solicits, collects or receives any money for, any political fund, club, association, society or committee, is guilty of a misdemeanor.

(L.1976, c. 233, § 1. Amended L.1983, c. 215, § 1, eff. July 2, 1983.)

§ 17–112. Soliciting media support

Any person who solicits from a candidate for an elective office money or other property as a condition or consideration for a supporting article, report or advertisement in any publication or news media in favor of such candidate, is guilty of a misdemeanor.

(L.1976, c. 233, § 1.)

§ 17–114. Failure to furnish information; false information

1. Any person who knowingly harbors or conceals any person who falsely registered as a voter, or who shall rent any room or bed to any person to be used by such person for himself or any other person for the purpose of unlawfully registering or voting therefrom is guilty of a misdemeanor.

2. A keeper of a hotel, lodging-house, boarding-house or rooming-house, who neglects to give to an election officer requesting the same, a sworn list of persons residing in such hotel, lodging-house, boarding-house, dwelling or apartment, together with the other particulars or information in relation to

such persons required to be given by or pursuant to this chapter, is guilty of a misdemeanor.

3. A keeper of a hotel, lodging house, boarding-house, or rooming-house or the owner or lessee of a dwelling or apartment who makes a report or furnishes a list required by this chapter which knowingly and falsely states that a person has resided on the premises to which the report or list relates for a longer period than he has actually resided therein, or puts upon such a list or in such a report a name under which no person resides in said premises, is guilty of a felony.

(L.1976, c. 233, § 1.)

§ 17–116. Removal, mutilation or destruction of election booths, supplies, poll-lists or cards of instruction

Any person who:

1. During the election, wilfully defaces or injures a voting booth or compartment, or wilfully removes or destroys any of the supplies or other conveniences placed in the voting booths or compartments in pursuance of law; or,

2. Before the closing of the polls, wilfully defaces or destroys any list of candidates to be voted for such an election posted in accordance with the election law; or,

3. During an election, wilfully removes or defaces the cards for the instruction of voters, posted in accordance with this chapter, is guilty of a misdemeanor.

(L.1976, c. 233, § 1.)

§ 17–118. Refusal to permit employees to attend election

A person or corporation who refuses an employee entitled to vote at an election the privilege of attending thereat, as provided by the election law, or subjects such employee to a penalty or reduction of wages because of the exercise of such privilege, is guilty of a misdemeanor.

(L.1976, c. 233, § 1.)

§ 17–120. Misconduct in relation to certificate of nomination and official ballot

A person who:

1. Falsely makes or makes oath to, or fraudulently defaces or destroys a certificate of nomination or any part thereof; or,

2. Files or receives for filing a certificate of nomination, knowing that any part thereof was falsely made; or,

3. Suppresses a certificate of nomination which has been duly filed, or any part thereof; or,

4. Forges or falsely makes the official indorsement of any ballot; or,

5. Having charge of official ballots, destroys, conceals or suppresses them, except as provided by the law.[1] is guilty of a felony.

(L.1976, c. 233, § 1.)

[1] Punctuation as in original.

§ 17–122. Misconduct in relation to petitions

Any person who:

1. Pays, lends, contributes or promises to pay, lend or contribute any money or other valuable consideration to or for any voter, or to or for any other person, to induce such voter to sign a petition for the designation of a candidate for party nomination or for election to a party position to be voted for at a primary election, or to induce such voter to sign a petition for opportunity to ballot at a primary election or to induce such voter to sign an independent nominating petition for public office; or

2. Gives, offers or promises any office, place or employment, or promises to procure or endeavor to procure any office, place or employment to or for any voter, or to or for any other person, in order to induce such voter to sign a petition for the designation of a candidate for party nomination or for election to a party position to be voted for at a primary election, or to induce such voter to sign a petition for opportunity to ballot at a primary election or to induce such voter to sign an independent nominating petition for public office; or

3. Receives, agrees or contracts for any money, gift, loan or other valuable consideration, office, place or employment for himself or any other person, for signing a petition for the designation of a candidate for party nomination or for election

to a party position to be voted for at a primary election, or for signing a petition for opportunity to ballot at a primary election or for signing an independent nominating petition for public office; or

4. Pays or agrees to pay money or other valuable consideration, to any person for his services in canvassing for or otherwise procuring the signatures of voters to a petition for the designation of a candidate or candidates for party nomination or for election to a party position to be voted for at a primary election, or to a petition for opportunity to ballot at a primary election, or to an independent nominating petition for public office, upon the basis of the number of names to such petition procured by such person, or at a fixed amount per name; or,

5. Represents to any person as an inducement for signing a petition for the designation of a candidate for party nomination or for election to a party position to be voted for at a primary election, or for signing a petition for opportunity to ballot at a primary election, or for signing an independent nominating petition for public office, that the person soliciting such signature is to be compensated upon the basis of the number of names procured by such a person, or at a fixed amount per name; or

6. Being a signer of a petition, provided for in the election law, for the designation or nomination of a candidate, or a petition for opportunity to ballot at a primary election, thereby makes a false statement or makes a false affidavit thereon, or a false statement to the witness who authenticates the petition; or

7. Being a notary public, commissioner of deeds or a subscribing witness to a petition, provided for in this chapter, for the designation or nomination of a candidate, or a petition for opportunity to ballot at a primary election, thereby makes a false statement or makes a false affidavit thereon; or

8. Alters a petition, provided for in the election law, for the designation or nomination of a candidate, or a petition for opportunity to ballot at a primary election, by inserting, adding or changing therein the name of a candidate, or the title or designation of an office or position by any means whatsoever,

after such petition has been signed by one or more persons, is guilty of a misdemeanor.

(L.1976, c. 233, § 1. Amended L.1978, c. 373, § 106; L.1997, c. 129, § 1, eff. June 24, 1997.)

§ 17–124. Failure to deliver official ballots

Any person who has undertaken to deliver official ballots to any city, town or village clerk, or inspector as authorized by this chapter, and neglects or refuses to do so, is guilty of a misdemeanor.

(L.1976, c. 233, § 1.)

§ 17–126. Misconduct of election officers

Any election officer who:

1. Reveals to another person the name of any candidate for whom a voter has voted;

2. Communicates to another person his opinion, belief or impression as to how or for whom a voter has voted; or,

3. Places a mark upon a ballot, or does any other act by which one ballot can be distinguished from another or can be identified; or,

4. Before the closing of the polls, unfolds a ballot that a voter has prepared for voting, is guilty of a misdemeanor.

(L.1976, c. 233, § 1.)

§ 17–128. Violations of election law by public officer or employee

A public officer or employee who knowingly and wilfully omits, refuses or neglects to perform any act required of him by this chapter or who knowingly and wilfully refuses to permit the doing of any act authorized by this chapter or who knowingly and wilfully hinders or delays or attempts to hinder or delay the performance of such an act is, if not otherwise provided by law, guilty of a felony.

(L.1976, c. 233, § 1.)

§ 17–130. Misdemeanor in relation to elections

Any person who:

1. Acts as an inspector of election or as a clerk at an election, without being able to read or write the English language, or without being otherwise qualified to hold such office; or,

2. Being an inspector of election, knowingly and wilfully permits or suffers any person to vote who is not entitled to vote thereat; or,

3. Wilfully and unlawfully obstructs, hinders or delays, or aids or assists in obstructing or delaying any elector on his way to a registration or polling place, or while he is attempting to register or vote; or,

4. Electioneers on election day or on days of registration within one hundred feet, as defined herein, from a polling place. Said prohibition shall not apply to a building or room that has been maintained for political purposes at least six months prior to said election or registration days, except that no political displays, placards or posters shall be exhibited therefrom. For the purposes of this section, the one hundred feet distance shall be deemed to include a one hundred foot radial measured from the entrances, designated by the inspectors of elections, to a building where the election or registration is being held.

5. Removes any official ballot from a polling place before the closing of the polls; or,

6. Unlawfully goes within the guard-rail of any polling place or unlawfully remains within such guard-rail after having been commanded to remove therefrom by any inspector of election; or,

7. Enters a voting booth with any voter or remains in a voting booth while it is occupied by any voter, or opens the door of a voting booth when the same is occupied by a voter, with the intent to watch such a voter while engaged in the preparation of his ballot, except as authorized by this chapter; or,

8. Being or claiming to be a voter, permits any other person to be in a voting booth with him while engaged in the preparation of his ballot, except as authorized by this chapter, without openly protesting against and asking that such person be ejected; or,

9. Having lawfully entered a voting booth with a voter, requests, persuades or induces such voter to vote any particular ballot or for any particular candidate, or makes or keeps any memorandum of anything occurring within the booth, or directly or indirectly, reveals to another the name of any candidate voted for by such voter; or,

10. Shows his ballot after it is prepared for voting, to any person so as to reveal the contents, or solicits a voter to show the same; or,

11. Places any mark upon his ballot, or does any other act in connection with his ballot with the intent that it may be identified as the one voted by him; or,

12. Places any mark upon, or does any other act in connection with a ballot or paster ballot, with the intent that it may afterwards be identified as having been voted by any particular person; or,

13. Receives an official ballot from any person other than one of the clerks or inspectors having charge of the ballots; or,

14. Not being an inspector of election or clerk, delivers an official ballot to a voter; or,

15. Not being an inspector of election, receives from any voter a ballot prepared for voting; or,

16. Fails to return to the inspectors of election, before leaving the polling place or going outside the guard-rail, each ballot not voted by him; or,

17. Wilfully defaces, injures, mutilates, destroys or secretes any voting maching [1] which belongs to any municipality or board of elections for use at elections, and any person who commits or attempts to commit a fraud in the use of any such voting machine during election; or,

18. Not being lawfully authorized, makes or has in his possession a key to a voting maching [1] which has been adopted and will be used in elections; or,

19. Not being an inspector or clerk of election, handles a voted or unvoted ballot or stub thereof, during the canvass of votes at an election; or,

20. Intentionally opens an absentee voter's envelope or examines the contents thereof after the receipt of the envelope by the board of elections and before the close of the polls at the election; or,

21. Wilfully disobeys any lawful command of the board of inspectors, or any member thereof; or

22. Induces or attempts to induce any poll clerk, election inspector, election coordinator, or officer, clerk or employee of the board of elections discharging any duty or performing any act required or made necessary by the election law, to do any act in violation of his duty or in violation of the election law; or,

23. Not having been appointed or named an inspector of elections or clerk and not having taken the oath for such office shall wear or display any button, badge or emblem identifying or purporting to identify such person as an inspector of election or clerk, is guilty of a misdemeanor.

(L.1976, c. 233, § 1. Amended L.1978, c. 373, § 107; L.1991, c. 90, § 10, eff. Dec. 1, 1991.)

[1] So in original. Should be ''machine''.

§ 17–132. Illegal voting

Any person who:

1. Knowingly votes or offers or attempts to vote at any election, when not qualified; or,

2. Procures, aids, assists, counsels or advises any person to go or come into any election district, for the purpose of voting at any election, knowing that such person is not qualified; or,

3. Votes or offers or attempts to vote at an election, more than once; or votes or offers or attempts to vote at an election under any other name than his own; or votes or offers or attempts to vote at an election, in an election district or from a place where he does not reside; or,

4. Procures, aids, assists, commands or advises another to vote or offer or attempt to vote at an election, knowing that such person is not qualified to vote thereat; or,

5. Prompts a person, applying to vote, to falsely answer questions put to him by the inspectors concerning his identity or qualifications for voting; or,

6. Being an applicant for an absentee voter's ballot, makes a material false statement in his application, or a person who makes a material false statement in a medical certificate or an affidavit filed in connection with an application for an absentee voter's ballot; or,

7. Not being a qualified absentee voter, and having knowledge or being chargeable with knowledge of that fact, votes or attempts to vote as an absentee voter; or,

8. Fraudulently signs the name of another upon an absentee voter's envelope or aids in doing or attempting to do a fraudulent act in connection with an absentee vote cast or attempted to be cast; or,

9. Falsely pretends or represents to the inspectors of election or any of them that he is incapacitated to mark his ballot, for the purpose of obtaining assistance in voting under the provisions of this chapter, is guilty of a felony.

Any offer or attempt under this section shall be deemed to be the doing of any act made necessary by this chapter preliminary to the delivery of a ballot to an elector or the deposit of the ballot in the ballot box or his admission to the booth or voting machine enclosure.

(L.1976, c. 233, § 1.)

§ 17–134. Unlawful use of pasters

An election officer or other person who uses a paster, sticker or label upon an official ballot, at any election, except as authorized and in the manner provided by this chapter, is guilty of a felony.

(L.1976, c. 233, § 1. Amended L.2015, c. 395, § 2, eff. Oct. 26, 2015.)

§ 17–136. False returns; unlawful acts respecting returns

An inspector or clerk of an election who intentionally makes, or attempts to make, a false canvass of the ballots cast thereat, or any false statement of the result of a canvass, though not signed by a majority of the inspectors, or any person who

induces or attempts to induce any such inspector or clerk to do so, is guilty of a felony.

(L.1976, c. 233, § 1.)

§ 17–140. Furnishing money or entertainment to induce attendance at polls

Any person who directly or indirectly by himself or through any other person in connection with or in respect of any election during the hours of voting on a day of a general, special or primary election gives or provides, or causes to be given or provided, or shall pay, wholly or in part, for any meat, drink, tobacco, refreshment or provision to or for any person, other than persons who are official representatives of the board of elections or political parties and committees and persons who are engaged as watchers, party representatives or workers assisting the candidate, except any such meat, drink, tobacco, refreshment or provision having a retail value of less than one dollar, which is given or provided to any person in a polling place without any identification of the person or entity supplying such provisions, is guilty of a Class A misdemeanor.

(L.1976, c. 233, § 1. Amended L.1978, c. 9, § 119; L.1985, c. 154, § 1; L.1992, c. 414, § 1, eff. July 17, 1992.)

§ 17–142. Giving consideration for franchise

Except as allowed by law, any person who directly or indirectly, by himself or through any other person:

1. Pays, lends or contributes, or offers or promises to pay, lend or contribute any money or other valuable consideration to or for any voter, or to or for any other person, to induce such voter or other person to vote or refrain from voting at any election, or to induce any voter or other person to vote or refrain from voting at such election for any particular person or persons, or for or against any particular proposition submitted to voters, or to induce such voter to come to the polls or remain away from the polls at such election or to induce such voter or other person to place or cause to be placed or refrain from placing or causing to be placed his name upon a registration poll record or on account of such voter or other person having voted or refrained from voting for or against any particular person or for or against any proposition submitted

to voters, or having come to the polls or remained away from the polls at such election, or having placed or caused to be placed or refrained from placing or causing to be placed his or any other name upon the registry of voters; or,

2. Gives, offers or promises any office, place or employment, or promises to procure or endeavor to procure any office, place or employment to or for any voter, or to or for any other person, in order to induce such voter or other person to vote or refrain from voting at any election, or to induce any voter or other person to vote or refrain from voting at such election, for or against any particular person or for or against any proposition submitted to voters, or to induce any voter or other person to place or cause to be placed or refrain from placing or causing to be placed his or any other name upon a registration poll record; or,

3. Gives, offers or promises any office, place, employment or valuable thing as an inducement for any voter or other person to procure or aid in procuring either a large or a small vote, plurality or majority at any election district or other political division of the state, for a candidate or candidates to be voted for at an election; or to cause a larger or smaller vote, plurality or majority to be cast or given for any candidate or candidates in one such district or political division than in another; or,

4. Makes any gift, loan, promise, offer, procurement or agreement as aforesaid to, for or with any person to induce such person to procure or endeavor to procure the election of any person or the vote of any voter at any election; or,

5. Procures or engages or promises or endeavors to procure, in consequence of any such gift, loan, offer, promise, procurement, or agreement the election of any person, or the vote of any voter, at such election; or,

6. Advances or pays or causes to be paid, any money or other valuable thing, to or for the use of any other person with the intent that the same, or any part thereof, shall be used in bribery at any election, or knowingly pays or causes to be paid any money or other valuable thing to any person in discharge or repayment of any money, wholly or in part expended in bribery at any election, is guilty of a felony.

(L.1976, c. 233, § 1.)

§ 17–144. Receiving consideration for franchise

Except as allowed by law, any person who directly or indirectly, by himself or through any other person:

1. Receives, agrees or contracts for, before or during an election, any money, gift, loan or other valuable consideration, office place or employment for himself or any other person, for voting or agreeing to vote, or for coming or agreeing to come to the polls, or for remaining away or agreeing to remain away from the polls, or for refraining or agreeing to refrain from registering as a voter, or for refraining or agreeing to refrain from voting, or for voting or agreeing to vote, or for refraining or agreeing to refrain from voting for or against any particular person or persons at any election, or for or against any proposition submitted to voters at such election; or,

2. Receives any money or other valuable thing during or after an election on account of himself or any other person having voted or refrained from voting at such an election; or having registered or refrained from registering as a voter, or on account of himself or any other person having voted or refrained from voting for or against any particular person at such election, or for or against any proposition submitted to voters at such election, or on account of himself or any other person having come to the polls or remained away from the polls at such election, or having registered or refrained from registering as a voter, or on account of having induced any other person to vote or refrain from voting for or against any particular person at such election, or for or against any proposition submitted to voters at such election, is guilty of a felony.

(L.1976, c. 233, § 1.)

§ 17–146. Offender a competent witness; witnesses' immunity

1. A person offending against any section of this article is a competent witness against another person so offending and may be compelled to attend and testify on any trial, hearing or proceeding or investigation in the same manner as any other person.

2. In any criminal proceeding before a court or grand jury for a violation of any of the provisions of this article, the court

or grand jury may confer immunity in accordance with the code of criminal procedure.[1]

(L.1976, c. 233, § 1.)

[1] So in original. See CPL 50.20 and 190.40.

§ 17–148. Bribery or intimidation of elector in military service of United States

Any person who, directly or indirectly, by bribery, menace or any other corrupt means, controls, or attempts to control an elector of this state enlisted in the military service of the United States, in the exercise of his rights under the election law, or annoys, injures or punishes him for the manner in which he exercises such right, is guilty of a misdemeanor.

(L.1976, c. 233, § 1.)

§ 17–150. Duress and intimidation of voters

Any person or corporation who directly or indirectly:

1. Uses or threatens to use any force, violence or restraint, or inflicts or threatens to inflict any injury, damage, harm or loss, or in any other manner practices intimidation upon or against any person in order to induce or compel such person to vote or refrain from voting for or against any particular person or for or against any proposition submitted to voters at such election, or to place or cause to be placed or refrain from placing or causing to be placed his name upon a registry of voters, or on account of such person having voted or refrained from voting at such election, or having voted or refrained from voting for or against any particular person or persons, or for or against any proposition submitted to voters at such election, or having registered or refrained from registering as a voter; or,

2. By abduction, duress or any forcible or fraudulent device or contrivance whatever impedes, prevents or otherwise interferes with the free exercise of the elective franchise by any voter, or compels, induces or prevails upon any voter to give or refrain from giving his vote for or against any particular person at any election; or,

3. Being an employer pays his employess[1] the salary or wages due in ''pay envelopes,'' in which there is enclosed or upon which there is written or printed political motto, device

or argument containing threats, express or implied, intended or calculated to influence the political opinions or actions of such employees, or within ninety days of a general election puts or otherwise exhibits in the establishment or place where his employees are engaged in labor, any handbill or placard containing any threat, notice or information, that if any particular ticket or candidate is elected or defeated, work in his place or establishment will cease, in whole or in part, his establishment will be closed up, or the wages of his employees reduced, or other threats, express or implied, intended or calculated to influence the political opinions or actions of his employees, is guilty of a misdemeanor, and, if a corporation, shall in addition forfeit its charter.

(L.1976, c. 233, § 1.)

[1] So in original. Should be ''employees''.

§ 17–152. Conspiracy to promote or prevent election

Any two or more persons who conspire to promote or prevent the election of any person to a public office by unlawful means and which conspiracy is acted upon by one or more of the parties thereto, shall be guilty of a misdemeanor.

(L.1976, c. 233, § 1.)

§ 17–154. Pernicious political activities

It shall be unlawful for any person to:

1. Intimidate, threaten or coerce, or to attempt to intimidate, threaten or coerce, any other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose, or for the purpose of causing such other person to vote for, or not to vote for, any candidate for the office of governor, lieutenant-governor, attorney-general, comptroller, judge of any court, member of the senate, or member of the assembly at any election held solely or in part for the purpose of selecting a governor, lieutenant-governor, attorney-general, comptroller, any judge or any member of the senate or any member of the assembly; or,

2. Directly or indirectly, promise any employment, position, work, compensation, or other benefit, provided for or made possible in whole or in part by any act of congress or of

the legislature appropriating funds for work relief or relief purposes, to any person as consideration, favor or reward for any political activity or for the support of or opposition to any candidate or any political party in any nominating convention or in any election; or,

3. Deprive, attempt to deprive or threaten to deprive, by any means, any person of any employment, position, work, compensation or other benefit provided for or made possible in whole or in part by any act of congress or of the legislature appropriating funds for the work relief or relief purposes, on account of any political activity or on account of support for or opposition to any candidate or any political party in any nominating convention or election; or

4. Solicit or receive or be in any manner concerned in soliciting or receiving any assessment, subscription or contribution for any political purpose whatever from any person known by him to be entitled to or receiving compensation, employment or other benefit provided for or made possible by any act of congress or of the legislature appropriating, or authorizing the appropriation of, funds for work relief or relief purposes; or

5. Furnish or to disclose, or to aid or assist in furnishing or disclosing, any list or names of persons receiving compensation, employment or benefits provided for or made possible by any act of congress or of the legislature appropriating or authorizing the appropriation of, funds for work relief or relief purposes, to a political candidate, committee, campaign manager, or to any person for delivery to a political candidate, committee or campaign manager, and it shall be unlawful for any person to receive any such list or names for political purposes.

No part of any appropriation made by any act of congress or of the legislature, heretofore or hereafter enacted, making appropriations for work relief, relief, or otherwise to increase employment by providing loans and grants for public works projects, shall be used, and no authority conferred by any such act upon any person shall be exercised or administered, for the purpose of interfering with, restraining or coercing any individual in the exercise of his right to vote and to vote as he may choose at any election.

Any person who violates any of the foregoing provisions of this section shall be guilty of a misdemeanor.

(L.1976, c. 233, § 1.)

§ 17–156. Political assessments

Any officer or employee of the state, or of a political subdivision thereof who, directly or indirectly uses his authority or official influence to compel or induce any other officer or employee of the state or a political subdivision thereof, to pay or promise to pay any political assessment shall be guilty of a class A misdemeanor. Nothing herein shall be deemed to prohibit an officer or employee of the state or political subdivision thereof from making a voluntary contribution to a candidate or political committee.

(L.1976, c. 233, § 1.)

§ 17–158. Repealed by L.2014, c. 55, pt. H, subpt. A, § 25–a, eff. April 30, 2014

§ 17–160. Procuring fraudulent documents in order to vote

1. Any person who knowingly and wilfully procures from any court, judge, clerk or other officer, any document with intent to enable himself or any other person to register for or vote at any election when he or such other person is not entitled to exercise the elective franchise; or

2. Any person who knowingly and wilfully presents to any election officer for the purpose of having himself or any other person placed upon any list or registry of voters or for the purpose of enabling himself or any other person to vote at any election, any false document, is guilty of a felony.

(L.1976, c. 233, § 1. Amended L.1978, c. 373, § 108, eff. June 19, 1978.)

§ 17–162. Judicial candidates not to contribute

No candidate for a judicial office shall, directly or indirectly, make any contribution of money or other thing of value, nor shall any contribution be solicited of him; but a candidate for a judicial office may make such legal expenditures, other than contributions, authorized by this chapter.

(L.1976, c. 233, § 1. Amended L.1978, c. 373, § 109, eff. June 19, 1978.)

§ 17–164. Political contributions by owners of polling places prohibited

A person, who being the owner of premises contracted for or used as a place of registration or as a polling place for any election or official primary, who makes [1] offers or promises to make a political contribution to any party committee, candidate or person, or any person who makes, promises or offers to make any such political contribution as an inducement for the hiring of premises owned by him for use as a place of registration or polling place for any election or official primary, shall be guilty of a misdemeanor.

(L.1976, c. 233, § 1. Amended L.1978, c. 9, § 120, eff. Mar. 7, 1978.)

[1] So in original.

§ 17–166. Penalty

Any person convicted of a misdemeanor under this article shall for a first offense be punished by imprisonment for not more than one year, or by a fine of not less than one hundred dollars nor more than five hundred dollars, or by both such fine and imprisonment. Any person who, having been convicted of a misdemeanor under this article, shall thereafter be convicted of another misdemeanor under this article, shall be guilty of a felony.

(L.1976, c. 233, § 1.)

§ 17–168. Crimes against the elective franchise not otherwise provided for

Any person who knowingly and wilfully violates any provision of this chapter, which violation is not specifically covered by any of the previous sections of this article, is guilty of a misdemeanor.

(L.1976, c. 233, § 1.)

§ 17–170. Destroying or delaying election returns

A messenger appointed by authority of law to receive and carry a report, certificate or certified copy of any statement relating to the result of any election, who wilfully mutilates, tears, defaces, obliterates or destroys the same, or does any other act which prevents the delivery of it as required by law;

and a person who takes away from such messenger any such report, certificate or certified copy, with intent to prevent its delivery, or who wilfully does any injury or other act in this section specified, is guilty of a felony.

(L.1976, c. 233, § 1.)

RULES AND REGULATIONS
of the
STATE BOARD OF ELECTIONS

Current with amendments issued through May 31, 2020

TITLE V — EXECUTIVE DEPARTMENT

SUBTITLE V — STATE BOARD OF ELECTIONS

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PART 6200—FILING STATEMENTS OF CAMPAIGN RECEIPTS AND EXPENDITURES

Section

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§ 6200.1 Places for filing statements of campaign receipts and expenditures

The places for filing statements of campaign receipts and expenditures pursuant to sections 14–102 and 14–104 of the Election Law shall be as follows:

(a)(1) The statements of a candidate for election to the office of presidential elector, Governor, Lieutenant Governor, Attorney General, Comptroller, member of the State Legislature, delegate to a Constitutional Convention, justice of the Supreme Court or for nomination for any such office at a primary election or convention, or for any party position to be voted for at a primary election by the voters of two or more counties or portions of two or more counties not wholly within the City of New York, with the State Board of Elections.

(2) The statements of a candidate for election to any other public office except a village office, or for nomination for any such office at a primary election or convention, or for any party position to be voted for at a primary election solely by the voters within a single county or within the City of New York, with the board of elections of the city or county whose voters are to vote for such office of party position.

(3) The statements of a candidate for election to a village office or for nomination for any such office at a primary election or convention, with the village clerk, except where a village had opted, pursuant to section 15–104(d) of the Election Law, to have elections occur on the day of the general election and be conducted by the board of elections, then with the county board of elections.

(b) The statements of a treasurer of a political committee, with the State Board of Elections, except as follows:

(1) if the committee aided or took part solely in the election or defeat of a candidate for an office or party position

set forth in paragraph (a)(2) of this section with the appropriate board of elections;

(2) if the committee aided or took part solely in the election or defeat of a candidate for an office or party position set forth in paragraph (a)(3) of this section, with the village clerk;

(3) if the committee promoted the success or defeat of a proposition submitted to vote at a public election held within a single county, or the City of New York, with the appropriate board of elections; or

(4) the treasurer of the county committee of a political party and the treasurer of a duly constituted subcommittee of a county committee shall file with the board of elections of such county, except that if the committee aids or takes part in the election or defeat of a candidate for an office or party position set forth in paragraph (a)(1) of this section, a copy of the statements required to be filed pursuant to section 6300.2(a) of this Title which include expenditures made for such candidate shall also be filed with the State Board of Elections.

(c)(1) The statements of a political committee, other than a county committee, which supports or opposes candidates for those offices enumerated in paragraph (a)(1) of this section and, in addition, supports or opposes candidates enumerated in paragraph (a)(2) or (3) of this section shall be filed with the State Board of Elections. Copies of the pre- and post-election statements thereof shall be filed with the appropriate local filing offices, except that in those years in which such committee only supports or opposes candidates for offices set forth in either paragraph (a)(2) or (3) of this section; such committee need only file pre- and post-election statements with the appropriate local filing offices.

(2) The periodic statement required to be filed with the State Board of Elections by such committee on the 15th day of January following a year in which such committee only supported candidates for county, city, town or village offices shall have attached to it a copy of the summary section of the 27–day post-election statement filed by such committee with the local filing offices in such preceding year.

(d)(1) Pursuant to the provisions of this section, any candidate and/or political committee which is required to file statements with a county Board of Elections or with the Board of Elections of the City of New York, which raises or spends or expects to raise or spend more than $ 1,000 during any calendar year, in additional to filing such statements with said boards of elections in the filing format required thereby, shall also file such statements electronically with the State Board of Elections pursuant to its electronic report system, established pursuant to Election Law, section 3-102(9-A), or on paper if an exemption from the electronic filing requirements has been granted by the State Board pursuant to Election Law, section 14-102(4) or 14-104(2).

(2) Notwithstanding the provisions of paragraph (1) of this subdivision, any statements filed electronically, or on paper if exempted, with the State Board of Elections by a candidate and/or political committee which is required to file such statements electronically with the State Board pursuant to paragraph (1) of this subdivision, shall satisfy the filing requirements of this section with regards to filing with the applicable county or city Board of Elections. The county and city Boards of Elections shall make statements filed with the State Board, which would have otherwise have been filed specifically with their individual board pursuant to paragraph (1) of this subdivision, available for public inspection and copying via electronic connection to the State Board's website, which will contain such statements, or by such other mode of electronic communication that is available and approved by the State Board for such purposes.

(3) Any candidate and/or political committee which is required to file statements with a county Board of Elections or with the Board of Elections of the City of New York pursuant to the provisions of this section, which is not required to file such statements with the State Board of Elections pursuant to paragraph (1) of this subdivision, may not elect to file such statements with the State Board of Elections pursuant to paragraph (2) of this subdivision in substitution for, or in satisfaction of, the requirement to file with the applicable county or city Board of elections.

§ 6200.2 Time for filing statements of campaign receipts and expenditures

The statements of campaign receipts and expenditures required by sections 14–102 and 14–104 of the Election Law shall be filed at the following times:

(a) On the 32nd and 11th day before, and on the 27th day next succeeding, the election, other than a primary election, or convention to which the statement relates. If there is a contested primary election, said statements shall be filed on the 32nd and 11th day before such primary election, and also on the 10th day next succeeding such contested primary election, provided however, that the post-primary election report for the June primary shall be the periodic statement filed on July 15th. If it is necessary to hold a runoff primary, a statement shall be filed on the fourth day preceding such runoff primary and on the 10th day next succeeding such runoff primary.

(b) In addition to the statements required to be filed pursuant to the provisions of subdivision (a) of this section, periodic statements shall be filed no later than the 15th day of January and July of each subsequent year until such time as the candidate or committee terminates activities. At such time, a final statement shall be filed particularizing campaign receipts and expenditures during the filing period. It shall also evidence a complete payment of all liabilities and the expenditure of all funds in the possession of the committee or candidate. The filing of said statement shall terminate the activities of the political committee or candidate.

(c) In addition to the statements required to be filed pursuant to the provisions of subdivisions (a) and (b) of this section, political committees shall file periodic statements no later than the 15th day of January and July of each year from the time the statement required by section 14–118 of the Election Law is filed.

(d) If, pursuant to subdivisions (a) and (b) of this section, a candidate or committee is required to file two statements within a period of five days, the information required to be included in each such statement may be combined in a single statement provided that the information contained in such single statement shall be segregated and identified as to the election to which it relates. Such combined statement

shall be filed on the date on which the latter of the two separate statements would be required to be filed.

(e) A runoff primary shall not be construed to be a separate contested primary election for the purposes of this section.

(f) If a person or political committee receives or expends funds to promote such person's candidacy for a particular office and the person fails to qualify for either the primary or general election ballot, statements of receipts and expenditures shall be required to be filed pursuant to subdivision (b) of this section.

(g) Contributions in excess of $1,000 received within 14 days preceding an election which, pursuant to section 14–108(2) of the Election Law, are required to be reported within 24 hours of receipt. Such report shall include the name of the committee receiving such contribution, the name and residence address of the contributor, the dollar amount of the contribution and the date of the contribution. Such contributions may be reported by letter signed by the treasurer of the committee receiving the contributions or on standard campaign financial disclosure forms and may be transmitted to the proper filing officer by electronic transmission. All such contributions shall also be included on the statement required to be filed on the post-election filing next succeeding the election for which the contribution is intended.

§ 6200.3 Filing of statements by candidates for party positions and political committees supporting such candidates

(a) The provisions of sections 14–104, 14–112(b) and 14–118(a) of the Election Law shall not apply to any candidate for member of a county committee of a political party or any candidate for delegate or alternate delegate to a judicial district convention if the campaign expenditures made by or on behalf of such candidate do not exceed $50.

(b) Political committees supporting such candidates may, when filing statements required by section 14–112 of the Elec-

tion Law, list the titles of such party positions in lieu of the names of the supported candidates.

(c) When filing statements of campaign receipts and expenditures pursuant to section 14–102 of the Election Law, a political committee may, when allocating expenditures, combine as a single entry all expenditures made on behalf of candidates for such party positions for whom no more than $50 has been expended.

§ 6200.4. Fund-raising events

(a) Any candidate or political committee that charges or accepts monetary donations for admission to any fund-raising event at which food and beverages are provided, is not required to list as a candidate expenditure the cost of providing such food and beverages (including the expense of preparation and service) where any such cost is included within the charge or suggested donation for such admission; provided however, that the charge or donation for any such admission must exceed the cost of providing a person admitted with food and beverages.

(b) Notwithstanding the foregoing, any such cost of providing food and beverages shall be separately reported and itemized by any such candidate or political committee on his or its statement of campaign receipts and expenditures. Any other cost in relation to any such fund-raising event, including but not limited to the cost of music, printing, premises or advertising must be listed and itemized in the same manner as any other candidate expenditure is reported.

§ 6200.5. Expenditures not exceeding $50

Expenditures made by any individual or political committee for or on behalf of the nomination or election of any candidate or candidates for or on behalf of any question to be submitted to vote at a public election, in an aggregate amount not exceeding $50 during any calendar year shall not be deemed a ''contribution other than of money,'' and any individual or political committee, by the fact of any such expenditures alone, shall not be required to comply with the provisions of sections 14–102 and 14–118 of the Election Law.

§ 6200.6 Contribution other than of money

(a) The term *contribution other than of money* means:

(1) a gift, subscription, loan or advance of anything of value (other than money) made to or for any candidate or political committee; and

(2) the payment by any person other than a candidate or political committee of compensation for the personal services of another person which are rendered to any such candidate or committee without charge;

(3) provided, however, that the term *contribution other than of money* shall not be construed to include personal services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate or political committee.

(b) In determining the monetary value to be placed on a *contribution other than of money* a reasonable estimate of fair market value shall be used. Each such contribution shall be declared as an expenditure at the same fair market value and reported on the expenditure schedule, identified as to its nature and listed as an ''expenditure in-kind.''

§ 6200.7 Resignation of a treasurer

(a) Before any treasurer of any political committee may resign his position at a time when his committee has unexpended funds or unsatisfied liabilities, such treasurer must first deliver a copy of his written resignation as treasurer to both the committee's chairman and the applicable filing officer for the committee's statements as set forth in section 6200.1 of this Part. The effective date of the resignation shall be five days after delivery to such filing officer unless the treasurer specifies a date later than five days after delivery, in which case said date shall be the effective date. Within two days after the effective date of his resignation, any such treasurer shall file a statement of receipts and expenditures with the appropriate filing officer, which statement shall include all transactions made by his committee from the date of the committee's last report up to and including the effective date of the treasurer's resignation.

(b) Upon the effective date of a resignation or upon the death of any treasurer of a political committee, no member of any such political committee or other person acting under its authority or in its behalf shall receive any money or other valuable thing or expend the same until the committee shall have chosen a new treasurer and the treasurer's name and address shall have been filed pursuant to section 14–118 of the Election Law with the appropriate filing officer. For the purposes of this subdivision, the term *political committee* shall not include a party or constituted committee.

(c)(1) *Treasurer removal committee.*

(i) A treasurer removal committee may only be established for single authorized candidate committees or multi-candidate authorized committees.

(ii) A candidate who is the sole authorizing candidate of a political committee may designate a treasurer removal committee for such political committee.

(iii) A treasurer removal committee for a political committee authorized by more than one candidate is designated when all candidates authorizing such political committee make a unanimous designation. If such multi-candidate committee is subsequently authorized by one or more additional candidates, the treasurer removal committee designated prior to such additional candidate(s)' authorization shall remain operative for such committee until revoked or amended unanimously by all of the candidates composing the multi-candidate committee at the time of such amendment or revocation.

(iv) The designation of the treasurer removal committee shall be in a writing duly filed with the appropriate filing officer, and such designation may be likewise amended or revoked at any time in the same manner as the original designation.

(2) *Powers and composition of treasurer removal committee.* A treasurer removal committee shall have at least three members. The treasurer removal committee may at any time remove the treasurer and/or appoint a new treasurer, pursuant to section 14–104 of the Election Law. Such removal and/or appointment shall be made in a writing signed by a

majority of the treasurer removal committee and shall be filed forthwith with the appropriate filing officer. If the removal of a treasurer does not coincide with the appointment of a new treasurer, as provided by law, no officer, member or agent of the political committee shall receive any receipt, transfer or contribution, or make any expenditure or incur any liability until the new treasurer and depository are chosen and indicated on a form filed with the appropriate filing officer.

(3) *Removal notice and responsibilities of removed treasurer.* (i) A written removal notice shall be provided by the treasurer removal committee to the removed treasurer on a form to be prescribed by the State Board of Elections. Such notice shall inform the removed treasurer of the requirements of this paragraph clearly and concisely.

(ii) Within three business days of receiving such notification, the removed treasurer shall:

(a) make and file a statement of receipts and expenditures with the appropriate filing officer covering the time period from the last disclosure report filed and the date of removal;

(b) make and file any necessary disclosure reports or amendment of disclosure reports due as a result of any outstanding deficiency notices received from the State Board of Elections Compliance Unit pursuant to Election Law section 3–104–a;

(c) surrender the records, property and funds of the political committee in his or her possession to the new treasurer;

(d) make copies of the records of the political committee required to be retained by the treasurer and retain such copies for the applicable five year period in accordance with Election Law section 14–118(1);

(e) take all necessary steps to permit the new treasurer to access the records, property and funds of the committee in the possession of any third parties. On or after 10 days after receiving notification of removal of a treasurer, the State Board of Elections shall cancel the

filing authorization pin previously provided to such treasurer.

(4) *Responsibilities of new treasurer.* Within five business days of appointment, the new treasurer shall file any forms with the appropriate filing officer that are required to be filed by new treasurers, and shall from the time he or she accepts such appointment be solely responsible to perform the duties and functions of treasurer for the political committee.

(5) *Assumption of responsibilities.* The removal of a treasurer and the appointment of a new treasurer shall take effect immediately upon the filing of the required forms with the appropriate filing officer, except that the removed treasurer shall be required to meet the requirements of paragraph (3) of this subdivision. The failure of the removed treasurer to meet the obligations of such paragraph shall not impair or preclude the appointment of the new treasurer or the authority of the new treasurer to exercise the obligations and authority of that position.

(6) *Forms.* The compliance unit of the State Board of Elections shall publish forms required for the implementation of this section.

§ 6200.8 Reporting requirements

Whenever a person or entity, such as a consultant acting on behalf of a political committee which supports or opposes candidates for any public office or party position or which supports or opposes any proposition, subcontracts for finished goods or services, the treasurer of the committee shall, in addition to reporting the expenditure made to such consultant or agent, report the name, address and amount expended to each person or entity providing such goods or services the cost of which exceeds, in the case of a committee supporting candidates for statewide office, $10,000 and all other committees, $5,000. The treasurer of any committee which makes such expenditures may, in lieu of providing such information on the statement which lists the expenditure, include the information on a separate schedule to be filed with the committee's 27-day post general election statement or if it relates to a primary election, with the 10-day post primary statement.

In such case the schedule entry shall reference the statement in which the expenditure is listed.

§ 6200.9 Legibility of financial disclosure forms

All filings made pursuant to sections 14–102, 14–104, 14–112 and 14–118 of the Election Law must be typed or printed legibly in black or blue ink. Upon receipt of a filing made pursuant to these sections, which the financial disclosure unit determines not to meet the requirements of this rule, the unit shall make a copy of such filing for placement in the public view file and return the original to the treasurer or candidate by first class mail. If a legible filing is not made to the board within 10 business days of the mailing of such form to the treasurer or candidate, this shall be considered a failure to file under the provisions of the Election Law, section 14–126.

§ 6200.10 Disclosure of independent expenditures

(a) *Purpose and overview.* The purpose of this regulation is to set forth the requirements under the New York State Election Law regarding compliance with independent expenditure disclosure. The New York State Election Law mandates how financial activity, including independent expenditures, is to be disclosed. Article 14 of the Election Law (''EL'') sets forth the requirement that independent expenditures be disclosed through the filing of campaign financial disclosure reports.

(b) *Definitions.* (1) *Independent expenditure* means an expenditure made by an independent expenditure committee conveyed to 500 or more members of a general public audience or any paid internet or digital advertisement targeted to 50 or more members of the general public audience, provided such expenditure is in a form described in subpargraph [1] (i) of this paragraph and meets one of the three content and timing criteria described in subparagraph (ii) of this paragraph and is not a communication exempted from the definition of independent expenditure by paragraph (2) of this subdivision or other provision of law.

(i) An independent expenditure shall be in the form of:

(*a*) an audio or video communication via broadcast, cable or satellite;

(*b*) a written communication via advertisements, pamphlets, circulars, flyers, brochures, letterheads;

(*c*) other published statements which shall include, but not be limited to, digital media; or:

(*d*) any paid internet or digital advertisement as defined in paragraph (11) of this subdivision.

(ii) An independent expenditure shall have the following attributes:

(*a*) irrespective of when such communication is made, contains words such as ''vote'', ''oppose'', ''support'', ''elect'', ''defeat'', or ''reject'', which call for the election or defeat of the clearly identified candidate;

(*b*) refers to and advocates for or against a clearly identified candidate or ballot proposal on or after January 1st of the year of the election in which such candidate is seeking office or such proposal shall appear on the ballot; or

(*c*) within 60 days before a general or special election for the office sought by the candidate or 30 days before a primary election, includes or references a clearly identified candidate.

(*1*) For purposes of this regulation *advocates for or against* means—in the absence of explicit words of advocacy for or against a candidate or ballot proposal—that the expenditure, through the use of images, photos, or language, promotes, supports, attacks, or opposes the clearly identified candidate or ballot proposal.

(*2*) For purposes of determining that a communication is advocating for or against a candidate or ballot proposal, the following factors shall be considered, but shall not be limited to:

(*i*) whether it identifies a particular candidate by name or other means such as party affiliation or distinctive features of a candidate's platform or biography or identifies a ballot proposal;

(*ii*) whether it expresses approval or disapproval for said candidate's positions or actions or for a ballot proposal;

(*iii*) whether it refers to a candidate or ballot proposal and is part of an ongoing series by the group on the same issue and the expenditure is made on or after January 1st of the year of the election in which such candidate is seeking office or such proposal shall appear on the ballot;

(*iv*) whether the issue raised in the communication has been raised as a distinguishing characteristic amongst the referenced candidates; and

(*v*) whether its timing and the identification of the candidate are related to a vote on legislation or a position on legislation by an officeholder who is also a candidate and is made on or after January 1st of the year of the election in which such candidate is seeking office.

(*3*) For purposes of determining that a communication is not advocating for or against a candidate or ballot proposal, the following factors shall be considered, but shall not be limited to:

(*i*) whether it is part of an ongoing series by the group on the same issue and does not refer to a candidate or ballot proposal; and

(*ii*) whether its timing and the identification of the candidate or ballot proposal are related to a non-electoral event (*e.g.*, a vote on legislation or a position on legislation by an officeholder who is also a candidate) and is not made on or after January 1st of the year of the election in which such candidate is seeking office or such proposal shall appear on the ballot.

(*4*) However, even if some of the above factors in item (*ii*) or (*iii*) of this subclause are found, the communication must still be considered in its context before arriving at any conclusion.

(2) Independent expediture [2] shall not include:

(i) payments or expenditures made by a party or constituted committee that is required to file disclosure reports under the Election Law;

(ii) communications where such candidate, the candidate's political committee or its agents, a party committee

or its agents, or a constituted committee or its agents or a political committee formed to promote the success or defeat of a ballot proposal or its agents, did authorize, request, suggest, foster or cooperate in such communication;

(iii) payments or expenditures where coordination occurs in the creation, formation, or operation of the independent expenditure committee making the payment or expenditure.

(*a*) Coordination shall include:

(*1*) candidate participated in creation/formation of IE committee within two years of election. The candidate or the candidate's authorized committee, or an agent of the candidate or candidate's authorized committee, participated in the creation or formation of the independent expenditure committee within two years of the general election, primary or special election in which the candidate is a candidate for nomination or election and the payment or expenditure made is for the benefit of that candidate;

(*2*) candidate appears at fundraiser hosted by IE committee within two years of election. The candidate or an agent of the candidate appears at any fundraising event hosted by an independent expenditure committee, or its agent, making a payment or expenditure that benefits that candidate within two years of the general election, primary or special election in which the candidate is a candidate for nomination or election;

(*3*) IE committee employed or retained former employee of candidate or policymaker in candidate office holder's office within two years of election. The independent expenditure committee making the payment or expenditure, or its agent, employed or retained an individual, other than an individual described in subparagraph (viii) of this paragraph, who was employed by the candidate, the candidate's authorized committee or an agent of the candidate or has held a policymaking, nonadministrative position in the office of the candidate's elected office within two years of the general election, primary or special election in which the candidate is a

candidate for nomination or election, and the payment or expenditure is made for the benefit of that candidate;

(*4*) IE committee is a member of, or is established, directed or managed by candidate's immediate family member. The independent expenditure committee making the payment or expenditure, or its agent, is a member of the candidate's immediate family or is established, directed, or managed by a member of the immediate family of the candidate, and the payment or expenditure is made for the benefit of that candidate;

(*5*) IE committee uses campaign material from candidate. The independent expenditure committee making the payment or expenditure benefiting the candidate, republishes, disseminates, or distributes, in whole or in part, any video, audio, written, or other campaign-related material prepared by the candidate or the candidate's authorized committee or by an agent of the candidate or the candidate's authorized committee. This subclause shall not apply if the independent expenditure committee making the payment or expenditure obtains the communication or materials from a publicly available source;

(*6*) candidate shares or rents campaign space with or from the IE committee. The candidate or the candidate's authorized committee, or an agent of the candidate or the candidate's authorized committee, shares or rents space for a campaign-related purpose with or from the independent expenditure committee, or its agent, making the payment or expenditure benefitting the candidate;

(*7*) IE committee has participated in strategic discussions with the candidate within two years of the election. The independent expenditure committee, or its agent, making the payment or expenditure benefitting the candidate has participated in strategic discussions with the candidate, the candidate's authorized committee, or an agent of the candidate or the candidate's authorized committee within two years of the general election, primary or special election in which the candidate is a candidate for nomination or election. Discussions shall

be deemed strategic if information about the candidate's or opponent's electoral campaign plans, projects, or activities that is not obtained from a publicly available source is conveyed to the independent expenditure committee, or its agent, making the payment or expenditure. This paragraph shall only apply to discussions occurring after the independent expenditure committee is formed or, one week after the candidate has been certified for that election, whichever occurs first;

(*8*) IE committee and candidate retain same professional campaign service provider within two years of the election. The independent expenditure committee, or its agent, making the payment or expenditure benefitting the candidate, and the candidate or the candidate's authorized committee knowingly retain the same individual or entity to provide professional campaign services within two years of the general election, primary or special election in which the candidate is a candidate for nomination or election, and the professional campaign services provider discloses strategic information regarding one party with the other party. Information shall be deemed strategic if it relates to either party's respective campaign or independent expenditure plans, projects, or activities that are not obtained from a publicly available source. This subclause shall not prohibit a candidate, a candidate's authorized committee, or an agent of the candidate or the candidate's authorized committee from retaining the same professional campaign services provider as the independent expenditure committee, or its agent, making the payment or expenditure benefitting the candidate upon the professional campaign services provider entering into a confidentiality agreement with both parties expressly stating that it will not disclose strategic information regarding each party with the other party;

(*9*) IE committee utilizes strategic information or data from common vendor/campaign professional of candidate within two years of the election. The independent expenditure committee, or its agent, making the payment or expenditure benefitting the candidate, utilizes

strategic information or data related to the candidate, that is not from a publicly available source and is not otherwise available by subscription, from an individual who has been previously compensated, reimbursed or retained by the candidate as a consultant, political, media or fundraising advisor, vendor or contractor within two years of the general election, primary or special election in which the candidate is a candidate for nomination or election.

(*b*) Coordination shall not include:

(*1*) responses to inquiries regarding legislative or policy issues. A response by a candidate or a party or constituted committee to an inquiry about that candidate's or party or constituted committee's position on legislative or policy issues;

(*2*) public communications by candidate owner/operator of business. A public communication in which a candidate is clearly identified only in his/her capacity as the owner/operator of a business that existed prior to the candidacy, if:

(*i*) the medium, timing, content, and geographic distribution of the public communication are consistent with the public communications made by such business prior to the candidacy; and

(*ii*) the public communication does not promote, support, attack, or oppose that candidate or another candidate in their capacity as candidates who seek the same office as that candidate.

(iv) expenditures in connection with:

(*a*) a written news story, commentary, or editorial or a news story, commentary, or editorial distributed through the facilities of any broadcasting station, cable or satellite unless such publication or facilities are owned or controlled by any political party, political committee or candidate; or

(*b*) a communication that constitutes a candidate debate or forum; or

(*c*) internal communication by members to other members of a membership organization of not more

than 500 members, for the purpose of supporting or opposing a candidate or candidates for elective office, provided such expenditures are not used for the costs of campaign material or communications used in connection with broadcasting, telecasting, newspapers, magazines, or other periodical publication, billboards, or similar types of general public communications;

(*d*) internal communications by members to other members of a membership organization of not more than 500 members or communications by a corporation organized for charitable purposes pursuant to section 501(c)(3) of the Internal Revenue Code, within 60 days before a general or special election for the office sought by the candidate or 30 days before a primary election, that includes or references a clearly identified candidate but does not otherwise qualify as an independent expenditure under this section; or

(*e*) a communication published on the internet, unless the communication is a paid advertisement (EL 14–107[1][B]).

(3) *Clearly identified candidate* means that:

(i) the name of the candidate involved appears;

(ii) a photograph or drawing of the candidate appears; or

(iii) the identity of the candidate is apparent by unambiguous reference (EL 14–100[12]).

(4) *General public audience* means an audience composed of members of the public, including a targeted subgroup of members of the public; provided, however, it does not mean an audience solely comprised of members, retirees and staff of a labor organization or members of their households or an audience solely comprised of employees of a corporation, unincorporated business entity or members of a business, trade or professional association or organization (EL 14–100[13]).

(5) *Labor organization* means any organization of any kind which exists for the purpose, in whole or in part, of representing employees employed within the State of New York in dealing with employers or employer organizations or with a

state government, or any political or civil subdivision or other agency thereof, concerning terms and conditions of employment, grievances, labor disputes, or other matters incidental to the employment relationship. For the purposes of this regulation, each local, parent national or parent international organization of a statewide labor organization, and each statewide federation receiving dues from subsidiary labor organizations, shall be considered a separate labor organization (EL 14–100[14]).

(6) *Membership organization* means a group that has a recognized organizational structure and maintains a list of its members, such as a professional, fraternal, patriotic, or social association or organization, a cooperative or a corporation without capital stock, and is not organized primarily for the purpose of influencing the nomination for election, or election, of any candidate for office covered by article 14 of the Election Law of the State of New York, or any ballot proposal covered therein.

(i) Factors that support a conclusion that a group is a membership organization for this purpose shall include, but not be limited to the following:

(*a*) the group is composed of members, some or all of whom are vested with the power or authority to administer the organization pursuant to membership by-laws, constitution or other formal organizational documents;

(*b*) there are expressly stated qualifications for membership, including special membership status such as retired or lifetime member;

(*c*) the group expressly solicits persons to become members;

(*d*) individuals pay dues to be members of the group;

(*e*) the group acknowledges the acceptance of membership, such as by issuing a membership card or sending confirming correspondence;

(*f*) the group distributes newsletters or other informational messages to its members;

(*g*) the group has a mission statement that is available for the members and the public to see; and

(*h*) the group is not organized primarily for the purpose of influencing the nomination for election, or election, of any candidate for office or for the success or defeat of any ballot proposal covered by article 14 of the Election Law.

(7) *Immediate family* means for the purposes of this section, the spouse, child, parent, grandparent, brother, half-brother, sister, half-sister of the candidate, and the spouses of such persons (EL 14–107[1][f]).

(8) *Agent* means for the purposes of this section, a person authorized by the candidate or the candidate's authorized committee, who acts on behalf of or at the direction of a candidate or the candidate's authorized committee; or a party committee or constituted committee acting on behalf of a candidate; or a person authorized by an independent expenditure committee who acts on behalf of or at the direction of such committee (EL 14–107[1][g]).

(9) *Independent expenditure committee* means a political committee, that makes only independent expenditures as defined in article 14 of the Election Law, and does not coordinate with a candidate, candidate's authorized committees or an agent of the candidate as defined in paragraph (g) of subdivision (1) of section 14–107 of the Election Law. For purposes of this section, an independent expenditure committee may be created by a person, group of persons, corporation, unincorporated business entity, labor organization or business, trade or professional association, or organization, or political committee (EL 14–100[15]).

(10) *Political action committee* means a political committee which makes no expenditures to aid or take part in the election or defeat of a candidate, or to promote the success or defeat of a ballot proposal, other than in the form of contributions, including in-kind contributions, to candidates, candidate's authorized committees, party committees, constituted committees, or independent expenditure committees provided there is no common operational control between the political action committee and the independent expenditure committee; or in the form of communications that are not distributed to a general public audience as described in subdivision thirteen of this section. (EL 14–100(16). For

purposes of this paragraph, *common operational control* means that:

(i) the same individual or individuals exercise actual and strategic control over the day-to-day affairs of both the political action committee and the independent expenditure committee; or

(ii) employees of the political action committee and the independent expenditure committee engage in communications related to the strategic operations of either committee.

(11)(i) *Paid internet* or *digital advertisement* means any digitally displayed advertising paid for by an independent expenditure committee that exists on or is transmitted via the internet.

(ii) A *paid internet* or *digital advertisement* shall include, but not be limited to:

(*a*) display advertising;

(*b*) image, video, audio, or interactive media advertisements;

(*c*) paid or promoted content on social networking sites;

(*d*) search engine marketing;

(*e*) native advertising; and

(*f*) sponsorships.

(iii) For purposes of this Part, advertisements that are purchased for broadcast from a radio or television broadcaster; radio or television broadcast network; satellite system or satellite network; or cable system cable system or cable network; and such advertisements are also retransmitted on the internet or through a web application, shall not be considered a paid internet or digital advertisement, provided that the advertisements otherwise comply with the requirements of section 14–107 of the Election Law for satellite, cable, radio, or television broadcast advertisements.

(12) An online platform means:

(i) a public-facing internet website, web application, web domain or digital application, including a social net-

work or search engine, which sells political advertisements and has 70,000,000 or more unique monthly United States visitors or users for a majority of months during the preceding 12 months as measured by an independent digital ratings service accredited by the media ratings council; or

(ii) any third-party advertising vendor that has 30,000,000 or more unique monthly United States visitors in the aggregate on any advertisement space that it has sold or bought for a majority of months during the preceding 12 months as measured by an independent digital ratings service accredited by the media ratings council. Any website, web application, web domain or digital application of a newspaper or periodical shall not be considered an online platform, provided, however, that nothing in this paragraph shall exempt any third-party advertising vendor from the requirement of collecting registration forms pursuant to subparagraph (i) of this paragraph for advertising space on a newspaper website that it bought or sold on behalf of a third-party. For purposes of this paragraph, *newspaper* shall have the same meaning as found in section 60 of the General Construction Law and *periodical* shall have the same meaning as found in section 528.6 of Title 20 NYCRR.

(13) A *third-party advertising vendor* means any third-party advertising vendor network, advertising agency, advertiser or third-party advertisement serving company that buys and sells advertisement space on behalf of unaffiliated third-party websites, search engines, digital applications, or social media sites. A *third-party advertising vendor* may include, but is not limited to, an ad network, an ad exchange, a demand side platform, or a supply side platform.

(14) *Foreign government* means:

(i) a government of a foreign country or an official of the government of a foreign country, as defined by subsection (e) of section 611 of Title 22 of the United States Code;

(ii) a foreign political party, as defined by subsection (f) of section 611 of Title 22 of the United States Code; or

(iii) a corporation principally owned or controlled by the government of a foreign country or an official of the government of a foreign country.

(15) *Foreign instrumentality* or *agent* includes, but is not limited to, any entity in which:

(i) a foreign national or foreign owner holds, owns, controls, or otherwise has directly or indirectly acquired beneficial ownership of equity or voting shares equal to or greater than five percent of the total equity or voting shares;

(ii) two or more foreign nationals or foreign owners hold, own, control, or otherwise have directly or indirectly acquired beneficial ownership of equity or voting shares in an aggregate amount that is equal to or greater than 20 percent of the total equity or outstanding voting shares, but not including any ownership or equity interest owned through United States mutual or pension funds; or

(iii) any foreign national or foreign owner participates, directly or indirectly, in the process of corporate decision-making regarding independent expenditures. For purposes of this section, *foreign owner* means any entity in which a foreign national, holds, owns, controls, or otherwise has directly or indirectly acquired beneficial ownership or equity of voting shares in an amount equal to or greater than 50 percent of total equity or outstanding voting shares, but not including any ownership or equity interest owned through United States mutual or pension funds.

(c) *Registration*. Any person prior to making any independent expenditure shall:

(1) first register with the New York State Board of Elections (the board) as a political committee and as an independent expenditure committee in conformance with article 14 of the Election Law; and

(2) comply with all disclosure obligations required for political committees by law and regulation; and

(3) shall provide the following additional information upon registration:

(i) an individual registering to make their own independent expenditures must provide their name, address, occupation and employer;

(ii) an entity registering to make independent expenditures must provide the name and employer of any individual who exerts operational or managerial influence or control over the entity, as well as the name of any salaried employee of the entity. The disclosure requires the name of at least one natural person;

(*a*) additional information for certain individuals named in subparagraphs (i) and (ii) of this paragraph. Any individuals identified in subparagraph (i) or (ii) of this paragraph who have, during the two-year period before registration, been employed or retained as a political, media, or fundraising adviser or consultant for a candidate, any entity directly controlled by a candidate, or any party committee or constituted committee, or have held a formal position in the office of a candidate's elected office, or any party committee or constituted committee, and the name of the relevant employer, must be so reflected on the registration;

(*b*) identification of immediate family members among the individuals named in subparagraphs (i), (ii) and (ii)(*a*) of this paragraph. Members of a candidate's immediate family who are listed in subparagraphs (i), (ii), and (ii)(*a*) of this paragraph, must be identified as such on the registration;

(*c*) mandatory update of info with 24 hours. Any change in any of the information provided for pursuant to Election Law section 14–107(3) must be updated within 24 hours of any change in ownership or control of any registered entity.

(4) Notwithstanding any provision in this section to the contrary, no foreign national, government, instrumentality or agent may register as an independent expenditure committee for the purpose of making independent expenditures in any state or local election.

(d) *Filing financial disclosure statements*. (1) Committees making independent expenditures are obligated, as are all

political committees, to file campaign financial disclosure statements pursuant to and in the manner set forth in EL 14–102. For each election in which they support or oppose candidates or ballot proposals, the committee must submit election reports (three primary, and three general and/or special, as applicable), as well as campaign financial disclosure periodic reports, due on January 15th and July 15th of each year in accordance with EL 14–108, section 6200.2 of this Title (EL 14–107[3]).

(2) All independent expenditure committees are required to file applicable election reports for each election unless the independent expenditure committee submits a fully completed notice of non-participation in election(s) (CF–20), electronically or by mail, as prescribed by the board.

(3) Weekly disclosure regarding independent expenditures. Any independent expenditure committee who has registered with the State Board pursuant to EL 14–107(3), shall disclose to the State Board electronically, once a week on Monday any contribution to such committee of $1,000 or more or expenditures made by such committee over $5,000 or any paid internet or digital advertisement over $500 made during the reporting period. All contributions or expenditures that are required to be disclosed via a weekly disclosure must also be disclosed on the next applicable financial disclosure statement.

(4) Independent expenditures committee 24 hour disclosure. Any independent expenditure committee who has registered with the State Board pursuant to EL 14–107(3) shall disclose to the State Board electronically, within 24 hours of receipt, any contribution to such independent expenditure committee of $1,000 or more and expenditures made by such committee over $5,000, made within 30 days before any primary, general, or special election (EL 14–107[4]). All contributions or expenditures, that are required to be disclosed via the independent expenditure 24–hour notice must also be disclosed on the 11 day pre-election financial disclosure statement or on the post-election financial disclosure statement, as applicable.

(5) Every statement shall be filed electronically with the State Board (EL 14–107[6]).

(6) Any disclosure included in a 24 hour disclosure need not be duplicated on the corresponding weekly disclosure.

(e) *Additional information required regarding independent expenditures*. (1) The weekly and 24 hour disclosures required by EL 14–107, shall include, in addition to any other information required by law:

(i) the name, address, occupation and employer of the person making the statement;

(ii) for each contribution received. The name, address, occupation and employer of any person providing a contribution, gift, loan, advance or deposit of $1,000 or more for the independent expenditure, or the provision of services for the same, and the date it was given;

(iii) for each expenditure or payment made:

(*a*) the dollar amount paid for each independent expenditure, the name and address of the person or entity receiving the payment, the date the payment was made and a description of the independent expenditure; and

(*b*) the election to which the independent expenditure pertains and the name of the clearly identified candidate or the ballot proposal referenced and whether the candidate or ballot proposal is supported or opposed; and

(*c*) a list of all expenditures made by and liabilities incurred for services rendered during the relevant reporting period (EL 14–107[4]).

(2) The provisions of this regulation do not effect the application or validity of Election Law 14–120.

(f)(1) *Attributions and identification of independent expenditures*. Whenever any person makes an independent expenditure, such communication shall clearly state the name of the person who paid for or otherwise published or distributed the communication and state, with respect to communications regarding candidates, that the communication was not expressly authorized or requested by any candidate, or by any candidate's political committee or any of its agents (EL 14–107[2]).

(2) A paid internet or digital advertisement shall comply with the following:

(i) A paid internet or digital advertisement with text or graphic components must contain an attribution that is of sufficient type size to be clearly readable by the recipient or viewer of the communication. An attribution under this paragraph must be displayed with a reasonable degree of color contrast between the background and the text of the disclaimer.

(ii) A paid internet or digital advertisement with text or graphic components but without any video or audio component that, due to external character or space constraints, cannot fit a required attribution must include an adapted attribution. For purposes of this paragraph, an *adapted attribution* means an abbreviated attribution on the face of a communication in conjunction with an indicator through which a reader can locate the full attribution required by subdivision (g) of this section. The adapted attribution must indicate the person or persons who paid for the expenditure in letters of sufficient size to be clearly readable by a recipient of the communication. The technological mechanism for an adapted attribution must be associated with the indicator and must allow a recipient of the communication to locate the full attribution by navigating no more than one step away from the adapted attribution and without receiving or viewing any additional material other than the full attribution required by this section.

(iii) An attribution is not clearly readable if it is not clear and conspicuous if it is difficult to see or read, or the placement is easily overlooked.

(iv) A paid internet or digital advertisement with an audio and/or video component must include a full attribution included in such video or audio component.

(g) The State shall maintain and make available online for public inspection, in addition to all other information required by this Part, a complete record of paid internet or digital advertisements filed by independent expenditure committees, in a machine readable format. Such record shall include the registration information required by Election Law section 14–107(3)(a) and (b) and a digital copy of such paid internet or digital advertisement.

(h) *Prohibited spending by independent expenditure committees and political action committees*. (1) IE committees prohibited from making contributions. An independent expenditure committee shall not contribute to any candidate, constituted committee, political committee, or party committee.

(2)(i) PACS prohibited from making IE's, or contributions to IE committees with ''common operational control'' as the PAC. A political action committee shall not make any independent expenditures and may only make contributions to any independent expenditure committee if such committee does not have common operational control. For purposes of this paragraph, *common operational control* means that:

(*a*) the same individual or individuals exercise actual and strategic control over the day-to-day affairs of both the political action committee and the independent expenditure committee; or

(*b*) employees of the political action committee and the independent expenditure committee engage in communications related to the strategic operations of either committee.

(ii) Candidates/their authorized committees, party/constituted committees prohibited from contributing to IE committees that make beneficial expenditures regarding the candidate or the candidate supported by the party/constituted committee. No candidate, candidate's authorized committee, party committee, or constituted committee shall contribute to an independent expenditure committee that is making expenditures benefitting the candidate or the candidate supported by such party or constituted committee.

(i) *Independent expenditure verification*. Upon the purchase of a communication in the form of an independent expenditure, each television or radio broadcast station, provider of cable or satellite television, or online platform as defined in this Part that interacts directly with the independent expenditure committee purchasing the communication shall require that the independent expenditure committee making such purchase file with such station, or platform a copy of the registration form filed by such independent expenditure committee

with the State Board of Elections pursuant to subdivision 3 of section 14–107 of article 14 of the Election Law. Upon the purchase of a communication covered by this paragraph, the independent expenditure committee shall notify the entity from which the purchase is being made that the purchaser is an independent expenditure committee and shall provide a copy of the independent expenditure committee's registration documents that have been filed with the State Board of Elections.

(j) *Non-compliance*. (1) Any person who falsely identifies or knowingly fails to identify any independent expenditure as required by subdivision 2 of section 14–107, as outlined in subdivision (g) of this section, shall be subject to a civil penalty up to $1,000 or up to the cost of the communication, whichever is greater, in a special proceeding or civil action brought by the State Board Chief Enforcement Counsel or imposed directly by the State Board. For purposes of this subdivision, the term *person* shall mean a person, group of persons, corporation, unincorporated business entity, labor organization or business, trade or professional association or organization or political committee. Such term does not include any party or constituted committee that is required to file campaign finance disclosure reports pursuant to the Election Law (EL 14–126[3]).

(2) A knowing and willful violation of the provisions of subdivisions (3) and (4) of EL 14–107 shall subject the person to a civil penalty equal to $5,000 or the cost of the communication, whichever is greater, in a special proceeding or civil action brought by the board (EL 14–107[8][b]).

(3) Any person who, acting as or on behalf of an independent expenditure committee or a political action committee, knowingly and willfully violates the provisions of EL 14–107–a (prohibited spending by IE committees and PACS) of this article shall be subject to a civil penalty, up to $1,000 or up to the cost of the communication, whichever is greater, to be recoverable in a special proceeding or civil action to be brought by the State Board of Elections.

(4) All criminal liability related to EL 14–107 shall require knowing and willful violations in accordance with EL 14–126 (EL 14–107[8][a]).

(5) Any online platform that fails to comply with the requirements of EL 14–107–b shall be subject to a civil penalty up to $1,000 for each violation in a special proceeding or civil action brought by the State Board of Elections Chief Enforcement Counsel pursuant to paragraph (a) of subdivision (5) of EL 3–104.

(k) *Prohibition*. Notwithstanding any provision of this section to the contrary, no foreign national, government, instrumentality or agent may make an independent expenditure in any state or local election campaign.

[1] So in original. Probably should read ''subparagraph''.

[2] So in original. Probably should read ''expenditure''.

§ 6200.11 Disclosure of campaign materials; disclosure of political communications/''campaign materials''

(a) All political committees required to file primary, general and/or special election reports, must at the same time the applicable post-election campaign financial disclosure report is due and made, submit copies of all the filer's political communications, also known as campaign materials, purchased in connection with such election by or under the authority of the person filing the statement of the committee of the person on whose behalf it is filed, as the case may be. Copies shall include:

(1) a copy of all broadcast, cable or satellite schedules and scripts;

(2) internet, print and other types of advertisements, pamphlets, circulars, flyers, brochures, letterheads and other printed matter purchased or produced;

(3) reproductions of statements or information published to 500 or more members of a general public audience;

(4) by computer or other electronic device including but not limited to electronic mail or text message; and

(5) any paid internet or digital advertisement unless such advertisement had previously been provided to the State Board pursuant to this section. Such copies, schedules and scripts shall be preserved by the officer with whom or the

board with which it is required to be filed for a period of one year from the date of filing thereof (EL 14–106).

(b) Independent expenditure committees must file at the same time as any required financial statement disclosures, including any weekly or 24 hour disclosures, a copy of all political communications paid for by the independent expenditure committee, including but not limited to:

(1) broadcast, cable or satellite schedules and scripts, advertisements, pamphlets, circulars, flyers, brochures, letterheads and other printed matter;

(2) any paid internet or digital advertisement targeted to a general public audience of 50 or more persons; and

(3) any statements or information conveyed to 1,000 or more members of a general public audience by computer or other electronic devices. Such copies, schedules and scripts shall be preserved by the officer with whom or the board with which it is required to be filed for a period of one year from the date of filing thereof. Any political communication filed by an independent expenditure committee with a weekly or 24 hour disclosure statement shall not be required to be again filed with the post election report, and such previously filed political communication shall be deemed filed therewith.

(c) Copies of any paid internet or digital advertisement, as required by subdivision (b) of this section, shall be submitted by the independent expenditure committee to the State Board of Elections via an electronic format specified by the Board of Elections that is accessible and can be read by a screen reader. For the purposes of this section, copies of any paid internet or digital advertisement shall include:

(1) scripts for any paid internet or digital advertisement with an audio and/or video component which shall include a reasonable description of any visual elements;

(2) screenshots of any paid or digital advertisement without an audio and/or video component;

(3) for paid internet or digital advertisements without a video component that are dynamic, such as advertisements with animation, or interactive advertisements that change

when a viewer views or interacts with the advertisement, each image in the advertisement.

PART 6201—FAIR CAMPAIGN CODE

Section

6201.1. Fair Campaign Code.
6201.2. Use of public opinion polls.
6201.3. Procedure in fair campaign code proceedings.

§ 6201.1 Fair Campaign Code

In order that all political campaigns be conducted under a climate promoting discussion of the issues and presentation of the records and policies of the various candidates, stimulating just debate with respect to the views and qualifications of the candidates and without inhibiting or interfering with the right of every qualified person and political party to full and equal participation in the electoral process, the following is hereby adopted by the New York State Board of Elections pursuant to section 3–106 of the Election Law as the fair campaign code for the State of New York. No person, political party or committee during the course of any campaign for nomination or election to public office or party position shall, directly or indirectly, whether by means of payment of money or any other consideration, or by means of campaign literature, media advertisements or broadcasts, public speeches, press releases, writings or otherwise, engage in or commit any of the following:

(a) Practices of political espionage including, but not limited to, the theft of campaign materials or assets, placing one's own employee or agent in the campaign organization of another candidate, bribery of members of another's campaign staff, electronic or other methods of eavesdropping or wiretapping.

(b) Political practices involving subversion or undermining of political parties or the electoral process including, but not limited to, the preparation or distribution of any fraudulent, forged or falsely identified writing or the use of any employees or agents who falsely represent themselves as supporters of a candidate, political party or committee.

(c) Deliberate misrepresentation of the contents or results of a poll relating to any candidate's election; also, failure to

disclose such information relating to a poll published or otherwise publicly disclosed by a candidate, political party or committee as required to be disclosed by rule or regulation of the New York State Board of Elections.

(d) Any acts intended to hinder or prevent any eligible person from registering to vote, enrolling to vote or voting.

§ 6201.2 Use of public opinion polls

No candidate, political party or committee shall attempt to promote the success or defeat of a candidate by, directly or indirectly, disclosing or causing to be disclosed, the results of a poll relating to a candidate for such office or position, unless within 48 hours after such disclosure, they provide the following information concerning the poll to the board or officer with whom statements or copies of statements of campaign receipts and expenditures are required to be filed by the candidate to whom such poll relates:

(a) The name of the person, party, or organization that contracted for or who commissioned the poll and/or paid for it.

(b) The name and address of the organization that conducted the poll.

(c) The numerical size of the total poll sample, the geographic area covered by the poll and any special characteristics of the population included in the poll sample.

(d) The exact wording of the questions asked in the poll and the sequence of such questions to the extent results of such questions were disclosed or to the extent such questions were preparatory to the questions asked that were released and could have influenced poll respondents answers to the poll questions released.

(e) The method of polling—whether by personal interview, telephone, mail, or other.

(f) The time period during which the poll was conducted.

(g) The number of persons in the poll sample; the number contacted who responded to each specific question; the number of persons contacted who did not so respond.

(h) The results of the poll relative to the questions required to be disclosed pursuant to subdivision (d) of this section.

§ 6201.3 Procedure in fair campaign code proceedings

(a) *Initiation of proceeding.* (1) A proceeding under the fair campaign code (hereinafter ''code'') shall be commenced by the New York State Board of Elections when:

(i) the board receives a written signed complaint alleging the commission or omission of acts, in violation of the code; the county boards of elections are advised to forward any complaints they may receive to the State Board of Elections; or

(ii) the State Board staff proposes to the board an investigation of an alleged violation of the code.

(2) A complaint shall be filed by mailing to, or by personally serving, the State Board of Elections at 40 North Pearl Street, Suite 5, Albany, NY 12207-2729. A duplicate copy of the complaint shall be mailed to or personally served upon the candidate or the candidate's representative (hereinafter ''respondent''). Proof of service of the complaint upon the respondent must be filed with the State Board of Elections not later than three days after service of the complaint upon the respondent. This requirement is waived when the respondent is unknown.

(b) *Form of complaint.* (1) A complaint shall be based on personal knowledge and belief and be specific as to times, places and names of witnesses to the acts charged as violations of the code. If a complaint is based upon information and belief, the complainant shall state the source of the information and belief. Copies of all documentary evidence available to the complainant shall be attached to the complaint. Evidence deemed by the complainant to be of a confidential nature need not be sent to the respondent, so long as an explanation is made to the board. The complaint shall designate an e-mail address to which all future service upon the complainant shall be made.

(2) A respondent shall file a signed answer, after service upon the respondent of the complaint. Such an answer shall be based on personal knowledge and belief and be specific as to times, places, and names of witnesses to acts relevant to the complaint. Copies of all documentary evidence available to the respondent shall be annexed to the

answer. If an answer is based on information and belief, the respondent shall state the source or sources of the information and belief. An answer shall be filed by mail, e-mail or by personally serving the State Board of Elections at 40 North Pearl Street, Suite 5, Albany, NY 12207-2729 and the complainant. An answer to the complaint must be filed by the respondent within seven days after receipt of the complaint, except if such complaint relates to the release of a poll that occurred within 30 days before an election, an answer must be filed within 3 days after receipt of the complaint. Proof of service of the answer upon the complainant must be filed not later than 3 days after service of the answer upon the complainant. The answer shall designate an e-mail address to which all future service upon the complainant shall be made.

(c) *Hearing*. If after receipt and preliminary review of a complaint and answer alleging a violation of the code, or following commencement of an investigation initiated by the board, where the board determines a hearing shall be held, the board shall send notice, by mail and e-mail whenever possible, to the complainant and to any person, organization or committee whose conduct is complained of. Such notice shall specify when and where a hearing is held. Such hearing shall be conducted by a hearing officer of the State Board of Elections. A report with the hearing officer's recommendation shall be delivered to the office of counsel, and counsel shall provide such report to the board, which shall render a final decision. All steps in the process shall be completed as soon as possible. The board shall be presented with such findings within 48 hours of the hearing officer delivering such report to the co–counsels of the board.

(d) *Scope of poll disclosure disputes*. When there is an allegation that relevant poll questions and results required by section 6201.2 of this Part were not disclosed as required, the hearing officer, to resolve such matter, may require the respondent to produce for confidential review by the hearing officer additional poll questions and results. The hearing officer shall recommend in the report to the commissioners whether any additional questions and results must be released to comply with the disclosure requirements of section 6201.2 of this Part.

After receiving the hearing officer report, the commissioners may, upon a majority vote, require the public disclosure of additional questions and results. Unless the commissioners vote to release such additional poll questions and results, such information shall be kept confidential. Poll results subject to disclosure pursuant to this subdivision shall be publicly available no later than 24 hours after such determination.

(e) *Hearing officer assignment* A hearing officer shall be assigned to a complaint made under this Part by the co–executive directors or their designees through a random selection process. All hearing officers appointed by the State Board of Elections pursuant to section 6218.2(b) of this Title shall comprise those eligible for assignment.

PART 6202—EXAMINATION AND COPYING OF RECORDS

Section

6202.1. Examination and copying of records.

§ 6202.1 Examination and copying of records

(a) *Applicability*. The provisions of this Part shall be applicable to all records of the State Board of Elections available for public inspection and copying.

(b) *List of available records*. A current list of all board records available for inspection and copying shall be maintained by the records access officer and such list shall be available for public inspection and copying.

(c) *Location of records*. All available records shall be located at 40 North Pearl Street, Suite 5, Albany, NY 12207-2729.

(d) *Hours of inspection*. Records may be inspected and copied each day the office is open to the public, commencing one-half hour after such office hours begin and terminating 15 minutes before the close of such hours.

(e) *To whom and where request made*. A request for a particular record shall be made to the public information officer, who shall be the board's records access officer, or his designee.

(f) *Form of request and identification*. Where an applicant wishes to examine or copy an available record, he shall submit a written and signed request on a form to be provided by the

board. Within five business days of the receipt of the request, the records access officer of the board shall make the requested records available, shall deny the request in writing, or shall furnish a written acknowledgment of the receipt of such request and a statement of the approximate date when such request will be granted or denied. If, within 10 business days after the date of the acknowledgment of the receipt of the request for records, access to the requested records is neither granted nor denied, the request shall be deemed to be denied and the applicant shall have the right to appeal in accordance with the provisions of subdivision (u) of this section.

(g) *Description of record required.* A request for a record shall adequately specify or describe the record sought to be inspected or copied.

(h) *Number of records permitted.* The records access officer, or his designee, shall have the discretion to limit the number of records of any type or types an applicant may request and receive at any one time.

(i) *Treatment of records.* No marks of any kind shall be made on any record provided for inspection.

(j) *Area restriction.* Inspection or copying of records shall be permitted only in the area designated by the records access officer for such purpose.

(k) *Duplicate requests.* If duplicate requests are received from applicants for a particular record, the applicant making the first request physically received by the board shall first receive the record.

(*l*) *Limitation of examination time.* The records access officer or his designee may fix reasonable limitations on the time any applicant may have to examine any record.

(m) *Temporary unavailability of records.* Where a record is in use by the board, or filing or intake procedures relating thereto have not been concluded, the filing of a request for such a record may be reasonably delayed until such a use or procedure is completed.

(n) *Return for board business.* Whenever a record made available for inspection or copying is required for the business of the board, the records access officer, or his designee, may

require the return of the record. In such case the applicant shall return the record upon demand.

(*o*) *Provision of photostatic copies.* Photostatic copies of available records may be obtained from the board by ordering same at a fee of 25 cents per page plus postage.

(p) *Provisions for use of telephone lines to transmit available records.* Any request for board records to be transmitted over telephone lines shall be paid for at a fee of $.65 per page.

(q) *Provisions for producing data on computer printouts or magnetic media.* The fee for producing any data on computer printouts or magnetic media shall be in an amount not to exceed the actual cost of reproduction.

(r) *Mailing of data on computer printouts or magnetic media.* If the board is requested to mail any computer tapes, computer discs or any other electronic recording, the cost of postage shall be in addition to the fee charged for the actual cost of production. Orders may be made by mail provided the requested computer printout or magnetic media is sufficiently identified.

(s) *Release of records.* No records shall be released by the board unless all fees and charges have been paid in advance.

(t) *Individual accounts.* Any person, corporation, association or other entity which wished to establish an account with the board for the purpose of facilitating payment for requested records may request the board to create such an account. Such account shall be created when the board receives a certified check, bank check or money order made payable to the New York State Board of Elections. The minimum amount required to establish such an account is $100. Such funds shall be placed in a special account with balances maintained for each individual account. Each transmittal, mailing or receipt from the board shall contain a statement of the charges for the transaction and the balance remaining in the account.

(u) *Denial of access.* In the event a request for a record is denied on grounds other than that the board does not maintain such a record or no such record is found, the applicant shall be provided with a form advising him of his right to appeal the denial of the application to the State Board of Elections. Such

appeal shall be made to the New York State Board of Elections. The board shall, within seven business days of the receipt of the appeal, fully explain in writing to the person requesting the record the reasons for denial, or provide access to the record sought.

PART 6203—INVESTIGATIONS

Section

6203.1. Administration of oaths, examination of witnesses and issuance of subpoenas.
6203.2. Provisions related to granting the chief enforcement counsel authority to exercise the powers which the board is otherwise authorized to exercise pursuant to subdivision 5 and 6 of section 3–102 of the Election Law.
6203.3. Provisions related to subpoena authority oversight.
6203.4. Enforcement reporting.
6203.5. Closed enforcement matters.
6203.6. Notification of failure to file.
6203.7. Special investigators and peace officer status reporting.
6203.8. Enforcement internal controls.

§ 6203.1 Administration of oaths, examination of witnesses and issuance of subpoenas

For the purpose of conducting investigations pursuant to chapter 233 of the Laws of 1976 and chapter 55, part H, subpart B of the Laws of 2014. In addition to all duties and powers relating to the administration of the election process, election campaign processes and campaign finance practices:

(a) Any commissioner of the State Board of Elections may designate in writing any employee to administer oaths or affirmations, examine witnesses in public or private hearings, receive evidence and preside at or conduct any hearing or study.

(b) Pursuant to a delegation of its subpoena power by the State Board of Elections, each co-executive director, co-counsel and co-deputy counsel are authorized to issue subpoenas in the name of the State Board of Elections to compel the attendance of any person before the board or any employee designated pursuant to subdivision (a) of this section or to require the production of any books, records, documents or other evidence that the board or any such employee may deem relevant to any hearing or study.

(c) The chief enforcement counsel may at any time ask that the board authorize him or her to exercise the powers which the board is otherwise authorized to exercise pursuant to subdivision 5 and 6 of section 3–102 of the Election Law. Any such authorization shall be made pursuant to the provisions of section 6203.2 of this Part.

§ 6203.2 Provisions related to granting the chief enforcement counsel authority to exercise the powers which the board is otherwise authorized to exercise pursuant to subdivision 5 and 6 of section 3–102 of the Election Law

When granting authority to the chief enforcement counsel to exercise the powers which the board is otherwise authorized to exercise pursuant to subdivision 5 and 6 of section 3–102 of the Election Law, the following provisions shall apply:

(a) *Vote within 20 days*. The board shall vote on whether to grant or refuse to grant such authority no later than 20 days after the chief enforcement counsel makes a request for such authority. A request shall be deemed made when the memorandum and proposed subpoena(s) required by paragraph (d) of this section are received by the commissioners.

(b) *Participation in determinations*. For purposes of considering and voting on such request, the chief enforcement counsel shall be entitled to participate in all matters related thereto and shall vote on the board's granting or refusal to grant such request only when there is a tie vote.

(c) *No vote within 20 days or granting of authority*. Should the board not vote on such request within 20 days of its submission, or grant the chief enforcement counsel's request, the chief enforcement counsel shall be so empowered to act pursuant to subdivisions 5 and 6 of section 3–102 of the Election Law. Any such action by the chief enforcement counsel shall comply with the requirements of this section.

(d) *Request for subpoena authority*. An application by the chief enforcement counsel seeking authority from the board to issue a subpoena, shall be sent to the commissioners and co-executive directors whenever possible at least one week prior to a vote and shall include:

(1) a memorandum explaining the circumstances surrounding the investigation, reciting the section(s) of the Election Law that have allegedly been violated, and how any documents, testimony or other materials returned pursuant to a subpoena issued in the matter would be relevant and material to the investigation;

(2) the name(s) of the person(s) and/or entity(ies) that will be served the proposed subpoena(s); and

(3) a copy of the proposed subpoena(s) to be issued should the authority to issue be granted.

Nothing in this subsection shall limit the chief enforcement counsel's ability to limit the scope of an issued subpoena or extend the response date of an issued subpoena at the request of a person or entity named therein.

(e) *Scope of authority*. (1) A request for subpoena authority shall be directly related to a particular investigation. A grant of subpoena authority shall not include authority to issue subpoenas other than to those persons or entities identified in the application for such subpoena unless the board specifically grants such blanket authority.

(2) When the chief enforcement counsel applies for authority to issue a subpoena, the board may authorize the chief enforcement counsel to issue subpoenas requiring the attendance and testimony of any person by deposition and to issue subpoenas *duces tecum* for the production of documentary or other tangible evidence in connection with and reasonably related to a lawful investigation.

(3) As a condition of granting subpoena authority to the chief enforcement counsel, the board reserves the right, upon the motion of any one commissioner, to rescind or further condition subpoenas or subpoenas *duces tecum*, by a majority vote of the board. When the board considers whether to rescind or further condition a subpoena or subpoena *duces tecum*, the chief enforcement counsel shall be entitled to participate in any discussion and may vote only if there is a tie vote.

(4) As a condition of granting authority to exercise the powers which the board is otherwise authorized to exercise pursuant to subdivision 5 and 6 of section 3–102 of the

Election Law to the chief enforcement counsel, such authority to so act shall expire six months after the date authority is granted by the board unless the resolution approving such authority provides for a longer duration, and any subpoenas or subpoenas *duces tecum* shall be deemed expired six months after authority is granted by the board unless the resolution approving such subpoenas provides for a longer duration; provided, further, that if the board did not vote within 20 days of its submission, then the chief enforcement counsel's initial authority to act without a vote, shall expire 90 days after the chief enforcement counsel was empowered to exercise such authority, and any subsequent subpoenas or subpoenas *duces tecum* involved in that matter shall be brought to the board for action pursuant to the above provisions after the expiration of the 90 day period.

(5) For any authority to exercise the powers which the board is otherwise authorized to exercise pursuant to subdivision 5 and 6 of section 3–102 of the Election Law granted to the chief enforcement counsel prior to the effective date of this section, such authority and any subpoenas issued pursuant to such authority shall expire six months after the effective date of this regulation.

(6) Nothing in this section shall prohibit the chief enforcement counsel from making an application to renew authority to exercise powers with respect to any ongoing matter, which the board is otherwise authorized to exercise pursuant to subdivision 5 and 6 of section 3–102 of the Election Law.

§ 6203.3 Provisions related to subpoena authority oversight

(a) Any person to whom a subpoena is directed pursuant to section 6203.1 of this Part, may, prior to the time specified therein for compliance, but in no event more than seven business days after the date of receipt of such subpoena, apply to the State board to quash or modify such subpoena authority delegated to the chief enforcement counsel, accompanying such application with a brief statement of the reasons therefor. Applications to quash shall be filed with the State Board of Elections, Counsel's Office, 40 North Pearl Street, Suite 5, Albany, NY 12207 or by email sent to the co-executive directors. Any such application shall be deemed sufficiently

stated for consideration if it reasonably sets forth in general terms the grounds the application is based upon and a copy of the subpoena itself.

(b) Upon receiving an application to quash or modify, counsel's office shall send notice, by mail and e-mail whenever possible, to the movant and the chief enforcement counsel. Such notice shall specify when and where a hearing shall be held. Such hearing shall be conducted by a hearing officer of the State Board of Elections appointed pursuant to Part 6218 of this Title. A report with the hearing officer's recommendation shall be delivered to the office of counsel, and counsel shall provide such report to the board. The board shall render a final determination, where the board may:

(1) deny the application; or

(2) rescind, amend or modify the subpoena.

All steps in this process shall be completed as soon as possible. The board shall be presented with such findings within 48 hours of the hearing officer delivering such report to the co-counsels of the board. Until a decision is issued with regard to any application made under this section, all requirements to comply with the subpoena shall be stayed and the expiration of the subpoena shall be likewise tolled. A decision by the board shall be issued within 30 days after an application is made unless such time period is extended by a majority vote of the commissioners.

§ 6203.4 Enforcement reporting

The chief enforcement counsel shall provide a written report to the commissioners and co-executive directors at least once in each calendar quarter that shall include the following information with respect to the preceding calendar quarter:

(a) Total number of complaints received by the enforcement division by mail, email, phone, fax or any other means, and the number of such complaints:

(1) examined and found on their face to not warrant any further investigation;

(2) still pending review;

(3) under active investigation;

(4) closed;

(5) referred to the commissioners for further action.

(b) Total number of hearing officer proceedings initiated, and the number of such proceedings:

(1) for failure to file reports;

(2) for failure to cure a deficiency;

(3) involving other matters.

(c) Total number of settlements entered into and the number of such settlements entered into:

(1) before any hearing officer proceeding is initiated;

(2) after a hearing officer proceeding but before a hearing officer's determination is made;

(3) after a hearing officer determination.

(d) Total number of special proceedings commenced in pursuant to article 16 of the Election Law, and the number of such proceedings:

(1) related to failure to file;

(2) failure to cure deficiency;

(3) other matters.

(e) Total sum of money collected, and with respect to such sum, the amount derived from:

(1) judgments entered before creation of the Division of Election Law Enforcement;

(2) judgments entered after creation of the Division of Election Law Enforcement settlements.

(f) Total number of deficiency referrals from the compliance unit received, and with respect to such referrals the number:

(1) referred to a hearing officer;

(2) chief enforcement counsel determined not to refer to hearing officer;

(3) pending review;

(4) a decision has been made that no further action will be taken and the reasons therefor.

(g) For failure to file required disclosures under article 14 of the Election Law, the number of such:

(1) referred to hearing officer;

(2) chief enforcement counsel determined not to refer to hearing officer;

(3) pending review;

(4) a decision has been made that no further action will be taken and the reason therfor.

§ 6203.5 Closed enforcement matters

(a) When the chief enforcement counsel determines no further action will be taken on a complaint or matter and the matter was not referred for possible prosecution or to a hearing officer, the matter is thereby deemed closed, and the chief enforcement counsel shall provide notice to the commissioners and co-executive directors.

(b) If no action is taken on a complaint within two years after it was received, it shall be deemed closed for purposes of providing notice to the commissioners; provided, however, if the chief enforcement counsel determines any such matters should not be deemed closed because future action is reasonably anticipated, the chief enforcement counsel shall report the number of such continued matters to the commissioners.

(c) Notice to the board of closed matters may be satisfied by a written report or by the chief enforcement counsel providing copies of complaints and any correspondence to complainants indicating a matter is closed.

(d) A copy of any settlement agreement entered into in which the chief enforcement counsel or the Division of Election Law Enforcement is a party or signatory, shall be provided to the commissioners and co-executive directors within five days of execution.

§ 6203.6 Notification of failure to file

The Division of Election Law Enforcement shall send the letters required to be sent by Election Law section 14–108(5).

§ 6203.7 Special investigators and peace officer status reporting

(a) A request to the commissioners to appoint a special investigator shall set forth in detail the reason such appointment is needed.

(b) At no time shall any firearm be possessed in the offices of the State Board of Elections other than the space designated for the Division of Election Law Enforcement.

(c) For each person designated by the board as a special investigator having peace officer status, the chief enforcement counsel shall provide notice to the commissioners and co-executive directors in January and June of each year as to the status of each peace officer's certifications and training compliance required by section 2.30 of the Criminal Procedure Law.

§ 6203.8 Enforcement internal controls.

The Division of Election Law Enforcement shall annually complete the required internal controls report by the 1st day of April, and shall provide same to the co-executive directors. Such report shall be filed by the co-executive directors with the Division of Budget and/or the Office of the State Comptroller as required by law with such reports from all other units or divisions comprising the State Board of Elections.

PART 6204—DESIGNATING AND INDEPENDENT NOMINATING PETITIONS

Section

6204.1. Specification of objections to designating and independent nominating petitions.
6204.2. Repealed.
6204.3. Methods for determining ballot order by lot.

§ 6204.1 Specification of objections to designating and independent nominating petitions

(a) Any person filing general objections to any designating or independent nominating petition filed with the State Board of Elections who thereafter files specifications of his objections to any such petition with such board shall do so in accordance with the provisions of section 6–154 of the Election Law. All

such specifications shall substantially comply with the following requirements:

(1) the volume number, page number, and line number of any signature objected to on any petition shall be set forth in detail. In addition, any portion of any petition or any signature line or witness statement objected to shall be specifically identified and reasons given for any such objection;

(2) the total number of signatures objected to shall be set forth and all objections relating to a single signature line should be grouped together; and

(3) symbols and/or abbreviations may be used to set forth objections, provided that a sheet explaining the meaning of any such symbols and/or abbreviations is attached to the specifications.

(b) No specifications of objections to any petition will be considered by the board unless the objector filing the specifications personally delivers or mails by registered or certified mail a duplicate copy of the specification to each candidate for public office named on the petition. In the case of a petition containing candidates for party positions, service of the specifications shall be made on either the named candidates or the first person named on the petition's committee to fill vacancies. Service shall be made on or before the date of filing of any specifications with the board. Proof of service shall accompany the specifications or be received by the end of business two days following the filing of the specifications, whichever is later.

(c) Any notice and/or determination relating to a petition for which specifications of objections have been filed shall be transmitted by the board to the objector filing the specifications, provided that any such objector may designate an attorney or agent to receive any such notice and/or determination on his behalf. Any such designation shall be in writing and include the name, address and telephone number of any such attorney or agent, and any such attorney and/or agent shall be eligible to represent any such objector in any proceeding conducted by the board relating to the specifications.

§ 6204.2. [Repealed]

§ 6204.3 Methods for determining ballot order by lot

(a) Whenever a board of elections, or other elections officer prepares a primary ballot, or receives a written request from a candidate to determine ballot order of candidate names on a ballot, or the order of names and emblems of independent bodies on a ballot, or prepares a ballot for a primary election, they shall use one of the following methods:

(1) acquire a quantity of smooth-surfaced, numbered spheres and an automatic selection machine similar to those used for bingo games or for drawing state lottery numbers. Place all spheres in the automatic machine. The person(s) designated to conduct the drawing shall release one sphere. The number drawn will be noted on the candidate list, next to the name of the candidate. Once the drawing for that office is complete, the numbers on the candidate list will be reviewed, and the ballot order announced, with the lowest number representing the first position, the next lowest number representing the number two position, and so on;

(2) acquire a quantity of smooth-surfaced, numbered spheres, of the type available from any bingo supplier or as available for use by the public in helping to select lottery numbers. Place all spheres in a container with an opening narrow enough to prohibit the insertion of a hand, and wide enough to allow the release of no more than one sphere at a time. The person(s) designated to conduct the drawing shall release one sphere. The number drawn will be noted on the candidate list, next to the name of the candidate. Once the drawing for that office is complete, the numbers on the candidate list will be reviewed, and the ballot order announced, with the lowest number representing the first position, the next lowest number representing the number two position, and so on; or

(3) acquire a quantity of smooth-surfaced, numbered spheres, of the type available from any bingo supplier or as available for use by the public in helping to select lottery numbers. Place as many spheres, sequentially numbered, as there are candidates or independent bodies in the particular drawing, in a container with an opening narrow enough to

prohibit the insertion of a hand, and wide enough to allow the release of no more than one sphere at a time. The person(s) designated to conduct the drawing shall release one sphere. The number drawn shall designate that candidate's position on the ballot, and will be so noted on a candidate list, next to the name of that candidate.

(b) Prior to the date of the drawing, the commissioners shall designate at least two persons who will conduct the drawing for all offices. Candidates or their designees may inspect the device or devices to be used for the drawings, at the date and time established by the board, and in the presence of the two commissioners or their designees.

PART 6205—ACTIONS AND PROCEEDINGS

Section

6205.1. Verification of pleadings in a special proceeding.

§ 6205.1 Verification of pleadings in a special proceeding

For the purposes of verifying a pleading in a special proceeding brought pursuant to the authority vested in the State and local boards of elections by chapter 233 of the Laws of 1976, the following named persons may verify any pleading:

(a) any commissioner, or deputy commissioner of a board of elections;

(b) the executive director or assistant executive director of a board of elections;

(c) the counsel, special counsel, associate counsel, assistant counsel or deputy counsel of a board of elections;

(d) any other employee of a board of elections who is familiar with the facts; and

(e) any other board employee specified in writing by a board of elections to verify pleadings.

PART 6206—POLLING PLACE ACCESSIBILITY SURVEYS

Section

6206.1. Accessibility survey to be conducted.
6206.2. Compliance date.
6206.3, 6206.4. Repealed.

§ 6206.1 Accessibility survey to be conducted

The local board of elections shall cause an accessibility survey to be conducted for every polling site designated pursuant to subdivision 1 of section 4–104 of the Election Law to verify substantial compliance with the accessibility standards cited in subdivision 1-a of section 4–104 of the Election Law. The transmittal of each survey shall be in a format and manner prescribed by the State Board of Elections.

§ 6206.2 Compliance date

Not later than five days after the designation of polling places pursuant to subdivision 1 of section 4-104 of the Election Law, each local board of elections shall transmit to the State Board of Elections, in a format and manner prescribed by the State Board of Elections, a list of all polling places designated by the local board of elections and all accompanying accessibility surveys required by section 6206.1 of this Part. For any polling place which has been moved, a new accessibility survey shall be transmitted to the State Board of Elections for the new site within five days of its designation as a polling place. For those polling places to which changes or improvements have been made after the designation pursuant to subdivision 1 of section 4–104 of the Election Law, a new accessibility survey shall be conducted before the polling place can be used for any election and such accessibility survey shall be transmitted to the State Board of Elections within five days of its completion.

§§ 6206.3, 6206.4. [Repealed]

PART 6207—DISCONTINUANCE OF CENTRAL FILE REGISTRATION RECORDS

Section
6207.1. Discontinuance of central file registration records.

§ 6207.1 Discontinuance of central file registration records

Any board of elections wishing to discontinue maintenance of its central file registration records pursuant to section 5–504 of the Election Law may do so provided:

(a) it maintains a complete computer record of all registered voters, which shall include not less than each voter's

name, complete address, including town or city, apartment or room number, ZIP code, assembly district if election districts are grouped by assembly district, ward, election district, registration serial number, party enrollment, date of registration, sex and date of birth;

(b) it has available, as a public record at the board of elections, at least one alphabetized list of all registered voters containing such information as is required pursuant to subdivision (a) of this section;

(c) a complete list is printed not less than once per year following completion of the purge and is updated weekly by a reprinting of the complete list or by the printing of supplements showing additions or deletions to the master file occurring during the preceding week;

(d) at least one copy of the computer tape is securely located in a building other than the one in which the offices of the board of elections are housed;

(e) all original registration applications are retained; and

(f) it receives authorization from the State Board after submitting an application which shall provide sufficient information for the board to determine that the county board has satisfied the requirements of subdivisions (a) through (e) of this section.

PART 6208—REAPPORTIONMENT COMPLIANCE ACT

Section

6208.1. Application for order.
6208.2. Service of petition; timeliness.
6208.3. Determination and order.

§ 6208.1 Application for order

An application to the State Board of Elections for an order, pursuant to provisions of section 128 of chapter 111 of the Laws of 1982 and section 3 of chapter 112 of the Laws of 1982, shall be by a petition of a citizen or candidate aggrieved thereby, duly verified, which shall contain:

(a) the name and full residence address of the petitioner;

(b) a concise specification of the description of the district or districts to be corrected and a statement of each section of

the act in which such description appears or should be included if omitted; and

(c) a complete statement of the reason or reasons for such request.

§ 6208.2 Service of petition; timeliness

(a) The original petition shall be served at the office of the State Board of Elections, 40 North Pearl Street, Suite 5, Albany, NY 12207-2729, or upon any person authorized by the State Board of Elections to receive such service.

§ 6208.3 Determination and order

Within 30 days after the service of such petition the State Board of Elections shall make its determination thereon and issue an order accomplishing the purposes and objectives of the Reapportionment Compliance Act. A copy of such order shall be sent by registered mail to the petitioner, to each board of elections affected by the order, to the Temporary President of the Senate, to the Speaker of the Assembly and to the Attorney General.

PART 6209—VOTING SYSTEMS STANDARDS

Section

6209.1. Definitions.
6209.2. Polling place voting system requirements.
6209.3. Additional requirements for voting systems.
6209.4. Application process.
6209.5. Submission of voting systems equipment.
6209.6. Examination criteria.
6209.7. Modifications and re-examination.
6209.8. Recission of certification.
6209.9. Contracts.
6209.10. Acceptance testing.
6209.11. Temporary provision.
6209.12 to 6209.17. Repealed.

§ 6209.1 Definitions

The terms used in this Part shall have the significance herein defined unless another meaning is clearly apparent in language or content.

(a) *Acceptance test* means a test conducted by the county board and the State Board, to demonstrate that each voting

system delivered, when installed in the user's environment, meets all functional requirements and contains exactly the same components as the voting system of that type, which received certification from New York State, including but not limited to all hardware, programming (whether in the form of software, firmware, or any other kind), all files, all file system hierarchies, all operating system parts, all off-the-shelf hardware and programming parts and any other components.

(b) *Audio voting feature* means a device that allows blind or visually-impaired persons, or persons with limited reach and/or hand dexterity, the ability to cast their vote.

(c) *Auxiliary components* means any device, materials or equipment which is used to give assistance or aid to the actual voting device but is not a permanent or enclosed part of the voting device.

(d) *Ballot configuration (layout)* means the positioning on and/or linkage within the ballot (whether on a DRE or other display screen, or on paper), of all political party names and emblems, and names and emblems of all independent bodies, office titles, ballot proposals, and candidate names, and spaces for write-in candidates, in accordance with the requirements of the Election Law as to order and rotation.

(e) *Calibration test* means a test prepared and conducted to determine and/or verify that the correct sensitive areas of a voting system, and their level of sensitivity function on an ongoing basis in the same manner as the certified system.

(f) *Canvass* means a compilation of election returns and validation of the outcome that forms the basis of the official results by political subdivision.

(g) *Central count paper-based system* means a voting system that uses an optical scan technology to record and tabulate votes from multiple election districts at a county board office, including all absentee, emergency, affidavit and other such paper ballots.

(h) *County board* means a county's Board of Elections, including the Board of Elections in the City of New York.

(i) *DRE* means a direct recording electronic voting system in which, through a touch-screen, push-button, or other electron-

ic mechanism, a vote is immediately recorded onto electronic media, by means of a ballot display provided with mechanical or electro-optical components, or an ultrasonic, capacitative or other touch-screen, which is activated by the voter. Styles include bubble switch ballot overlay and touch-screen-style machines.

(j) *Election assistance commission (EAC)* is the commission established by the Help America Vote Act of 2002, which serves as a national clearinghouse for information and the review of procedures with respect to the administration of Federal elections.

(k) *Election configuration* means the file or files created by the election management software including but not limited to the following data used to program polling place and central count voting systems: definition of jurisdictional information (*e.g.*, counties, local legislative, congressional or election districts), both electronic and paper ballot content and artwork (e.g., ballot text, voting positions), definition of races (*e.g.*, elected offices, candidates, number to vote for, propositions, or other types that control voting in other races on the ballot, definition of voter groups (*e.g.*, by party, absentee, non-absentee), ballot styles, linkage of candidates to their respective parties and races, linkage of races to their respective jurisdictions, linkage of ballot text to database labels to produce results reports, and allocation of trans-district vote tallies to their constituent districts for reporting purposes.

(*l*) *Election management software (EMS)* means the software used by the voting system to describe ballot layout, collect and report election results, and maintain audit trails.

(m) *Environmental conditions* means the effect of natural environmental conditions such as: temperature, humidity, dust and induced environmental conditions such as handling, storage or transportation which may affect the operation of the system and/or equipment.

(n) *Escrow account* means an account and/or a secure facility held by a third party, which shall be approved by the State Board, for the purpose of taking custody of all materials required to be put in escrow by statute or by these voting system standards.

(*o*) *Firmware* means a computer program stored in read-only memory (either programmable or non-programmable), that becomes a permanent part of the computing device that is not subject to change or modification without review by the State Board.

(p) *Hardware* means the actual voting or ballot counting device.

(q) *Header card (or header sheet)* means a marksense card or sheet upon which appears printed information used to identify a particular batch of ballots, usually those for a single election district. It is placed at the beginning of the batch for vote tabulation to ensure that the votes cast on those ballots are correctly attributed. Cards placed at the end of a particular batch of ballots are called end cards.

(r) *Maintenance log* means a written and/or electronic record which contains all information relating to performance of scheduled and non-scheduled maintenance on a voting system, all service visits performed by the vendor or manufacturer, and other maintenance or service performed by any other provider of service, including county and State Board employees.

(s) *Marksense* means a system by which votes are recorded by means of marks made in voting response fields designated on one or both faces of a ballot or ballot cards. Marksense systems may use an optical scanner or similar sensor to read the ballots. Also known as optical scan.

(t) *Modification* means any change in the software, firmware or hardware, data storage location of files, or any other component of the voting system, and shall require re-examination of certified system or equipment by the State Board.

(u) *Optical scan voting system* means a voting system in which a voter records his or her vote by placing a mark in a designated voting response field on a paper ballot or card, which is read and tabulated using optical-scan technology or a marksense system that reads the paper ballot or card by scanning the ballot and interpreting the contents. Styles include precinct-based and central-count paper-based systems.

(v) *Operational manual* means a manual of all procedures involved in every phase of the operation and use of the voting system by board of elections personnel, including but not

limited to unpacking and acceptance testing, storing, installing all programming, operations testing, preparing for an election, servicing and maintaining, trouble-shooting and repairing, packing and shipping to poll sites, and returning to the county board's facilities, and including all operational procedures for the set-up of the ballot, opening of the polls, use for voting, closing the polls, and canvassing the count.

(w) *Paper-based voting systems* means any electronic or computerized ballot counting system or equipment which tabulates and reports votes cast on paper ballots.

(x) *Pneumatic switch* means a device which allows persons with certain disabilities the ability to cast their vote.

(y) *Pre-qualification test* means a predetermined set of tests of the total voting system throughout the election process including votes and vote totals prepared by the State Board. Such votes shall be entered into the voting system in the same manner as they will be entered by voters during an election. If a voting system offers several methods for votes to be entered, such as touch-screen, push-button, or other electronic mechanism, a key pad and/or pneumatic switch for voters with disabilities, or alternate language displays, then the pre-determined set of votes shall be entered separately using each method and language display. The results of the casting of said votes and all voting system logs shall be extracted from the system as though during normal use in an election, and the results and logs shall be compared to the predetermined results of the test votes and vote totals prepared by the State Board.

(z) *Printout* means the printed copy of zero totals, candidate names and offices and other information produced by the voting equipment prior to the official opening of the polls and the tabulation of votes cast for each candidate and question, the names of candidates and the offices for each candidate and other information provided after the official closing of the polls.

(aa) *Resident vote tabulation* means the manufacturer's internal firmware which shall permanently reside on the voting system's central processing unit, registering, accumulating, and storing votes and ballot images.

(ab) *Resident memory* means the internal memory of the voting system that stores election results and ballot images but is prohibited from storing executable code on removable media.

(ac) *Software* means any programming instructions used by the vote counting system, including but not limited to system programs and application programs. System programs include but are not limited to the operating system, control programs, communication programs, database managers, and device drivers. Application programs include but are not limited to, any program that processes the data.

(ad) *Source code* means the computer program in its original form, as written by the programmer. Source code is not executed by the computer directly, but is converted into machine language by compilers, assemblers and interpreters.

(ae) *State Board* means the New York State Board of Elections.

(af) *Tactile discernible controls* means a voting feature which allows persons with limited reach and/or hand dexterity, the ability to cast their vote, for example: raised buttons of different shapes and colors, large or raised numbers or letters, and light pressure switches.

(ag) *Test deck* means a pre-audited group of ballots prepared for each election. The ballots are voted with a pre-determined number of valid votes for each candidate, each write-in position, and each voting option on every proposal that appears on the ballot as certified by the county board. The deck includes one or more ballots that have been improperly voted, or which are voted in excess of the number allowed by law, and one or more ballots on which no votes are cast, in order to test the ability of the system to recognize and/or notify of an under or overvote. It also includes one or more ballots on which two or more votes are cast for a candidate whose name appears on the ballot more than once for the same office in order to test the ability of the system to count only the first of such votes for the candidate. If there is more than one ballot style for an election, a separate test deck is created for each ballot style.

(ah) *Testing laboratory* means a certified private or public laboratory used to perform tests on the voting systems and related equipment.

(ai) *Vendor* shall include any manufacturer, company or individual who seeks to sell voting systems and/or services for such systems in New York State.

(aj) *Voting position* means the specific voting response area on the face of the displayed ballot where a selection is made for a candidate or proposal.

(1) *Ballot position* means the area on the ballot or ballot display occupied by one candidate or position on an issue, including the area devoted to the candidate name or position on the issue and the sensitive area, as defined immediately below.

(2) *Sensitive area* means the area on the ballot or ballot display which may be pressed, touched, or marked in order to cast a vote which, in some cases, may be the entire position, while in other cases it may be limited to the voting target (as defined immediately below) on a paper ballot or push button on a full-face DRE machine.

(3) *Voting target* means the area of a paper ballot which the voter is asked to mark in order to cast a vote; typically an oval, square or a fragmented arrow.

(ak) *Voting system* means the total combination of mechanical, electro-mechanical, or electronic equipment, and any ancillary equipment and all software, firmware, and documentation required to program, control, and support the equipment, all of which is used to define ballots, cast and count votes, report and/or display election results, and maintain and produce any audit trail information.

(al) *Voting system supporting software* means the vendor-supplied software used to configure and control the election day tabulation and accumulation of election results.

(am) *VVPAT* means a voter verifiable paper audit trail.

§ 6209.2 Polling place voting system requirements

(a) In order for a polling place voting system to be considered by the State Board for certification, it must comply with the mandates of New York State Election Law, and meet the Election Assistance Commission's 2005 Voluntary Voting System Guidelines, to the extent that they are consistent with State

law and this Part. Such polling place voting systems shall meet the following requirements:

(1) Provide a full ballot display on a single surface, except that proposals may appear on the reverse side of any paper ballot, and that such ballot display is easily visible under typical lighting found in a poll site.

(2) For jurisdictions within the State of New York that have been identified by the U.S. Department of Justice, as requiring that ballots be provided in alternate languages, pursuant to section 203 of the Voting Rights Act, 42 USC 1973aa-1a. Voting systems must be able to recognize and interpret alternate language ballots.

(3) Provide a device that produces and retains a voter-verifiable permanent paper record, pursuant to statute, which the voter can review and/or correct prior to the casting of their vote. In the case of a paper-based voting system, the ballot marked by the voter shall constitute the paper record referred to in subdivision (f) of this section. The paper record shall allow a manual audit and allow for preservation in accordance with the provisions of Election Law, section 3-222.

(4) Provide a device or means by which the record of the votes cast on the machine can be printed and visually reviewed after the polls are closed.

(5) Provide a battery power source in the event that the electric supply used to make the voting system equipment function, is disrupted. The battery power source shall operate the system and allow for the casting of votes for a period not less than two hours, to ensure that the system can shut down and preserve the integrity of votes cast prior to the power failure, and can resume functionality when power is provided or restored without significant or intrusive power-up procedures. Such batteries must be rechargeable and have minimum five-year life when used under normal conditions. In the event of a power failure, the equipment shall perform a normal shut-down not less than one hour before battery power is depleted, and shall notify the election inspector that the system will do so.

(6) The system shall contain software and hardware required to perform a diagnostic test of system status, and a means of simulating the random selection of candidates and casting of ballots in quantities sufficient to demonstrate that the system is fully operational and that all voting positions are operable.

(7) The system shall incorporate multiple memories, including resident vote tabulation, storage of results and ballot images in resident memory, serving as a redundant means of verifying or auditing election results and ballot images, and further, the system shall be required to alert the election day worker that memory capacity is about to be reached.

(8) In a DRE voting system, the system must prevent voters from overvoting and indicate to the voter specific contests or ballot issues for which no selection or an insufficient number of selections has been made. A ballot marking device must prevent voters from overvoting and indicate to the voter specific contests or ballot issues for which no selection or an insufficient number of selections has been made. A ballot counting scanner must indicate to the voter specific contests or ballot issues for which an overvote is detected.

(9) The voting system shall provide a method for write-in voting and shall report the number of votes cast in each contest in write-in voting positions.

(10) The voting system shall be capable of accumulating and reporting a count of the number of ballots tallied for an election district and votes cast for each candidate, and the total vote for or against each ballot proposal, and shall be capable of separating and tabulating those election district totals to produce a report of the total of ballots tallied by groups of election districts such as legislative districts or wards.

(b) In addition to the requirements of subdivision (a) of this section, fully-accessible voting equipment certified by the State Board shall meet the following requirements for usability by voters who are disabled:

(1) The voting system or equipment shall be equipped with a voting device with tactile discernible controls, pursuant to

Election Law, section 7- 202. Such controls shall allow persons with limited reach and/or hand dexterity, the ability to cast their vote, and shall include, for example: raised buttons of different shapes and colors, large or raised numbers or letters, and light pressure switches.

(2) The voting system or equipment shall be equipped with an audio voting feature, pursuant to Election Law, section 7-202. The audio feature shall be able to be used either independently or simultaneously with the on-screen display.

(3) The voting system or equipment shall be capable of being equipped with a pneumatic switch, pursuant to Election Law, section 7-202.

(c) *Standards for noise level.*

(1) Voting systems or equipment to be certified by the State Board shall be constructed in a manner so that noise levels of the system or equipment during operation will not interfere with the duties of the election inspectors or the voting public.

(2) The noise level of write-in components of the system or equipment shall be so minimal that it will be virtually impossible under normal conditions for someone at the table used by the inspectors of elections to determine that a write-in vote is being cast or has been cast.

(d) *Standards for voter privacy.*

(1) Voting systems or equipment shall be constructed so that no one within the polling site will be able to see how a voter is casting a vote.

(2) Curtains, screens, shields or other privacy devices shall be designed so as to allow any voter, either electronically or manually, to open, close or otherwise use the device with ease when entering and exiting the system or equipment.

(e) *Environmental standards.* The voting system shall be designed to protect against dust and moisture during storage and transportation. Testing shall be similar to the procedure of MIL-STD-810F, Method 510.4, for dust, and MIL-STD-810F, Method 506.4 for moisture. These tests are intended to evaluate exposure to these elements when the system or equipment

is in a non-operating configuration and the equipment or system's required protective cover is in place.

(f) *Voter verified paper audit trails (VVPAT).*

(1) The voting system shall print and display a paper record of the voter's ballot choices prior to the voter making the ballot choices final. In the case of a paper-based voting system, the ballot marked by the voter shall constitute the paper record referred to in this subdivision.

(i) The paper record shall constitute a complete record of ballot choices that can be used in audits of the accuracy of the voting systems electronic records, in audits of the election results, and in full recounts.

(ii) In the case of a DRE voting system, the paper record shall contain all information stored in the electronic record.

(iii) The voting system shall be capable of showing the information on both the display screen and the paper in a font size of 3.0mm, and should be capable of showing the information in at least two font ranges:

(a) 3.0-4.0 mm; and

(b) 6.3-9.0 mm, under control of the voter.

(iv) In the case of a DRE voting system, the paper and electronic display of the voter's selections shall be presented and positioned so as to allow the voter to easily read and compare the two.

(v) If the paper record cannot be displayed in its entirety, a means for moving the paper to show all paper record contents shall be provided.

(2) There shall be instructions for performing the verification process made available to the voter in a location on the voting system.

(3) The voting system shall display, print, and store a paper record in any of the alternative languages chosen for making ballot selections. *Candidate* names and other markings not related to the ballot selection on the paper record shall appear in English.

(4) The voting system shall allow the voter to approve or reject the paper record, in the case of DRE systems, marking the ballot as such in the presence of the voter.

(i) Any DRE voting system shall provide a means to reconcile the number of rejected paper records with the number of occurrences of rejected electronic selections, and procedures shall be in place to address any discrepancies.

(ii) Prior to reaching the maximum number of ballots allowed pursuant to statute, any DRE voting system shall display a warning message to the voter indicating the voter may reject only one more ballot, and that the third ballot shall become the ballot of record.

(5) In case of conditions that prevent voter review of the paper record, there shall be a means for the voter to notify an election official, and in the case of a DRE voting system, shall cause an error message to be displayed and shall prevent the recording of the electronic record.

(6) In the case of a DRE voting system, procedures by which an election official can be notified and prescribed actions can be taken to address discrepancies if a voter indicates that the electronic and paper records do not match, shall be documented.

(7) The voting system shall not record the electronic record as being approved by the voter until the paper record has been stored.

(8) Vendor documentation shall include procedures for returning a voting system to correct operation after a voter has used it incompletely or incorrectly; this procedure shall not cause discrepancies between the tallies of the electronic and paper records.

(9) The voter's privacy and anonymity shall be preserved during the process of recording, verifying, and auditing ballot choices.

(i) The privacy and anonymity of the voter's verification of ballot choices and the creation and storage of these choices, both electronically and on paper record, shall be maintained.

(ii) The privacy and anonymity of voters whose paper records contain any of the alternative languages chosen for making ballots selections shall be maintained.

(iii) Information for the purposes of auditing the electronic or paper records that may permit a voter to reveal his or her ballot choices shall be displayed so as not to be memorable to the voter.

(10) The voting system's ballot records shall be structured and contain information so as to support highly precise audits of their accuracy.

(i) All cryptographic software in the voting system shall have been approved by the U.S. Government's Crypto Module Validation Program (CMVP) as applicable.

(ii) This information shall contain, but not be limited to, the voting site/election district, type of election, ballot style, and whether the system is operating in a ''test'' mode.

(11) In the case of a DRE voting system, the electronic and paper records shall be linked by including a unique identifier within each record that can be used to identify each record uniquely and correspond the two accordingly.

(12) The voting system shall generate and store a digital signature for each electronic record.

(13) The electronic records shall be able to be exported for auditing or analysis on standards-based and/or information technology computing platforms.

(i) The exported electronic records shall be in an open, non-proprietary format.

(ii) The voting system shall export the records accompanied by a digital signature of the collection of records, which shall be calculated on the entire set of electronic records and their associated digital signatures.

(iii) The voting system vendor shall provide documentation as to the structure of the exported records and how they shall be read and processed by software.

(iv) The vendor shall provide a software program that will display the exported records and such software may

include other capabilities, such as providing vote tallies and indications of undervotes.

(14) The voting system printers shall be physically secure from tampering.

(i) The voting system shall communicate with its printers over a standard, publicly documented printer port using a standard communication protocol.

(ii) The paper path between the printing, viewing and storage of the paper record shall be protected and sealed from access except by authorized election officials.

(iii) The printer shall not be permitted to communicate with any other system or machine other than the single voting system to which it is connected.

(iv) The printer shall only be able to function as a printer: it cannot store information or contain or provide any services that are not essential to system function, (*e.g.*, provide copier or fax functions) or have network capability.

(v) Printer access to replace consumables such as ink or paper shall only be granted if it does not compromise the sealed printer paper path.

(vi) Prior to the opening of polls on election day, poll workers shall demonstrate that the ballot storage devices are empty. The storage devices shall then be sealed and no further access shall be provided to polling place workers.

(vii) Tamper-evident seals or physical security measures shall protect the connection between the printer and the voting machine, so that the connection cannot be broken or interfered with without leaving extensive and obvious evidence.

(15) The voting system's printers shall be highly reliable and easily maintained.

(i) The voting system should include a printer port to which a commercial off-the-shelf printer which complies with paragraph (14) of this subdivision, could be attached for the purposes of printing paper records and any additional records.

(ii) The voting system shall detect errors and malfunctions such as paper jams or low supplies of consumables such as paper and ink that may prevent paper records from being correctly displayed, printed and stored.

(iii) If an error or malfunction occurs, the voting equipment attached to the defective printer shall suspend voting operations and shall present a clear indication to the voter and election workers of the error or malfunction.

(iv) There shall be adequate supplies of consumable items such as paper and printer ink on hand to operate from opening to closing of polls.

(a) Printing devices should contain paper and ink of sufficient capacity so as not to require reloading or opening equipment covers or enclosures and circumvention of security features, or reloading shall be able to be accomplished with minimal disruption to voting and without circumvention of security features such as seals.

(b) Printer consumables shall be stored within the temperature and humidity ranges specified by the manufacturer and shall be stored in State Board-approved containers to protect them from sustaining any damage.

(v) The vendor shall make recommendations as to appropriate numbers of printers to be used in conjunction with the number of voting systems being utilized. A sufficient number of replacement printers shall be available.

(16) Vendor documentation shall include procedures for investigating and resolving malfunctions including but not limited to misreporting of votes, unreadable paper records, paper jams, low ink, mis-feeds and power failures.

(17) Vendor documentation shall include procedures for ensuring, in the case of malfunctions, that electronic and paper records are correctly recorded and stored.

(18) Protective coverings intended to be transparent on voting system devices shall be maintainable via a predefined cleaning process. If the coverings become damaged such that they obscure the paper record, they shall be replaced.

(19) The paper record shall be sturdy, clean, and of sufficient durability to be used for manual auditing and recounts conducted manually. The paper record shall be able to be

stored and remain fully readable without degradation for 22 months within the temperature and humidity ranges specified by the manufacturer, but at a minimum temperature range of at least from -20° to 140° F, and at a humidity as high as 98 percent.

(g) Any submitted voting system's software shall not contain any code, procedures or other material which may disable, disarm or otherwise affect in any manner, the proper operation of the voting system, or which may damage the voting system, any hardware, or any computer system or other property of the State Board or county board, including but not limited to 'viruses', 'worms', 'time bombs', and 'drop dead' devices that may cause the voting system to cease functioning properly at a future time.

(h) Any submitted voting system shall provide methods through security seals or device locks to physically secure against attempts to interfere with correct system operations. Such physical security shall guard access to machine panels, doors, switches, slots, ports, peripheral devices, firmware, and software.

(i) The system shall provide a means by which the ballot definition code may be positively verified to ensure that it corresponds to the format of the ballot face and the election configuration.

§ 6209.3 Additional requirements for voting systems

(a) In addition to voting system requirements provided for elsewhere in this Part, paper-based systems shall:

(1) Allow the voter, at their choice, to vote a new ballot or submit the ballot 'as is'.

(2) An over-vote in one or more office or ballot proposals shall not prevent the counting of all other offices or ballot proposals contained on the ballot.

(3) In the case of candidates who appear on one or more party lines, the system shall be capable of correctly counting the vote according to provisions of Election Law, section 9-112.

(b) Ballot specifications.

(1) As to the printing and arrangement of ballots, all ballots shall meet the requirements as to form and content provided in section 7-121 of the Election Law.

(2) Ballots shall be printed in black print on a white background or on backgrounds of different colors to identify different types of ballots (*i.e.*, emergency, affidavit, etc.) or in the case of a primary, to identify ballots for each political party according to the color assigned to such party pursuant to law.

(3) Coding which is both machine readable and manually readable shall be used to identify different ballot styles.

(4) Ballots used in the paper-based voting system shall be able to be counted by hand as well as be counted by machine.

(5) The types of ballots used and their form, type size and arrangement must be approved by the State Board of Elections.

(c) For all paper-based voting systems, the system shall count a mark on a ballot that is in a:

(1) sensitive area for a candidate whose name is on the ballot;

(2) sensitive area designated for write-in voting for a write-in candidate; or

(3) sensitive area for a ballot proposal.

(d) With regard to the central counting of absentee, affidavit, emergency and special ballots, the requirements of section 6209.2(f)(1)(iii)-(v), and (f)(2) of this Part not consistent with this section shall not apply.

§ 6209.4 Application process

(a) The election operations unit shall forward an application form within one week from the date of receipt of a request from a vendor, together with a copy of applicable rules and regulations and a pre-qualification test format for both a general and primary election ballot program.

(b) Said vendor shall return completed ballot layouts based upon the pre-qualification test format to the election opera-

tions unit. Upon approval of the layouts, the vendor shall program such system or equipment and complete the pre-qualification tests for both ballot programs provided, and enter the simulated votes upon said system or equipment for each election program.

(c) The completed application shall be returned by the vendor applicant, with a printout of tabulated votes from the primary and general election pre-qualification tests as cast on the voting system equipment which the applicant requests to have certified. The pre-qualification test programs shall be retained by the applicant for use in the certification process.

(d) The application and printouts shall be reviewed to determine if the voting system shall be considered for certification and the applicant shall be notified of such determination.

(e) No application shall be deemed to be filed until all documentation required by this Part has been submitted to the State Board or its designee.

(f) A certified or bank check in the amount of $5,000 shall accompany such application, and be applied towards the actual cost of the examination.

(g) Fees for the examination of a voting system shall be assessed against the vendor by the State Board based upon the cost to the State Board for examination of such voting system by an outside contractor, laboratory or other authorized examiner.

(h) A vendor submitting an application shall affirm that:

(1) the submitted voting system complies with all applicable rules adopted by the State Board, and with all applicable 2005 Federal Voting System Guidelines not inconsistent with State law or these regulations, and is suitable for use by voters;

(2) the vendor will quote and provide a statewide, uniform price for each unit of the voting system's equipment; and

(3) the submitted voting system's software does not contain any code, procedures or other material (including but not limited to 'viruses', 'worms', 'time bombs', and 'drop dead' devices that may cause the voting system to cease functioning at a future time), which may disable, damage,

disarm or otherwise affect the proper operation of the voting system, any hardware, or any computer system or other property of the State Board or county board;

(4) any submitted voting system provides methods through security seals or device locks to physically secure against attempts to interfere with correct system operations. Such physical security shall guard access to machine panels, doors, switches, slots, ports, peripheral devices, firmware, and software.

(i) All vendors shall submit with their application forms, information regarding past or pending court cases involving their voting systems or its major components, any evidence of fraud, faulty systems, or failure to correct past problems.

§ 6209.5 Submission of voting systems equipment

(a) Voting systems considered for certification by the State Board shall be delivered to the State Board or its designee. Such equipment shall include documentation, operation manual(s), auxiliary components and equipment used to program ballot layout, and any other additional equipment used in the operation of said voting system.

(b) Vendors submitting systems or equipment for certification must also provide additional systems to be used by the State Board for the purposes of the voter demonstration test. See section 6209.6(g)(8) of this Part.

(c) If the voting systems equipment is certified by the State Board, the specific system or equipment and components examined by the State Board shall become the property of the State Board for as long as the system or equipment is in use in the State or for such shorter period as the State Board shall so determine. Voting systems or equipment not certified shall be disposed of pursuant to the vendor's direction.

(d) The applicant shall provide service and normal maintenance of said system or equipment after certification and shall supply to the State Board, at no cost, any modification to the system or equipment for upgrading of any feature during the period that said system or equipment is offered for sale and use in the State.

(e) The vendor shall provide, either at the time of submission or no later than the completion of certification testing by the State Board, a list of system proprietary and non-proprietary consumables, extended warranties, services, and other such items as may be considered by county boards for purchase, with the exception of programming, as county boards are prohibited from contracting with a vendor for programming services. Such list shall become a component of the contract.

(f) [*Reserved*]

(g) The vendor shall disclose, in the application for certification, any pecuniary interest in or any direct or indirect control over any testing laboratory as defined herein or which may be used in connection with the certification or acquisition of any voting system.

(h) Vendors shall make available to the State Board, in a quantity to be determined by the State Board, voting systems for the purpose of conducting a usability test, which will establish the minimum number of voting machines required in each polling place and the maximum number of voters that can vote on one voting machine during the course of an ordinary 15-hour election day. The ballots to be used for this test shall include both primary and general election ballots, with ample candidate selection options and ballot proposal selections. For the purposes of the usability test, voting shall occur by utilizing all the devices which a voter may use to make their selections. If a vendor has previously performed a usability test on the same or similar voting system which meets the requirements of this section, the State Board may consider the findings of same. Whenever the State Board is satisfied that a voting machine or system's usability analysis has provided adequate and accurate information relative to the requirements of Election Law, section 7-203.2, then the State Board may, in its discretion, accept such documentation as satisfaction of the usability test required by these regulations.

(i) For voting systems which are not PC-based, vendors shall submit recommendations for acceptance and maintenance testing to ensure that the firmware in systems purchased and used by county boards is identical to certified firmware.

§ 6209.6 Examination criteria

(a) State Board testing and examination shall be performed in an open and public venue. Testing shall be performed in conformity with written procedures adopted by the State Board. Such procedures and the test reports of the State Board and its ITA, shall be available for public inspection at the office of the State Board, and at its website. Each tested system shall, at a minimum, conform to the EAC's 2005 Voluntary Voting System Guidelines, to the extent that they are consistent with State law and this Part.

(b) The State Board or its designee, as part of its examination, may at its discretion, submit the voting system for analysis by a testing laboratory.

(c) Whenever the State Board is satisfied that a voting machine or system has been proven to meet the environmental standards of section 6209.2(e) of this Part; and the vendor is able to provide documentation for the State Board's testing authority to establish that those standards have been met; then the State Board may, in its discretion, accept such documentation as satisfaction of the tests required by these regulations.

(d) All laboratory testing shall be conducted or verified by independent testing authorities appropriately certified by the National Association of State Election Directors, the EAC or approved by the commissioners of the State Board.

(1) Software and hardware qualification tests. Qualification of voting system software and hardware shall consist of a series of tests, code analyses, and inspection tests performed at the Federal and State levels, to verify that the software and hardware meet design requirements and that characteristics are correctly described in the documentation items. Qualification shall also include a functional configuration audit and a physical configuration audit.

(2) Functional configuration audit. A functional configuration audit shall be performed to verify that the software complies with the software specification (as defined in paragraph [f][3] of this section) and applicable laws and regulations. Federal qualification test data may be used in partial fulfillment of this requirement; however, the State Board or its designee shall perform or supervise the performance of

additional tests, or order additional laboratory testing, to verify system performance in all operating modes, including but not limited to disability access and alternate language modes and to validate the vendor's test data reports. The functional configuration audit shall be performed in a facility selected by the State Board.

(i) Vendor responsibility. The vendor shall provide a list of all documentation and data required to be included as part of the independent review, and vendor technical personnel shall be available to the State Board during the performance of the functional configuration audit.

(ii) Technical data. The vendor shall provide the following technical data:

(a) copies of all procedures used for module or unit testing, integration testing and system testing;

(b) copies of all test cases generated for each module and integration test and sample ballot formats or other test cases used for system;

(c) records of all tests performed by the procedures listed above, including error correction and retest.

(iii) Audit procedure. The State Board, with the assistance of an independent testing authority, shall subject each voting system to a complete functional test, including but not limited to actual use testing of all components used by voters to enter or review votes. Additionally, the State Board and its independent testing authority shall review the vendor's test procedures and test results. This review shall include an assessment of the adequacy of test cases and input data to exercise all system functions and to detect program logic and data processing errors if such be present. The review shall also include an examination of all test data which is to be used as a basis for qualification.

(3) Physical configuration audit. The physical configuration audit is an examination of the software configuration against its technical documentation to establish a configuration baseline for approval. The physical configuration audit shall include an audit of all drawings, specifications, technical data and test data associated with the system hardware and this audit shall establish the system hardware baseline

associated with the software baseline. All subsequent changes to the software or hardware shall be subject to re-examination.

(i) Vendor responsibility. The vendor shall provide a list of all documentation and data required to be audited by the State Board. Vendor's technical personnel shall be available to the State Board during the performance of the physical configuration audit.

(ii) Technical data. The vendor shall provide the following technical data:

(a) identification of all items which are to be a part of the software release;

(b) identification of all hardware which interfaces with the software;

(c) configuration baseline data for all hardware included within the system;

(d) copies of all software documentation which is intended for distribution to users, including program listings, specifications, operator manual, user manual and software maintenance manual;

(e) proposed user acceptance test procedure and acceptance criteria;

(f) an identification and explanation of any changes between the physical configuration audit and the configuration submitted for the functional configuration audit.

(iii) Audit procedure. Required data items include draft and formal documentation of the vendor's software development program which are relevant to the design and conduct of qualification tests. The vendor shall identify all documents, or portions of documents, which the vendor asserts contain proprietary information not approved for public release. The State Board or its designee shall agree to use any proprietary information contained therein solely for the purpose of analyzing and testing the software and shall refrain from disclosing proprietary information to any other person or agency without the prior written consent of the vendor or a court order. The State Board or its designee shall review the vendor's source code and documentation to verify that the software conforms to the

documentation, and that the documentation is sufficient to enable the user to install, validate, operate and maintain the voting system. The review shall also include an inspection of all records of the baseline version against the vendor's release control system to establish that the configuration, being qualified, conforms to the engineering and test data.

(e) Functional tests, security tests and simulated voting. Prior to certifying a voting system, the State Board shall designate an independent expert to review, all source code made available by the vendor pursuant to this section and certify only those voting systems compliant with this Part. At a minimum, such review shall include a review of security, application vulnerability, application code, wireless security, security policy and processes, security/privacy program management, technology infrastructure and security controls, security organization and governance, and operational effectiveness, as applicable to that voting system.

(1) For all systems or equipment, functional tests shall consist of the validation of equipment functional performance, and shall be performed in an open and public venue, in conformity with written procedures adopted by the State Board.

(2) All votes entered shall use the identical interfaces as would be used by the actual voters during the actual voting process. By way of explanation, touch-screen votes, or votes cast via alternative accessible devices such as tactile-discernible key pads or pneumatic switches shall be used as the voter would use them rather than casting simulated votes via any of these processes into the voting system using any type of diagnostic input cartridge.

(3) Functional tests of voting system software which runs on general purpose data processing equipment shall include all tests similar to those in procedures which are necessary to validate the proper functioning of the software and its ability to control the hardware environment. The tests shall also validate the ability of the software to detect and act correctly upon any error conditions which may result from hardware malfunctions. Detection capability may be contained in the software, the hardware or the operating system.

It shall be validated by any convenient means up to and including the introduction of a simulated failure (power off, disconnect a cable, etc.) in any equipment associated with vote processing.

(4) Each system shall be submitted for electronic and technical security and integrity analysis by independent certified security experts, who shall be given full unrestricted access to production units of the system, for such analysis. Whenever the vendor is able to provide documentation for the State Board and its testing authority, to establish that the standards of this section of these regulations have been met; then the State Board may, in its discretion, accept such documentation as satisfaction of the tests required by this Part.

(5) Functional tests for the following types of equipment shall be required:

(i) Standard commercial, off-the-shelf production models of general purpose data processing equipment (PC's, printers, etc.) shown to be compatible with these requirements and with the voting system.

(ii) Production models of special purpose data processing equipment (scanners, bar code readers, etc.) having successfully performed in elections use and having been shown to be compatible with the voting system.

(f) Software, hardware, operating and support documentation.

(1) Software qualification. The following system software and firmware vendor data items shall be submitted as a precondition of certification of acceptability for elections use.

(2) Vendor documentation. Complete product documentation shall be provided to the State Board for voting systems, their components and all auxiliary devices. This documentation shall be sufficient to serve the needs of the voter, the operator, maintenance technicians, and other appropriate county board personnel. It shall be prepared and published in accordance with standard industrial practice for electronic and mechanical equipment such documentation shall include:

(3) Software specification. The software specification shall contain and describe the vendor's design standards and conventions, environment and interface specifications, functional specifications, programming architecture specifications, and test and verification specifications. Vendor must also provide document identification, an abstract of the specification, configuration control status and a table of contents. The body of the specification shall contain the following material:

(i) System overview. The vendor shall identify the system hardware and the environment in which the software will operate and the general design and operational considerations and constraints which have influenced the design of the software.

(ii) Program description. The vendor shall provide descriptions of the software system concept, the array of hardware in which it operates, the intended operating environment, the specific software design objectives and development methodology and the logical structure and algorithms used to accomplish the objectives.

(iii) Standards and conventions. The vendor shall provide information which can be used as a partial basis for code analysis and test design. It should include a description and discussion of the standards and conventions used in the preparation of this specification and in the development of the software.

(iv) Specification standards and conventions. The vendor shall identify all published and private standards and conventions used to document software development and testing. Vendor internal procedures shall be provided as attachments to this software specification.

(v) Test and verification standards. The vendor shall identify any standards or other documents which are applicable to the determination of program correctness and acceptance criteria.

(vi) Quality assurance standards. The vendor shall describe all standards or other documents which are applicable to the examination and testing of the software, including standards for flowcharts, program documentation, test planning and test data acquisition and reporting.

(vii) Operating environment. The vendor shall provide a description of the system and subsystem interfaces at which inputs, outputs and data transformations occur. It shall contain or make reference to all operating environment factors which influence the software design.

(viii) Hardware constraints. The vendor shall identify and describe the hardware characteristics which influence the design of the software, such as:

(a) the logic and arithmetic capability of the processor;

(b) memory read/write characteristics;

(c) external memory device characteristics;

(d) peripheral device interface hardware data I/O device protocols; and

(e) operator controls, indicators and displays.

(ix) Software environment. The vendor shall identify all compilers, assemblers, or other software tools to be used for the generation of executable code and a description of the operating system or system monitor. This section shall also contain an overview of the compile-time interaction of the voting system software with library calls and linking.

(x) Interface characteristics. The vendor shall describe the interfaces between executable code and system input-output and control hardware.

(xi) Software functional specification. The vendor shall provide a description of the overall functions which the software performs in the context of its mode or modes of operation. The vendor shall also describe the capabilities and methods for detecting and handling exceptional conditions, system failure, data input/output errors, error logging and audit record generation and security monitoring and control.

(xii) Configurations and operating modes. The vendor shall describe the various software configurations and operating modes of the system; such as preparation for opening of the polling place, vote recording and/or vote processing, closing of the polling place and report generation. For each software function or operating mode, a definition of the inputs (characteristics, tolerances or ac-

ceptable ranges) to the function or mode, how the inputs are processed and what outputs are produced (characteristics, tolerances or acceptable ranges) shall be provided.

(xiii) External files. In the event that external files are used for data input or output, the definition of information context and record formats shall be provided. The vendor shall also describe the procedures for file maintenance, access privileges and security.

(xiv) Security. Security requirements and security provisions of the system's software shall be identified for each system function and operating mode. The voting system must be secure against attempts to interfere with correct system operation. The vendor shall identify each potential point of attack. For each potential point of attack, the vendor shall identify the technical safeguards embodied in the voting system to defend against attack, and the procedural safeguards that the vendor has recommended be followed by the election administrators to further defend against that attack. Each defense shall be classified as preventative, if it prevents the attack in the first place; detective if it allows detection of an attack; or corrective if it allows correction of the damage done by an attack. Security requirements and provisions shall include the ability of the system to detect, prevent, log and recover from the broad range of security risks identified. These procedures shall also examine system capabilities and safeguards claimed by the vendor to prevent interference with correct system operations. The State Board, with the assistance of its ITA, shall conduct tests to confirm that the security requirements of this Part have been completely addressed. Notwithstanding any other provisions of this Part, the State Board shall determine whether all or a portion of such security requirements and security provisions shall be available for public inspection, but shall exclude any information which compromises the security of the voting system.

(xv) Programming specifications. The vendor shall provide an overview of the software design, structure and implementation algorithms. Whereas the functional specification of the preceding section provides a description of

what functions the software performs and the various modes in which it operates, this section should be prepared so as to facilitate understanding of the internal functioning of the individual software modules. Implementation of functions shall be described in terms of software architecture, algorithms and data structures and all procedures or procedure interfaces which are vulnerable to degradation in data quality or security penetration shall be identified.

(xvi) Test and verification specifications. The vendor shall provide a description of the procedures used during software development to verify logical correctness, data quality and security. This description shall include existing standard test procedures, special purpose test procedures, test criteria and experimental design and validation criteria. In the event that this documentation is not available, the qualification test agency shall design test cases and procedures equivalent to those ordinarily used as a basis for verification (see below).

(xvii) Qualification test specification. The vendor shall provide a description of the specification for verification and validation of overall software performance, including acceptance criteria for control and data input/output, processing accuracy, data quality assessment and maintenance, exceptional handling and security. The specification shall identify specific procedures by means of which the general suitability of the software for elections use can be assessed and demonstrated. The vendor's specification and procedure shall be used to establish the detailed requirements of the tests described in ''Laboratory Environmental Test Procedures for Hardware and Software'' of this standard.

(xviii) Acceptance test specification. The vendor shall provide a description of the specification for installation, acceptance and readiness verification. This specification shall identify specific procedures by means of which the capability of the software to accommodate actual ballot formats and format logic, and pre-election logic, accuracy and security test requirements of using jurisdictions may be assessed and demonstrated. The vendor's specifi-

cation shall be used to establish the detailed requirements of the tests described in ''Laboratory Environmental Test Procedures for Hardware and Software'' of this standard performed to evaluate the adequacy of the vendor's procedures and it shall be suitable for inclusion in the regulations and procedures of user counties when preparing for the conduct of actual elections.

(xix) Appendices. The vendor shall provide descriptive material and data supplementing the various sections of the body of the software specification. The content and arrangement of appendices shall be at the discretion of the vendor. Topics recommended for amplification and treatment in appendix form include:

(a) Glossary. Provide a listing and brief definition of all software module names and variable names with reference to their locations in the software structure. Include abbreviations, acronyms and terms which are either not commonly used in data processing and software development or which are used in an uncommon semantic context.

(b) References. Provide a list of references to all related vendor documents, data, standards and technical sources used in software development and testing.

(c) Program analysis. Provide the results of software configuration analysis, algorithm analysis and selection, timing studies and hardware interface studies reflected in the final software design and coding.

(d) Security analysis. Provide a detailed description of the penetration analysis performed to preclude intrusion by unauthorized persons and fraudulent manipulation of elections data. Identify security policies and measures and selection criteria for audit log data categories.

(4) Operator information. This documentation shall include a physical description of the equipment sufficient to identify all features, controls and displays. It shall include a complete procedure for energizing the equipment, for testing and verifying operational status and for identifying all abnormal equipment states. It shall include a complete operating procedure for inserting ballots to be tabulated, for control-

ling the tabulation process, for monitoring the status of the equipment, for recovering from error conditions and for preparing output reports. It shall also include troubleshooting instructions. The documentation shall also include a description of the relationship of the sensitive area, voting target, and ballot position. For paper-based systems, this description shall include a description of the nature of the marks the system will and will not count as votes, for example, the types of marks made with each of a variety of pens and pencils that should be counted and that should not be counted. For DRE voting systems, this description shall include a description of the nature of the voter action required to cast a vote in the sensitive area, for example, the force and duration of contact required.

(5) Maintenance information.

(i) This documentation shall contain a complete physical and functional description of the equipment and a theory of operation which fully describes the electrical and mechanical function of the equipment, how the processes of ballot handling and reading are performed, how data are handled in the processor and memory sections, how data output is initiated and controlled, how power is converted or conditioned and how test and diagnostic information is acquired and used.

(ii) A complete parts and materials list shall be provided which contains sufficient descriptive information to identify all parts by type, size, value or range and manufacturer's designation.

(iii) Technical illustrations and schematic representations of electronic circuits shall be provided with indications of all test and adjustment points and the nominal value and tolerance or waveform to be measured. Fault detection, isolation and correction procedures or logic diagrams shall be prepared for all operational abnormalities identified by design analysis and operating experiences.

(6) Logistics, facilities and training. The vendor shall identify all operating and support requirements of the system or component. These requirements include material, facilities and personnel, including furnishings, fixtures, and utilities

which will be required to support system operation, maintenance and storage.

(7) Maintenance training and supply.

(i) The vendor shall identify all corrective and preventive maintenance tasks, including the calibration of the system, as appropriate, and the level at which they shall be performed. Levels of maintenance shall include operator tasks, maintenance personnel tasks and factory repair.

(ii) Operator tasks shall be limited to the activation of controls to identify irrecoverable error conditions and to the replenishment of consumables such as printer ribbons, paper and the like.

(iii) Maintenance personnel tasks shall include all field maintenance actions which require access to internal portions of the equipment. They shall include the conduct of tests to localize the source of a malfunction; the adjustment, repair or replacement of malfunctioning circuits or components and the conduct of tests to verify restoration to service.

(iv) Factory repair tasks shall be minimized, and repairs shall be made on site whenever reasonably possible. Factory repairs shall only include complex and infrequent maintenance functions which require access to proprietary or to specialized facilities and equipment which cannot be obtained by the county board.

(v) The vendor shall identify by function all personnel required to operate and support the system. For each functional category, the number of personnel and their skills and skill levels shall be specified.

(vi) The vendor shall specify requirements for the training of each category of operating and support personnel, including but not limited to voters, poll workers, and elections staff. The vendor shall prepare all materials required in the training activity and shall provide or otherwise arrange for the provision of as many qualified instructors as are necessary to properly and fully train said personnel in each category.

(vii) The vendor shall recommend a standard complement of supplies, spares and repair parts which will be

required to support system operation. This list shall include the identification of these materials and their individual quantities and sources from which they may be obtained. The vendor shall supply, at vendor's expense, any special tools required to repair or maintain the equipment.

(viii) The vendor shall provide complete instructions for all methods of voting which voters may use to cast their vote, including instructions on entering and changing votes, write-in voting, verifying votes and accepting the cast votes. Written and audio instructions shall be provided in each language in which voting shall occur within the State.

(8) Usability test. Vendors shall make available to the State Board, in a quantity to be determined by the State Board, voting systems for the purpose of conducting a usability test, which will establish the minimum number of voting machines required in each polling place and the maximum number of voters that can vote on one voting machine during the course of an ordinary 15-hour election day. The ballots to be used for this test shall include both primary and general election ballots, with ample candidate selection options and ballot proposal selections. For the purposes of the usability test, voting shall occur by utilizing all the devices which a voter may use to make their selections. If a vendor has previously performed a usability test on the same or similar voting system which meets the requirements of this section, the State Board may consider the findings of same. Whenever the State Board is satisfied that a voting machine or system's usability analysis has provided adequate and accurate information relative to the requirements of Election Law, section 7-203.2, then the State Board may, in its discretion, accept such documentation as satisfaction of the usability test required by these regulations.

(9) Voter demonstration test.

(i) The purpose of this test is to provide, in a simulated election day environment, a public demonstration of the usability and accuracy of such systems or machines.

(ii) Vendor must submit, in a quantity to be determined by the State Board, additional voting systems or equip-

ment that have been submitted for certification. These additional systems or equipment will be returned to the vendor upon the completion of voter demonstration testing.

(iii) The State Board shall make available to the public, all non-proprietary documentation submitted by the vendor.

(10) Certification.

(i) The State Board shall escrow a complete copy of all certified software that is relevant to functionality, setup, configuration, and operation of the voting system, including but not limited to, a complete copy of the source and executable code, build scripts, object libraries, application program interfaces, and complete documentation of all aspects of the system including, but not limited to, compiling instructions, design documentation, technical documentation, user documentation, hardware and software specifications, drawings, records, and data. Documentation shall include a list of programmers responsible for creating the software and a sworn affidavit that the source code includes all relevant program statements in low-level and high-level languages. The State Board may require that additional items be escrowed. If any vendor contracts to escrow additional items, those items shall be subject to the provisions of this section.

(ii) The vendor shall immediately notify the State Board of any change in any item required to be escrowed by subparagraph (i) of this paragraph, and shall provide an updated version for deposit.

(iii) The chief executive officer of the vendor shall sign a sworn affidavit that the source code and other material in escrow is the same being used in its voting systems in the State. The chief executive officer shall have an ongoing obligation to ensure the statement is true.

(iv) The vendor shall promptly notify the State Board and each county board using its voting system of any decertification of the same system in any state, of any defect in the same system known to have occurred anywhere, and of any relevant defect known to have occurred in similar systems.

(v) Upon completion of testing, reports shall be produced by the ITA and State Board staff, and a recommendation either for or against certification shall be made to the State Board's commissioners.

(vi) If the State Board determines that a system meets the requirements of this Part, and is determined to be suitable for use by voters, it shall certify such system. A notice of provisional certification shall be prepared and forwarded to the vendor, forthwith. The vendor shall ensure that the voting system's software has been escrowed as set forth in Election Law, section 7-208, and the vendor has updated any affidavit and complied with the affidavit requirements, as set forth in section 6209.4(h) of this Part.

(vii) Upon compliance with the provisions set forth above, a notice of certification shall be awarded to the vendor. Notice of such certification shall also be provided to all county boards.

(viii) If the State Board fails to certify a system, the vendor shall be so notified.

(ix) Once a certified system is selected for purchase by a county board, that system's software shall be provided to the county board by the State Board, and not the vendor.

§ 6209.7 Modifications and re-examination

(a) Any prospective modification to a previously certified voting system shall be submitted to and approved by the State Board before such modification is made.

(b) No modification of previously certified voting systems equipment shall be used in any election until such modification has been approved by the State Board.

(c) Prospective modification shall be reviewed by the State Board or by an examiner or testing laboratory selected by the State Board in accordance with the fee schedule established by section 7–201 of the Election Law.

(d) Upon completion of a review of such prospective modification, the State Board may cause a re-examination of the entire voting system, or within its discretion, grant continuation of certification pursuant to the provisions of section 7–201 of the Election Law.

§ 6209.8 Recission of certification

(a) If at any time subsequent to the State Board's approval of a voting system, the State Board determines that the voting system fails to fulfill the criteria prescribed by statute and these rules, the State Board shall notify any purchasers and vendors of that particular voting system's failure, post such notice on its website, and give notice by mail to the chairs of all political parties and interested persons who have previously requested notification of such information, that the State Board's approval or certification of that system in New York State is to be withdrawn.

(b) Failure of a vendor, its officers and its controlling shareholders to file affidavits as required in section 6209.4(i) of this Part may result in the rescission of certification. Notice of such failure shall be in writing and shall specify the reasons why the approval or certification of the system is being rescinded.

(c) At the State Board's discretion and depending on the reason for recision, a notice may also provide for a 30-day period within which the vendor must correct deficiencies, and shall further specify the date on which the rescission is to become effective.

(d) Any vendor or purchaser of such voting system, and any interested person or organization, may request in writing that the State Board reconsider its decision to rescind approval or certification of the voting system.

(e) Upon receipt of such request to reconsider, the State Board shall hold a public hearing for the purpose of reconsidering the decision to rescind the approval or certification, and shall give published notice of such hearing at least two weeks in advance, including posting it prominently on its website and giving notice by mail to public advocacy organizations which have requested such notification or requested that the State Board reconsider its decision. Any interested party shall be given the opportunity to submit testimony or documentation in support of or in opposition to the Board's decision to rescind approval or certification.

(f) The State Board may affirm or reverse its decision. Should the State Board affirm its decision, such vendor may be

prevented from submitting a new application form for a period of two years following the date of the final decision.

§ 6209.9 Contracts

(a) In addition to complying with all statutory requirements, all contracts for the purchase of voting systems by county boards, hereinafter to be designated 'purchaser', shall include the following requirements:

(1) Training. Vendors of voting systems shall provide for sufficient training of boards of elections personnel in the following:

(i) training prior to delivery of voting systems and equipment on procedures for unpacking, assembling and acceptance testing of such equipment;

(ii) training for proper use of such equipment including maintenance, storage and transportation procedures;

(iii) the vendor shall provide complete operations manuals (including operations manuals for any auxiliary features, programming, hardware, telecommunications systems and central vote tabulating systems) upon delivery of voting systems equipment to a jurisdiction. Such manuals shall include one copy of procedures to be followed by inspectors at polling places. The vendor shall permit this copy to be reproduced and distributed by the county board at its training school for election inspectors or the vendor shall supply as many copies of the procedures as required by purchaser for such distribution;

(iv) the vendor shall assist in the training of all elections personnel (including election inspectors) during the first two elections, to include a general election, in which the system or equipment is used. Such assistance relating to the number of people and the hours of assistance shall be identified in the executed contract.

(v) sufficient training for county board personnel in the use of the vendor's voting system's supporting software, procedures to be used to accomplish ballot face layout and ballot programming, and all other features of the software.

(2) Service provisions

(i) The contract shall identify the obligations of the vendor to promptly rectify any problems identified through testing any or all of the voting systems equipment delivered to the purchaser.

(ii) The vendor shall, without additional cost, provide to the purchaser a five-year guarantee of parts and service, that such voting systems equipment shall be kept in good working order and that other statutory requirements are met. Shipping costs for any factory repairs or part replacement will be incurred by the vendor.

(iii) The vendor shall provide to the purchaser of said voting systems equipment a detailed listing of proper maintenance, storage and transportation procedures to be carried out by each purchaser.

(iv) The vendor and the purchaser shall agree in writing as to the proper maintenance procedures to be implemented on each piece of equipment and shall further agree in writing as to the obligations of each party for servicing and maintenance procedures.

(v) The vendor must correct any problems or defects in the voting equipment or voting systems within a commercially reasonable time period. If the time for resolving problems or defects is insufficient to allow for adequate resolution prior to use in an election, an alternate machine or unit shall be provided by the vendor, and such machine or unit shall be subjected to the acceptance testing requirements of this Part.

(vi) The vendor shall provide the purchaser with the criteria necessary for the proper operation of the voting system or equipment at a polling place.

(3) Polling site survey.

(i) The vendor, together with the purchaser, shall survey the present polling places in a jurisdiction to which its voting system or equipment has been sold, to determine whether or not such polling places meet environmental conditions for the proper operation of the voting system or equipment. This provision shall apply to those polling places which are in use at the time of the proposed sale.

(ii) If any polling places are not compatible, the vendor shall advise the jurisdiction purchasing the voting system or equipment on the methods or procedures that the said jurisdiction may use to remedy any such problem.

(4) Additional requirements:

(i) delivery schedule;

(ii) acceptance testing requirements;

(iii) storage and maintenance responsibilities; and

(iv) shipping delivery guidelines and requirements.

(v) a list of system proprietary and non-proprietary consumables, extended warranties, services, and other such items as may be considered by county boards for purchase, with the exception of programming, as county boards are prohibited from contracting with a vendor for programming services.

(b) A vendor entering into a contract shall affirm that:

(1) the submitted voting system complies with all applicable rules adopted by the State Board, and with all applicable 2005 Federal Voting System Guidelines;

(2) the vendor will quote and provide a statewide, uniform price for each unit of the voting system's equipment;

(3) the submitted voting system's software does not contain any code, procedures or other material (including but not limited to 'viruses', 'worms', 'time bombs', and 'drop dead' devices that may cause the voting system to cease functioning at a future time), which may disable, damage, disarm or otherwise affect the proper operation of the voting system, any hardware, or any computer system or other property of the State Board or county board; and

(4) any submitted voting system provides methods through security seals or device locks to physically secure against attempts to interfere with correct system operations. Such physical security shall guard access to machine panels, doors, switches, slots, ports, peripheral devices, firmware, and software.

(c) The vendor shall post a bond or letter of credit to cover any and all expenses, costs, and damages, including but not limited to all costs of inspecting or testing a voting system that

does not meet the standards contained in this Part and all costs incurred in conducting any new election resulting from any breach of the warranties and representations required to be made anywhere in this Part, or in the New York State Election Law. Said bond or letter of credit shall be set by the State Board.

(d) For purposes of the initial purchases of voting machines and systems, pursuant to the Federal Help America Vote Act of 2002, and the State Election Reform and Modernization Act of 2005, all contracts entered by the State Board or county boards with vendors, must comply with Office of General Services (OGS) regulations on purchasing procedures and purchases from preferred sources, found in NYCRR Title 9, Subtitle G, Subchapter A, Part 250, section 250.0 through and including section 250.11.

§ 6209.10 Acceptance testing

(a) County boards, under the supervision of the State Board, shall conduct a public acceptance test on each unit of any voting system purchased by such county. Such acceptance testing shall begin within 72 hours of delivery of the equipment from the vendor to the purchaser and shall be completed prior to the use of the equipment in any election.

(b) Such testing shall be conducted under the supervision of the State Board in accordance with the testing requirements and formats provided by the State Board. This test may consist in part, of the original certification test deck as utilized by the State Board in the certification of the system.

(c) Acceptance testing for voting systems shall include the comparison of software installed on the delivered system to certified software, via the use of a Secure Hash Signature Standard (SHS) Validation Program, contained in Federal Information Processing Standards Publication 180-2 issued by the National Institute Standards Technology.

(d) Acceptance testing for non-PC-based voting systems shall include testing to be prescribed by the State Board at the time of system selection, pursuant to section 6209.5(i) of this Part, to verify that the voting system delivered to the county board is identical to the system certified by the State Board.

(e) The results of acceptance testing shall be both documented and attested to by the county board and the State Board, and the documentation placed in the maintenance log for the system, and on file with the State Board.

(f) If the acceptance test reveals any impropriety or fault in the ballot counting system's equipment, the vendor must make corrections to such improper or faulty equipment within 15 days from the date of such acceptance testing.

(g) The State Board, upon its review of the acceptance testing of such system's equipment may, at its discretion, rescind certification of said equipment in the State of New York in accordance with the provisions of section 6209.8 of this Part.

§ 6209.11 Temporary provision

Notwithstanding any other regulation, no voting machine certified after May 1, 2006 may be used in any election until the State Board adopts regulations for routine maintenance and testing, voting system operations procedures, and central count procedures.

§§ 6209.12 to 6209.17. [Repealed]

PART 6210—ROUTINE MAINTENANCE AND TESTING OF VOTING SYSTEMS, OPERATIONAL PROCEDURES, AND STANDARDS FOR DETERMINING VALID VOTES

Section

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Section
6210.15. Standards for determining valid votes on optical scan voting systems and/or paper ballots.
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6210.18. Three-percent audit.
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6210.20. Use of automated audit tool.

§ 6210.1 Definitions

Except to the extent set forth below, the definitions contained in section 6209 of this Title shall apply in this section

(a) *Pre-qualification test* is a test prescribed by the State Board, conducted immediately prior to the voting systems' use in an election in which a predetermined set of votes are cast which will ensure that all voting positions for each ballot configuration are tested. Such votes shall be entered into the voting system in the same manner as they will be entered by voters during an election. If a voting system offers several methods for votes to be entered, such as touch-screen, push-button, or other electronic mechanism, a key pad and/or pneumatic switch for voters with disabilities, or alternate language displays, then a pre-determined set of votes shall be entered separately using each method and language display. The results of the casting of said votes and all voting system logs shall be extracted from the system as though during normal use in an election, and the results and logs shall be compared to the predetermined results of the test votes and vote totals prepared pursuant to regulations and procedures of the State Board.

(b) *Printout* means either the printed copy of zero totals, candidate names and offices and other information produced by the voting equipment prior to the official opening of the polls or the printed tabulation report of votes cast for each candidate and question, the names of candidates and the offices for each candidate and other information provided after the official closing of the polls.

(c) *Election mode*. An operational setting and/or functional level of a voting system that would allow the user, under the required conditions stated by law, to make selections, and/or cast a ballot, and which also uniquely provides the potential to have a marked ballot officially accepted for counting at the time of a defined election. *Note:* This mode of operation may

also be synonymous with the term ''live vote mode'' or similar. This mode may also be run at any time, either for the running of realistic simulations for testing, and/or after various maintenance activities. This mode is specifically required to be run in the conduct of an official election.

(d) *Test mode.* An operational setting and/or functional level of a voting system that would allow the user to specify/select, access, and/or test various levels/areas of the device, either, for example, during possible upgrades, diagnostic testing, and/or specific maintenance activities that may not require full functional simulation, or capabilities at that time. *Note:* This mode of operation is a separate option from election mode, and is prohibited from being run in the conduct of an official election.

(e) *Closed network.* A closed network is a stand-alone server that is used for a specific purpose, such as an election management system (EMS), and to which access is restricted to specific workstations and users and not connected to any other internal or external network.

§ 6210.2 Routine testing of voting systems

(a) Testing of all voting systems shall be conducted by the county board before the use of the system in any election and at such other times of the year as prescribed by these regulations. Testing procedures shall be approved by the State Board. The voting system shall be tested to determine that the system is functioning correctly and that all system equipment, including but not limited to hardware, memory, and report printers, are properly integrated with the system and are capable of properly performing in an election. Testing, other than pre-qualification testing, shall be conducted by casting manual votes and may include the casting of simulated votes.

(b) All voting equipment owned by a county board of election shall be tested at least once every calendar year. All other voting equipment that has not undergone pre-qualification testing prior to use in any election in the calendar year shall be tested no later than December 31st of the calendar year. Such tests are in addition to vendor-prescribed maintenance tasks and diagnostic tests, conducted by the county board. Whenever a voting system is to be tested for pre-qualification purposes, such test must be conducted while the voting system is in

election mode. Votes cast for pre-qualification test purposes shall be manually cast using all of the devices available to voters on election day (*i.e.*: audio, key pads and or pneumatic switches, and/or alternate language displays).

(c) Testing shall include the comparison of software installed on the delivered system to certified software, via the use of a Secure Hash Signature Standard (SHS) Validation Program, as described in *Federal Information Processing Standards Publication 180–2* issued by the National Institute Standards Technology (This publication is available electronically by accessing the NIST website. Alternatively, copies of NIST computer security publications are available from: National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161.)

Testing shall consist of the re-calibration of equipment, as appropriate, pursuant to recommendations made in vendor's maintenance documentation, and the casting of a test deck by voting the minimum number of ballots, determined pursuant to the requirements of section 6210.8 of this Part, to ensure that all voting positions for each ballot configuration are tested. Votes cast for the purposes of this section shall be cumulative ballots cast on each piece of equipment.

(1) If the system does not accurately count the votes from the test deck cast manually, simulated, or both, (aside from those that were deliberately designed to fail), or the calibration test, the cause or causes for the error or errors shall be ascertained and corrected. The voting system shall be retested until there are two consecutive error-free tests before the system is approved for use in the count of actual ballots. The commissioners of the county board or their designees shall certify that they have reviewed and verified the results of said testing. The summary results of all tests, including all inaccurate test results, their causes and the actions taken to correct them, as well as the results of all errorless counts, shall be entered upon the maintenance log. Maintenance logs are to be kept as a permanent record of the county board. All other documentation and/or test decks, simulation cartridges and any test data including but not limited to copies of ballot programming used for required maintenance tests shall be maintained in secure locked storage for two

years after the election, pursuant to Election Law section 3–222.

(d) For pre-qualification testing of a system to be used in a primary election, the test ballot format for each piece of equipment assigned for use in said primary election shall consist of each primary ballot configuration as certified by the county board, if said equipment is to be utilized in a primary election. The voting system shall be cleared of all votes and a printed report shall be produced by the system, to verify the correct ballot configuration and election configuration, and to confirm that all voting positions are at zero. Ballots cast for the purposes of this test shall be manually cast and a printed tabulation report shall be produced. The system shall again be cleared of all votes and a printed report shall be produced by the system to confirm that all voting positions are at zero. Each officer or board charged with the duty of preparing voting machines for use in any election shall give written notice pursuant to Election Law sections 7–128 and 7–207, by first class mail, to the State Board and to all candidates, except candidates for member of the county committee, who are lawfully entitled to have their names appear thereon, of the time when, and the place where, they may inspect the voting machines to be used for such election. The candidates or their designated representatives may appear at the time and place specified in such notice to inspect such machines, provided, however, that the time so specified shall be not less than two days prior to the date of the election.

(e) For the period between ballot certification and seven days before the general election, the test ballot format for each piece of equipment shall consist of each general election ballot configuration as certified by the county board. The voting system shall be cleared of all votes and a printed report shall be produced by the system, to verify the correct ballot configuration and election configuration, and to confirm that all voting positions are at zero. Ballots cast for the purposes of this test shall be manually cast and a printed tabulation report shall be produced. The system shall again be cleared of all votes and a printed report shall be produced by the system to confirm that all voting positions are at zero. Each officer or board charged with the duty of preparing voting machines for

use in any election shall give written notice pursuant to Election Law section 7–128 and section 7–207, by first class mail, to the State Board and to all candidates, except candidates for member of the county committee, who are lawfully entitled to have their names appear thereon, of the time when, and the place where, they may inspect the voting machines to be used for such election. The candidates or their designated representatives may appear at the time and place specified in such notice to inspect such machines, provided, however, that the time so specified shall be not less than two days prior to the date of the election.

(f) In addition to any vendor provided training, the State Board shall provide training on routine maintenance and testing of voting systems to county board personnel responsible for voting systems. The State Board shall provide sample tests to be utilized by each county board. The State Board may revise said testing format, based upon its audit and review.

(g) All results of any testing in addition to pre-qualification testing, including the final errorless test, shall be certified as accurate by the county board commissioners or their designees, and such certification shall be entered upon the maintenance log for each such piece of equipment, together with any other information prescribed in said log by the State Board.

(h) The county board shall certify to the State Board, the completion of any, testing including pre-qualification testing. All documentation and/or test decks, simulation cartridges and any test data including but not limited to copies of ballot programming used for required maintenance tests shall be maintained in secure locked storage for two years after the election, pursuant to Election Law section 3–222. Such certification shall be on a form prescribed and furnished by the State Board, and shall be accompanied by copies of each maintenance log.

(i) Each county shall keep a detailed log of maintenance performance and testing procedures. Such logs shall be in a format provided by the State Board and the same shall have been reviewed by the vendor.

(j) Such logs shall be provided upon completion of any testing, including pre-qualification testing or as requested by

the State Board, for their review and inspection, and shall be made available to the public, upon request.

(k) The State Board may, upon review of the maintenance logs, require further testing of any such piece of equipment or may remove a piece of equipment from use in an election until further examination and testing has been completed, or may rescind certification pursuant to section 6209.8 of the State Board regulations.

(1) The State Board may reinstate the certification if the equipment passes these further tests, and a review of the maintenance logs supports such reinstatement.

(2) County boards shall make the system or equipment available to the State Board for any such additional testing and shall provide such assistance as may be deemed necessary.

(*l*) During the initial time period in which such system or equipment is used, to include a primary election and a general election, the State Board shall assist in the routine maintenance, testing and the operation of the voting machines or systems. Such assistance shall include but not be limited to:

(1) election configuration and ballot configuration related to voting system testing and use;

(2) pre-qualification and post-election tests;

(3) election day support, via phone, email, facsimile or on-site, as necessary;

(4) post-election support, to include recanvass, challenges, and audit conducted pursuant to Election Law section 9–211;

(5) staff training;

(6) defining personnel requirements and tasks;

(7) defining procedures for pre-qualification, post-election, and maintenance tests; and

(8) defining procedures for canvassing and recanvassing votes cast in an election.

(m) During successive years, the State Board, whenever it deems necessary, or at the request of a county board, may assist in any or all aspects of the operation of the system.

§ 6210.3 Submission of procedures for unofficial tally of results of election

County boards which adopt procedures pursuant to Election Law section 9-126(3) shall file such procedures with the State Board of Elections.

§ 6210.4 Demonstration models

(a) During the first five years after purchase, any county which purchases precinct–based voting equipment systems shall provide a model, diagram, video or other electronic instruction (example CD ROM) of such voting system's equipment for each polling place in its jurisdiction.

(b) Any such model, diagram, video or other electronic instruction must be approved by the State Board and must meet the following specifications:

(1) May not contain the name of any party or independent body which has been continuously used in New York State.

(2) Display a ballot layout which shall consist of at least two party rows and eight voting positions including at least one multiple-candidate office (vote for two).

(3) Demonstrate how a voter can:

(i) Vote for a candidate, question or proposition.

(ii) Verify in a private and independent manner the votes selected by the voter on the ballot before the ballot is cast and counted.

(iii) In a private and independent manner change the ballot or correct any error before the ballot is cast and counted, including the opportunity to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error.

(iv) Cast a write-in ballot.

(v) Cast the ballot.

(vi) Be notified on the effect of the voter casting multiple votes for an office or proposal in excess of the number permitted.

(vii) Be notified on the effects of an undervote.

(viii) Utilize the accept ballot/reject ballot feature, if any is available on such voting machine or system.

(c) If a model is used, each model must:

(1) be no less than 11 inches by 14 inches; and

(2) be operated by electricity and/or a battery power source.

(d) If a diagram is used it shall be no smaller than 11 inches by 17 inches.

§ 6210.5 Voting system operations

(a) All voting systems used in New York State shall be used in a manner consistent with Election Law, these regulations and the United States Election Assistance Commission's 2005 Voluntary Voting System Guidelines and any conditions specified in the State Board's certification of the voting system for use in New York elections.

(b) Only the county board shall have care, custody and control over all resources for the purposes of conducting elections, including but not limited to vote counting, preparation and custody of ballots, system maintenance and all testing. If it becomes necessary to transfer control of any equipment to a vendor for repairs, or to other political subdivisions for use by them in their elections, such voting systems and/or equipment shall not be used in a live election by the county board until such time as such equipment is returned to the care, custody and control of the county board and acceptance testing of each such system or equipment is performed pursuant to section 6209.10 of the State Board Regulations.

§ 6210.6 Personnel

It is the responsibility of the county board to provide sufficient and appropriate staff to perform the functions required for successful use of the voting system. All tasks shall be defined in written procedures, and personnel assigned shall be thoroughly trained to carry out their responsibilities.

§ 6210.7 Ballots

(a) For the production of paper ballots or ballot faces for DRE voting systems, the county board shall contract with a

printer or use in-house print services that have the requisite expertise, staff, and equipment for printing ballots of the complexity and in the volume required for the conduct of elections in that county, and that ensures delivery of finished ballots in time to comply with the relevant provisions of the Election Law and the election calendar.

(b) Detailed specifications for production of ballots shall be supplied to the county board by the voting system vendor. These shall include but not be limited to particulars of the system's ballot such as weight, grain and color of stock; dimensions of ballot faces, ballots and ballot cards; corner cuts; perforations, both for ballot boundaries and for stub boundaries, when appropriate; ballot positions, sensitive areas and voting targets; pre-marks for imprinting of ballot configuration information; printing registration and tolerances; ink; use of drying powder; and packaging of printed ballots for shipment and for storage until time of use. The county board shall transmit these specifications to the printer chosen to produce its ballots.

(c) In the first year that the voting system is in use, a copy of the final form and arrangement of each ballot configuration shall be filed with the State Board.

(d) Ballots shall be identified by ballot configuration, using marks which are machine readable and human readable text. A sheet of ballot paper becomes a ballot when the contents of the ballot are printed thereon.

(e) Ballots to be used with poll site optical scan voting systems, shall be in a form consistent with Election Law. Each ballot shall have a numbered stub which can be separated from it along a perforated boundary. Such ballot shall be detached from the numbered stub prior to the election inspector giving the ballot to the voter and be retained by the county board in a manner consistent with election-related document retention requirements. Ballot stubs, however, shall not be required if the board of elections implements procedures to provide for ballot accountability equivalent to the use of ballot stubs as provided for in section 6210.10(b) of this Part.

(1) The ballot stubs, when required, shall be sequentially numbered, and shall include the date of the election, the

political subdivision in which the ballot is valid, and in a primary election, the name of the party conducting the primary, and further, stubs may be color coded, to correspond to same.

(2) Ballot stubs, when required, shall include spaces for inspectors to indicate with their initials, whether the ballot was used for affidavit or emergency purposes.

(3) Ballots shall be bound in packages of 100, or in such other increments as a county board may, by written procedure, deem appropriate. When ballot stubs are used, binding shall be by staples, to help ensure ballot accountability. Packages of ballots not requiring ballot stubs shall be shrink wrapped or otherwise sealed in a heat-sealed or gummed bag with a cover.

(4) Ballot packages shall have a cover, on which shall be printed the date of the election, the political subdivision in which the ballot package shall be valid, the number of ballots therein, the sheet number of a ballot when it is part of a multiple sheet ballot, the range of sequential ballot stub numbers contained therein, if applicable, and such other administrative information as the county board may deem necessary. In primary elections, booklet covers shall include the name of the party conducting a primary, and may be color coded, to correspond to same.

(5) When more than one ballot package is to be used in any election district, a transmittal sheet shall accompany the packages, which shall specify how many packages are included, the number of ballots in total and the complete range of sequential ballot stub numbers for that district, if applicable, and shall further provide a space or spaces for inspectors to confirm receipt of all ballots.

(6) Ballot packages and any transmittal sheet, shall be delivered to inspectors with other election day supplies, in a separate, secure, sealed and labeled container, envelope or pouch.

(7) Only one ballot package at a time should be on the inspector table, and the remaining booklets shall be kept in their secure container, envelope or pouch.

(8) Upon opening a package of ballots that are not stubbed, the inspectors shall count the number of ballots in such package to ensure it is the number indicated on the coversheet. When all ballots in a package have been used, leaving only the cover and the stapled pad of stubs, in the case of ballots that are stubbed, such package shall be returned to the package container/envelope/pouch and the next appropriately numbered ballot package shall be removed for use.

(9) After the close of polls, the transmittal sheet shall be completed by the inspectors, indicating which packages were completely used, partially used, or not used. The ballot package container/envelope/pouch shall be sealed and returned to the county board with all other election day supplies.

(f) The county board shall cause its respective printer(s) to certify to the county board, upon delivery of ballots ordered:

(1) the actual number of ballots printed;

(2) the number of ballots delivered; and

(3) that all other ballots printed have been destroyed.

The county board shall inventory all ballots and ensure the security of any and all ballots while they are in the possession of the county board.

(g) For central count paper-based voting systems, ballots printed for absentee voting, and those printed for emergency, special and affidavit purposes shall be tabulated by batch, and be subject to all appropriate provisions of these regulations. The county board shall provide a means by which affidavit, emergency, and special ballots shall be distinguished from absentee ballots.

(h) *Ballots with multiple sheets.* A board of elections may provide a voter a ballot consisting of more than one separate, unconnected sheets, provided:

(1) The ballot includes a statement that the voter must receive the number of ballot sheets the voter is entitled to, specifying such number. Such notice may be substantially in the following form: ''Your ballot consists of (*here insert the*

total number of sheets comprising the ballot) separate sheets. All of the sheets must be provided to you at the same time.''

(2) Each ballot sheet shall be prominently labeled as ''ballot sheet (*here insert the number of the ballot sheet*) of (*here insert the total number of sheets comprising the ballot*).''

(3) Ballot accountability and reconciliation procedures shall apply to each sheet of a multiple sheet ballot. Each sheet of a multiple sheet ballot may be spoiled without spoiling another sheet comprising the same multiple sheet ballot.

(i) *Ballots printed on demand.* (1) Ballot on demand printers and supplies shall be secured as provided by the procedures of the State Board of Elections.

(2) Inspectors shall keep a record of the number of ballots of each ballot style printed by a ballot on demand printer. Such ballots shall be considered delivered to the inspectors at the time of printing, and the inspectors shall record the distribution of such ballots in the same manner as provided for in this section. Logs maintained by the ballot on demand printer application may be used by the inspectors to meet the requirements of this paragraph to record the number of ballots printed.

§ 6210.8 Test deck procedures

Each county board shall prepare a test deck to be used to verify that the voting system's election configuration and ballot configuration is correct and that the voting system will accurately cast and count votes within each individual ballot configuration.

(a) The ballots shall be voted with a pre-determined number of valid votes for each candidate, each write-in position, and each voting option on every proposal that appears on the ballot as certified by the county board in order to verify that the vote system is programmed to correctly count the ballots. The deck includes one or more ballots that are intended to fail, have been improperly voted, or which are voted in excess of the number allowed by law, and one or more ballots on which no votes are cast, in order to test the ability of the system to recognize and/or notify of an under or over vote. If there is

more than one ballot configuration for an election, a separate test deck is created for each ballot configuration. In election districts that will utilize a single voting system for two or more ballot configurations, required testing shall consist of a different test deck for each ballot configuration to be utilized on such voting system, to ensure that the addition of multiple ballot configurations has not affected the accurate casting and counting of votes within individual ballot configurations.

(b) Test decks which include sub-decks are created once election configuration and ballot configuration tasks have been completed, and ballot configurations have been verified, utilizing detailed procedures for preparation of a test deck prescribed to the county board by the State Board. Using a tool or tools, (*ie* Excel) make a test script for each specific ballot within the test deck, such that when all test ballots within the test deck are completely cast it will accurately test all positions, undervotes, overvotes, write-in positions, propositions and ballots that are deliberately designed to fail.

(1) To create a test deck on an optical scan voting system, test ballots must be marked, following the pattern determined to sufficiently test the ballot programming, logic, and accuracy.

(i) For optical scan voting systems, the test deck includes one or more ballots on which two or more votes are cast for a candidate whose name appears on the ballot more than once for the same office in order to test the ability of the system to count only the first of such votes for the candidate.

(2) To create a test deck for DRE systems, the creation of a test script is required, so that the pattern of votes can be followed, to facilitate the manual casting of same.

(i) For DRE systems, the test deck includes one or more ballots in which an attempt is made to cast two or more votes for a candidate whose name appears on the ballot more than once for the same office in order to test the ability of the system to accurately cast the voters choice(s) for such office.

(3) Assign each ballot in the script a unique ballot number.

(4) Calculate the number of ballots required to conduct each test. This calculation is the minimum number of ballots that must be cast on each voting machine or system where such ballot configuration is programmed, pursuant to section 6210.2(c) of this Part.

(c) Upon creation of a test deck and prior to use in pre-qualification testing, the test deck must be validated by casting the ballots in the test deck on a voting machine or system, printing out the tabulation report and comparing same to the predetermined expected results for that test deck to ensure accuracy. Any corrections to the test deck must be made prior to its use in pre-qualification testing.

(d) Once a test deck has been validated, test decks are run by a bi-partisan team on each voting system for which that particular ballot configuration is valid. The team shall enter at least one ballot from each sub-deck using each feature intended for people with disabilities, and enter at least one ballot from each sub-deck using each language provided on the unit. While one team member casts 1 votes for the test, the other member shall monitor that votes are cast correctly.

(1) The test shall be documented by the bi-partisan team, on a log to be prescribed by the State Board, and the team shall affix their signatures to the log. The log shall include but not be limited to:

(i) The date the test was executed.

(ii) The names of the persons who performed the test and recorded the results.

(iii) The serial number of the machine on which the test was executed.

(iv) The protective counter number of the machine on which the test was executed as it appeared both at the beginning and conclusion of testing.

(v) The name or description of the test performed.

(vi) The version number of the software under test.

(vii) The test result, either pass if the results match the expected results exactly, or fail if there is even one discrepancy.

(e) The bi-partisan team shall compare the accuracy of the results reported by the voting system to the expected results and determine if the machine passed or failed. Any discrepancies indicate a failure and must be investigated.

(1) If a test deck is run on a DRE, and the pre-determined vote count does not compare to the results reported by the voting system, the bi-partisan team shall document the problem, and then compare the paper audit trail transactions to the unique test ballot scripts, to be sure votes were cast correctly. Any corrections to the test deck itself, or to the casting of the test deck shall be made, and the test deck shall be re-run until two error-free test results are produced, pursuant to section 6210.2(c)(1) of this Part.

(2) If a test deck is run on an optical scan voting system, and the pre-determined vote count does not match the computer generated tabulation, then the bi-partisan team shall document the problem and compare the unique ballot script pattern with the test deck pattern to ensure that the test deck was made correctly and that all ballots were run. Any corrections to the test deck itself, or to the casting of the test deck, shall be made and the test deck shall be re-run until two error-free test results are produced, pursuant to section 6210.2(c)(1) of this Part.

(3) If the test deck and voting system fail to produce two consecutive error-free results, the system shall not be used until such time as the problem is resolved in a manner consistent with vendor documentation and State Board procedure.

(f) For DRE systems, the paper audit trail records with the accumulation report shall be signed by the testing team, then bound and placed in secure storage. For optical scan voting systems, the results report shall be signed by the bi-partisan team, and placed in secure storage. After all voting systems upon which a particular ballot configuration is valid have been tested, the test deck shall be stored with all corresponding reports, audit trails, log sheets and system logs required to be produced and reviewed pursuant to paragraph (e)(3) of this section.

(g) For central count paper-based systems, after entering all election ballot codes and creating header cards, if required by the software, the following verification procedures shall be performed:

(1) Place one ballot from the appropriate ballot configuration behind each header card.

(2) Process the complete set of header cards containing the single ballots against the absentee counting system and ballot counting program.

(3) If the software rejects a header or ballot card, the cause of the error shall be ascertained and corrected.

(4) Re-process all cards which generated errors to verify correction.

(5) At the discretion of and mutual agreement of a county board's commissioners, a resolution may be adopted for a specific election, which may provide that ballots be canvassed manually, rather than by using the central count paper-based voting system. Such resolution shall be filed with the county board's official minutes, and notice of the resolution and decision shall be provided in writing, to the State Board and to all party chairs and candidates, whose names appear on the ballots to be counted manually. The county board shall give written notice, by first class mail, to the State Board and to all party chairs and candidates who are lawfully entitled to have their names appear on the ballots, of such resolution.

§ 6210.9 Vote tabulation

(a) *Preparation of ballots for tabulation by central count paper-based systems.*

(1) Ballots shall be reviewed pursuant to the provisions of section 6210.13 of this Part, to determine if the ballot is machine-readable or if the ballot requires that it be manually counted, then recorded in the official canvass of the votes for the election.

(2) Ballots shall be assembled in separate batches by election district unless otherwise directed by the county board to preserve the secrecy of the ballot.

(i) Each batch shall be identified by a header card and at the end of all batches there shall be an end- or trailer-card, if required by the software. Header and trailer cards shall be visually distinct from ballots. Such distinction may be made, for example, by using a different color card stock, or different edge marking, or by other appropriate means.

(ii) The bi-partisan team of county board personnel shall place header cards, in order that the votes recorded on each ballot shall be attributed to the correct election district. When placing header cards, as each is placed by one person, the other person shall verify that the header card is the correct one for the batch of ballots which follows it and that it is correctly oriented in the batch.

(3) Ballots shall then be fed into the central count paper-based voting system. Following the counting of all ballots, a tabulation report shall be printed. Two back-up copies of the tabulation report shall be locked in secure storage.

(4) Where the number of ballots to be canvassed is small, the county board may provide for canvassing of the ballots by larger units of representation.

(b) *Testing during ballot tabulation by central count paper-based systems*. The system shall be so designed and constructed that, at the discretion of the county board, it shall be possible to halt the ballot tabulation at a point when a portion of the election districts have been counted, and run the test deck to demonstrate, as in the tests listed in section 6210.2 of this Part, the accuracy and dependability of the count without interrupting or affecting any official tabulation of results that may be on the equipment at that time.

§ 6210.10 Ballot accounting

(a) Following the counting of all votes in an election, a full accounting of paper ballots shall be made, and shall be reported on a form to be provided by the State Board, and attested to by the county board commissioners which shall be retained in accordance with Election Law section 3–222, which shall include:

(1) For each entire election and for each ballot configuration used in it, the number of paper ballots shall equal the sum of paper ballots issued to voters and paper ballots not issued to voters, returned but not sent for tabulation because the voter voted at the polls, ballots spoiled, and paper ballots not returned. In each category of ballots issued, the report shall specify how many, if any, and in what category any emergency or affidavit ballots were used.

(2) For each entire election and for each ballot configuration used in it, the number of paper ballots not issued to voters shall equal the sum of the number of paper ballots used for testing/sample purposes and paper ballots remaining unissued and unused.

(b) *Discontinuance of ballot stubs.* Ballot stubs shall not be required if the board of elections provides for the following ballot accountability requirements:

(1) Election inspectors shall confirm receipt of ballot quantities by confirming ballot packages received and counting the number of ballots in a ballot package when it is first opened to confirm the quantity stated on the coversheet.

(2) Election inspectors shall retain a written running tally of ballots distributed by ballot style, including the total number of ballots distributed to voters, included in such number the number distributed as affidavit ballots, and the number of ballots spoiled. Such tally shall be maintained in a manner that would permit an interim reconciliation of ballots at any time during voting.

(3) At the close of polls, the inspectors shall record ballot reconciliation totals to verify the number of ballots distributed to voters or spoiled when added to the number of unvoted ballots equals the number of ballots received by the inspectors at the beginning of voting.

(c) *Certification of ballot stub discontinuance.* Upon certification authorized by a majority vote of the commissioners of a board of elections filed with the State Board of Elections, that the procedures required in subdivision (b) of this section and all other applicable ballot requirements of this Part will be followed, for any election conducted thereafter the board of elections may determine not to use ballot stubs. Nothing herein

shall be construed to prevent a board of elections from using ballot stubs as provided for in this Part at any election, and nothing herein shall prevent the optional use of party color on a primary ballot.

§ 6210.11 Voting systems security

County board election officials shall take all steps necessary to ensure that the voting systems and election processes entrusted to them are protected against errors, accidents and malicious or fraudulent manipulation, consistent with voting system security procedures developed by the State Board.

(a) The county board shall establish procedures and policies which protect the voting system facility itself, the voting systems stored therein, and servers and computer systems used therein. The county board shall also ensure that any security features or processes recommended by the vendor, such as virus protections, shall be implemented. The county board shall further provide within the facility, locked, secure storage for all ballots, system test materials, copies of software, copies of ballot programming, programming devices, memory devices, disability access devices, voting system keys, key cards, and all ancillary devices or voting system components and materials.

(b) County boards shall adopt security procedures which restrict and document all access to voting systems, computer systems, software, firmware, system components, programming, test materials and any other ballot creation, counting or other system components. All programming, maintenance testing, pre-qualification and post-election testing and canvassing/recanvassing, shall be conducted by bi-partisan teams and be performed in secure, restricted-access space, and logs shall be maintained indicating task/staff assignments, time in and out, security password change dates and other such pertinent data.

(c) Internal security procedures shall require the frequent changing of passwords at established intervals, including prior to setup for use in any election.

(1) If at any time the county board discovers that any password has been lost, shared or otherwise compromised, all passwords shall be changed.

(2) If persons with administrative passwords are assisting in the performance of election tasks not related to the administration of the voting system, they shall perform such work using their staff password, and not their administrative password.

(d) The county board shall maintain a log, in a manner prescribed by the State Board, which clearly tracks a chain of custody for each voting system.

(1) A log shall be maintained for each voting system, identifying the placement of and serial number on each tamper-evident seal used to secure the voting system and its devices while in the custody of the county board, used to secure the device for delivery to poll sites, and for the securing and return of same, after the close of polls.

(i) At any stage of the administration, programming or conduct of an election, if a tamper-evident seal is found to have been compromised, or if serial numbers as logged do not match those on the device, the matter shall be immediately documented and investigated.

(ii) The county board shall adopt procedures which direct their actions in such investigations, and which identify methods for the resolution or amelioration of such breaches of security.

(2) A copy of county board security procedures and policies shall be filed with the State Board upon adoption.

(e) The voting system supporting software, the election management software (EMS) and the specific election configuration and ballot configuration for each election shall be maintained under control of the county board and placed in secure locked storage at all times when not in use. Master copies of all election configuration and ballot configuration shall be retained in secured locked storage as designated by the county commissioners and separate from the location of working copies, from the time of completion of pre-qualification demonstration testing and for as long after the election as required by law, these regulations, as ordered by a court, or as directed by the State Board.

(f) The county board shall enforce the provisions of the Election Law which relate to canvassing and recanvassing of

votes cast in an election, as well as these regulations and directives of the State Board.

(g) The voting system and any computers or other peripheral devices shall be dedicated solely to election configuration, ballot configuration (layout) and vote counting functions, including tests listed in section 6210.2 of this Part pre-qualification and post-election testing. The system components used specifically for voting, such as any scanner, DRE or ballot marking device, shall not be capable of being networked: no modem, telecommunications nor wireless communications devices may be components of a voting system. Other components that are not physically or electronically connected to a scanner, DRE, ballot marking device or other component used specifically for voting may be configured as a closed network which can not be connected to any other internal or external network. Such closed network may be used for the preparation of ballot configuration (layout) and vote counting functions. Any EMS system configured as a closed network requires prior approval and testing by the State Board of Elections. No unapproved software or hardware may be installed or run at any time on any part of the voting system.

(h) Audit records shall be prepared for all phases of election configuration and ballot configuration using devices under the care, custody and control of the county board. Such audit records shall address the election configuration and ballot configuration phase, pre-qualification tests, and voting and ballot-counting operations. The voting system supporting software shall log and report audit data such that:

(1) Systems shall provide the capability to create and maintain a real-time audit record to record and provide the operator or election inspector with continuous updates on voting system status.

(2) All systems shall include a real-time clock as part of the system's hardware. The system shall maintain an absolute record of the time and date or a record relative to some event whose time and data are known and recorded.

(3) All audit record entries shall include the time-and-date stamp.

(4) The generation of audit record entries shall not be able to be terminated or altered by program control, hardware control or by the intervention of any person. The physical security and integrity of the record shall be maintained at all times.

(5) The system shall be capable of printing a copy of the audit record.

(6) Any and all reports produced by the printer shall be retained by the county board in accordance with Election Law and these regulations.

(i) All vote counting programs, including the voting system supporting software and the specific election configuration and ballot configuration coding for each election, shall be available for inspection by the State Board.

(j) The county board shall adopt a contingency plan, which addresses how an election shall be configured, tested, conducted, and tabulated, in the event of an unanticipated or unavoidable event. Such plan shall, at a minimum, identify an alternate site within the county, from which election management, administrative or canvassing tasks can be conducted, in the event their own facility is unavailable to them or otherwise compromised.

(k) Following voting and ballot accounting, the ballots as originally secured at the close of polls on Election Day, shall be reassembled, packaged, sealed and labeled.

(1) The county board shall develop a written plan for the retention and storage of the foregoing, and any other data processing materials related to the vote counting, and of all documentation of the election.

(2) All such ballots, materials and documents shall be placed in locked storage in a secure location and shall remain there until the expiration of the period for challenging elections and for as long as required by law, State Board regulations, or unless a court orders their release.

(*l*) Voting systems and election management systems shall be implemented such that the county board's voting system will only accept election configuration and ballot configuration from that board's election management system and an election

management system will only accept results from that board's voting systems, unless two or more county boards enter into a mutually-acceptable written agreement to share election configuration and ballot configuration programming services. A copy of such written agreement shall be filed with the State Board.

§ 6210.12 Procedures

The county board shall adopt written procedures to further implement those provisions of the Election Law, the State Board regulations and the United States Election Assistance Commission's 2005 Voluntary Voting System Guidelines and any conditions specified in the State Board's certification of the voting system for use in New York elections. Such procedures shall include, but not be limited to, ballot security, ballot distribution and counting, the challenge process and systems evaluation. Such procedures shall also include security provisions covering the physical protection of facilities, data and communications access control, internal procedural security, contingency plans, and standards for programming, acceptance testing, audit trails and documentation. The State Board shall develop guidelines for the development of security procedures. All procedures shall be submitted to and approved by the State Board prior to the first use of these systems in an election.

§ 6210.13 Standards for determining valid votes

The State Board hereby adopts the following regulations to provide for uniform, non discriminatory standards for establishing what constitutes a vote and what shall be counted as a vote for all categories of voting systems and voting procedures used in New York.

The following standards shall apply in determining whether a ballot has been properly voted and whether a vote should be counted for any office or ballot question.

(a) The following general standards shall apply in the counting of all ballots and votes, regardless of the voting system used:

(1) A ballot that is marked or signed by the voter in such a way that it can be identified from other ballots must be voided and none of its votes counted. Examples of such markings include, but are not limited to: voter signature, initials, voter name and address, voter identification number, messages or text, or unusual markings not related to indication of the vote choice for a contest. If there are distinctly identifiable markings on one page of a multiple-page ballot, the entire ballot must be voided.

(2) A vote for any candidate or ballot measure shall not be rejected solely because the voter failed to follow instructions for marking the ballot. If, for any reason, it is impossible to determine the choice of the voter for any candidate or ballot question, the vote for that candidate or ballot question shall be considered void.

(3) A mark is considered valid when it is clear that it represents the voter's choice and is the technique consistently used by the voter to indicate his or her selections. Such marks may include, but are not limited to, properly filled in voting position targets, cross mark ''X'', a checkmark ''√'', circles, completed open arrow ''<--'', or any other clear indication of the voter's choice.

(i) A mark crossed out by the voter, an erasure, or words such as no next to a candidate's name or a voting position target area for a ballot question shall not be considered to be a valid vote but will, instead, be deemed an indication that the voter did not choose to cast a vote for that candidate or measure and the vote for that candidate or proposition shall be considered void.

(4) In determining the validity of a partially filled-in voting position target area, the consistency of a voter's marks on the entire ballot shall be taken into consideration. A hesitation mark such as a dot in the voting position target area shall not be considered a valid mark unless it is demonstrated that the voter consistently marked his or her ballot in such a manner.

(5) Overvote. If a contest is marked with a greater number of choices of different candidates or ballot questions than the number for which he or she is lawfully entitled to vote, the vote shall not be counted for that contest, but shall be

counted in all other contests in which there are no overvotes and the voter's choice can be clearly determined.

(6) Undervote. If a contest is marked with a lesser number of choices of candidates or ballot questions than the number for which he or she is lawfully entitled to vote, the votes cast for all otherwise properly marked candidates or ballot questions shall be counted.

(7) If a ballot is marked in each of two or more target areas or sensitive areas for a candidate whose name appears on the ballot more than once for the same office, and the total number of votes cast for such race for different candidates does not exceed the number for which he or she is lawfully entitled to vote, only the first vote for such candidate with multiple markings shall be counted for such candidate.

(8) Ballots that are damaged, torn by the Board of Elections or its agents, or otherwise non-machine processable as submitted by the voter, shall be manually counted by a bipartisan team of election inspectors and such vote totals shall be added to the canvass of such other valid ballots for the respective office(s) and ballot questions.

(9) Unintended machine marks placed on a ballot by the voting system that are not made at the direction of the voter shall not invalidate the ballot.

(10) If two or more persons are to be nominated or elected to the same office or position, a voter may vote for one or more persons whose names do appear on the ballot and one or more persons whose names do not appear on the ballot, provided that the total number of votes cast by the voter for that office or position does not exceed the number of persons to be elected or nominated to such office or position.

(11) Abandoned ballot.

(i) If a voter leaves the voting machine or system without casting their ballot, a bipartisan team of election inspectors shall cause the ballot to be cast as the voter left it, without examining the ballot.

(ii) If a voter leaves their paper ballot in a privacy booth and leaves the polling place without first casting that

ballot on the voting device, such ballot shall be marked spoiled and retained by the election inspectors, accounted for in the statement of canvass, and returned in secure storage with such other spoiled ballots to the county board.

(12) Write-in votes are votes cast for a person or persons whose name(s) do not appear on the official ballot.

(i) Write-in votes for persons who names appear on the official ballot for that office or party position shall not be counted.

(ii) A write-in vote may be cast by the use of a name stamp.

(iii) A write-in vote must be cast in the appropriate place on the machine, or it shall be void and not counted.

(iv) A voter need not write in the first and last name of a candidate in every situation; the standard is whether the election inspectors can reasonably determine the intent of the voter when they cast their ballot.

(13) If a ballot is received that is a Federal write-in absentee ballot (pursuant to 42 USC section 1973ff-2), the county board shall canvass the ballot as follows:

(i) If the overseas voter designated a candidate by writing in the name of the candidate or writing in the name of a political party, the vote is counted for the candidate of that party.

(ii) If the overseas voter wrote in only the last name of a candidate whose name appears on the ballot, the vote is counted for that candidate.

(iii) If the voter wrote in the name of only a candidate for president or only a candidate for vice-president whose name appears on the ballot, the vote is counted for the electors of that candidate. The name is entered into the canvass as the official ballot name of the presidential candidate.

(iv) Abbreviations, misspellings or other minor variations in the form of the name of a candidate or political party shall be disregarded if the intention of the voter can be ascertained. The name is entered into the canvass so that its spelling matches the spelling of the candidate's

official ballot name. If it is impossible to determine the voter's choice of a candidate or candidates for an office upon the official ballot, such vote shall not be counted, but shall be returned as a blank vote.

§ 6210.14 Standards for determining valid votes on direct recording electronic (DRE) equipment

(a) A vote cast on a DRE voting device shall be the choice made by a voter, not to exceed the maximum allowable votes per race or question than the number for which the voter is eligible to vote, by pressing the appropriate sensitive area, or using an approved accessibility device to cast a vote on the DRE voting device in a manner to cause an ''X'', highlight or similar designation to display in the voting target position of the name of the candidate or ballot question for which the voter desires to vote, followed by the voter activating the cast vote indicator.

(b) To select a candidate or vote on a ballot question, the voter shall:

(1) press the appropriate sensitive area on the touchscreen, press the button, target area, or use an approved accessibility device to choose a candidate or vote on a ballot question for which the voter desires to vote;

(2) type on the touchscreen, or use the scrolling device to select on the screen, the letters for the name of a write-in candidate in accordance with the instructions for voting on the DRE voting system and press the appropriate place on the touchscreen or press the button to record the write-in vote in the designated write-in space;

(3) press the appropriate place on the official ballot to designate a write-in candidate and write the name of a candidate on the paper provided in the write-in candidate window; or

(4) use an approved accessibility device on an accessible voting unit to signify the voter's selection of a particular candidate or to vote on a ballot question for which the voter desires to vote.

(c) To verify selections the county board shall allow the voter in a private and independent manner to review and verify the

votes selected by the voter on the ballot before the ballot is cast and counted, including the opportunity to change the ballot or correct any error before the ballot is cast and counted, including the opportunity to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct the error.

(d) To cast a ballot, the voter shall:

(1) press the place on the touchscreen or press the button to activate the cast ballot indicator; or

(2) use an approved accessibility device for the accessible voting unit to signify the voter's desire to cast the ballot.

§ 6210.15 Standards for determining valid votes on optical scan voting systems and/or paper ballots

(a) Standards indicating a valid vote. A vote cast on a paper ballot shall be the choice made by a voter, not to exceed the maximum allowable votes per race or question than the number for which the voter is eligible to vote, by: (the examples below in this section apply to all types of voting position target areas on ballots, regardless of what form they may take *e.g.* rectangle, oval, circle, square, open arrow):

(1) voter indicates vote choice by consistently filling inside the entire voting position target;

(2) voter indicates choice by consistently filling in less than the entire voting position target for all vote choices on the ballot and the ballot is processed in a manner consistent with the use procedures provided and approved for the voting system;

(3) voter indicates vote choice by consistently placing a distinctive mark, such as properly filled in voting position targets, a cross mark ''X'', a checkmark ''√'', a circle, or complete an open arrow ''<--'' inside the associated voting position target area for a candidate choice or ballot question;

(4) voter marks vote choices by circling the entire voting position target area for a candidate or ballot question;

(5) voter writes in or stamps the name of a candidate in the designated write-in space for that race, even if the write-in square, oval or arrow is not marked;

(6) a write-in vote in addition to a vote for another candidate for the office, with a greater number of choices of different candidates than the number for which he or she is lawfully entitled to vote, the vote shall not be counted for that contest, but shall be counted in all other contests in which there are not overvotes and the voter's choices can be clearly determined;

(7) any ballot which has any other mark or marks in the target area or sensitive area including circling the target area and/or candidate's name or making a mark through the target area, provided that the votes do not exceed the maximum allowable votes per race or question than the number for which the voter is eligible to vote, shall be counted as a vote for such candidate(s) or ballot question(s);

(8) any ballot which has a mark or marks in the target area or sensitive area for one candidate, which extended partially into one or more other target areas or sensitive areas, shall be counted as a vote for the candidate so marked only if it is readily apparent that at least 3/4th of the mark is in that candidate's area or target area, and no other candidate is similarly marked;

(9) any ballot which has a mark that is clearly next to (either before or after) a candidate's name, or across the name, shall be recognized as a mark and shall be counted as a vote for the candidate or question so marked; or

(10) writings or remarks which appear to be ranking the candidates (*e.g.* letters, numbers +/-) shall not be considered valid marks unless the number of such marks does not exceed the maximum allowable votes per race than the number for which the voter is eligible to vote.

(b) Standards indicating an invalid vote. A voter's choice shall be considered an invalid vote, if the:

(1) Voter uses random markings and there is no distinctive and consistent voting pattern to clearly indicate voter choice(s).

(2) A mark that is between or across more than one candidate's name, target areas or sensitive areas shall not be recognized as a mark and no vote shall be counted.

(c) Whenever paper ballots are to be counted manually, the county board of elections shall use the accompanying ''Ballots Examples for Counting Paper Ballots'' as guidance for such counts.

§ 6210.17 Standards for determining valid votes on lever type voting machine

A vote cast on a lever-type voting machine, as specified by the legally valid ballot instructions, shall be the choice made by a voter, not to exceed the maximum allowable votes per race or question than the number for which the voter is eligible to vote, by either operating the lever adjacent to the name of the candidate or ballot question or by writing or stamping the name of a write-in candidate whose name does not otherwise appear on the ballot for that office, in or upon the proper receptacle or device provided, followed by the voter activating the cast vote mechanism.

§ 6210.18 Three-percent audit

(a) As required by NYS Election Law, section 9–211, the Board of Elections or a bipartisan team appointed by such board shall manually count all votes of the voter verifiable paper audit trail (VVPAT) from no less than three percent of each type of voting machine or system used within the county, provided, however, that there shall be a manual count of at least one of each type of voting machine or system used therein for each public office and any questions or proposals appearing on the ballot. The conduct of such random audit shall be in a manner consistent with procedures prescribed by the State Board of Elections.

(b) The voting machines or systems to be audited to meet the county-wide minimum requirement set forth in subdivision (a) of this section shall be selected by lot through a transparent, random, manual process where all selections of machines or systems used in the county are equally probable. The voting machines or systems to be audited to meet the requirements for a specific contest set forth in subdivision (a) of this section shall be selected by lot through a transparent, random, manual process where all selections of machines or systems used in the contest within each county are equally probable. The county

boards shall adopt one of the random, manual selection methods prescribed by the State Board of Elections or such county board may submit for approval by the State Board a proposed alternative random, manual selection method. County board adoption of the prescribed random, manual selection method shall take place not later than 45 days after the purchase of a voting system and notice by the county board of the adoption of such random, manual selection method shall be filed with the State Board.

(1) As required by NYS Election Law, section 9–211, not less than five days prior to the time fixed for the random selection process, the Board of Elections shall send notice by first class mail to each candidate, political party and independent body entitled to have had watchers present at the polls in any election district in such board's jurisdiction and to the State Board. Such notice shall state the time and place fixed for such random selection process. Such random selection process shall not occur until after election day. Each candidate, political party or independent body entitled to appoint watchers to attend at a polling place shall be entitled to appoint such number of watchers to observe the random selection process and the subsequent audit.

(2) Such notice shall also announce the date, time, and location that the audit shall commence, information on the number of audit teams which will conduct such audit, and such other information that the county board deems necessary.

(3) The county board shall at a single session randomly select from all machines and systems used within the county in the election so that no further drawings are required if anomalies are encountered during the manual audit. The audit shall commence on the same day as the random, manual selection process.

(4) Prior to auditing the audit records, the county board shall distribute to those in attendance at the audit session, copies of the list showing the number of machines and systems needed to meet the audit requirement and the unofficial vote results per voting machine or system selected for audit.

(c) For each voting machine or system subject to be audited, the manual audit shall consist of a manual tabulation of the voter verifiable paper audit trail records and a comparison of such count, with respect to all candidates and any questions or proposals appearing on the ballot, with the electronic vote tabulation reported for such election district.

(1) A reconciliation report, on a form prescribed by the State Board of Elections, that reports and compares the manual and electronic vote tabulations for each audited candidate for each contest and any question or proposal from each machine or system subject to the audit by election district, including tallies of overvotes, undervotes, blank ballots, spoiled ballots and rejections recorded on the VVPAT, along with any discrepancies, shall be prepared by the Board of Elections or a bipartisan team appointed by such board and signed by such members of the audit team.

(2) Any discrepancies between the corresponding audit results and initial electronic vote counts shall be duly noted, along with a description of the actions taken by the county Board of Elections for resolution of discrepancies. The number and type of any damaged or missing paper records shall be duly noted.

(3) If any unresolved discrepancy is detected between the manual count described in this subdivision and the machine or system electronic count, even an unresolved discrepancy of a single vote, the manual count shall be conducted a second time on such machine or system to confirm the discrepancy.

(d) The reconciliation report required in subdivision (c) of this section shall be transmitted to the county board commissioners or their designees upon completion of the initial phase of the audit for determination on the expansion of the audit conducted pursuant to subdivisions (e) through (g) of this section.

(e) The county board shall aggregate the audit results reported pursuant to paragraph (c)(2) of this section that are applicable to any contests, questions or proposals. The aggregated results for each contest, question or proposal shall be used to determine whether further auditing is required as follows:

(1) For any contest, question or proposal, an expanded audit will be required if either or both of the following criteria apply to the aggregated audit results:

(i) any one or more discrepancies between the confirming manual counts described in paragraph (c)(3) of this section and the original machine or system electronic counts, which taken together, would alter the vote share of any candidate, question or proposal by 0.1 percent or more of the hand counted votes for respective contests, questions or proposals in the entire sample; or

(ii) if discrepancies of any amount are detected between the confirming manual count described in paragraph (c)(3) of this section and the original machine or system electronic count from at least 10 percent of the machines or systems initially audited then the board or bipartisan team appointed by such board shall manually count the votes recorded on all the voter verifiable paper audit trail records from no less than an additional five percent of each type of the same type of voting machine or system which contains any such discrepancy or discrepancies;

(iii) when determining whether discrepancies warrant expanding the audit, the percentage-based thresholds in this section shall be rounded down by truncating the decimal portion (with a minimum of one).

(f) A further expansion of the audit will be required if either or both of the following criteria apply to the audit results:

(1) For each contest, question or proposal, the county board shall aggregate the results from the initial audit as required in subdivision (a) of this section and the expanded five percent audit. If, such aggregated results of unresolved discrepancies satisfy the criteria in subparagraph (e)(1)(i) of this section, a further expansion of the audit will be required.

(2) For each contest, question or proposal, the county board shall take the results of the five percent expanded audit under subdivision (e) of this section, and, if such results of unresolved discrepancies satisfy the criteria in subparagraph (e)(1)(ii) of this section, a further expansion of the audit will be required.

(3) When an expanded audit is required for a contest pursuant to this section, each county board or bipartisan team appointed by such board shall manually count all voter verifiable paper audit trail records from no less than an additional 12 percent of each type of the same type of voting machine or system which contains any such discrepancy or discrepancies.

(4) When determining whether discrepancies warrant expanding the audit, all percentage-based thresholds in this section shall be rounded down by truncating the decimal portion (with a minimum of one).

(g) A further expansion of the audit will be required if either or both of the following criteria apply to the audit results:

(1) For each contest, question or proposal, the county board shall aggregate the results from the initial audit as required in subdivision (a) of this section and the expanded audit as required in subdivisions (e) and (f) of this section. If, such aggregated results of unresolved discrepancies satisfy the criteria in subparagraph (e)(1)(i) of this section, a further expansion of the audit will be required.

(2) For each contest, question or proposal, the county board shall take the results of the 12 percent expanded audit under subdivision (f) of this section, and, if such results of unresolved discrepancies satisfy the criteria in subparagraph (e)(1)(ii) of this section, a further expansion of the audit will be required.

(3) When an expanded audit is required for a contest pursuant to this section, each county board shall manually count all voter verifiable paper audit trail records from all the remaining unaudited machines and systems where the contest appeared on the ballot.

(4) When determining whether discrepancies warrant expanding the audit, all percentage-based thresholds in this section shall be rounded down by truncating the decimal portion (with a minimum of one).

(h) The standards set forth in subdivisions (a)–(g) of this section are not intended to describe the only circumstances for a partial or full manual count of the voter verifiable paper audit record, but instead are designed to set a uniform state-

wide standard under which such hand counts must be performed. The county boards of elections, as well as the courts, retain the authority to order manual counts of those records in whole or in part under such other and additional circumstances as they deem warranted. In doing so, they should take into consideration:

(1) whether the discrepancies were exclusively or predominantly found on one type of voting machine or system;

(2) the size of the discrepancies;

(3) the number of discrepancies;

(4) the percentage of machines or systems with discrepancies;

(5) the number and distribution of unusable voter-verified paper audit trail records as described in subdivision (j) of this section;

(6) the number of cancellations recorded on the voter-verified paper audit trail records reported pursuant to paragraph (c)(1) of this section; and

(7) whether, when projected to a full audit, the discrepancies detected (no matter how small) might alter the outcome of the contest, question or proposal result.

(i) If the audit officials are unable to reconcile the manual count with the electronic vote tabulation on a voting machine or system, then the Board of Elections shall conduct such further investigation of the discrepancies as may be necessary for the purpose of determining whether or not to certify the election results, expand the audit, or prohibit that voting machine or system's use in such jurisdiction.

(j) If a complete audit is conducted, the results of such audit shall be used by the canvassing board in making the statement of canvass and determinations of persons elected and propositions approved or rejected. The results of a partial audit shall not be used in lieu of voting machine or system tabulations, unless a voting machine or system is found to have failed to record votes in a manner indicating an operational failure. When such operational failure is found, the board of county canvassers shall use the voter verifiable audit records to determine the votes cast on such machine or system, provided such

records were not also impaired by the operational failure of the voting machine or system. If the voter verified paper audit trail records in any machine or system selected for an audit are found to be unusable for an audit for any reason whatsoever, another machine or system used in the same contest shall be selected at random by the county board to replace the original machine or system in the audit sample. All such selections shall be made randomly in the presence of those observing the audit. The county board shall inquire in an effort to determine the reason the voter verified paper audit trail records were compromised and unusable and such inquiry shall begin as soon as practicable. The results of the inquiry shall be made public upon completion.

(k) Any anomaly in the manual audit shall be reported to and be on a form prescribed by the State Board and shall accompany the certified election results.

(*l*) Notwithstanding any other provision of this section, voting machines or systems used for early voting shall be separately audited pursuant to this subdivision and the provisions of this section not inconsistent with this subdivision after the date of the election. For purposes of selecting the voting machine(s) or system(s) used in early voting to be audited, each separate memory storage device containing election results, exclusive of any redundant memory storage devices, used during early voting from which a result tape is generated shall be considered a separate voting machine or system for purpose of the audit. As provided by the procedures of the State Board of Elections and the provisions of this Part consistent with this subdivision, initially three percent of such voting machines or systems used for early voting shall be audited in addition to the initial audit of three percent of voting machines or systems used on Election Day as provided for in subdivision (a) of this section. The audit expansion steps for ballots voted early shall be the same as for other ballots, and both early voted ballots and all other ballots counted by machine shall be included in any full manual count conducted pursuant to this section. The cast ballots corresponding to each memory storage device containing election results shall be kept together and not intermingled with any other voted ballots. This subdivision is applicable in relation to any election at which early voting is

held pursuant to title VI of article 8 of the Election Law as enacted by chapter 6 of the Laws of 2019.

§ 6210.19 Minimum number of voting machines

(a) The purpose of these determinations is to establish the minimum number of required voting machines and privacy booths needed for each polling place based upon whether the voting system is used on election day or for the early voting period, and the type of voting system and the number of registered voters (excluding voters in inactive status) assigned to use that specific voting device in accordance with NYS Election Law, sections 7-200, 7-203 and 8-600.

(b) Minimum number of voting machines for Election Day polling sites.

(1) Direct recording electronic voting systems.

(i) There shall be at least one direct recording electronic voting device for every 550 registered voters (excluding voters in inactive status) assigned to a polling place.

(2) Precinct based optical scan voting systems.

(i) There shall be at least one scanning device for every 4,000 registered voters (excluding voters in inactive status) assigned to a polling place.

(ii) Privacy booths:

(a) there shall be at least one privacy booth for every 300 registered voters (excluding voters in inactive status), except that in a general election for governor, or at elections at which electors for President of the United States are selected there shall be at least one privacy booth for every 250 registered voters (excluding voters in inactive status);

(b) at polling places that accommodate more than 6,000 registered voters (excluding voters in inactive status), there shall be one privacy booth for every 350 registered voters (excluding voters in inactive status) in a general election for governor, or at elections at which electors for President of the United States shall be selected; and one privacy booth for every 400 active voters in all other elections; and

(c) a sufficient number of the privacy booths must be accessible to voters with disabilities.

(c) Minimum number of voting machines for the early voting period.

(1) Direct recording electronic voting systems.

(i) There shall be at least one direct recording electronic voting device for every 3,000 registered voters (excluding voters in inactive status) assigned to the early voting period polling place; provided, however, no early voting site shall have less than two direct recording electronic devices.

(2) Precinct based optical scan voting systems.

(i) There shall be at least one scanning device for every 25,000 registered voters (excluding voters in inactive status) assigned to the early voting polling place; provided, however, no early voting site shall have less than two optical scanners.

(ii) Privacy booths:

(a) there shall be at least one privacy booth for every 4,200 registered voters (excluding voters in inactive status), except that in a general election for governor, or at elections at which electors for President of the United States are selected there shall be at least one privacy booth for every 3,600 registered voters (excluding voters in inactive status);

(b) a sufficient number of the privacy booths must be accessible to voters with disabilities.

(3) Distribution of voting systems and privacy booths for vote centers. In counties where a voter is able to vote at more than one early voting site, the total number of voting systems and privacy booths required by this section at such sites shall be determined in the aggregate for such sites and such voting systems and privacy booths shall be divided amongst such early voting sites in the manner the board determines will best meet the needs of the voters, provided no fewer than two voting systems are assigned to each site, and sufficient voting systems and privacy booths are assigned to ensure voter wait time is less than 30 minutes.

(d) Obligations of the county Boards of Elections.

(1) County boards shall deploy sufficient voting equipment, election workers and other resources so that voter waiting time at a poll site does not exceed 30 minutes. Each county Board of Elections may increase in a non-discriminatory manner, the number of voting devices used in any specific polling place. If the voter waiting time at an early voting site exceeds 30 minutes the Board of Elections shall deploy such additional voting equipment, election workers and other resources necessary to reduce the wait time to less than 30 minutes as soon as possible but no later than the beginning of the next day of early voting.

(2) The inspectors in each election district and at each early voting site shall record the number of persons using audio, tactile or pneumatic switch ballot devices. The county Board of Elections shall furnish additional voting machines equipped with audio, tactile or pneumatic switch ballot devices when it appears that the number of persons historically using such devices warrant additional devices.

(e) The State Board of Elections may authorize a reduction in the number of voting devices and privacy booths provided in these regulations upon application of a county Board of Elections which demonstrates that such a reduction will not create excessive waiting time by voters. The request for such a reduction shall be made by both commissioners, in writing, to the co-executive directors of the State board and shall set forth the rationale being used for the requested reduction. The request for such reduction shall be made no later than 20 days before the beginning of the early voting period.

(f) Provisions of this section applicable to early voting shall apply in relation to any election at which early voting is held pursuant to title VI of article 8 of the Election Law as enacted by chapter 6 of the Laws of 2019.

§ 6210.20. Use of automated audit tool

(a) *Use of automated audit tool.* (1) Notwithstanding the requirement of section 6210.18 of this Part that the post-election audit shall be a manual or hand count, a board of elections may use an automated audit tool approved by the

State Board of Elections pursuant to subdivision 1 of section 9–211 of the Election Law, to perform a machine-assisted audit in accordance with the substantive requirements of section 6210.18 of this Part. Machine-assisted audit results shall then stand in place of the manual count for all audit purposes. The configuration of such audit tool for use in a machine-assisted audit shall be done in a bipartisan manner, or may be done by an independent third party, subject to bipartisan review and validation. Such ballot configuration shall include pre-election test processes, pursuant to section 6210.18 of this Part.

(b) *Definitions*. For purposes of this section:

(1) *Automated audit tool* shall mean software, device or other similar product which is developed without access to proprietary election management software or hardware, and is based upon separate software that is programed separate and apart from any election management software that is used to configure ballots and tabulate votes as cast on certified voting systems.

(2) *Machine-assisted audit* shall mean an audit pursuant to section 6210.18 of this Part utilizing automated tools approved for county board use by the State board, to rescan ballots, then comparing audit tool results to those produced from voting system results media, and which further requires the manual comparison of some paper ballots or voter-verified paper audit records to the corresponding cast vote records produced by the audit tool to ensure a human-observable check of vote tabulation which does not depend upon any voting system's hardware or software component.

(3) *Rescanned ballot* shall mean a paper ballot that is scanned and interpreted by the audit tool.

(4) *Cast vote record* shall mean the audit tool's interpretation of the votes cast on a rescanned ballot.

(c) *Confirmation of machine-assisted audit accuracy*. (1) To provide a human-observable check of the vote tabulation accuracy of the audit tool, a random sample of rescanned ballots shall be selected. For each rescanned ballot in the sample, the votes shall be manually interpreted, and these manual interpretations shall be compared to the audit tool interpretations of votes on that ballot.

(2) The requisite number of rescanned ballots to be manually compared:

Number of Rescanned Ballots	Number of Manually Compared Ballots
≤ 2,500	25
2,501–5,000	32
5,001–7,500	39
7,501–10,000	46
10,001–20,000	56
20,001–30,000	66
30,001–40,000	76
40,001–50,000	86
50,001–60,000	96
60,001–70,000	106
70,001–80,000	116
80,001–90,000	126
90,001–100,000	136

If the number of rescanned ballots exceeds 100,000 the number to be manually compared shall be 136 plus .05 percent (.0005) of the number of machine assisted audited ballots in excess of 100,000.

(3) Before the random selection of ballots to be manually compared, a computer-readable file of audit tool Cast Vote Records (CVR), representing all rescanned ballots, shall be produced in a commonly available format such as comma-separated value (CSV), such that each CVR can be associated with the corresponding paper ballot. This file, along with the vote totals for each audited machine as produced by the audit tool, and any documentation needed to interpret the contents, shall be made available to a watcher upon request on a physical medium.

(4) The county board of elections shall, as required by section 6210.18(b) of this Part, provide notification of the random selection of ballots to be manually compared.

(5) The rescanned ballots to be compared shall be randomly selected from the total number of rescanned ballots in the county. Such random selections shall be made by a random number generator or such other process approved by the State board. The selection shall be based on a sequential number assigned to each rescanned ballot reflecting the order in which the ballot is reviewed by the independent automated tool.

(6) The results of the comparisons between audit tool vote counts and voting system results, and of the manual comparison between paper ballots and audit tool CVRs, including a full description and explanation of any discrepancies found, shall be reported to the State Board of Elections and shall accompany the certified election results. In explaining discrepancies between audit tool vote counts and voting system results, the paper ballots shall be examined, including a hand count of any batch for which any unexplained discrepancy is found.

(7) The expansion of any audit in which an automated audit tool is used shall be based on the same criteria provided for in section 6210.18(e)(1) of this Part, taking into account both discrepancies found during the manual comparison and discrepancies between the audit tool vote totals and the totals reported by the voting system. Any expansion performed with an audit tool will be subject to similar observable manual comparison.

(d) *Implementation procedures*. The county board of elections shall adopt procedures based upon the State board's standard post-election audit procedures for machine assisted audits no later than upon the completion of acceptance testing of any automated audit tool, and such county-specific procedures shall be filed with the State Board of Elections. Such specific procedures shall not take effect until approved by the State Board of Elections.

PART 6211—EARLY VOTING REGULATIONS

Section

6211.1. Early voting site designations.
6211.2. Canvass of ballots cast during early voting.
6211.3. Ballots cast when scanner unavailable during the early voting period.
6211.4. Affidavit ballots cast during early voting.
6211.5. Privacy of voting.
6211.6. Voter history and prevention of duplicate voting.
6211.7. Early voting communications plan.
6211.8. Applicability.
6211.9 to 6211.13. Repealed.

§ 6211.1. Early voting site designations

(a) Deadline for early voting site designations. By May 1st of each year, the Board of Elections shall designate early

voting sites for the general election held in such year. Early voting sites for primaries and special elections shall be designated no later than 46 days before such an election.

(b) Minimum number of early voting sites. (1) For a general election, the Board of Elections shall designate at least the number of early voting sites required by this Part, based on the number of registered voters in each county, including voters in active and inactive status as of February 21st, as follows:

(i) If the number of voters in the county is less than 99,999, the county must have at least one early voting site.

(ii) If the number of voters in the county is equal to or more than 100,000 and less than or equal to 149,999, the county must have at least two early voting sites.

(iii) If the number of voters in the county is equal to or more than 150,000 and less than or equal to 199,999, the county must have at least three early voting sites.

(iv) If the number of voters in the county is equal to or more than 200,000 and less than or equal to 249,999, the county must have at least four early voting sites.

(v) If the number of voters in the county is equal to or more than 250,000 and less than or equal to 299,999, the county must have at least five early voting sites.

(vi) If the number of voters in the county is equal to or more than 300,000 and less than or equal to 349,999, the county must have at least six early voting sites.

(vii) If the number of voters in the county is equal to or more than 350,000, the county must have at least seven early voting sites.

(2) For a primary election or special election, the minimum number of early voting sites shall be based on the number of voters eligible to participate in the election pursuant to paragraph (1) of this subdivision, unless the Board of Elections adopts a resolution determining that a lesser number of early voting sites is sufficient to meet the needs of early voters. Such resolution shall state the basis of such determination and shall specify how the Board of Elections will monitor voter wait times at early voting sites and ensure compliance with section 6210.19(d) of this Title throughout the period of early voting.

(3) The Board of Elections may designate more early voting sites than the minimum number required for the convenience of voters.

(4) All sites must be open for voting for the 60 hours required by Election Law section 8–600, but the Board of Elections may expand the hours the early voting sites are open beyond the statutory minimums.

(c) Standards for early voting site designation. (1) Adequate and equitable access. Early voting sites shall be located so that voters in each county have adequate and equitable access to early voting, and such sites shall comply with the provisions of the Election Law related to poll sites and accessibility for voters with physical disabilities. A polling place accessibility survey shall be completed, filed and updated for each early voting site as required by Part 6206 of this Title.

(2) The Board of Elections shall consider, in totality, the following factors when designating early voting sites:

(i) population density;

(ii) travel time to the early voting location from the voter's place of residence;

(iii) proximity of an early voting site to other early voting sites;

(iv) whether the early voting site is on or near public transportation routes;

(v) commuter traffic patterns;

(vi) any other factors the Board of Elections deems appropriate.

§ 6211.2. Canvass of ballots cast during early voting

(a) All ballots cast during early voting period, by any method allowed under law, shall be canvassed and counted as if cast on Election Day. At the end of each day of early voting, all voted and unvoted ballots shall be reconciled and, along with any portable memory devices containing voting information and registration poll records, returned to the Board of Elections or otherwise secured pursuant to a plan filed with the State Board at least 60 days before the first day of early voting for the first election at which such plan shall be applicable.

Such plan shall be approved or rejected by the co-executive directors of the State Board of Elections within two weeks of filing. If such plan is rejected, notice shall be provided to the Board of Elections of the reasons therefor. The Board of Elections shall then have three business days to amend the plan and resubmit for approval. An approved plan shall remain in effect until amended by the Board of Elections and such amendment is approved as provided herein.

(b) The manner of canvassing the voting machines used at early voting and announcing the results shall be consistent with section 8–600 of the Election Law and in the same manner as provided by title 1 of article 9 of the Election Law and the procedures of the State Board of Elections, except that the canvass of ballots cast during the early voting period may begin no earlier than at 8:00 p.m. on Election Day, provided the Board of Elections adopts procedures to prevent the public release of any election results prior to the close of polls on election day. Such procedures must be consistent with the regulations of the State Board of Elections and must be filed with the State Board of Elections at least 60 days before the first early voting period for an election to which they will apply, and shall remain in effect until amended by the Board of Elections and such amendment is filed as provided herein. To prevent the premature release of voting results prior to the close of all polls on Election Day, all persons lawfully present at the canvass of ballots cast during early voting period shall remain incommunicado with all persons outside of the place of canvass and shall remain at the room or area of the canvass once the canvass has begun, absent exigency or a Board of Elections purpose that requires leaving the canvass room or area, until at least the close of polls on the day of election.

§ 6211.3. Ballots cast when scanner unavailable during the early voting period

At the end of each day of early voting, those ballots which were not scanned because a scanner was not available or because the ballot was abandoned at the ballot scanner, shall, if a scanner is then available, be scanned by the election inspectors as provided for by Election Law section 9–110. Any ballots that are unscannable because it is rejected by the

scanner or because of an overvote or wholly blank vote warning provided by the ballot scanner, shall be secured in the manner applicable to voted ballots on Election Day and shall remain unexamined until the time of canvass on the day of the election, at which time they shall be examined as provided for in Election Law section 9–110 and duly canvassed. Such ballots shall be reconciled as required by the procedures of the State board and must be held inviolate until the time of canvass on Election Day under tamper evident seal and lock and key.

§ 6211.4. Affidavit ballots cast during early voting

Affidavit ballots cast during early voting shall be accounted for in the manner of affidavit ballots cast on Election Day. Boards of elections shall complete the bi-partisan review of the affidavits to determine the eligibility of such voter prior to the canvass of affidavit ballots cast during the early voting period, in the same manner as for affidavit ballots submitted on Election Day. Until the time of canvassing, affidavit ballot envelopes shall be secured, when not in bipartisan custody for processing and researching, under tamper evident seal and lock and key as required by the procedures of the State board.

§ 6211.5. Privacy of voting

To ensure an efficient and fair early voting process that respects the privacy of the voter, the manner of voting on days of the early voting period shall be the same as the manner of voting on the day of election.

§ 6211.6. Voter history and prevention of duplicate voting

(a) During the early voting period, the voting history record for each voter shall be continually updated to reflect that a voter has voted early. A record indicating a voter has voted during the early voting period shall be available to poll workers at every early voting site at which a voter is eligible to vote in near real time. In such instance where a voter is only eligible to vote at one early voting site, the single poll book at such site for such voter may serve as the continually updated record of voter history throughout the early voting period.

(b) By Election Day, the voting history record of each voter who has cast a ballot during the early voting period shall be entered into the voter registration system of the Board of Elections. Such voting history shall be included in the voter registration poll record that is used on Election Day to determine the eligibility of voters. Such Election Day record must differentiate voters who voted early from those who appeared to vote on the day of election.

(c) Any voter who the Board of Elections has identified as having voted during the early voting period shall not be eligible to vote on Election Day, except such voter shall be entitled to complete an affidavit ballot if such voter claims not to have voted early. Such affidavit shall be marked as such.

(d) No later than the seventh day after a primary or special election or the tenth day after the general election, the voting history record of each voter who has signed a poll record and thus cast a ballot on such Election Day shall be entered into the voter registration system of the Board of Elections, and the voter history for such Election Day voters and early voters shall be uploaded to the statewide voter registration list.

(e) Not later than the 7th day after a primary or special election or the 10th day after a general election, by 5:00 p.m. on such day, the Board of Elections shall prepare a list, including data elements prescribed by the Board of Elections and in the format specified by the State Board of Elections, of all persons who submitted an affidavit ballot. Such list shall be provided to the State Board of Elections, and the State Board of Elections shall provide a combined list of all affidavit ballots submitted statewide to the boards of elections.

(f) No later than seven businesses days after the completion of the canvass, the voting history record of each voter who has cast an absentee, military, special or Federal ballot on Election Day or who has cast an affidavit ballot during early voting or on Election Day shall be entered into the voter registration system of the Board of Elections and the statewide voter registration list.

(g) Boards of elections shall provide information regarding voter registration records or voting records in their custody to

other boards of elections, upon request, as soon as reasonably practicable.

(h) The Board of Elections, as required by Election Law section 8–600(1), shall establish procedures to ensure that persons who vote during early voting shall not be permitted to vote subsequently in the same election. Such procedures shall remain in effect until amended by the Board of Elections and shall be filed with the State Board of Elections on or before the 60th day preceding the 1st day of the early voting period. Such procedures shall be approved or rejected by the co-executive directors of the State Board of Elections within two weeks of filing. If such procedures are rejected, notice shall be provided to the Board of Elections of the reasons therefor. The Board of Elections shall then have three business days to amend their procedures and resubmit the same to the State Board of Elections for approval.

(i) Boards of elections shall provide to the State board, in the manner specified by the State board, the number of voters who vote early on each day of early voting by the next business day after such day of early voting.

§ 6211.7. Early voting communications plan

(a) Early voting information. The Board of Elections shall provide at least the following information to media outlets within the county:

(1) the location of early voting sites and their dates and hours of operation;

(2) a statement that all early voting sites are accessible to voters with physical disabilities;

(3) a clear statement that if a voter casts a ballot during early voting the voter will not be allowed to vote on Election Day or on a subsequent day of early voting;

(4) if early voting sites are specific to particular cities, towns or other political subdivisions, a statement describing the area served by each early voting site.

(b) Communications outreach. County Board of Elections may also provide early voting information by using social media venues and any other communication mechanisms, in-

cluding but not limited to broadcast advertisements, direct mail or newspaper advertisements. The Board of Elections communications plan shall identify the community based groups that were involved in the development of the plan or were provided early voting information.

(c) Filing Communications Plan With State Board of Elections. The board of elections shall annually file a copy of the communications plan on or before May 1.

§ 6211.8. Applicability

This Part shall apply in relation to any election at which early voting is held pursuant to title VI of article 8 of the Election Law as enacted by chapter 6 of the Laws of 2019.

§§ 6211.9 to 6211.13. [Repealed]

PART 6212—PROCEDURES FOR DIGITIZING VOTERS' SIGNATURES

Section

6212.1. Definitions.
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6212.11. Storage of original voter registration records.
6212.12. State Board responsibilities.

§ 6212.1 Definitions

The terms used in this Part shall have the significance herein defined unless another meaning is clearly apparent in language or content.

(a) *Computer registration file* means a data base of voter registration information stored and maintained on computer which includes, *inter alia,* a computerized image of the voter's signature.

(b) *Ledger* means the binder, or notebook, in which registration poll records for an election district are stored.

(c) *Registration poll list* means a printed list of voters in alphabetical order for a single election district generated from a computer registration file for each election and containing, for each voter listed, a facsimile of the signature of the voter. Such a list may be in a single volume or in more than one volume. In any election district in which there are two voting machines, there must be two volumes (A–L; M–Z). The list is utilized, in place of registration poll records, to establish a person's eligibility to vote in the polling place on election day.

(d) *Registration poll record* means an original voter registration application, or card, or the document which replaces it because its election day sign-in section is filled to capacity, utilized to establish a person's eligibility to vote in the polling place on election day. Often referred to as ''buff card''.

(e) *Source document* means an original record from which a computer-stored image is created, or from which data is entered into a computer data base.

§ 6212.2 Applicability

These rules are applicable to the process by which a county board of elections in New York State, in accordance with the provisions of section 5–506 of the Election Law, discontinues preparation, use and maintenance of registration poll records and prepares, uses and maintains instead a computer registration file (hereinafter sometimes referred to as ''the file'') which includes, *inter alia,* a computer-stored image of the signature of each voter and from which the registration poll list for use at each polling place on election day shall be produced.

§ 6212.3 Initiating the process

(a) Before purchasing any equipment to be used to create a computer registration file and/or to produce registration poll lists, contracting for service to be rendered in connection with that process, or embarking on the conversion of the existing records, the county board shall submit to the State Board of Elections:

(1) A statement of goals and intentions for the creation of a computer registration file which will include a signature facsimile for each voter and from which registration poll lists

can be produced to replace registration poll records at the polling place on election day.

(2) A copy of any proposed solicitation document (Invitation to Bid, Request for Proposal, etc.) to be published and circulated for the purpose of procuring goods and services. The document shall include a draft schedule for conversion of the existing records which is consistent with the demands of the election calendar during the period of conversion and shall require the following:

(i) training of all personnel needed for creation of the file and for operation of the system to be purchased;

(ii) reference materials for use by staff after the training has been completed;

(iii) detailed specifications for all hardware;

(iv) complete documentation for all software;

(v) escrow of all software with an agent approved by the State Board of Elections; if software in use by a county is modified, the State Board shall be notified and the modified version along with documentation therefor shall replace the version then on deposit with the escrow agent; and

(vi) if the original voter registration records are to be removed from the board office for the purpose of creating the file, a stipulation that the vendor may not retain in his possession a copy, on any medium, of any of the original records or of information contained in the original records.

(3) If the original voter registration records are to be removed from the board office during conversion or maintenance, a written plan for guaranteeing the safety and integrity of records while they are outside the board office.

(4) A written plan for secure delivery of the registration poll lists to the polling places for use on election day and for their return to board custody following election.

(5) A written plan for replacement of a registration poll list in the event it is lost or damaged.

(b) Within 10 working days after receipt of the material specified in subdivision (a) of this section, the State Board

shall either approve or disapprove of the submission and shall notify the local board of its decision. In the event of disapproval, the State Board shall specify what modifications must be made to qualify for its approval. The county board may not disseminate the solicitation document and proceed with the project until the submission is approved.

(c) Before entering into any contract for goods or services for such a computerized registration file, the county board shall submit a copy of such contract to the State Board for review. It shall contain, *inter alia*, the requirements of the approved solicitation document (see paragraph [a][2] of this section) and a plan for acceptance testing of the system by the county board after delivery by the vendor. (See section 6212.6 of this Part for detail of acceptance testing.) Within 10 calendar days after receipt of the proposed contract, the State Board shall complete its review and notify the county board of its approval or disapproval. In the event of disapproval, the State Board shall specify what modifications must be made to qualify for its approval. In its review, the State Board shall act expeditiously so as not to delay unnecessarily the progress of negotiations between the county board and the vendor.

§ 6212.4 Characteristics of the system

In writing specifications and/or making a decision for purchase of a system, the county board shall take the following into consideration:

(a) Speed for creation of computer-stored images of voter signatures and, if applicable, of the full voter registration document.

(b) Ease of operation of all equipment and understanding of all software.

(c) Capability to obtain satisfactory images from documents to be used as source documents.

(d) Time required for correction of images deemed to be unsatisfactory.

(e) Capability to accommodate the various source documents to be used for imaging, including all versions of original voter registration cards, documents of different background

colors, different inks used for voter signature, varying layout, etc.

(f) The quality of the facsimile signature produced by the system when projected on a computer terminal screen or when printed for such purposes as a registration poll list, should be such that the person utilizing the facsimile to determine if it does represent or replicate the actual signature can make that judgment readily. Copying or reduction of the image should be permitted only if the ability to make such a judgment is not impaired thereby.

(g) Capability to meet the schedule established for conversion of the records and creation of a computer registration file.

(h) Capability to perform the work of the board in maintaining the file after conversion and to meet the requirements of peak load activity, including processing of all new voter registrations and changes to existing voter registration records as well as production of the registration poll lists for each election day.

(i) In the event of a system malfunction, availability of backup facilities and/or service.

§ 6212.5 System management

(a) The county board shall have primary responsibility for all aspects of the creation, maintenance and use of the file. Although support, guidance and assistance may be obtained from the State Board, a vendor or vendors or other outside sources, the county board of elections is responsible for ensuring compliance with the Election Law and for carrying out these regulations and any relevant directives of the State Board.

(b) The county board shall prepare a work plan for conversion of the existing registration poll records to a computer registration file with signature images and use of that file to produce registration poll lists for the polling places each election day. The work plan shall include a schedule for conversion of the existing records with estimates of resources required and data on which those estimates are based and a calendar for completion of the work with interim milestones indicated. The work plan shall be amended as necessary during the course of conversion.

(c) The board shall write and adopt procedures for all tasks in the process of conversion to, or maintenance of, the file and shall modify and amend those procedures as experience dictates. The procedures should provide for quality control, particularly at points in the process known to be error prone. Personnel employed in conversion or maintenance shall be trained in the procedures and required to follow them.

(d) The processes of conversion to and maintenance of the computer registration file shall be fully documented. Logs shall be maintained indicating what was done, when and by whom. Such documentation is subject to review by the State Board.

(e) Access to computer file in which signature images are stored shall be limited to those persons authorized for access by the county board and a written plan for accomplishing that purpose shall be adopted by the board. Each access to the file other than inquiry shall be recorded. Such records shall include date and time of such access and the name of the person accessing. The board shall designate a person or persons to be responsible for controlling, recording and monitoring access to the file. That person or persons shall immediately report any unauthorized access to the board.

(f) The board of elections must maintain, as public records at the appropriate office of the board, a complete and current hard copy alphabetized list of all registered voters which includes the address, town or city, assembly district or ward, where appropriate, election district, registration serial number, party enrollment, date of registration, sex and date of birth of each such voter and a complete and current hard copy list of all registered voters which is arranged by election district and which contains all the information required to be included for each voter on the registration poll list prepared for use at an election, together with the facsimile signature of each such voter. The county board shall ensure that voter registration lists on any medium, which are sold or distributed, other than for use by the board or to comply with the order of a court of competent jurisdiction, do not include facsimile voter signatures or the capability to generate facsimile voter signatures, but do include all other data contained in those records.

(g) A complete list is printed not less than once per year following completion of the purge and is updated weekly by a reprinting of the complete list or by the printing of supplements showing additions or deletions to the master file occurring during the preceding week.

(h) As soon as feasible following the first use of registration poll lists in an election, the county board shall convene and conduct an evaluation of the project, including all aspects of contract administration, creation and maintenance of the computer registration file, training of personnel including poll workers, utility of the registration poll lists, public understanding and acceptance of the system, etc. The State Board shall participate in the evaluation. A report of the evaluation shall be written and filed with the State Board.

§ 6212.6 Acceptance testing

(a) All hardware and software purchased shall be tested following delivery. The purpose of the acceptance testing is to determine if the hardware, software, documentation and other materials delivered meet the terms of the contract.

(b) Acceptance testing shall be performed in accordance with the plan submitted to and approved by the State Board as part of the proposed contract before purchase, except that other requirements may be added to the plan if, at the time of delivery or in the course of testing, the county board or State Board deems it advisable to do so.

(c) Acceptance testing shall include but not be limited to the following:

(1) Examination of the manufacture's specifications for all hardware delivered in order to confirm that the equipment supplied is that which was promised and described in the contract.

(2) Functional testing of the system, hardware and software, by county board personnel with instruction and assistance of vendor personnel. The functional testing shall be performed with actual source documents, including specimens of all the varying types of such source documents that will be used in the conversion and maintenance. Special attention shall be given to such factors as the speed of the

equipment, ease of understanding and operation, the adequacy of the software documentation, capability for accommodating the variety of source documents and quality of signature facsimile both on the screen and on hard copy. The testing shall not be cursory but shall be as extensive as possible and shall take into consideration the response of the system at times of high stress.

(d) The process of acceptance testing shall be documented by the county board of record all testing performed and the findings therefrom.

(e) The county board shall certify to the State Board that acceptance testing has been completed and shall supply to the State Board a copy of the documentation of that testing.

§ 6212.7 Training

(a) The county board shall assure that all personnel assigned to work on creation and maintenance of the file, or on the production of registration poll lists and other documents generated from the file, are thoroughly trained in their responsibilities. Initial training shall be provided under the contract by which the system is procured and the terms of the contract shall not be deemed to have been fulfilled until the board is satisfied that the training specified therein has been completed. Additional training in use of the system shall be provided by the board as needed to assure continuing satisfactory performance.

(b) During both conversion and maintenance, the board shall monitor and evaluate the procedures and the performance of the staff and shall modify procedures and provide additional training to the staff where, in the board's judgment, the operation can be improved.

(c) A written summary of the training shall be filed with the State Board at time of making application for discontinuance of registration poll records (see section 6212.12[a] of this Part.)

§ 6212.8 Record processing during conversion and maintenance

(a) The county board shall adopt, and ensure compliance with, procedures to guarantee the security and integrity of

registration poll records during conversion and maintenance. A copy of these procedures shall be filed with the State Board at time of making application for discontinuance of registration poll records (see section 6212.12[a] of this Part.)

(b) When such documents are removed from ledgers, they shall be maintained and processed in uniquely identified batches. Each batch and each document therein shall be accounted for through use of logs which record every processing transaction in which it is involved, from the time of removal from the ledger until returned to the ledger. For each transaction the log shall indicate the action taken, date, time and by whom.

(c) Any of the following may be used as a source document for a voter signature image:

(1) The original registration poll record or a replacement registration poll record created because the preceding one was filled to capacity. A signature appearing either on the front or on the back of a registration poll record may serve as the basis for the computer image.

(2) Any other original voter registration record including school board registration, military registration, special Federal registration, change of name registration and Federal Post Card Application (FPCA).

(3) Absentee voting application.

(4) Absentee ballot envelope.

(5) Affidavit ballot envelope.

(6) Registration poll list or the challenge report used in connection with that list.

(7) Special form, card, or letter mailed to a voter for the purpose of obtaining a signature.

(d) Standards for quality of the signature image and facsimile shall be established by the board and applied by staff in producing the signature image for the file. Such standards shall include, but not be limited to, provisions to assure:

(1) that the image produced for a particular voter's registration record is the signature of the voter;

(2) that the image is properly positioned; and

(3) that the quality of the image on the screen is such that a hard copy facsimile generated from it will enable an election inspector to make a comparison between the facsimile and the signature the voter signs on election day.

(e) If, in the judgment of the board, the quality and usefulness of a signature image in the file can be improved by substituting therefor one created from a different signature of the same voter, that substitution may be made.

(f) All records in the computer registration files shall be verified by the local board before they are used to generate a registration poll list. That verification process shall include at least the following:

(1) confirmation that every eligible voter is on the file; and

(2) confirmation that the signature facsimile included in each record is the correct signature for that voter.

§ 6212.9 Registration poll list

(a) For each election, a registration poll list shall be prepared in alphabetical order for each election district which shall include the name and other information required by the law and these regulations relating to each voter eligible to vote in that district in that election. The pages of the list shall be bound or fastened so that all pages are securely held together and the list shall be identified as an official document of the county board.

(b) For each individual voter, the following information shall be in the registration poll list:

(1) name;

(2) street address;

(3) date of birth;

(4) party enrollment;

(5) month, day and year of registration;

(6) facsimile of the voter's signature printed or an indication that the voter is unable to sign his name;

(7) a place for the voter to sign his name or to make his mark in the event he is unable to sign his name; and

(8) a place for the inspector to record the number appearing on the stub of any election day paper ballot given to the voter.

(c) Each page of the registration poll list shall contain:

(1) The number of the election district, assembly district, legislative district, town, ward, etc. in which such election district is located.

(2) Date of the election for which the list is prepared.

(3) Page number. The last page of the list shall be so marked.

(4) Range of names listed on that page.

(d) Prior to the first election in which a registration poll list is used to replace the registration poll ledger, the State Board shall review and approve the content, format and layout of the registration poll list, as well as the adequacy of the facsimile signatures included in it. For that purpose, the county board shall submit a specimen registration poll list containing the records of at least 500 voters. At the same time, the county board shall certify to the State Board that the verification of the file required by section 6212.8(f) of this Part has been performed.

(e) Registration poll lists shall be preserved in secure storage by the board until the end of the second calendar year following the election in which they were used.

§ 6212.10 Storage of computer readable records

(a) The complete, current computer registration file shall be produced periodically in duplicate on electronic storage medium.

(b) One copy of the file shall be stored in a different building from the other copy. If one or both copies is stored in a location not directly under the board's control, the board shall provide for security of such copy of the file and shall ensure that access to it will be limited to those authorized by the board. Conditions in a facility used for storage of a computer registration file shall meet generally accepted standards for storage of data on electronic media.

§ 6212.11 Storage of original voter registration records

(a) Original registration poll records shall be maintained in their ledgers, emplaced as they have been when used in polling places, and available for reference until after the board has successfully conducted an election in a county or portion thereof using registration poll lists with voter signature facsimiles, and the State Board has approved discontinuation of the preparation, use and maintenance of registration poll records by that board.

(b) Following successful use of the registration poll lists for one election and State Board approval of the county board's application to discontinue preparation, use and maintenance of registration poll records, the registration poll records in the ledgers may be removed therefrom. They shall be preserved, along with original voter registration records received after conversion of the file, for as long as registration records are otherwise preserved, organized and labeled in such a manner so that they are available for examination.

§ 6212.12 State Board responsibilities

The State Board shall:

(a) Prepare and distribute to the county boards of elections procedures for a county board to initiate and carry out the process of creating a computer registration file with signature images and to apply to discontinue preparation, use and maintenance of registration poll records and substitute therefor registration poll lists with voter signature facsimiles.

(b) Review and approve:

(1) The documents submitted to initiate the process under section 6212.3(a) of this Part.

(2) Any proposed contract submitted by a county board under section 6212.3(c) of this Part; such contract must include a plan for acceptance testing.

(3) The certification that the acceptance testing has been carried out as required by section 6212.6(e) of this Part.

(4) The specimen registration poll list and the certification of the verification of the file as required by section 6212.9(d) of this Part.

(5) An application for discontinuation of preparation, use and maintenance of registration poll records by a county board which has successfully conducted an election using registration poll lists (see subdivision [a] of this section). Before granting such approval, the State Board shall be satisfied that the county has met the requirements of the Election Law and this Part.

(c) Adopt and apply standards for clarity and speed of the printer to be used for printing registration poll lists.

(d) Monitor and, when appropriate, assist and support county boards in conversion to and maintenance of computer registration files including assistance to a county board in obtaining compliance with any contract entered into in connection with such work.

(e) On request of a county board, supply specimen forms, materials and procedures for guidance in planning conversion and maintenance.

(f) With respect to ongoing use of a computer registration file, order compliance with law and regulations when it finds that a county board has not so complied. If the county board fails to comply, the State Board shall withdraw approval for use of registration poll lists and require such board to resume preparation, use and maintenance of registration poll records.

PART 6213—AGENCY ASSISTED REGISTRATION

Section

6213.1. Participating agencies.
6213.2. Duties of participating agencies designated by Election Law, section 5–211.
6213.3. Duties of Department of Motor Vehicles under Election Law, section 5–212.
6213.4. Duties of county boards of elections.
6213.5. Duties of the State Board of Elections.

§ 6213.1 Participating agencies

(a) In addition to those agencies, departments, divisions, and offices which have been specifically set forth in Election Law, sections 5–211 and 5–212, those private offices and agencies which receive public funds from State agencies primarily providing services to persons with disabilities shall be subject to the provisions of these regulations.

(b) Such specified agencies shall submit updated lists of such private offices and agencies to the State Board of Elections.

§ 6213.2 Duties of participating agencies designated by Election Law, section 5–211

(a)(1) The agency shall provide to any person who does not speak or understand English, voter registration assistance in the same manner and at the same level which they provide assistance for the completion of their own forms. In targeted areas of New York State, members of language minority groups identified pursuant to sections 4(f)(4) and 203(c) of the Voting Rights Act of 1965 as amended, shall be provided both written materials and oral assistance in their language to aid them in understanding and following the procedures for voter registration. Written materials in Spanish and Chinese will be available from the State Board.

(2) The agency shall provide a mail voter registration application form to every person who wishes to register to vote but prefers not to do so at the agency, and to any person who otherwise requests a mail registration form.

(b)(1) Pursuant to Election Law, section 5–211(8)(f), the following shall serve as the address and phone number for use in related circumstances: you may file a complaint with the State Board of Elections at 40 North Pearl Street, Suite 5, Albany, NY 12207-2729, or fax a complaint to (518) 4NY-NVRA.

(2) A signed declination form shall be retained by each participating agency for 22 months.

(c)(1) Each agency shall transmit to the appropriate board of elections at least once a week, all completed applications for registration forms and change of address forms. Each transmittal shall include a completed transmittal form which will be provided by the State Board of Elections. The agency is to complete part one of the document and retain the pink copy for its records. The white and yellow copies of the transmittal document shall be included in each transmittal to the appropriate County Board of Elections.

(2) Each agency shall be required to complete the following information on every transmittal form:

(i) site code;

(ii) date of transmittal;

(iii) number of voter registration applications in this transmittal;

(iv) total number of voter registration applications transmitted, year to date;

(v) number of declinations received since the last transmittal delineated as follows:

(*a*) declined, with no explanation;

(*b*) already registered;

(*c*) asked for and received a mail registration form; and

(*d*) blanks.

(3) All completed voter registration forms and changes of address for voting purposes, which are received by an agency between the 13th and 25th day before a general, special or primary election, shall be transmitted to the appropriate board by whatever means and with a frequency calculated to assure their receipt by the appropriate board not later than the 20th day before such election.

(4) Each agency, at the request of the State Board, shall provide the number of agency transactions at each site.

(d) In addition to its own rules and regulations, each agency shall develop written procedures necessary for the implementation of this program and shall provide the State Board with a copy of such procedures. Those procedures shall include, but not be limited to, the following:

(1) method and frequency of transmittal of completed voter registration materials to the appropriate board of elections;

(2) procedures for ensuring compliance with the requirements of this act by programs and agencies under contract with such agency to provide services to persons with disabilities;

(3) plans for providing required foreign language assistance;

(4) provisions governing the use of volunteers to provide assistance in completing voter registration forms when provision of such assistance in completing the agency form is included in the volunteers' regular duties. Volunteer services shall not relieve agency obligations under the law;

(5) each agency shall name one person as the voter registration program coordinator for the agency. That person shall be responsible for the establishment and maintenance of site coordinators, employee training, program coordination, procedures, and supplies;

(6) in addition to the initial implementation lists provided to the State Board of Elections, agencies shall submit any changes to programs, sites and locations, on a monthly basis.

(e) Not later than 60 days prior to program implementation, at the beginning of each school year, and again in January or February in a presidential election year, CUNY and SUNY administrations shall provide State Board of Elections with specific plans for voter registration at each college campus and shall submit a request for numbers of voter registration forms required. Such plans shall include, but not be limited to, procedures to assure that each student receive a voter registration form and shall include the name and telephone number of a contact person at each college campus.

§ 6213.3 Duties of Department of Motor Vehicles under Election Law, section 5–212

(a) Pursuant to Election Law, section 15–212(4)(e), the following shall serve as the address and phone number for use in related circumstances: you may file a complaint with the State Board of Elections at 40 North Pearl Street, Suite 5, Albany, NY 12207-2729, or fax a complaint to (518) 473–8315; or call 1–800–4NY–NVRA.

(b) The agency shall provide to any person who does not speak or understand English, voter registration assistance in the same manner and at the same level which they provide assistance for the completion of their own forms. In targeted areas of New York State, members of language minority

groups identified pursuant to sections 4(f)(4) and 203(c) of the Voting Rights Act of 1965 as amended, shall be provided both written materials and oral assistance in their language to aid them in understanding and following the procedures for voter registration. Written materials in Spanish and Chinese will be available from the State Board.

(c) The agency shall provide a mail voter registration form to every person who wishes to register to vote, but prefers not to do it at the agency, and to any person who otherwise requests a voter registration form.

(d) A signed declination form shall be retained for 22 months.

(e)(1) At least once a week, each motor vehicle office shall transmit to the appropriate board of elections all completed application for registration forms and change of address forms. Each transmittal shall include a completed transmittal document, which is generated by the Department of Motor Vehicles. The agency is to complete part one of the document, transmit, and include it with each transmittal to the appropriate County Board of Elections.

(2) The agency shall be required to complete the following information on every transmittal form:

(i) site code;

(ii) date of transmittal;

(iii) number of voter registration applications in this transmittal;

(iv) total number of declinations received since the last transmittal.

(3) The agency, at the request of the State Board, shall provide the number of agency transactions at each site.

(f) In addition to its own rules and regulations, the agency shall develop written procedures necessary for the implementation of this program and shall provide the State Board with a copy of such procedures. Those procedures shall include, but not be limited to, the following:

(1) method and frequency of transmittal of completed voter registration materials to the appropriate board of elections;

(2) procedures for ensuring compliance with the requirements of this act;

(3) plans for providing required foreign language assistance; and

(4) the commissioner shall name one person as the voter registration program coordinator for the department. That person shall be responsible for the establishment and maintenance of site coordinators, employee training, program coordination, procedures, and supplies.

§ 6213.4 Duties of county boards of elections

(a) Each local board shall develop written procedures for the processing of registration and change of address forms received from participating agencies, and Federal registration forms received from the State Board of Elections. A copy of those procedures shall be filed with the State Board for review as to compliance with the law, not later than June 1, 1996.

(b) Registration applications in each transmittal from any agency site shall be processed as a unit or batch. When the processing is completed, the County Board shall complete part two of the transmittal document accompanying each batch and retain the yellow copy for its records.

(c) Each board shall provide the following information on the transmittal document for every batch:

(1) number of new registrations contained in this batch;

(2) number of address changes contained in this batch;

(3) number of enrollment changes contained in this batch;

(4) number of name changes contained in this batch;

(5) number of duplicate registrations contained in this batch;

(6) number of incomplete forms contained in this batch; and

(7) brief description of any problems the board has encountered with this site.

(d) Local boards shall send to the State Board of Elections the white copy of all completed transmittal documents on a weekly basis.

§ 6213.5 Duties of the State Board of Elections

(a)(1) The State Board of Elections shall develop a voter registration form for use by the designated voter registration agencies. The form shall be designed to prevent the disclosure of the agency where an applicant completed the registration form and shall meet all the requirements of State and Federal law.

(2) The State Board shall assign an identification code to every agency site participating in the program. Sites shall be designated by program and State agency sub-contractors who receive State funding from agencies providing services to persons with disabilities shall receive separate site codes. The State Board shall retain the only list of said identification codes.

(3) The State Board shall provide sufficient copies of the registration form to all participating agencies for use in the agency assisted voter registration program.

(b) The State Board shall consult with the Department of Motor Vehicles on the design of a voter registration form for use by the department in its voter registration program. The form shall meet all requirements of State and Federal law.

(c)(1) The State Board of Elections shall develop a transmittal document to accompany the transmittal of completed registration applications from agencies to local boards. Local boards will be required to forward copies of these documents to the State Board. The transmittal document shall serve as the basic source of statistical information required from the State by the Federal Elections Commission rules and regulations.

(2) The transmittal document shall be an NCR form in triplicate. It shall require the following information:

(i) to be provided by each transmitting agency:

(*a*) site code;

(*b*) date of transmittal;

(*c*) number of application forms in this transmittal;

(*d*) number of declinations because already registered;

(*e*) number of declinations with no explanation;

(*f*) number of persons who requested and received a mail registration form; and

(*g*) total number of transmittals to date;

(ii) to be provided by each local board of elections:

(*a*) number of new registrations contained in the batch;

(*b*) number of address changes contained in the batch;

(*c*) number of enrollment changes contained in the batch;

(*d*) number of name changes contained in the batch;

(*e*) number of duplicate registrations contained in the batch;

(*f*) number of incomplete forms contained in the batch; and

(*g*) any problems encountered with the particular agency site.

(3) The State Board shall compile the statistics contained in the transmittal documents as they are received from the local boards of elections. The State Board of Elections may request that each participating agency submit data on the volume of transactions processed by each agency for comparison to transmittal statistics. The State Board will regularly monitor such information, to assess compliance, and shall make inquiries and recommendations based on such assessment. This information shall be forwarded to the Federal Election Commission, the Governor and State Legislature annually. The information shall be available upon request to the public.

(d) The State Board shall transmit to the appropriate local board all Federal voter registration forms received at the State Board. All such forms received on the 20th day before an election shall be time stamped at the State Board and then forwarded by overnight mail to the appropriate board for processing.

(e) At least quarterly, the State Board shall transmit to the appropriate local board of elections:

(1) all notices from Federal and State courts of felony convictions and prison sentences;

(2) all notices from courts that an individual has been adjudicated incompetent;

(3) the names of persons for whom death certificates have been filed with the Department of Health.

(f) The State Board of Elections shall be responsible for developing training programs on the requirements and implementation of this act and shall be responsible for providing training to all participating agency trainers. Those trainers, in consultation with the State Board, shall be responsible for training current agency employees and shall develop a system for training all new employees. The State Board shall provide such training as often as it deems appropriate.

(g) The State Board of Elections shall design, prepare and distribute informational and promotional materials and resupply each site, as necessary. Materials shall be produced in English, Spanish and Chinese and shall be written to accommodate minimum levels of literacy. Agencies shall prominently display appropriate materials at each work station and in each public area of the agency.

(h) The State Board of Elections shall prepare and distribute informational guides to local boards, agencies and the public, which shall contain all necessary provisions of the State Election Law and rules and regulations of the State Board of Elections, relative to the implementation of and compliance with the National Voter Registration Act.

(i) The State Board of Elections shall, in consultation with the Department of Immigration and Naturalization Services, provide information and registration forms to be distributed to all new citizens at Immigration and Naturalization Services ceremonies across the State.

(j) The State Board of Elections shall consult with the Department of Defense to develop the necessary procedures for providing voter registration forms at armed forces recruiting stations across the State; and for the transmittal of completed forms received at such recruiting stations to the State Board.

(k) When a complaint is received via the toll free number provided in the agency and motor vehicle voter registration forms, State Board employees will take all appropriate steps towards resolving the complaint as quickly as possible. In order to ensure that a caller is able to exercise his/her rights as outlined in section 11 of the National Voter Registration Act, all persons filing a complaint via the toll free number will be sent a complaint form which should be completed and returned to the State Board of Elections.

PART 6214—CAMPAIGN CONTRIBUTION LIMITS

Section
6214.0. Campaign contribution limits.

§ 6214.0 Campaign contribution limits

The following limits will apply to campaign contributions until such time as the State Board of Elections adjusts the limits to reflect changes in the consumer price index:

Previous limit	*Current limit*	*Office/Election*
$ 7,000.00	$ 7,500.00	State senate primary
		Statewide primary minimum
		NYC citywide primary minimum*
$ 21,100.00	$ 22,600.00	Statewide primary maximum
		NYC citywide primary maximum*
$ 44,000.00	$ 47,100.00	Statewide general
		NYC citywide general*
$ 11,000.00	$ 11,800.00	State senate general
$ 4,400.00	$ 4,700.00	State assembly primary
		State assembly general
$ 109,600.00	$ 117,300.00	Party committees

* NOTE: Section 1052 of the New York City Charter supersedes New York Election Law campaign contribution limits with respect to certain New York City offices.

PART 6215—PREPARATION, DELIVERY AND FILING OF DESIGNATION AND NOMINATING PETITIONS

Section
6215.1. Rules for filing designating and nominating petitions.
6215.2. Cover Sheets.

Section
6215.3. Identification numbers, application, distribution and utilization.
6215.4. Multiple candidates named on a petition.
6215.5. Filing of petitions.
6215.6. Construction of rules; substantial compliance.
6215.7. Determinations; cures pursuant to section 6–134(2) of the Election Law.
6215.8. Form of cover sheet.
6215.9. Publication of candidate websites.

§ 6215.1 Rules for filing designating and nominating petitions

(a) The sheets of a petition shall be numbered sequentially at the foot of each sheet.

(b) All petitions containing 10 or more sheets shall be accompanied by a cover sheet.

(c) Any two or more petition sheets shall be securely fastened together by any means which will hold the pages together in numerical order.

(d) Petition sheets may be fastened together to form one or more volumes.

(e) Individual volumes of a petition shall be filed in the following manner:

(1) With respect to petitions which are filed with the Board of Elections in the City of New York, or petitions which are filed with other boards of elections containing candidates for more than one public or party office which are not coterminous, each volume of each petition shall bear an identification number, to be obtained in accordance with section 6215.3, infra. The assigned identification number shall be inscribed on the front of the volume. If an identification number has not been inscribed by the person or persons filing the petition, and the petition consists of multiple volumes, then each volume of the petition shall be separately numbered on the front thereof. Only one identification number may be used to identify a petition volume.

(2) Any Board of Elections outside the City of New York may adopt a petition filing system for all petitions utilizing identification numbers as provided for in section 6215.3 of this Part. The board may adopt such system through the approval of a rule at least two months prior to the first day

to circulate petitions. The rule shall be filed at the county board of elections and the State Board of Elections.

(3) With respect to all other petitions which contain 10 or more sheets, each volume of the petition shall have a cover sheet secured to the front of such volume.

§ 6215.2 Cover Sheets

(a) A cover sheet shall contain the following information:

(1) The office and district number (where appropriate) for which each designation and nomination is being made, the name and residence address of each candidate, and the number of volumes comprising the petition. The names and addresses of candidates for the county committee may be set forth, by assembly district (or, in the City of New York, by election district) on a schedule to be annexed to the cover sheet. Cover sheets for the positions of county committee in the City of New York shall include, in addition to such schedule a list by election district of the identification numbers (if known) or the volume number, and page number where such signatures appear for each election district.

(2) An identification of the volumes comprising the petition. When multiple volumes are filed pursuant to section 6215.1(e)(1) or (2) of this Part, a single cover sheet may be filed with volumes identified by listing the identification number of each volume either individually or cumulatively, and the total number of volumes in the petition. With respect to all other petitions filed in multiple volumes, each volume shall have a cover sheet which shall indicate the volume number; such volumes shall be numbered sequentially and the cover sheet from the first volume shall set forth the total number of volumes comprising petition.

(3) A statement that the petition contains the number, or in excess of the number, of valid signatures, required by the Election Law.

(4) A place for the optional designation of a contact person other than the candidate(s) to be notified to correct noncompliance with these regulations.

(5) Where a designating or independent nominating petition involves the Office of Governor, Lieutenant Governor,

Attorney General, State Comptroller, Member of the State Senate or Member of the State Assembly, the cover sheet shall contain a place for the optional designation of the official campaign website address information for posting on the State Board of Elections' website pursuant to Election Law section 4–123. Any board of elections receiving such cover sheet or a separate written notification pursuant to section 6215.9(b) of this Part, other than the State Board of Elections, shall transmit a copy of such cover sheet or separate written notification to the State Board of Elections within three business days of its filing and such website addresses shall be posted by the State board on its website as soon as practicable.

(b) Cover sheets shall be substantially in the form set forth in section 6215.8, *infra*.

(c) Where a designating petition involves an office to be filled by the voters of the entire state, the petition shall be accompanied by a schedule which sets forth the volume and page number of each sheet on which signatures appear of at least 100 or 5 percentum, which ever is less, of properly enrolled voters in each of at least one-half of the congressional districts of the state.

(d) Where a nominating petition involves an office to be filled by the voters of the entire state, the petition shall be accompanied by a schedule which sets forth the volume and page number of each sheet on which signatures appear of at least 100 voters in each of at least one-half of the congressional districts of the state.

§ 6215.3 Identification numbers, application, distribution and utilization

(a) Identification numbers shall be issued by the State and County Boards of Elections, without charge, for the purpose of identifying petition volumes.

(b) The State Board shall assign a series of identification codes to each county board.

(c) Any person or persons, individually or jointly, may obtain one or more identification numbers, upon written application, from the Board of Elections. Individuals who do not wish to

apply for these numbers in advance will have them assigned to their petitions when they are submitted to the Board of Elections in accordance with section 6215.6(b) of this Part. Identification numbers may be used only within the calendar year for which issued.

(d) The State Board of Elections shall promulgate an identification number application form, which shall be used by any board of elections. The application shall set forth:

(1) the name and residence address of each applicant for the identification number;

(2) the daytime and evening telephone numbers for such applicant;

(3) the type of petition to be filed under the identification number (*i.e.*, designating, nominating, opportunity to ballot);

(4) the date of the election;

(5) the name of the party or independent body; and

(6) the number of identification numbers requested.

Each application shall be signed by each applicant and shall be dated.

(e) Upon receipt of an application for an identification number, the board shall forthwith issue the quantity of identification numbers requested inscribe such numbers on the original application, and record the numbers issued with the name and address of the applicant in a book which shall be available for public inspection. In the event that an application is filed by multiple applicants, the board shall record in the book only the name and address of the first-named applicant.

(f) An assigned identification number may be used for the filing of petition sheets only by the person to whom the identification number was issued. In the case of multiple applicants, the identification number may be used by any of the applicants.

§ 6215.4 Multiple candidates named on a petition

(a) All the signatures appearing in a petition volume shall apply to all candidates named in that volume, unless the cover sheet specifies otherwise.

(b) In the event that the same candidates do not appear on each and every sheet of the petition, then the cover sheet shall indicate which signatures apply to which candidate, by indicating the name of the candidate, the identification number or the volume number, and the page number of the applicable signatures. Signatures on such pages may be identified by specified numerical ranges (*e.g.*, pages 1 through 15, pages 15–45).

§ 6215.5 Filing of petitions

(a) Neither the application for, nor the issuance of, an identification number constitutes filing of a petition.

(b) Petitions shall be filed with the applicable Board of Elections as set forth in the Election Law. The officer or board shall endorse the day, hour and minute of receipt on such petitions. Such officer or board shall keep a book, which shall be open to public inspection, in which shall be entered the name of the candidate, and volume or identification numbers of the petitions which have been filed and the time of their filing.

§ 6215.6 Construction of rules; substantial compliance

(a) Except as specifically set forth herein, these rules shall be liberally construed and technical defects shall be disregarded where there has been substantial compliance and where a strict construction is not required for the prevention of fraud.

(b) The failure to obtain an identification number or inscribe an identification number on one or more petitions or petition volumes shall not render any such petition or petition volume invalid. The officer or board receiving such petition or petition volume shall assign identification numbers to such petition or petition volumes, shall inscribe the identification number upon the petition or volume, and shall record the identification number of such petition or volume. In such instances, the person or persons submitting the petition or petition volume for filing shall be deemed to be the applicant for the identification number, or in the event the persons submitting the petition or petition volume, cannot be identified, the candidates named on the petition or petition volume shall be deemed to be the applicant or applicants.

§ 6215.7 Determinations; cures pursuant to section 6–134(2) of the Election Law

(a) Within two business days of the receipt of the petition, the board with whom such petition was filed shall review the petition to determine whether the petition complies with the cover sheet and binding requirements of these regulations. Such review shall be limited to matters apparent on the face of the documents. Such review, and such determination, shall be without prejudice to the determination by the board of objections and specifications of objections filed pursuant to the provisions of the Election Law.

(b) In the event that, upon the review conducted pursuant to subdivision (a) of this section, the board determines that a petition does not comply with these regulations, the board shall forthwith notify the candidate or candidates named on the petition of its determination and the reasons therefor.

(c) Notification of a determination of noncompliance shall be given by written notice by depositing such notice on the day of such determination with an overnight delivery service, for overnight delivery, on the next business day, or by personal delivery by the day after the determination to the candidate or the contact person, if designated, at the address stated on the petition. Notification shall be given by overnight delivery or personal delivery only, unless the candidate shall have filed with the board written authorization, signed by the candidate, for the board to give notification by facsimile transmission. In the event that the candidate shall have authorized notification by facsimile transmission, then the board shall notify the candidate or the contact person, if designated, by facsimile transmission on the day of the determination to the number set forth by the candidate and shall, in addition, mail a copy of the determination to the candidate.

(d) A candidate may, within three business days of the date of a determination that the petition does not comply with these regulations, cure the violation of these regulations. Cover sheet deficiencies may be corrected by the filing of an amended cover sheet. Such cure or correction must be received by the Board of Elections no later than the third business day following such determination.

(e) If the petition is one for an opportunity to ballot, then the first named person on the committee to receive notices or applicant(s) for the identification number or numbers under which the petition was filed shall be deemed to be the ''candidate'' for purposes of subdivisions (b), (c) and (d) of this section.

§ 6215.8 Form of cover sheet

Sample Cover Sheet

Designating and Independent Petitions
Filed In New York City and Counties Which Utilize
Petition Identification Numbering Systems

[Place Name of Party or Independent Body Here]

Name of Candidate	Residence Address *(Also mailing address if different)*	Public Office or Party Position *(Include district number where appropriate)*

Total Number of Volumes in Petition	
Identification Numbers	

The petition contains the number, or in excess of the number, of valid signatures required by Election Law.

Contact Person to Correct Deficiencies:

Name _____
(Please print)

Residence Address _____
(Also mailing address if different)

_____

Phone _____ **Fax** _____
(Include if notice by fax desired)

Email _____
(Include if notice by email desired)

I hereby authorize that any notice of any determination made by the Board of Elections be transmitted to the person named above.

Optional: For candidates for statewide office, Member of Assembly or State Senator only
The following website address is submitted to be published on the state board of elections website pursuant to Election Law § 4-123 for the candidate listed opposite:

Name of Candidate	Website Address

_____
Signature of Candidate or Agent

(Sample prepared by the State Board of Elections)

Cover Sheet (DI-NYC) – 01.2018

Sample Cover Sheet

Designating and Independent Petitions

[Place Name of Party or Independent Body Here]

Name of Candidate	Residence Address *(Also mailing address if different)*	Public Office or Party Position *(Include district number where appropriate)*

Volume Number	
Total Number of Volumes in Petition	

The petition contains the number, or in excess of the number, of valid signatures required by Election Law.

Contact Person to Correct Deficiencies:

Name _____
(Please print)

Residence Address _____
(Also mailing address if different)

_____

Phone _____ **Fax** _____
(Include if notice by fax desired)

Email _____
(Include if notice by email desired)

I hereby authorize that any notice of any determination made by the Board of Elections be transmitted to the person named above.

Optional: For candidates for statewide office, Member of Assembly or State Senator only

The following website address is submitted to be published on the state board of elections website pursuant to Election Law § 4-123 for the candidate listed opposite:

Name of Candidate	Website Address

_____
Signature of Candidate or Agent

(Sample prepared by the State Board of Elections) Cover Sheet (DI) – 01.2018

§ 6215.9. Publication of candidate websites

(a) Candidates for the State Offices of Governor, Lieutenant Governor, Attorney General, State Comptroller, Member of State Senate and Member of State Assembly may have their campaign related website(s) address published on the State Board of Elections website.

(b) Such candidates may notify the State Board of Elections of his or her website address on the candidate's petition cover sheet or in a separate written notification signed by the candidate. A written notification must state the office sought, district as applicable, candidate first name, candidate last name, candidate's party designation(s), and the candidate's campaign related website address. Any writing that reasonably sets forth the information above so that the writing can be matched with a petition or certificate of nomination filed for such office shall be accepted by the State Board of Elections as sufficient.

(c) The State Board of Elections shall display on its website a list of candidates' campaign related website addresses accompanied with a disclaimer stating, ''The website addresses published here are designated by the candidate. The State Board of Elections is not responsible for and expresses no opinion as to the content of candidate websites.'' The State board shall display the following information: State office sought, district as applicable, candidate first name, candidate last name, candidate party designation(s), and candidate designated campaign related website address.

(d) If a candidate does not identify a campaign related website address for publication, such candidate shall be listed with a label indicating ''no website address provided for publication.'' The State board shall not publish any website address found to be unrelated to a candidacy for New York State public office. This facial determination shall be made unanimously by the co-executive directors or their designees, and any determination to not publish a website address shall be forthwith mailed or emailed to the candidate or the candidate's agent. Any denial to publish a campaign related website address pursuant to this paragraph shall be reviewed only in a special proceeding brought by the candidate pursuant to article 78 of the Civil Practice Law and Rules.

(e) The State board shall post such candidate campaign related website information by office. The order of the listing shall be: Governor, Lieutenant Governor, Attorney General, State Comptroller, Member of State Senate and Member of State Assembly. The offices of State Senate and State Assembly shall be subcategorized by district number. Candidates will then be listed pursuant to the provisions of Election Law section 7–116(1). Candidates nominated by independent bodies shall be listed alphabetically by the independent body name thereafter. For primaries, candidates shall be listed alphabetically under that party's header.

(f) As soon as practicable, when it is finally determined that a candidate will no longer appear on the ballot, such candidate's campaign related website address shall be removed from the public list.

(g) For primary and general elections, candidate websites shall be listed as soon as practicable, but no later than one week after the earliest candidate certification date pursuant to Election Law section 4–110 or 4–112. Candidate's campaign related websites shall be removed after the general election or at such time after the primary election when the candidate will no longer appear on any ballot. For special elections, candidates will be listed for a timeframe to be determined by the board.

(h) Candidate writings requesting the posting of campaign related website addresses shall be retained by the State board for two years.

(i) The State board shall not publish campaign related website(s) addresses on its website for individuals who are solely seeking to qualify for a party nomination or election as a write-in candidate for the State offices outlined in subdivision (a) of this section.

PART 6216—HELP AMERICA VOTE ACT ADMINISTRATIVE COMPLAINT PROCEDURE

Section

6216.1. Purpose of administrative complaint procedure.
6216.2. Procedure in administrative complaint proceedings.
6216.3. Alternative dispute resolution.

§ 6216.1 Purpose of administrative complaint procedure

The purpose of this administrative complaint procedure is to provide a uniform, nondiscriminatory administrative complaint procedure by which any person who believes that there is a violation (including a violation which has occurred or is occurring or is about to occur) of any provision of title III of the Federal Help America Vote Act of 2002 (HAVA), may file a complaint seeking redress of their grievance.

§ 6216.2 Procedure in administrative complaint proceedings

(a) *Initiation of proceeding and informal complaints*. (1) A complaint alleging that there is a violation (including a violation which has occurred or is occurring or is about to occur) of any provision of title III of the Federal Help America Vote Act of 2002 (HAVA), may be made in person, by telephone, or in writing. Such complaints may be made to the appropriate local board of elections or to the State Board of Elections (the ''SBOE''). A toll-free number, 1-800-458-3453, is available for telephone calls to the SBOE for making a complaint. Complaints shall be addressed by election officials expediently and informally whenever possible. The SBOE shall make accessible complaint forms available on its website.

(b) *Formal complaints*. (1) All formal complaints shall be filed with the SBOE. All formal complaints shall be written, signed and sworn by the complainant. The complainant may use the complaint form promulgated by, and available from, the SBOE. The SBOE or a local board of elections shall assist any person with a disability who requests assistance to file a complaint. Alternatively, the complainant may use any other writing containing the information solicited by the prescribed form. Complaints raising similar questions of law and/or fact may be consolidated by the SBOE.

(2) All formal complaints shall contain the following information:

(i) the full name, mailing address, telephone number and e-mail address if applicable, of the complainant;

(ii) identification of the local or state official(s) or entity/entities (by name or by reference to the office) who is alleged to have violated title III (the ''respondent'');

(iii) a description of the violation of title III that is alleged to have occurred, is occurring, or is about to occur, sufficient to apprise the SBOE and the respondent(s) of the nature and specifics of the complaint;

(iv) an indication whether the complainant requests a hearing; and

(v) the signature of the complainant sworn to under oath or affirmation before a notary public or commissioner of deeds.

(3) A complaint shall be based upon personal knowledge and belief and be reasonably specific as to times, places and names of witnesses or parties relevant to the matters complained of. If a complaint is based upon information and belief, the complainant shall state the source of the information and belief. Copies of all documentary evidence available to the complainant shall be attached to the complaint. Evidence deemed by the complainant to be of a confidential nature shall be identified as such, and contain an explanation as to why said evidence should be so deemed.

(4) The burden of proof applied to all formal complaints shall be a preponderance of the evidence.

(5) A complaint shall be filed within 120 days after the occurrence of the actions or events that form the basis for the complaint.

(6) Complaints must be filed, either in person or by mail, with the New York State Board of Elections, Counsel's Office, 40 North Pearl Street, Suite 5, Albany, NY 12207-2729.

(7) A complainant may withdraw a complaint at any time by providing written notice to the SBOE. The SBOE shall send written notice of the withdrawal to respondents.

(c) *Processing of complaints*. (1) Upon receipt of a formal written complaint, the SBOE, through its Counsel's Office, shall within two business days assign a complaint number to the complaint, review the complaint for completeness, and

consolidate, if it deems appropriate, any complaints that arise out of the same actions or events, raise common questions of law or fact, or involve the same respondents.

(2) If the complaint form is not properly completed or lacks the information necessary to process the complaint, the SBOE, through its Counsel's Office, shall within three business days notify the complainant that he/she must re-submit a corrected or completed complaint in order for it to be accepted for filing.

(3) Upon receipt of a completed or corrected complaint, as determined by its Counsel's Office, the SBOE shall accept the complaint for filing, and shall issue a notice of acceptance of complaint, to notify the complainant. The SBOE shall notify the complainant of the tracking number assigned to the complaint and the date upon which the complaint was accepted for filing. The time frame in which a determination must be issued by the SBOE commences in the date which the notice of acceptance of complaint is issued by the Counsel's Office. Upon accepting the complaint for filing, the SBOE shall forward a copy of the accepted complaint to the Chief Enforcement Counsel.

(4) The SBOE shall send a copy of a complaint that is accepted for filing to the respondent named or referred to in the complaint. The respondent must submit a written response to the SBOE within 10 business days after receipt of both the copy of a complaint that is accepted for filing and a copy of the notice of acceptance of complaint. As an option, the respondent may also include a written request for a hearing if one was not already requested by the complainant. The SBOE shall then serve the written response on the Complainant. All correspondence required to be submitted to the State Board of Elections pursuant to this paragraph must contain the complaint number and be submitted to: The New York State Board of Elections, Counsel's Office, 40 North Pearl Street, Suite 5, Albany, NY 12207-2729.

(d) *Hearings on complaints*. (1) Upon the written request of the complainant or respondent, there shall be a hearing on the record, unless prior to the hearing, the SBOE, in accordance with subdivision 4 of section 3-100 of article 3 of the Election

Law, sustains the formal complaint as being uncontested. Any party to the hearing may purchase a transcript of such hearing.

(2) The complainant or respondent may withdraw his/her initial request for a hearing at any time. The parties may also agree, in the alternative, to resolve the complaint through an informal conference.

(3) The SBOE, Counsel's Office, shall schedule a hearing if one has been requested by either the complainant or respondent, or if it is deemed by the SBOE, in accordance with subdivision 4 of section 3-100 of article 3 of the Election Law, as necessary to resolve the complaint. The SBOE shall attempt to schedule the hearing at a time convenient to all parties.

(4) The SBOE, Counsel's Office, shall provide final written notice of the date, time and place of the hearing to the complainant and respondent, by certified mail, return receipt requested, or by commercial courier service with proof of delivery, not less than five business days prior to the date of the hearing.

(5) Hearings shall be conducted by a panel of two commissioners of the SBOE who are representatives of the two major parties or senior staff members as selected by the commissioners of that party.

(6) Hearings shall be conducted at the SBOE offices located at 40 North Pearl Street, Suite 5, Albany, NY 12207-2729. An alternate location may be selected when deemed necessary upon agreement of the hearing panel. Upon request of either party, the panel may conduct a hearing by telephone or, where available, interactive video. When such telephonic or video appearances are made, all due effort shall be made to not impose any undue burden upon any party appearing in person.

(7) The complainant shall have an opportunity to present witnesses, documents or other evidence relevant to the allegations in the complaint, and to argue his/her position. The respondent shall also be given an opportunity to present witnesses, documents or other evidence and to argue his/her position in response to the complaint. The hearing panel may ask questions of both parties to elicit information rele-

vant to a determination of the complaint. Any witnesses who testify shall be under oath. The hearing panel can request written materials or oral presentations by persons who are not parties to the matter if the panel determines that such materials or presentations would be helpful in its review of the complaint.

(8) The following rules of evidence shall substantially be followed in the admission of testimony and exhibits in all hearings:

(i) Any oral or documentary evidence may be received, but the hearing panel shall, as a matter of policy, exclude irrelevant, immaterial or unduly repetitious evidence. Subject to these requirements and subject to the right of any party to cross examine, any testimony may be received in written form.

(ii) Documentary evidence in the form of copies may be received at the discretion of the hearing panel, if the original is not found readily available. Upon request by any party an opportunity shall be granted to compare the copy with the original, which shall be subject to production by the person offering such copies.

(iii) Cross examination may be conducted as the hearing panel shall find to be required for a full and true disclosure of the facts.

(iv) Any exhibit admitted as evidence by the hearing panel in a prior hearing may be offered as evidence in a subsequent hearing and admitted as an exhibit in such hearing. The hearing panel shall employ its experience, technical competence, and specialized knowledge in evaluating the evidence presented at the hearing for the purpose of making its finding of facts and arriving at a final determination.

(9) The hearing may be recessed and continued to a later time or day, at the discretion of the hearing panel.

(10) All hearings shall be electronically recorded, and a record of the proceedings shall be compiled by the SBOE. The record of the proceedings shall include:

(i) the electronic recording of the hearing;

(ii) a transcript of the hearing on the record if such a hearing was so requested in writing by the complainant or respondent;

(iii) any documents or other tangible items introduced into evidence at the hearing, and a list of same in the order in which they were introduced;

(iv) the complaint and written response;

(v) all notices and correspondence between the SBOE, the complainant and the respondent; and

(vi) the results of any investigation conducted by SBOE staff in response to the complaint.

(e) *Determinations*. (1) If the hearing panel does not agree to sustain the complaint, the formal complaint shall be deemed dismissed and that shall constitute the determination of the panel.

(2) If no hearing has been requested in writing by the complainant or respondent, and if a hearing was not deemed by the SBOE, in accordance with subdivision 4 of section 3-100 of article 3 of the Election Law, as necessary to resolve the complaint, then a panel of two commissioners of the SBOE who are representatives of the two major parties or senior staff members as designated by the commissioners of that party shall make a determination based on the written submissions of the complainant and respondent and any other relevant information obtained by the SBOE.

(3) The determination of a panel will be final unless changed by the SBOE pursuant to subdivision 4 of section 3-100 of article 3 of the Election Law, within 90 days of the notice of acceptance of complaint being issued by the Counsel's Office. A final determination shall be filed and published by the SBOE within 90 days of the notice of acceptance of complaint being issued by the Counsel's Office, unless the complainant agrees to a longer period of time. When a violation has been found, the final determination shall include an appropriate remedy for any violation of title III of the Help America Vote Act of 2002 (HAVA) found by the SBOE. A final determination dismissing a formal complaint may be filed by any one member of the panel. Filing and publication shall occur upon posting of the final determina-

tion on the SBOE web site - www.elections.state.ny.us. The SBOE shall mail a copy of the final determination to the complainant and respondent.

(4) The final determination shall include findings of fact regarding the alleged violations, based on a preponderance of the evidence standard, and shall specify an appropriate remedy if a title III violation is found. If no violation is found, then the final determination shall dismiss the complaint. Any complaint that is not timely filed or does not allege a violation of title III of HAVA that has occurred, is occurring or is about to occur with regard to a Federal election may be dismissed by the SBOE in a written determination.

(5) The SBOE, Counsel's Office shall provide copies of the final determination to the complainant and respondent.

(f) *Remedies*. (1) Remedies available under this procedure shall be directed to the improvement or correction of election procedures governed by title III and must be consistent with State law. Remedies may consist of a directive to the local or State official(s) or entity/entities to undertake or to refrain from certain actions or to alter certain procedures pertaining to Federal elections.

(2) A remedy provided for under this rule may not include any award of damages or payment of costs, penalties or attorneys fees, and may not include the invalidation of any election or a determination of the validity of any ballot or vote.

(3) No provision of this section shall be construed to impair or supersede the right of an aggrieved party to seek a judicial remedy including a judicial remedy concerning any final determination made pursuant to the alternative dispute resolution procedure as outlined in section 6216.3 of this Part. The SBOE shall provide notice to all complainants of the provisions of this subdivision.

(g) *Costs of conducting hearings*. (1) The SBOE shall be responsible for the costs of administering hearings. This shall not include any expenses of any complainant or respondent to the hearing.

§ 6216.3 Alternative dispute resolution

(a) *Purpose and overview*. (1) Whenever a final determination of a formal complaint is not made within 90 days of the date of acceptance as established in section 6216.2(c)(3) of this Part, or any other longer agreed upon time period, the SBOE shall refer the formal complaint to an independent, alternative dispute resolution (ADR) agency. Such hearings and determinations shall be conducted by the alternative dispute resolution agency pursuant to regulations as outlined below. Such agency shall have 60 days, from the expiration of the original 90 day time period, or any other longer agreed upon time period, to make a final determination. The SBOE shall contract, pursuant to subdivision 4 of section 3-100 of article 3 of the Election Law with one or more such alternative dispute resolution entities for this specific purpose.

(b) *Referral to ADR agency*. (1) As soon as the SBOE has exceeded the 90 day calendar day period as established in section 6216.2(c)(3) of this Part, or any other longer agreed upon time period, the complaint will be forwarded immediately to the administrative office of the ADR agency selected by the SBOE from those agencies under contract with the SBOE to provide such services.

(2) The materials forwarded shall include:

(i) the electronic recording of the hearing;

(ii) a transcript of the hearing on the record if such a hearing was so requested in writing by the complainant or respondent;

(iii) any documents or other tangible items introduced into evidence at the hearing;

(iv) the complaint and written response;

(v) all notices and correspondence between the SBOE, the complainant and the respondent;

(vi) the results of any investigation conducted by SBOE staff in response to the complaint;

(vii) contact information for each party which will include addresses, phone numbers, fax numbers and e-mail, if available; and

(viii) any other contact information relevant to the complaint, including any specific requirements for arbitration.

(c) *Case processing.* (1) The ADR agency shall conduct an expedited cost-effective process where complaints are decided in a timely manner, but not at expense of a full and complete investigation.

(2) The ADR agency shall review the materials submitted by the SBOE, and forward a copy of the materials to the appointed arbitrator. Within a period of 15 to 20 calendar days after receipt of the complaint and supporting documentation, the ADR agency and the arbitrator will schedule the hearing in a neutral, convenient, and accessible location to the complainant. Upon request of either party, the arbitrator may conduct a hearing by telephone or, where available, interactive video. When such telephonic or video appearances are made, all due effort shall be made to not impose any undue burden upon any party appearing in person.

(3) The ADR agency shall forward the following information to the parties:

(i) date of arbitration;

(ii) location of arbitration;

(iii) appointed arbitrator, and summary of arbitrator vitae when requested;

(iv) any disclosure statement the arbitrator may deem relevant.

(4) The parties will have seven calendar days to object to the arbitrator on the grounds of a prior relationship or due to another reason deemed sufficient by the ADR agency and the SBOE. The parties will also have seven calendar days to make a request for the arbitrator to subpoena another party/parties to attend the arbitration.

(5) An arbitration shall be held, giving the parties full opportunity to present evidence and testimony.

(6) The arbitrator shall then analyze all materials relevant to the complaint, and develop a written statement clearly explaining his/her decision and a remedy to the complaint, if applicable.

(7) The arbitrator's decision shall be advisory in nature, not constituting a final and binding award. The arbitrator will forward his/her written arbitration decision to the ADR agency, which will forward a copy to both parties, as well as the State Board.

(8) The entire process from complaint forwarding to the ADR agency, to dissemination of the decision to the parties will take no more than 60 calendar days, with the exception of an adjournment of the case beyond the 60-day time frame as agreed to by the parties. Adjournments will be determined by the arbitrator.

(9) The procedures and relative elements of the Arbitration Program will be subject to review, at least annually.

(d) *Arbitration remedies*. (1) Recommended remedies available pursuant to arbitration shall be directed to the improvement or correction of election procedures governed by title III and must be consistent with State law. Remedies may consist of a recommendation directing the local or State official(s) or entity/entities to undertake or to refrain from certain actions or to alter certain procedures pertaining to Federal elections.

(2) A recommended remedy provided for under this rule may not include any award of damages or payment of costs, penalties or attorneys fees, and may not include the invalidation of any election or a determination of the validity of any ballot or vote.

(3) No decision of the arbitrator shall be construed to impair or supersede the right of an aggrieved party to seek a judicial remedy. The decision of the arbitrator must provide notice to all parties of the provisions of this subdivision.

(e) *Costs of conducting arbitration*. (1) The SBOE shall be responsible for the costs of administering arbitrations as the same are established in the agreement between the SBOE and the ADR agency entered into pursuant to subdivision 4 of section 3-100 of article 3 of the Election Law. This shall not include any expenses of any complainant or respondent to the arbitration.

PART 6217—NEW YORK STATE DATABASE REGULATIONS

Section

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§ 6217.1 Purpose

(a) Pursuant to New York Election Law, section 5-614, the State Board of Elections (State Board) hereby adopts the following regulations in relation to the operation of the statewide voter registration list to be known as NYSVoter.

(b) NYSVoter shall serve as the single, interactive, statewide voter registration list for storing and managing the official list of registered voters throughout the State. It shall be maintained and administered by the State Board. NYSVoter shall maintain one record for each registered voter including the statewide unique identifier, current voting eligibility status of the voter and voter history, including but not limited to, voting history, previous name(s) and addresses. A voter's driver's license or non-driver's identification number or any portion of the social security number shall not be released for public inspection. The information contained in the statewide voter registration list shall not be used for non-election purposes.

(c) The County Boards of Elections (county board) have sole responsibility for adding, changing, canceling or removing voter registration records from their county's portion of the statewide voter registration list. The State Board shall make accessible to each local board of elections the statewide voter registration list. Such list shall be maintained in a computerized form which permits different user interfaces which meet the defined interface specification.

(d) NYSVoter shall maintain a transaction history of changes made to each voter record, including but not limited

to: each change made and reasons therefore; the date and time stamp to record the date of change; the ID of the county board operator and system that updated the record; and a description of the key elements that were changed.

(e) NYSVoter shall operate on a 24-hour-a-day, seven days a week basis (*e.g.*, the system must be accessible during election periods) except for any required maintenance periods, that shall be scheduled to minimize impact on the State Board and county boards' election administration and voter registration functions. In the event that a transaction is not processed the county board shall be notified with the reason.

(f) *Effective date*. Effective immediately except that subdivision (d) of this section shall become effective on July 1, 2007.

§ 6217.2 Initial creation of the statewide voter registration list

(a) The official statewide voter registration list shall be created by combining the existing voter registration lists maintained by each local board of elections into a single integrated list.

(b) To the maximum extent practicable, each local board of elections shall continue to use its existing computer infrastructure, computer software and database applications to access data from and transmit data to the statewide voter registration list.

(c) The information required to be sent to the State Board to appear on the list shall be determined by the State Board of Commissioners.

(d) To create such list, each local board of elections shall transmit to the State Board a certified copy of the voter registration records of such board in an electronic format prescribed by the State Board and continuing as directed by the State Board.

(e) Once all data from the counties has been received, the State Board shall run a check for duplicate voter registration records within the integrated statewide voter registration list as provided for in these regulations.

(f) After all duplicate registration issues have been resolved, the State Board shall assign a unique identifier to every voter on NYSVoter.

(g) The county board shall append the same unique identifier to any corresponding county record.

(h) *Effective date*. Effective immediately except that subdivision (g) of this section shall become effective on July 1, 2007.

§ 6217.3 Review of county voter registration systems

(a) Prior to sending data to the statewide list, any proposed county voter registration system must be approved by the State Board to ensure it meets the technical specifications promulgated by the State Board to interface with the official statewide voter registration list. For proposed systems, this approval must be obtained prior to the purchase or installation of the system.

(b) A county voter registration system must have the capability to:

(1) store information required in New York State Election Law and this Part;

(2) generate a list of registered voters in a county including their registration statuses;

(3) track information specific to single elections, including the issuance and return of absentee ballots; and

(4) store and provide images of signatures of registered voters.

(c) A county's voter registration system must conform to all of the requirements of state law and of these regulations, and if it does not, the State Board must notify the county board of the nature of the nonconformity. The county board must correct the nonconforming aspects of the county voter registration system and provide to the State Board such evidence of the change or changes in the system as that office may deem appropriate.

(d) NYSVoter shall ensure all data complies with the data standards for the database. County systems must be remediated so that all required data is sent to and received from the centralized database.

§ 6217.4 Voter registration information entry

(a) Using the county's voter registration system as their direct interface to NYSVoter, county election officials shall enter all voter registration information into the list on an expedited basis at the time the information is provided to the county official. Each county board must enter and maintain voter registration records in a county voter registration system. County boards have the responsibility for adding, changing, canceling or removing voter registration records through an interface NYSVoter. NYSVoter, shall normalize to standards and store voter registrant information provided on the registration applicant.

(b) County voter registration systems shall synchronize with NYSVoter at least every 24 hours.

(c) County voter registration systems shall maintain near real-time synchronization.

(d) Each NYSVoter record must contain at least the following information:

(1) full name including, last name, first name, middle initial and name suffix;

(2) residence address including house number or apartment number, half code, street name and direction, city and five-digit ZIP code and ZIP code plus four, or an indication of a non-standard residence address;

(3) mailing address (if different from residence address) including house, apartment number, or post office box number, street name and direction, city, state and five-digit ZIP code and ZIP code plus four and country;

(4) United States Postal Service coding accuracy support service address (if available). This is the process of correcting mailing address lists to conform to United States Postal Service standards. This improves the accuracy of the postal carrier route, five-digit ZIP code and ZIP code plus four, that appear on mail pieces;

(5) birth date;

(6) telephone number (if indicated);

(7) gender (if indicated);

(8) New York State Department of Motor Vehicles driver's license number or non-driver's identification number or the last four digits of social security number or an indication that the voter has neither number;

(9) political party enrollment or affiliation (or lack thereof);

(10) county voter registration number;

(11) county code;

(12) data entry date. The date that the voter registration data was entered into the system;

(13) application date. The date on which the voter registration application was marked as being received and is the date of voting eligibility of the registrant;

(14) Application source code. NYSVoter shall collect and track the source of voter registration applications and summarize and report on registration activity in accordance with National Voter Registration Act reporting requirements;

(15) identification required flag;

(16) identification verification requirement met flag;

(17) voter status codes;

(18) official district information including home political subdivision, election district, town, town ward, Congressional, Senate and Assembly districts;

(19) voting history, including, whether a voter voted in an election (State, Federal, and local elections), last year voted, last county voted in;

(20) voter transaction history, including, address changes, and name changes;

(21) signature of the voter. NYSVoter shall capture and store a graphic image of the signature on a registration application. NYSVoter shall receive and store an image of the signature captured and provided by the county voter registration system:

(i) ease of signature comparison. The signatures shall be stored in a way to enhance speed of display;

(ii) restrictions of image editing. NYSVoter shall not allow the authorized user to modify the basic characteristics, structures, and recognizable format of the registrant's signature.

(e) *Effective date*. Effective immediately except that subdivision (b) of this section shall sunset and be deemed repealed on June 30, 2007; subdivision (c) and paragraphs (d)(4) and (21) of this section shall become effective on July 1, 2007.

§ 6217.5 Voter registration processing

(a) In order to vote in New York State, a person must possess the constitutional and statutory qualifications of an elector and must be registered to vote, and if required, be enrolled in a political party.

(1) Qualifications to register to vote:

(i) United States citizen;

(ii) eighteen years of age or older on election day or will be at least 18 years old not later than December 31st of the calendar year in which he or she registers; and

(iii) resident in New York State and of the county, city or village for a minimum of 30 days next preceding such election.

(2) Disqualifications from voter registration:

(i) death;

(ii) sentenced to prison based upon a felony conviction;

(iii) moves out of their county of residence; or

(iv) adjudged mentally incompetent by the order of a court.

(b) When a voter registration application is received, the county board is responsible for processing each application and determining whether the application is complete and whether the applicant meets constitutional and statutory requirements. All voter registration applications shall be date and time stamped to establish eligibility and to establish the time lapse of not more than 21 days maximum for a completely processed voter registration. Procedures for opening mail, time stamping documents or pre-screening, to the extent that

they are not prescribed by this Part, are left to the county boards to establish.

(c) All voter registration activity must be done by a bipartisan team of workers, to assure fairness and uniformity in the process.

(1) Bipartisan processing:

(i) Staff members(s) of one major political party review(s) and enters the information from either an individual application or a batch of applications.

(ii) The work on such application or batch of applications is proofread and reviewed by a staff member(s) of the opposite major political party.

(iii) Any edits or changes to the information initially entered must be made and approved, in a bipartisan process, by the two staff members of opposite parties.

(iv) Once completed by two staff members of opposite parties, the information is sent from the county registration system to NYSVoter for inclusion on the statewide list of registered voters, and verification of each voter's identity.

(d) Once an application for registration has been entered it is processed in one of three ways:

(1) Registered. The voter's registration record has been updated with all following required information:

(i) the applicant's name;

(ii) the applicant's complete residence address;

(iii) the applicant's date of birth such that the applicant is or will be 18 years of age by Election Day or not later than December 31st of the calendar year in which he or she registers;

(iv) a mark in the checkbox affirming the applicant is a citizen of the United States;

(v) verification information:

(a) the applicant's current and valid New York driver's license number or, the non-driver's identification number; or

(b) if the applicant has not been issued a current and valid New York driver's license or non-driver's identification card, the last four digits of the applicant's social security number; or

(c) in the case where an applicant has not been issued a current and valid New York driver's license or non-driver's identification card or social security number, the applicant shall affirm this fact in the manner prescribed in the uniform statewide voter registration application; and

(vi) original signature of the applicant swearing or affirming that the information contained in the registration application is true.

(2) Incomplete. A voter registration application is incomplete if it does not contain the required information in paragraph (a)(1) of this section; and incomplete voter records are not uploaded to the NYSVoter database, but may be maintained within the county election management system.

(3) Denied. Once an application is denied, the voter is provided a notification; denied voter records are not uploaded to the NYSVoter database, but may be maintained within the county election management system.

(4) If any of the required information is missing on the voter registration application, the county board shall take immediate steps to obtain the missing information. In any such case the county board shall notify the applicant of the reasons that the registration application is incomplete and the period of time in which the application information must be provided in order to be eligible to vote in the next election.

(5) When the missing information is necessary to verify the applicant's identity pursuant to Election Law, section 5-210, the application shall be processed, the applicant registered, and a notice of approval which includes an indication that the county board has not been able to verify the identity of the applicant and a request for more information so that such verification may be completed shall be sent to the registrant pursuant to statute and these regulations.

(e) Following entry into the county voter registration system, all information in the application for voter registration must be transferred electronically to NYSVoter which will then electronically notify the county voter registration system with a response that includes confirmation of the transaction, an assigned unique identifier and registration status in NYSVoter. NYSVoter shall assign a unique identifier to every voter that will remain with the voter for their voting life.

§ 6217.6 Voter identification verification

(a) The county board shall promptly, and in any event, not later than 21 days after receipt by it of the voter registration application, verify the identity of the applicant who has not previously had his or her identification verified. The voter's registration and enrollment shall be complete upon receipt of the application by the appropriate county board. The failure of a county board to verify an applicant's identity shall not be the basis for the rejection of a voter's application; provided, however, that such verification failure shall be the basis for requiring county board to take the additional verification steps provided by the Election Law, section 5-210 and this Part.

(b) In order to do so, the county board shall utilize the information provided on the application and shall attempt to verify such information through NYSVoter with the information provided by the New York State Department of Motor Vehicles, or the United States Social Security Administration and any other lawfully available information source. The county board shall do so by transmitting such information to NYSVoter. The county board shall deem as verified for the purposes of this section an application received from the Department of Motor Vehicles processed simultaneously and integrated with an application for a motor vehicle driver's license, a driver's license renewal or an identification card if such card is issued by the Department of Motor Vehicles in its normal course of business, pursuant to section 5-212 of the Election Law.

(c) NYSVoter shall compare the New York State Department of Motor Vehicles driver license or non-driver number, name, date of birth and gender of the voter with the New York State Department of Motor Vehicles records for verification of the

voter's identification as required by statute. The New York State Department of Motor Vehicles shall report back to NYSVoter. Based upon this report, the county board shall determine if they have sufficient information to verify the voter's identity, or whether additional information is required to verify the voter's identity.

(d) If necessary to verify a voter's identity, NYSVoter shall compare the last four digits of the voter's social security number, name and date of birth, through the New York State Department of Motor Vehicles with the United States Social Security Administration records for verification of the voter's identification as required by statute. The United States Social Security Administration through the New York State Department of Motor Vehicles shall report back to NYSVoter. Based upon this report, the county board shall determine if they have sufficient information to verify the voter's identity, or whether additional information is required to verify the voter's identity.

(e) If the county board is unable to verify the identity of the applicant within 21 days of the receipt of the application, it shall immediately take steps to confirm that the information provided by the applicant was accurately utilized by such county board, was accurately verified with other information sources and that no data entry error, or other similar type of error, occurred.

(f) Following completion of the preceding steps, the county board shall mail:

(1) a notice of its approval; or

(2) a notice of its approval which includes an indication that such board has not yet been able to verify the identity of the applicant and a request for more information so that such verification may be completed; or

(3) a notice of its rejection of the application to the applicant in a form approved by the State Board.

(g) The request for more information shall inform the voter that: ''THE FAILURE TO CONTACT THE BOARD OF ELECTIONS AND CORRECT ANY INACCURACIES IN THE APPLICATION OR PROVIDE REQUESTED ADDITIONAL INFORMATION MAY RESULT IN A REQUEST FOR IDENTIFICATION AT THE POLLS IN ORDER TO CAST A VOTE

ON A VOTING MACHINE.'' If such notice is returned undelivered without a new address, the board shall forthwith send such applicant a confirmation notice pursuant to the provisions of section 5-712 of the Election Law and place such applicant in inactive status.

(h) ''Notices of approval.'' Notices of approval with requests for more information or notices of rejection shall be sent by nonforwardable first class or return postage guaranteed mail on which is endorsed ''ADDRESS CORRECTION REQUESTED'' and which contains a request that any such mail received for persons not residing at the address be dropped back in the mail.

(i) If the Board of Elections has been unable to verify the identity of the applicant within 45 days of the application, the board shall mail a second request for more information to the applicant. This notice shall inform the voter that ''THE FAILURE TO CONTACT THE BOARD OF ELECTIONS AND CORRECT ANY INACCURACIES IN THE APPLICATION OR PROVIDE REQUESTED ADDITIONAL INFORMATION MAY RESULT IN A REQUEST FOR IDENTIFICATION AT THE POLLS IN ORDER TO CAST A VOTE ON A VOTING MACHINE.''

(j) If the county board is unable to verify the identity of the applicant it shall so indicate with a notation next to the voter's name on the registration list. Such voter may provide information to assist the county board to verify their identity at any time and such notation shall be removed by the county board upon such verification.

(k) If a voter's identity is not verified before election day, the voter will be asked to provide identification before they vote for the first time. Forms of identification include a valid photo identification, a current utility bill, bank statement, government check, or some other form of government document that shows the voter's name and address. If the voter provides such identification or the voter cast an affidavit ballot pursuant to Election Law, section 8-302 and the county board verifies the identity of such affidavit voter the county board shall indicate to NYSVoter that the voter's identity has been verified.

(*l*) The notices of approval and notices of approval with requests for more information shall also advise the registrant:

(1) of the date when his registration and enrollment is effective;

(2) of the date and the hours of the next regularly scheduled primary or general election in which he will be eligible to vote;

(3) of the location of the polling place of the election district in which he is or will be a qualified voter, whether such polling place is accessible to physically handicapped voters;

(4) an indication that physically handicapped voters or voters who are ill or voters who will be out of the city or county on the day of the primary or general election, may obtain an absentee ballot and the phone number to call for absentee ballot applications;

(5) the phone numbers to call for location of polling places, to obtain registration forms and the phone number to call to indicate that the voter is willing to serve on election day as an inspector, poll clerk or interpreter.

(m) The notice of approval, notice of approval with request for more information or notice of rejection shall also advise the applicant to notify the Board of Elections if there is any inaccuracy. The form of such mail notification shall be prescribed by the State Board and shall contain such other information and instructions as it may reasonably require to carry out the purposes of the Election Law and this Part.

(n) The notice of rejection shall also advise the applicant with instructions on how to complete the application and the period of time which the application must be provided in order to be eligible to vote in the next election. The form of such mail notification shall be prescribed by the State Board and shall contain such other information and instructions as it may reasonably require to carry out the purposes of the Election Law and this Part.

§ 6217.7 Processing voters who move between counties

(a) NYSVoter shall identify as voters that have moved between counties those voters who have stated on their applica-

tion that the last year they voted, or were registered to vote, was in a county other than where they are applying to register to vote and the voter provided the previous address at which they were registered.

(b) NYSVoter shall notify affected counties of an apparent duplicate voter record, and thus a possible move between counties based upon a match of an applicant's name and date of birth.

(c) NYSVoter shall provide the capability for the county to verify that a voter has moved between counties based upon a match of the applicant's signature and either the New York State Department of Motor Vehicles driver license or non-driver number or last four digits of the voter's social security number or matching of the previous address of the voter.

(d) When a Board of Elections receives notice that a voter on the statewide list has moved to an address in such Board of Elections' county or city, the Board of Elections shall transfer the voter to the new address and send a transfer notice as provided for in Election Law, section 5-208(1) (5).

(e) NYSVoter shall notify the ''from county'' if a voter has moved their voter registration between the counties. After determining that the voter has moved, the ''to county'' will effectuate the transfer and substitute the NYSVoter assigned unique identifier with such unique identifier of the ''from county''. The NYSVoter system shall allow all information associated with the registration to be viewed by the ''to'' county.

(f) NYSVoter shall notify the ''from county'' if a voter has moved their voter registration between counties. In such cases, the ''from county,'' upon determining that such records are for the same voter, shall cancel the voter record in their county and provide the required cancellation notice to the voter pursuant to Election Law, section 5-402. In such cases where the ''from county'' is unable to determine that the proposed duplicate records are from the same voter, after providing the required notice to the voter, the ''from county'' shall place such voter in inactive status.

(g) NYSVoter shall facilitate the move process if the ''to county'' has been informed of the registrant's ''from county'' on the voter registration form or from the registrant.

(h) The moving of voters from one county to another may occur as a result of a new voter registration form being processed or by any mechanism provided for in Election Law section 5-208.

(i) Applicable to transfers. Any Board of Elections which receives information that a voter has moved to an address in another county in New York State which would have permitted such ''from county'' board to transfer the voter registration address within the county if the address indicated was an in-county change of address, shall send a copy of the address transfer information, including a voter registration number to the county ''to county'' Board of Elections where the voter has moved. The ''to county'' shall, using such voter's information contained in NYSVoter, including enrollment and signature exemplar, along with the new address information, place the voter at the new address pursuant to Election Law section 5-208 and provide notice to the voter in the manner provided in this section. When the ''from county'' forwards transfer information to another county Board of Elections for further processing, the ''from county'' shall send a confirmation notice in a form approved by the State board to the prior address of such voter in the ''from county.'' Further list maintenance steps as required by this Part shall be undertaken upon notification by NYSVoter that the voter is registered at an address in another county in New York or upon notification received from the voter.

(j) If such registration or change of address information effectuating such transfer also reflects a change of enrollment as evidenced by the NYSVoter record, the ''to county'' Board of Elections shall also treat such as an application for a change of enrollment pursuant to Election Law section 5-304.

§ 6217.8 Processing duplicate voters

(a) NYSVoter shall identify possible duplicate voter registrations as needed by the county board based upon a match of an applicant's first name, last name, and date of birth.

(b) NYSVoter shall identify possible duplicate voter registrations in near real time at or near the time of data entry for all registration application transactions based upon a match of an applicant's first three letters of the first name and the first five

letters of the last name, date of birth, and, if available, the unique identification number, or the New York State Department of Motor Vehicles driver license or non-driver number or last four digits of the voter's social security number. An image of the potential duplicate voter's signature shall be made available to the county boards for comparison.

(c) NYSVoter shall notify the counties with matching records if voters are potential duplicate registrations between counties. The notification shall include pertinent information regarding the voter.

(d) If the information received by the Board of Elections through NYSVoter indicates that a voter is currently registered to vote more than once, the local Board of Elections containing the registration record of the earlier dated registration record, the ''from county'', shall send such voter the confirmation notice prescribed by section 5-712 of the Election Law and place such voter on inactive status pursuant to section 5-213 of the Election Law.

(e) After determining that the voter is a duplicate, the ''to county'' will activate a new record.

(f) After determining that the voter is a duplicate, the ''to county'' will substitute the unique identifier with the unique identifier from the ''from county''.

(g) *Effective date*. Effective immediately except that subdivisions (b) and (f) of this section shall become effective on July 1, 2007.

§ 6217.9 Voter registration status

(a) Each voter maintained in NYSVoter will be assigned a voter registration status by the county board which will determine the voter's eligibility to vote. The voter registration status will be updated after an application is processed and an application disposition has been assigned. The discreet voter registration statuses and their definitions to be stored by NYSVoter are described below.

(1) Active. The voter is properly registered and is eligible to vote in elections. There are several categories of active voters, as specified below:

(i) active;

(ii) active miliary [1];

(iii) active UOCAVA;

(iv) active special presidential; and

(v) active special Federal.

(2) Inactive. The voter is still eligible to vote in elections, but is not included in the poll book. NYSVoter shall allow a county election official to designate a voter as inactive, noting the reason for the designation, such as ''election material mailed to registrant returned as undeliverable'' or ''moved with an out of county forwarding address'', ''affidavit ballots''.

(3) Purged. The voter is no longer eligible to vote in an election, and will not appear in the list of registered voters. This list is to be utilized to prevent deceased voters from overwhelming valid voters when doing voter searches and to allow for voters who later re-register to vote to resurrect and utilize their unique identifier.

(4) Pre-registered. The voter has met all the requirements to be an active voter but has not yet attained the age of 18. Pre-registered voters that will be 18 years old on or before the election date are included in the poll book and are eligible to vote in the election. The voter must be at least 16 years old to pre-register.

(5) NYSVoter store reason codes for inactive and purged voters indicating or explaining the reason for a specific voter's status, as follows:

(i) inactive status - mail check, NCOA, returned mail;

(ii) purged status - death, voter request, felon, ADF (adjudicated) incompetent, NVRA, moved out of country.

[1] So in original. Probably should read ''military''.

§ 6217.10 Voter registration list changes and list maintenance

(a) *List maintenance activities and schedules*. (1) The State Board, in consultation with local boards of elections, shall establish minimum standards for statewide voter registration list maintenance activities and schedules for such activities.

(2) The list maintenance performed shall be conducted in a manner consistent with the Election Law and these regulations to ensure that:

(i) the name of each registered voter appears in the statewide voter registration list;

(ii) only names of persons who are not registered or who are not eligible to vote are removed from such list; and

(iii) the prior registrations of duplicate names are removed from such list.

(b) *Notices of cancellation*. (1) Where a county board determines that a voter's registration shall be cancelled, the record shall be flagged with a status of purged and the appropriate purged reason code and a cancellation notice as provided for in Election Law, section 5-402, shall be sent to the voter, except that no cancellation notice shall be sent to a person whose voter registration record has been flagged as deceased or who has made a personal request for such cancellation.

(2) The county board shall electronically file with the State Board a cancellation and removal report indicating all cancellations and removal actions taken by the local board of elections from the list of eligible voters. Such report shall be filed in a format and at such intervals as directed by the State Board.

(c) *Address, name and enrollment changes within a county*. (1) When a review and query of a voter registration application indicates that the voter is already registered to vote within the county, and is initiating a change to their record, such change shall be processed, and the record updated and the appropriate notice shall be sent to the voter:

(i) For an address change—a transfer notice as provided for in Election Law, section 5-208(1)(5).

(ii) For a name change, or the addition or deletion of a post office box—an approval notice as provided for in Election Law, section 5-210(9).

(iii) For a change of enrollment—a letter from the county board confirming receipt of the same and stating the effective date of the enrollment change.

(2) Before an update or change can be applied to an existing voter registration record, a county board shall perform a search of existing voters to ensure that the application is not a new registration and is an update or change to an existing record within the county.

(d) *Notifications of a death, felony conviction or adjudication of mental incompetence*. (1) NYSVoter shall receive death notifications including the voter's first name, middle name, last name, gender, date of death, date of birth, street address, city, and ZIP code, from New York State Department of Health and New York City Department of Health and Mental Health. NYSVoter may be matched against the United States Social Security Administration's Master Death Index. Notification shall be sent to the appropriate county for follow-up and determination.

(2) NYSVoter shall receive notices of felons sentenced to a term of imprisonment and of persons adjudicated mentally incompetent including the voter's last name, first name, middle name, gender, date of birth, street address, city, state, ZIP code, county, and a code indicating whether the person is a convicted felon sentenced to a term of imprisonment or a person adjudicated mentally incompetent from the New York State Office of Court Administration or any court having jurisdiction over such matters. Notifications shall be sent to the appropriate county for follow-up and determination.

(3) Each local board of elections shall, within 25 days after receiving such list of decedents or list of persons subject to forfeiture of the right to vote pursuant to section 5-106 of the Election Law, use such lists to identify and remove decedents and persons subject to forfeiture of the right to vote pursuant to section 5-106 of this article from the list of eligible voters.

(e) *National change of address*. National change of address processing shall be conducted with a United States Postal Service approved vendor at least annually. The processing shall at a minimum identify voter address change information, whether permanent or temporary; provide data which can be used to standardize addresses and provide enhanced ZIP code extensions, to assist in more accurate delivery of voter mail;

and notification of deceased status. Notifications shall be sent to the appropriate county for follow-up and determination.

§ 6217.11 Voter registration list security and user administration

(a) *Statewide*. NYSVoter relies on shared security with both the county board and State Board having responsibilities over specific system resources and administration. The State Board will be responsible for providing tools necessary for county boards to authorize local users to NYSVoter functions, verify that local users identified in transaction headers are authorized for that purpose, and for insuring that a message was not altered in transmission.

(b) *County board*. Security over county voter registration systems and networks, administration of local users, authentication and authorization of county board personnel will be the responsibility of each county board. Each county board will configure the local county user to have access pursuant to NYSVoter. Since access to NYSVoter will be through the county voter registration system, administration and authorization to the county voter registration system must include the assignment of a user ID and password for the county voter registration system that has a role or user-based security management. County boards will have the rights to create and modify county users as well as delete users when appropriate in their own county.

§ 6217.12 Reports and information queries

(a) NYSVoter shall provide to county board operators the ability to:

(1) query all records in the database, regardless of county;

(2) conduct user-defined searches of voter records;

(3) generate pre-defined and *ad hoc* queries and reports in formats as needed;

(4) filter reports based on key data fields contained in the output (*e.g.*, date, county);

(5) provide a third party reporting tool (*e.g.*, query by example) for *ad hoc* reporting requests; and

(6) sort voter registration data by county, election district, jurisdiction, birth date, and other information (*e.g.*, last name, first name, voter registration number, unique identification number, address order).

PART 6218—CIVIL ENFORCEMENT HEARINGS

Section

6218.1. Applicability.
6218.2. Hearing officers; generally.
6218.3. Commencement of Election Law section 3–104 proceedings.
6218.4. Conduct of adjudicatory proceedings.
6218.5. Scope and time of settlement.
6218.6. Affidavits.
6218.7. Evidence and proof.
6218.8. Service of rules.
6218.9. Representation.
6218.10. Adjournments.
6218.11. Discovery and subpoenas.
6218.12. Time periods.

§ 6218.1 Applicability

This Part shall apply to civil enforcement proceedings as provided for by section 3–104 of the Election Law. It is the intent and purpose of these rules to provide a fair and efficient process of civil enforcement that ensures due process of law in all administrative adjudicatory proceedings.

§ 6218.2 Hearing officers; generally

(a) Adjudicatory proceedings shall be presided over by a hearing officer.

(b) Hearing officers shall be appointed by majority vote of the State Board pursuant to section 3–104 of the Election Law.

(c) Hearing officers shall be duly admitted to practice law in New York in good standing and shall possess such other qualifications as the State Board may require.

(d) A hearing officer shall be assigned randomly to a particular enforcement matter in accordance with section 3–104 of the Election Law. Such random assignment process shall be administered by the co-executive directors or their designees and shall occur upon each request by the chief enforcement counsel. For each assignment request, all approved hearing officers shall be randomly listed, and the assignment shall be

offered in the order of the list until an available hearing officer shall accept the assignment.

(e) Hearing officers shall exercise, to the extent consistent with the Election Law and the rules, regulations and opinions of the State Board, the powers and obligations of presiding officers as defined by the State Administrative Procedure Act (SAPA), in addition to such other powers and obligations as the Election Law and this Part shall provide.

(f) A hearing officer's remuneration, working conditions case assignments, discipline or removal, shall not be based in any way on how a hearing officer's rulings, decisions or other actions favor or disfavor any party. There shall not be established any quotas or similar expectations for any hearing officer that relate in any way to how the hearing officer's rulings, decisions or other actions favor or disfavor the chief enforcement counsel of the State Board or any other party.

(g) In any pending adjudicatory proceeding, the hearing officer may not be ordered or otherwise directed to make any particular finding of fact, to reach any particular conclusion of law, or to make or recommend any specific disposition of a charge, allegation, question or issue by any party or other person.

(h) Unless otherwise authorized by law, a hearing officer shall not communicate in connection with any issue that relates in any way to the merits of an adjudicatory proceeding pending before such officer with any person except upon notice and opportunity for all parties to participate. A hearing officer may, however, communicate with staff of the State Board as expressly permitted by subdivision 2 of section 307 of the State Administrative Procedure Act.

(i) A hearing officer shall not participate in any proceeding to which he or she is a party; in which he or she has been attorney, counsel or representative; in which he or she is interested; or if he or she is related by consanguinity or affinity to any party to the controversy. A hearing officer shall recuse him or herself from any case in which he or she believes that there is, or there may be perceived to be, a conflict of interest or colorable question as to his or her impartiality.

§ 6218.3 Commencement of Election Law section 3–104 proceedings

(a) Adjudicatory proceedings pursuant to section 3–104 of the Election Law shall be commenced when the chief enforcement counsel requests the assignment of a hearing officer, serves a notice of hearing and the report of the chief enforcement counsel (report) upon the respondents and provides the report to the assigned hearing officer. The report, which is also the complaint initiating the adjudicatory process, shall consist of:

(1) a statement of the legal authority and jurisdiction under which the proceeding is to be held;

(2) a reference to the particular sections of the statutes, rules , regulations or opinions of the State Board involved;

(3) a plain and concise statement of the facts constituting the alleged unlawful violation of the Election Law;

(4) a statement pursuant to 3–104 of the Election Law as to whether substantial reason exists to believe a violation of the Election Law has occurred and, if so, the nature of the violation and any applicable penalty, based on the nature of the violation; whether the matter should be resolved extrajudicially; and whether a special proceeding should be commenced in the supreme court to recover a civil penalty;

(5) a statement that interpreter services are available if needed.

(b) The notice of hearing shall provide the respondent at least 20 days from the date of service in which to file a written answer to the report. The notice of hearing shall state that an in-person hearing date and time will be set by the hearing officer only if such a hearing is requested in the written answer. The notice of hearing shall state failure to answer shall constitute a waiver of respondent's right to an administrative in-person hearing pursuant to this Part.

(c) The report shall be served by personal service consistent with the Civil Practice Law and rules or by certified mail. When by certified mail, service shall be complete when the notice of hearing and report are received by respondent.

(d) Respondent may, at his or her option, serve an answer within 20 days after service of the notice of hearing and report, denying such report of charges and interposing affirmative defenses, if any. If the respondent shall fail to answer, all charges in the report shall be deemed denied, and the hearing officers shall proceed to consider the report without conducting an in-person administrative hearing. The chief enforcement counsel, on notice to the hearing officer, may consent to an extension of time for respondent to answer the report of the chief enforcement counsel. If the chief enforcement officer denies the request for an extension, the hearing officer may grant such extension for good cause shown.

(e) The hearing officer shall, if an in-person hearing is requested in the answer, notify the respondent of the date and time of the hearing by mail and, if provided, email. The date of the hearing shall be not less than 10 business days after the receipt of the answer. If the time to answer has passed and no answer was served, the hearing officer shall thereafter review and consider the report of the chief enforcement counsel as if all of the accusations therein had been denied by the respondent and make findings of fact and conclusions of law as required by this Part.

§ 6218.4 Conduct of adjudicatory proceedings

(a) The hearing officer assigned shall set the time at which a hearing shall be held, and shall grant or deny adjournments or continuations thereof. To the extent practicable, adjournments shall be scheduled by the hearing officer upon consultation with all participants. Notices of adjournment or continuation shall be transmitted directly to the parties by the hearing officer.

(b) All adjudicatory proceedings will be conducted in accordance with the State Administrative Procedure Act, the Election Law, rules, regulations and opinions of the State Board and all other applicable legal authority. Such law, regulations, opinions and authority shall, as relevant, be binding on all determinations and findings of the hearing officer. In all instances, due process of law will be observed, including the creation of a transcription of any hearing.

(c) A respondent may request the hearing officer to direct the chief enforcement counsel to provide a more definite statement or particularization of an alleged violation in the report of the chief enforcement counsel. If the hearing officer determines such request is reasonable, the hearing officer shall direct the chief enforcement counsel to provide a more definite statement within a reasonable time frame.

(d) The hearing officer shall make findings of fact and conclusions of law based on a preponderance of the evidence as to whether a violation has been established and, if so, who is guilty of such violation on notice to and with an opportunity for the individual or entity accused of any violations to be heard. However, if the hearing officer finds that on balance, the equities favor a dismissal of the complaint, the hearing officer shall dismiss the charges. In determining whether the equities favor a dismissal, the hearing officer shall consider the following factors:

(1) whether the complaint alleges a *de minimis* violation(s) of article 14 of the Election Law;

(2) whether the subject of the complaint has made a good faith effort to correct the violation; and

(3) whether the subject of the complaint has a history of similar violations.

For purposes of making any such findings, proceedings before the hearing officer shall be governed by article 3 of the State Administrative Procedure Act and shall be made on a fair, equitable and uniform basis without regard to the status of the individual who is the subject of the report.

(e) Any party may submit proposed findings of fact within time limitations set by the hearing officer. Such findings of fact shall be captioned, titled as such, shall be consecutively numbered and shall be typed legibly on plain, white bond, standard weight paper, 8 ½ x 11 inches in size. Such proposed findings of fact shall recite basic facts and not evidentiary facts and shall not be conclusions of law. A basic fact would be ''John Jones visited Syracuse,'' and not ''John Jones testified that he visited Syracuse,'' which is an evidentiary fact. A conclusion of law would be ''John Jones has demonstrated untrustworthiness within the meaning of section 441–c of the Real Property

Law.'' In general, it is expected that the complaint will allege the basic facts which would otherwise be contained in a statement of proposed findings of fact. In accordance with section 307(1) of the State Administrative Procedure Act, the person assigned to render a decision will rule on each finding of fact. Such decision maker will do so by marking the instrument setting forth the proposed findings of fact a part of the decision and noting in the margin thereof the ruling, *i.e.*, ''Found,'' ''Not Found,'' ''Irrelevant,'' ''Evidentiary,'' ''Conclusion of Law,'' which rulings may be abbreviated meaningfully. The body of the decision will contain such findings of fact as the decision maker deems relevant, but need not be expressed in the same language as presented in the proposed findings.

(f) The chief enforcement counsel shall adopt the report of the hearing officer and may, in his or her discretion, commence a special proceeding in the supreme court pursuant to sections 16–100, 16–114 or 16–116 of the Election Law should the findings of fact and conclusions of law provide a basis for the commencement of such proceeding or enter into an agreement to settle such matter with the subject of the complaint.

§ 6218.5 Scope and time of settlement

The chief enforcement counsel may, in the exercise of discretion, enter into settlement agreements with willing respondents, provided such provisions are not contrary to law or the rules, regulations and relevant formal or advisory opinions of the State Board. Settlement agreements shall be entered into on a fair, equitable and uniform basis without regard to the status of the respondent who is the subject of the report. If a settlement agreement is entered into before the hearing officer makes findings of fact, such settlement agreement shall, in accordance with its terms and conditions, constitute a final administrative disposition of the adjudicatory proceeding.

§ 6218.6 Affidavits

When a verified statement is required or deemed desirable by any party, it shall be sufficient for the deponent to subscribe a statement at the end thereof that the ''foregoing statement is affirmed under penalties of perjury.'' A statement verified before a notary public will be equally acceptable.

§ 6218.7 Evidence and proof

The strict rules of evidence do not apply to administrative proceedings under this Part.

§ 6218.8 Service of rules

Every notice of hearing served shall be served with a copy of these rules, a plain language summary of these rules, a copy of articles 3, 4 and 5 of the State Administrative Procedure Act and relevant definitions under section 102 of the State Administrative Procedure Act.

§ 6218.9 Representation

(a) Every party shall be accorded the right to appear in person or by or with counsel, at his or her own expense.

(b) Any person compelled to appear or who voluntarily appears before a hearing officer as a witness shall be accorded the right to be accompanied, represented and advised by counsel, at his or her own expense.

§ 6218.10 Adjournments

(a) To the extent practicable requests for adjournment must be made by written affidavit addressed to the hearing officer, and must be received at the office of the State Board no later than three business days prior to the scheduled date of hearing. The affidavit must contain sufficient details to explain the reason for the request so as to enable the hearing officer to rule thereon.

(b) The first request of any party to adjourn an adjudicatory hearing will be granted by the hearing officer for good cause shown, and any subsequent adjournment requests of such party will be granted by the hearing officer if necessary to avoid real prejudice to the requesting party.

§ 6218.11 Discovery and subpoenas

If a party requires a subpoena to produce a witness or necessary materials for the specific purpose of an adjudicatory hearing conducted pursuant to this Part, an application for a subpoena may be made to the hearing officer and, upon good

cause shown, shall be issued by the hearing officer as provided for by the State Administrative Procedure Law. An application to the hearing officer for the issuance of a subpoena shall be made on notice to all parties and to the co-counsels of the State Board. To ensure that an application for a subpoena by the chief enforcement counsel to the hearing officer shall not result in derogation of the powers reserved by to the State Board pursuant to subdivision 3 of section 3–104 of the Election Law, such a subpoena shall be narrowly drawn to meet the needs of the adjudicatory process and shall not be speculative or investigatory.

§ 6218.12 Time periods

(a) Except by consent of the parties, every adjudicatory proceeding under this Part shall be brought to completion by the issuance of the hearing officer's findings of fact and conclusions of law within 90 days after, as applicable:

(1) the date of the hearing; or

(2) if no hearing was held, the date the answer was served; or

(3) if no answer is served, the date the answer was due.

(b) A failure of the hearing officer to observe the time limitations established by this section shall be reviewable under article 78 of the Civil Practice Law and rules in a proceeding in the nature of mandamus.

PART 6219—CERTAIN SPECIAL FEDERAL VOTERS ALSO ENTITLED TO STATE AND LOCAL BALLOTS

Section

6219.1. Absentee voters entitled to special Federal ballot.
6219.2. Procedure.
6219.3. No new State Law entitlement.

§ 6219.1 Absentee voters entitled to special Federal ballot

Voters who submit an otherwise valid Federal post card application pursuant to article 11 title 2 of the Election Law and 52 U.S.C. section 20302[a][4] and select on such application the category ''I am a U.S. citizen living outside the country, and I intend to return'' are entitled to a special

Federal ballot. Such voters when also duly registered to vote pursuant to article 5 of the Election Law are entitled to the State and local ballot in conformity with the provisions of the Election Law.

§ 6219.2 Procedure

Voters meeting the criteria of section 6219.1 of this Part shall be entered into the special Federal ballot transmittal system provided by the State Board of Elections. Such special Federal voters shall be identified therein apart from other special Federal voters as also entitled to receive a State and local ballot. Such voters shall receive the special Federal ballot in conformity with State and Federal Law, and shall receive the State and local portion of the ballot in conformity with State Law through the aforesaid transmittal system.

§ 6219.3 No new State Law entitlement

Nothing herein shall be construed to permit a voter who does not meet the requirements for voter registration provided for in article 5 of the Election Law to receive a ballot containing State or local offices.

SELECTED PROVISIONS OF ENACTING LAW
(Laws 1977, Chapter 233)

§ 6. Laws repealed.

Chapter one hundred of the laws of nineteen hundred forty-nine, entitled ''An act in relation to the elections, constituting chapter seventeen of the consolidated laws,'' and all acts amendatory thereof and supplemental thereto, are hereby repealed, except as follows:

a. Nothing contained in this act shall affect or impair any act done or right accruing, accrued or acquired, or any penalty, forfeiture or punishment incurred prior to the time when this act shall take effect, under or by virtue of the provision or provisions of the election law, as in force immediately prior to the time this act shall take effect, but the same may be asserted, enforced, prosecuted or inflicted, as fully and to the same extent as if this act shall not have taken effect.

b. An act of the legislature of the year nineteen hundred seventy-six and nineteen hundred seventy-seven which, in form, amends or repeals or purports to amend or repeal any provision or provisions of the election law, as in force immediately prior to the time this act shall take effect, shall be deemed and construed as an amendment or repeal, as the case may be, of the corresponding provision or provisions of such law, as renumbered, modified or amended by this act, irrespective of whether such provision or provisions is or are contained in one or more than one title, article, section, subdivision or other part thereof and such corresponding provision or provisions shall be deemed and construed to be amended, modified, changed or repealed as though the same had been expressed and in terms so amended or repealed.

c. An act of the legislature of the year nineteen hundred seventy-six and nineteen hundred seventy-seven which adds or purports to add a new article, section, subdivision or other provision of law to the election law, as in force immediately prior to the time this act shall take effect, shall be deemed and construed as having been added to such law, as amended by this act, and shall be given full effect according to its context as if the same had been added expressly and in terms to such law,

as amended by this act, and shall be deemed and construed to have been inserted in such law, as amended by this act, in the appropriate respective position in regard to and as modifying the effect of the corresponding provision or provisions of such law, as amended by this act.

d. Reference in any act of the legislature of the year nineteen hundred seventy-six and nineteen hundred seventy-seven to an existing article, section, subdivision or other provision of the election law, as in force immediately prior to the time this act shall take effect, shall be deemed and construed to refer to the corresponding article, section, subdivision or other provision of such law, as renumbered, modified or amended by this act.

e. Reference in any general, special or local law, rule, regulation or public document to any provision or provisions of the election law, as in force immediately prior to the time this act shall take effect, shall be deemed to be and construed as a reference to the corresponding provision or provisions of such law, as renumbered, modified or amended by this act, irrespective of whether such provision or provisions is or are contained in one or more than one title, article, section, subdivision or other part thereof.

§ 7. Saving clause and miscellaneous provisions.

Commissioners of the state and county boards of elections and directors of the division of servicemen's voting in office when this chapter takes effect shall continue in office for the term for which they were appointed, unless sooner removed. Where, by this chapter, the salaries of commissioners of election are to be fixed by the county legislative body, such commissioners shall receive their present salaries until otherwise provided by such board. The positions of subordinates in the offices of boards or commissioners of elections and their compensation shall continue until changed pursuant to law. Inspectors, clerks and other election officers shall continue in office for the terms for which they were appointed, unless sooner removed. Election districts, as now constituted, shall continue until changed pursuant to this chapter.

§ 8. Effect of unconstitutionality in part.

If any clause, sentence, paragraph, subdivision, section, article, part of portion of this chapter heretofore, herewith, or hereafter enacted, or any application thereof, shall be adjudged by any court of competent jurisdiction to be invalid, such order or judgment shall not otherwise affect, impair, or invalidate the remainder thereof, or any other clause, sentence, paragraph, subdivision, section, article, part, or portion of this chapter, but shall be construed to affect only such clause, sentence, paragraph, subdivision, section, article, part, or portion thereof, directly involved in the controversy in which such order, decree or judgment shall have been rendered.

§ 9. When to take effect.

This act shall take effect on the first day of December, nineteen hundred seventy-seven.

SELECTED PROVISIONS

OF THE

CONSTITUTION OF THE STATE OF NEW YORK

ARTICLE I—BILL OF RIGHTS

§ 1. [Rights, privileges and franchises secured; uncontested primary elections]

No member of this state shall be disfranchised, or deprived of any of the rights or privileges secured to any citizen thereof, unless by the law of the land, or the judgment of his or her peers, except that the legislature may provide that there shall be no primary election held to nominate candidates for public office or to elect persons to party positions for any political party or parties in any unit of representation of the state from which such candidates or persons are nominated or elected whenever there is no contest or contests for such nominations or election as may be prescribed by general law.

(Amended Nov. 3, 1959, eff. Jan. 1, 1960; Nov. 6, 2001, eff. Jan. 1, 2002.)

ARTICLE II—SUFFRAGE

§ 1. [Qualifications of voters]

Every citizen shall be entitled to vote at every election for all officers elected by the people and upon all questions submitted to the vote of the people provided that such citizen is eighteen years of age or over and shall have been a resident of this state, and of the county, city, or village for thirty days next preceding an election.

(Amended Nov. 8, 1938; Nov. 2, 1943; Nov. 6, 1945; Nov. 6, 1951; Nov. 8, 1966, eff. Jan. 1, 1967; Nov. 7, 1995, eff. Jan. 1, 1996; Nov. 6, 2001, eff. Jan. 1, 2002.)

§ 2. [Absentee voting]

The legislature may, by general law, provide a manner in which, and the time and place at which, qualified voters who, on the occurrence of any election, may be absent from the county of their residence or, if residents of the city of New York, from the city, and qualified voters who, on the occur-

rence of any election, may be unable to appear personally at the polling place because of illness or physical disability, may vote and for the return and canvass of their votes.

(Formerly § 1–a, renumbered 2, Nov. 8, 1938. Amended Nov. 4, 1947; Nov. 8, 1955; Nov. 5, 1963, eff. Jan. 1, 1964. Amended Nov. 6, 2001, eff. Jan. 1, 2002.)

§ 3. [Persons excluded from the right of suffrage]

No person who shall receive, accept, or offer to receive, or pay, offer or promise to pay, contribute, offer or promise to contribute to another, to be paid or used, any money or other valuable thing as a compensation or reward for the giving or withholding a vote at an election, or who shall make any promise to influence the giving or withholding any such vote, or who shall make or become directly or indirectly interested in any bet or wager depending upon the result of any election, shall vote at such election; and upon challenge for such cause, the person so challenged, before the officers authorized for that purpose shall receive his or her vote, shall swear or affirm before such officers that he or she has not received or offered, does not expect to receive, has not paid, offered or promised to pay, contributed, offered or promised to contribute to another, to be paid or used, any money or other valuable thing as a compensation or reward for the giving or withholding a vote at such election, and has not made any promise to influence the giving or withholding of any such vote, nor made or become directly or indirectly interested in any bet or wager depending upon the result of such election. The legislature shall enact laws excluding from the right of suffrage all persons convicted of bribery or of any infamous crime.

(Formerly § 2, renumbered 3, Nov. 8, 1938, eff. Jan. 1, 1939. Amended Nov. 6, 2001, eff. Jan. 1, 2002.)

§ 4. [Certain occupations and conditions not to affect residence]

For the purpose of voting, no person shall be deemed to have gained or lost a residence, by reason of his or her presence or absence, while employed in the service of the United States; nor while engaged in the navigation of the waters of this state, or of the United States, or of the high seas; nor while a student

of any seminary of learning; nor while kept at any almshouse, or other asylum, or institution wholly or partly supported at public expense or by charity; nor while confined in any public prison.

(Formerly § 3, renumbered 4, Nov. 8, 1938, eff. Jan. 1, 1939. Amended Nov. 6, 2001, eff. Jan. 1, 2002.)

§ 5. [Registration of voters]

Laws shall be made for ascertaining, by proper proofs, the citizens who shall be entitled to the right of suffrage hereby established, and for the registration of voters; which registration shall be completed at least ten days before each election. Such registration shall not be required for town and village elections except by express provision of law.

(Formerly § 4, renumbered § 5 and amended Nov. 8, 1938. Amended Nov. 6, 1951; Nov. 8, 1955; Nov. 8, 1966, eff. Jan. 1, 1967; Nov. 7, 1995, eff. Jan. 1, 1996; Nov. 6, 2001, eff. Jan. 1, 2002.)

§ 6. [Permanent registration]

The legislature may provide by law for a system or systems of registration whereby upon personal application a voter may be registered and his or her registration continued so long as he or she shall remain qualified to vote from an address within the jurisdiction of the board with which such voter is registered.

(Adopted Nov. 8, 1938, eff. Jan. 1, 1939. Amended Nov. 7, 1995, eff. Jan. 1, 1996; Nov. 6, 2001, eff. Jan. 1, 2002.)

§ 7. [Manner of voting; identification of voters]

All elections by the citizens, except for such town officers as may by law be directed to be otherwise chosen, shall be by ballot, or by such other method as may be prescribed by law, provided that secrecy in voting be preserved. The legislature shall provide for identification of voters through their signatures in all cases where personal registration is required and shall also provide for the signatures, at the time of voting, of all persons voting in person by ballot or voting machine, whether or not they have registered in person, save only in cases of illiteracy or physical disability.

(Formerly § 5, renumbered § 7 and amended Nov. 8, 1938, eff. Jan. 1, 1939. Amended Nov. 6, 2001, eff. Jan. 1, 2002.)

§ 8. [Bi-partisan registration and election boards]

All laws creating, regulating or affecting boards or officers charged with the duty of qualifying voters, or of distributing ballots to voters, or of receiving, recording or counting votes at elections, shall secure equal representation of the two political parties which, at the general election next preceding that for which such boards or officers are to serve, cast the highest and the next highest number of votes. All such boards and officers shall be appointed or elected in such manner, and upon the nomination of such representatives of said parties respectively, as the legislature may direct. Existing laws on this subject shall continue until the legislature shall otherwise provide. This section shall not apply to town, or village elections.

(Formerly § 6, renumbered § 8 and amended Nov. 8, 1938, eff. Jan. 1, 1939. Amended Nov. 7, 1995, eff. Jan. 1, 1996; Nov. 6, 2001, eff. Jan. 1, 2002.)

§ 9. [Residence qualification for voting at elections of president and vice-president]

Notwithstanding the residence requirements imposed by section one of this article, the legislature may, by general law, provide special procedures whereby every person who shall have moved from another state to this state or from one county, city or village within this state to another county, city or village within this state and who shall have been an inhabitant of this state in any event for ninety days next preceding an election at which electors are to be chosen for the office of president and vice president of the United States shall be entitled to vote in this state solely for such electors, provided such person is otherwise qualified to vote in this state and is not able to qualify to vote for such electors in any other state. The legislature may also, by general law, prescribe special procedures whereby every person who is registered and would be qualified to vote in this state but for his or her removal from this state to another state within one year next preceding such election shall be entitled to vote in this state solely for such electors, provided such person is not able to qualify to vote for such electors in any other state.

(Adopted Nov. 5, 1963, eff. Jan. 1, 1964. Amended Nov. 6, 2001, eff. Jan. 1, 2002.)