

***BOARD OF ELECTIONS
IN THE
CITY OF NEW YORK***

**RECOMMENDED REVISIONS
IN THE
NEW YORK STATE
ELECTION LAW
2020**

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Prepared by the Office of the General Counsel
February 2020



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**The Commissioners of Elections in
the City of New York's
RECOMMENDED REVISIONS
IN THE
NEW YORK STATE
*ELECTION LAW FOR 2020***

February 2020

SUMMARY

BOE in NYC Proposal #20 - Description

NOTE: Throughout this submission, New language in **bold and underlined**; Language to be deleted in Italics with ~~strikethrough~~.

FUNDAMENTAL FAIRNESS IN THE PETITION PROCESS FOR PRIMARY ELECTIONS

01 Amends the designating and opportunity to ballot petition requirements to provide that if a political committee adopts a rule authorizing non-enrolled party members to vote in that political primary election, then: (a) the number of signatures required to qualify a designating/OTB petition shall be the lesser of the statutorily prescribed minimum or 5 % of the total number of voters eligible under the party rule to cast a ballot in said primary; and (b) all voters eligible under the party rule to cast a ballot in said primary are qualified to sign the designating/OTB petition

**ENHANCING SAFETY AT POLL SITES
& SECURING VOTER PRIVACY**

- 02 Provides that students in the public schools are not scheduled for classes on the day of the Primary or General Election
- 03 Provides that a voter's telephone number and/or e-mail address provided on a voter registration application
Is not available for public inspection

**INCREASING NEW YORK CITY
POLLWORKERS' COMPENSATION**

- 04 Increase the statutory minimum compensation to \$300 per day for inspectors and other poll workers and to \$400 per day for coordinators within New York City

**ENHANCING ELECTION DAY OPERATIONS
AND RELATED ACTIVITIES**

05 Changes the time for the annual National Change of Address System check for all registered voters from February to January, reflecting the consolidated June Primary

06 Authorizes the Board of Elections in the City of New York to create Election Districts with up to four thousand (4,000) active registrants

**ENHANCING ELECTION DAY OPERATIONS
AND RELATED ACTIVITIES**

07 Provides that the police officer assigned to a poll site shall arrive one hour before the opening of the polls and deliver the keys to the voting equipment to the inspectors of elections

**ENHANCING ELECTION DAY OPERATIONS
AND RELATED ACTIVITIES**

- 07 Mandates all public facilities used as poll sites shall be open for the conduct of elections as well as the delivery and retrieval of election equipment before and after Election Day
- 09 Establish a new felony for interfering with election equipment and poll sites

**MODIFICATIONS TO IMPROVE AND ENHANCE
THE EFFICIENCY AND EFFECTIVENESS OF
BOARD OF ELECTIONS OPERATIONS**

- 10 Requires accurate and correct information to be included on cover sheets
- 11 Eliminates detailed publication requirements

**MODIFICATIONS TO IMPROVE AND ENHANCE
THE EFFICIENCY AND EFFECTIVENESS OF
BOARD OF ELECTIONS OPERATIONS**

- 12 Modifies and expands the hours for the filing of certain documents relating to the designation and/or nomination of candidates with the Board of Elections in the City of New York
- 13 Authorizes Boards of Elections to conduct local registration at their option in any year
- 14 Modifies absentee ballot application process to allow for requests and responses for absentee ballots to be made through the day before an election

PROPOSAL # 20 – 01

PROPOSED REVISION

To modify the provisions of the Election Law with respect to the number of signatures required to qualify for a political party's primary election ballot, when the political party's rules provide that voters not enrolled in said political party are entitled to vote in that party's primary election for specified public offices or party positions. It makes conforming changes to the provisions relating to who is qualified to sign a Designating and Opportunity to Ballot petition. This proposal would amend provisions of the Election Law contained in Sections 6-132 6-134, 6-164 and 6-166(2).

Under the current law, pursuant to §6-134, designating petitions for statewide offices must contain at least fifteen thousand signatures or five percent, whichever is less, of the enrolled voters of the party in the state (excluding voters in inactive status), with the distribution of at least 100 signatures or 5% of the party's enrolled voters in at least half of the State's Congressional Districts. All other designating petitions must be signed by at least five percent of the enrolled voters of the party residing within the political subdivision. The statute goes on to establish a statutory minimum number of signatures to qualify for the primary election ballot for each political subdivision, which is often less than the five percent of eligible voters.

If enacted, Board Proposal # 20-01 provides that Designating and Opportunity to Ballot petitions for candidates seeking to be nominated by a political party, which pursuant to party rule, is conducting an "open primary" (i.e. – permitting voters not enrolled in that political party to vote along with enrolled party members in that party's primary election) would have to contain valid signatures representing at least five percent of the registered/enrolled voters eligible to vote in that primary (as opposed to the current provision requiring only five percent of those enrolled in that specific party).

1. Election Law §6-132(1). Designating petition; form, is amended to read:

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 **or pursuant to rules of the political party am** 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	Place of Residence (also post office address, if not identical)
.....

PROPOSAL # 20 – 01
(continued)

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. Election Law § 6–136. Designating petitions; number of signatures, is amended to read:

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), **or, when the rules of the political party provide that voters not enrolled in said party are entitled to vote in said primary,** not less than fifteen thousand or five per centum, whichever is less, **of the voters eligible to vote in such primary 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. 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), **or, when the rules of the political party provide that voters not enrolled in said party are entitled to vote in said primary, not less than five per centum, as determined by the preceding enrollment, of the voters eligible to vote in such primary 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;

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(continued)

(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. Election Law § 6-164. Primary, uncontested; opportunity to ballot, is amended to read:

Enrolled members of a party or when the rules of the political party provide that voters not enrolled in said party are entitled to vote in said primary, 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 pursuant to § 6-136, 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

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(continued)

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. 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.

4. Election Law § 6–166. Primary; opportunity to ballot, form of petition, is amended to read:

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 or pursuant to the rules of the political party am 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.

STATEMENT IN SUPPORT

The current statutory provisions regarding ballot access in a political party's primary election and the collection of petition signatures are designed to ensure that candidates have a modicum of support from the voters eligible to participate in said primary election before being placed on the primary election ballot. Such requirements promote orderly elections between candidates with a modicum of support and enhance election integrity. The current requirements mandating a minimum number of petition signatures, has met the constitutional requirements, consistent with the First Amendment and also helps to prevent fraud, limit the size of the ballot, reduce voter confusion and increase the

PROPOSAL # 20 – 01 (continued)

likelihood that the winner represents a significant segment of the voters participating in the primary election.

In accordance with the First Amendment to the U.S. Constitution and judicial determinations interpreting the same, political parties have the right to permit non-enrolled voters in that party to cast ballots in their party's primary for specified offices and/or positions [See: *State Committee of the Independence Party v. Berman*, 294 F. Supp 2d 581{SDNY 2003}]. In the absence of such a rule, the Election Law provides that only enrolled members of the political party can vote in that party's primary elections [See: Election Law § 8-302(4)].

Therefore, under the current law; candidates who are seeking a place on the primary ballot for the nomination of political parties that have relatively few enrolled voters are able to gain ballot access by obtaining a relatively small amount of signatures. While this is not contrary to the legislative intent of the existing statutory scheme, in and of itself, it does create a problem for election administrators when the rules of a party then permit some or all voters not enrolled in that political party to cast a ballot in that party's primary election. In such an instance, when the party's rules so provide, a handful of party members can act in concert to create a contested primary in a citywide contest where perhaps hundreds of thousands voters can vote, even though the enrolled members of that party within the City totals a few hundred.

For example, in the most recent mayoral primary election in the City of New York, it took only nine signatures on an Opportunity to Ballot petition for the Reform Party to create a city wide primary election in which over 800,000 voters were eligible to participate. Moreover, preparations for a possible city-wide run-off election, which if needed would have taken place two weeks later, had to be undertaken just in case no candidate in that party's primary election received at least forty percent of the votes cast. This action created a significant financial burden on the taxpayers of the City of New York.

This is contrary to the intent of the current statutory framework. Putting aside the high cost of conducting such a primary, the potential run off and all of the logistical concerns that accompany them, the State's well established and legitimate interest in limiting ballot access for the reasons stated above is significantly thwarted when a mere nine signatures can add such complexity and potential confusion to what is already one of the busiest election cycles in the City of New York.

PROPOSAL # 20 – 01
(continued)

The Commissioners believe that enactment of this proposal would provide for fundamental fairness by ensuring that the Board has to conduct a political party's primary election only in those instances where the constitutionality permissible level of a modicum of support is expressed by that percentage of voters eligible to cast their ballot in that primary (5 %) or when the statutory minimum of signatures appear on that's party's designating or opportunity to ballot petitions. In its essence, it creates a level playing field among each of the political parties with ballot status, recognizing that the same modicum of support is needed in each instance, representing the eligible voters for that primary election.

PROPOSAL # 20 - 02

PROPOSED REVISION

To amend Section 8-100 of the Election Law to provide that public schools within the State of New York are not open for regular classes with their students on any general election or primary election day.

The Commissioners of Elections recommend that Section 8-100 of the Election Law be amended by adding a new subdivision:

Section 8-100 is amended to read:

- 5. Notwithstanding any other provision of law to the contrary, on any day on which a general election or primary election is conducted pursuant to subdivisions 1(a), 1(b) or 1(c) of this section, the public schools within such jurisdiction conducting a primary election shall not conduct any classes or other activities within its buildings which require the presence of the students enrolled therein.**

STATEMENT IN SUPPORT

Operating a poll site while school is in session creates a number of safety and logistical concerns for students and voters alike. Often school officials, attempting to act in the best interest of students, infringe upon the rights of voters by depriving complete access to voting space to increase room for students or inhibiting free access to the building to increase safety for students. In many aspects, the interests of the boards of elections and the interests of the public school are at irreconcilable odds with each other.

The Board of Elections in the City of New York has seen this problem re-occur at every Primary and General Election in the City of New York since 2008. Most public schools in the City of New York (and many outside the City) serve as a poll site for their neighborhood. The poll site is usually in the school's cafeteria, auditorium, or gymnasium; sometimes it is in two or more of those locations. The attempt to co-exist and serve the needs of our respective constituencies (the voters and the students), has not gone well. In many instances, the poll site and all of its staff and equipment were placed in spaces too small to accommodate them during an election with average turnout. A person with disabilities has great problems moving around such a site. In other cases, students were forced to eat cold lunches in their classrooms, physical education classes were cancelled, and other regular school routines interrupted. In one instance, initially the State Department of Education scheduled mandated examinations for students on the

PROPOSAL # 20 – 02 (continued)

date of the 2012 Presidential Primary. With a great deal of cooperative efforts, that examination was rescheduled.

In addition, several school administrators expressed concern about having voters in the school building while the students were present. In the aftermath of the tragic incidents at Sandy Hook Elementary School in Connecticut, most recently at Stoneman Douglas High School in Parkland, Florida and other incidents, this concern appears to be growing.

The Commissioners believe that the most appropriate solution is to require that this State's public schools not have classes in session on the day of any General or Primary Election. With the full implementation of a new voting system, and the mandate to operate fully accessible poll sites the potential for even greater problems is growing. Therefore, the Commissioners believe that the prompt enactment of PROPOSAL # 20-02 is necessary and proper to ensure that the rights of all voters are protected and that the children in the New York State's public schools are protected.

PROPOSAL # 20 - 03

PROPOSED REVISION

To amend Section 3-220(1) to add a voter's email address and telephone number to the information contained on a voter registration application that is not available for public inspection.

Section 3-220(1) of the Election Law is amended to read:

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, **e-mail address, telephone 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.

STATEMENT IN SUPPORT

The current statutory provision was designed to protect voters' sensitive, personal information, which is requested on a voter registration application, from its improper use. The current law exempts a voter's driver's license number, department of motor vehicle non-driver photo ID number, social security number and facsimile number from public inspection and disclosure. Recently, the application form was changed to ask the voter to provide an e-mail address in addition to their telephone number.

Identify theft and the improper use of personal identification information is a growing problem as technology has advanced. To permit the public disclosure of a voter's telephone number and/or e-mail address, can actually deter an unregistered voter from completing an application. In addition, it can be a cause of concern to voters who may not wish to receive information either by e-mail or telephone. The protection of email addresses and phone numbers will not have a detrimental effect on either the Board's or a member of the public's ability to verify the identity of a voter.

The Commissioners believe that the protection of email addresses and telephone numbers in the same manner that currently applies to Department of Motor Vehicle identification information, social security numbers or telefax numbers is vital to protecting voters and prevent their usage by persons or entities seeking to take advantage of the information for commercial purposes or other inappropriate reasons.

PROPOSAL # 20 – 04

PROPOSED REVISION

To amend Section 3-420(1) to increase the minimum compensation to be paid to election day workers within the City of New York.

The first sentence of Section 3-420(1) of the Election Law is amended to read:

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 and thirty~~ **three hundred** dollars and in the case of election coordinators not less than ~~two hundred~~ **four hundred** dollars.

STATEMENT IN SUPPORT

The last statutory increase in the minimum compensation to be paid to election day workers in the City of New York was enacted into law in 1997. In 2001, the Mayor of the City of New York increased the minimum compensation for election inspectors to \$200 and election coordinators to \$300. Last year, the Mayor of the City of New York increased the minimum compensation for election inspectors to \$250 and election coordinators to \$350.

The duties and responsibilities of all poll workers have dramatically changed and have become more complex with the introduction of the new voting system in 2010 and early voting in 2019. Additional mandates have been assigned to poll workers with respect to poll site accessibility issues stemming from both State Legislative changes and a Federal Court Order. With election day for poll workers beginning at 5:00 AM and ending at 10:00 PM at the earliest, the average poll workers now spends at least 17 hours at the poll site.

The Commissioners believe that this increase in compensation is vital to recruiting and retaining qualified persons to serve as poll workers needed to staff the more than 1,200 poll sites within the City of New York. The estimated additional cost to the City of New York is \$1.75 million for each citywide election event.

PROPOSAL # 20 - 05

PROPOSED REVISION

To amend Section 5-708(5)(a) to change the time period for the annual National Change of Address System check for registered voters.

Section 5-708(5)(a) of the Election Law is amended to read:

5. a. At least once each year during the month of ~~February~~ **January**, 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 for whom the Postal Service records indicate that the voter has moved from the address at which he is registered without leaving a forwarding address.

STATEMENT IN SUPPORT

As currently written, Election Law 5-708(5)(a) provides that the annual National Change of Address System (NCOA) check for registered voters be conducted during the month of February. This time period was selected with the enactment last year of the consolidated June Primary Election. However, even with this change, it still dramatically reduces the window that was contemplated when Section 5-708(5)(a), was originally enacted. It is even more critical in a Presidential Election year when the Presidential Primary is scheduled for a spring date.

Therefore, the Board of Elections recommends that this Proposal be enacted to enable the Boards to perform the NCOA check and have sufficient time to update their registration records prior to the June Primary Election.

PROPOSAL # 20 - 06

PROPOSED REVISION

To amend Section 4-100(3)(1) of the Election Law relating to the creation, consolidation, division and alteration of election districts by the Board of Elections in the City of New York.

Section 4-100(3)(1) of the Election Law is amended to read:

§ 4-100. Election districts; creation and alteration.

3. a. Each election district shall be in compact form and may not be partly within and partly without a ward, town, city, or 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); **except in the City of New York where an election district shall not contain more than four thousand registrants(excluding registrants in inactive status)**, but any election district may be divided for the convenience of the voters.

STATEMENT IN SUPPORT

This proposal amends Section 4-100(3)(1) to provide that an election district within the City of New York shall contain no more than four thousand registered voters, rather than one thousand one hundred fifty registered voters as currently provided. This change reflects pressing need of the Board of Elections in the City of New York, which faces increasing difficulties in identifying and selecting accessible poll sites. The change in the number of voters in each election district, also reflects the increased capabilities of the new optical scanner voting system and brings the Election Law in line with the maximum number of voters per scanner (4000) mandated by the New York State Board of Election's Rules and Regulations Section 6210.19(b)(2)(a).

PROPOSAL # 20– 06
(continued)

The Commissioners of Elections in the City of New York recommend enactment of this proposal to give the City Board greater flexibility in the drawing of and planning for the growth of election districts to ensure the integrity of the election and allow for a more streamlined closing procedure.

Finally, enacting this provision now, while the Board of Elections, pursuant to Section 4-100 (5) of New York State Election Laws prohibited from modifying Election District boundaries until December 1, 2020, will provide the City Board with sufficient lead time to determine what changes will be need to be made because of an increase in the number of registered voters. Enactment of this proposal will enable the Board to better serve its voters, following the black-out period, by reducing the number of new Election Districts that will have to be created.

PROPOSAL # 20 – 07

PROPOSED REVISION

To amend Section 8-102(2) and 8-104(6) of the Election Law relating to the assignment of police or peace officers at the poll sites and the delivery of the keys needed to open the voting system:

Section 8-102 (2) of the Election Law is amended to read:

The keys to the voting machine shall be delivered to the inspectors at least ~~one-half~~ **one** hour before the time set for the opening of the polls, in a sealed envelope, on which shall be written or printed the number and location of the voting machine, the number of the seal the number registered on the protective counter as reported by the voting machine custodian. **In the city of New York, the police officer or peace officer designated by the police commissioner of the city of New York pursuant to section 8-104(6) of this chapter shall deliver said keys in accordance with the terms of this section.**

Section 8-104 (6) of the Election Law is amended to read:

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 office 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 **at all times**, from **one hour before** the opening until the closing of the polls, **which includes the completion of the canvass as set forth in article 9 of this chapter.**

STATEMENT IN SUPPORT

This proposal amends Section 8-102(2) 8-104(6) of the Election Law to explicitly provide that the Police Commissioner of the City of New York shall ensure the continual presence of his designated police or peace officer at each poll site throughout election day, beginning at least one hour before the opening of the polls through the completion of the election day canvass mandated by Article 9 of the Election Law. It also codifies the long-standing practice that the designated police officer delivers the keys for the voting equipment and specifies that said delivery would occur at least one hour before the opening of the polls.

During the 2010 Election Cycle in which the new voting system was implemented it became evident that, in order to ensure that the polls are open at 6 AM for voters, the inspectors of elections must begin the process of opening the polls at

PROPOSAL # 20 – 07
(continued)

least one hour before opening. In prior years, when lever voting machines were used, the police officer assigned arrived between 15 and 30 minutes before the opening of the polls; some assigned police officers continue to report in accordance with the past practice. This proposal would codify the practice that has been used in the City of New York for several decades with respect to the delivery of the keys to open the voting systems and would clarify any ambiguity with respect to the only workable procedure to be employed in the State's largest city.

PROPOSAL # 20 – 08

PROPOSED REVISION

The Commissioners of Elections recommend that the Election Law be amended to mandate that all public facilities designated as poll sites be open for the conduct of said elections as well as the delivery and retrieval of election equipment prior to and following such election at no additional cost to the board of elections.

Section 4-104 is amended to add a new subdivision 10:

(10) All public facilities designated as poll sites pursuant to this section shall be open:

- (a) **for the conduct of elections conducted pursuant to this chapter during such times as specified by the board of elections, said notification being made in writing at least seven (7) days prior to said election;**
- (b) **for the delivery and retrieval of all election equipment and related materials prior to and following an election as specified by the board of elections, said notification being made in writing at least seven (7) days prior to said election;**
- (c) **All public facilities so designated at poll sites shall comply with the provisions of this subdivision at no additional cost to board of elections.**

STATEMENT IN SUPPORT

The Board of Elections continues to experience problems with respect to the opening and closing of poll sites located within public facilities required by the new voting system as well as the delivery and retrieval of voting equipment at these sites. Given the time needed to lawfully open and close the new voting systems, poll sites have to be open earlier and close later on an election day than when the lever voting machines were in use. In addition, since more equipment and materials are required to be delivered to each poll site to properly enable the poll workers to service the voters and a greater amount of time is needed to test and prepare the voting systems, the timeframes for delivery of equipment and materials have also been extended and expanded with the introduction of the new voting system.

PROPOSAL # 20 – 08
(continued)

This proposal would enable the Board of Elections to establish the appropriate times for operations and activities at poll sites both on Election Day and in the days leading up to and following an election. It also specifies that these public facilities comply with this requirement at no additional cost to the Board of Elections.

PROPOSAL # 20 – 09

PROPOSED REVISION

To add a new Section 17-172 of the Election Law enacting a new offense relating to interfering with election equipment and poll sites.

A new Section 17-172 of the Election Law is enacted to read:

§ 17-172. Interference with Election Equipment and Poll Sites.

It shall be unlawful for any person to interfere with the setup, equipment or operation of a poll site when equipment is delivered to the poll site, stored or maintained at a poll site prior to election day, on election day itself, including changing the designated poll room(s), entry points and location of equipment by persons other than by or at the direction of authorized Board of Elections employees and until such time following the election until all the election equipment is retrieved from the poll site. Any person who violates any of the foregoing provisions shall be guilty of a felony.

STATEMENT IN SUPPORT

This proposal creates a new offense in Article 17 of the Election Law to make it a felony to interfere with the setup, equipment, or operation of a poll site on the once equipment is delivered to the poll site prior to Election Day; on Election Day itself, including changing the designated poll room(s), entry points, and location of equipment by persons other than authorized Board of Elections employees (including poll site custodians and administrators (such as school principals and public building managers); and in the days following the election until all the election equipment is retrieved from the poll site.

Prior experience has shown this to be an ongoing problem at poll sites and has resulted in voters being unable to vote in the manner provided by law and in accordance with the standards established by the Board of Elections. Often, personnel who work for or at the poll site move voting equipment and change poll site rooms at their own discretion. The City Board carefully selects specific poll rooms for use following a survey of the site and the development of a comprehensive floor plan for the poll site, pursuant to both Section 4-104 of the Election Law and the Remedial Orders of the U.S. District Court for the Southern District of New York issued in *the United Spinal Association v. Board of Elections*. Enactment of this proposal would provide all Boards of Elections with another tool to better ensure that the voters are properly served in a lawful manner.

PROPOSAL # 20 – 10

PROPOSED REVISION

To amend Section 6-134 of the Election Law by adding a new subdivision 2-a. to clearly set forth the requirements for the submission of accurate and correct information on Cover Sheets which accompany petitions.

Section 6-134 of the Election Law is amended by adding a new subdivision 2-a:

2-a. The sheets of a petition volume shall be numbered sequentially at the foot of each sheet. Petition sheets shall be securely fastened together in one or more volumes. Any petition containing 10 or more sheets shall be accompanied by a cover sheet. A cover sheet shall be filed for each candidate and shall accurately and correct state the following information:

- 1. The name and complete residence address of each candidate;**
- 2. The political party or independent body, office or position and district number (where appropriate) for which each designation or nomination is being made;**
- 3. The total number of volumes comprising the petition for each candidate;**
- 4. The identification numbers (issued pursuant to 9 NYCRR §6215.3 or its successor provisions) of the petition volumes comprising the petition;**
- 5. The statement (if correct) that the petition contains the number, or in excess of the number of signatures required by the Election Law or other applicable lawful provision.**

The information contained on the cover sheet must be accurate and correct and shall match the information contained on the petition sheets for each candidate. When one or more candidates are designated or nominated on the same petition volumes, the candidates may be grouped together on a cover sheet so that the number of volumes and their identification numbers do not have to be repeated. The provisions of this subdivision shall be strictly construed, consistent with the need to have accurate and correct information stated on the cover sheet for the prevention of fraud and/or confusion.

STATEMENT IN SUPPORT

For the September 2013 Primary Election designating petitions were filed with the Board of Elections in the City of New York seeking to designate candidates for both public office and party position. Also filed relating to those candidates

PROPOSAL # 20 – 10
(continued)

were cover sheets and amended cover sheets which contained inaccurate, incorrect and or misleading information.

The Board of Elections removed the candidates (following notice and a hearing) finding that, as a result of the errors contained on the respective cover sheet and/or amended cover sheet filed for the candidates.

In the first instance, relating to candidates for Delegate and Alternate Delegates to the Democratic Judicial Convention from the 69th Assembly District, the initial cover sheet claimed petition volumes upon which the candidates did not appear. A Notice of Non-Compliance was sent and an amended cover sheet was filed purporting to cure the original defect. The Amended Cover Sheet was determined to be an invalid cure, since it once again claimed petition volumes upon which the candidates did not appear and it claimed petition volume identification numbers which were never filed with the Board. The candidates commenced a proceeding under Article 16 of the Election Law, in New York State Supreme Court, New York County, captioned: "FLACKS, et. al. v. BOARD OF ELECTIONS IN THE CITY OF NEW YORK [Index No. 101057/2013]. A hearing was conducted in by a Special Referee designated by the Supreme Court who recommended that the Board's determination be sustained. Justice Paul Wooten, New York State Supreme Court, New York County, in an August 9, 2013 decision, confirmed the report of the Special Referee and affirmed the Board's determination. In an Order entered on August 14, 2013, (109 AD3d 423) the Appellate Division, First Department reversed the State Supreme Court order, citing the defects as a "scrivener's error" and distinguishing the facts from the Court's prior contrary decision in Feliciano v. Guastella (98 AD3d 434). The Court of Appeals denied leave to appeal (21 NY3d 861).

In the second instance, relating to a candidate for the Republican Designation of a candidate for Member of the New York City Council, 44th Council District, the initial cover sheet claimed volumes upon which the candidate did not appear. The candidate filed an Amended Cover Sheet which did not cure this defect. The candidate commenced a proceeding under Article 16 of the Election Law in New York State Supreme Court, Kings County, captioned: HAYON v. GREENFIELD, et. al. and the BOARD OF ELECTIONS IN THE CITY OF NEW YORK (Index No. 700006/13). Hearings were held by the Supreme Court. Justice David Schmidt, in an August 9, 2013 decision and order, held that despite the persuasive testimony presented on behalf of the Board, the Court ruled for the petitioner because "ministerial errors" on the part of the Board resulted in the Amended

PROPOSAL # 20 – 10 (continued)

Cover Sheet not curing the cited defects and because Election Law §6-134(10) requires the Court to liberally construe that section of the Election Law and the regulations promulgated pursuant thereto. The Appellate Division, Second Department affirmed the Supreme Court's determination in an Order entered on September 18, 2013. (109 AD3d 920).

The consequence of these decisions makes the filing of accurate and correct information on a cover sheet meaningless. In order to protect the rights of potential objectors and ensure that the public has accurate and correct information, enactment of this proposal will mandate that the Courts strictly construe the requirement that basic, elemental information that is required to be contained on a cover sheet be accurately and correctly stated. The mandate is not burdensome; all that it requires is that the candidate correctly state:

- their name and residence address;
- the political party or independent body they are seeking to be a candidate of;
- the office or position they seek and the district number, if applicable;
- the number of volumes contained in the petition;
- the identification numbers of those volumes;
- a statement that the petition contains a sufficient number of signatures to qualify for the ballot under the applicable statutory provisions.

If our proposal is not enacted, then filing an inaccurate or incorrect cover sheet will have no consequences based on the foregoing decisions of the Appellate Divisions in the First and Second Judicial Departments.

PROPOSAL # 20 – 11

PROPOSED REVISION

To amend the Election Law to eliminate the requirements for publication of detailed election notices within the City of New York.

The Commissioners of Elections recommend that Sections 4-118 (1), 4-120 (1) and 4-122 (1) of the election law be amended by adding the words “, *except in the City of New York,*” so that the sections would read as follows:

Section 4-118

1. Each county board of elections, **except in the city of New York**, shall publish...

Section 4-120

1. The board of elections, **except in the city of New York**, shall publish...

Section 4-122

1. The county board of elections, **except in the city of New York**, shall publish...

STATEMENT IN SUPPORT

Even after the recently enactment amendment to the Election Law, the Board of Elections in the City of New York is still required to publish half-page ads notifying the voting public of primary and general elections. [See New York State Election Law Sections 4-118 (2) and 4-120 (3).] Through our phone bank and website voter information is always available. In addition, the requirement to publish the names of the all candidates for public office [See Election Law § 4-122] is duplicative of the information provided on the Board’s website. With both the City and State of New York confronting significant budget shortfalls, enactment of this proposal will save the taxpayers of the City of New York a significant amount of money without impacting the availability of information to voters.

PROPOSAL # 20 – 12

PROPOSED REVISION

To amend Section 1-106(1) of the Election Law by increasing the hours that the Board of Elections in the City of New York will be open for persons to file certificates and/or petitions for designation or nomination; certificates of acceptance or declination of such designations or nominations; and objections and specifications of objections to such certificates or petitions; and certain other modifications thereto.

Section 1-106(1) of the Election Law is amended to read:

All papers required to be filed pursuant to the provisions of this chapter shall, unless otherwise provided, be filed between the hours of nine A.M. and five P.M. 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 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 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 such 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~~ **from nine A.M. to nine P.M. on each such 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.

STATEMENT IN SUPPORT

The current provision of the Election Law requires the Board of Elections in the City of New York to be open to receive for filing certain documents from 9:00 AM to 5:00 PM on each day for filing except the last day, when the Board is required to be open until Midnight.

In order to increase the time available for persons to file these documents with the Board as well as provide for a more orderly last day to file, the Board of

PROPOSAL # 20 – 12 (continued)

Elections in the City of New York recommends enactment of this proposal which would modify and increase the hours it is open to the public to file the following documents as specified in the Election Law:

- certificates and petitions of designation or nomination;
- certificates of acceptance or declination of such designations or nominations; and
- objections and specifications of objections to such certificates and petitions.

For example, with respect to designating petitions, the Board of Elections in the City of New York currently is open to the public for the filing of such petitions for a total of 39 hours over the four-day period (8 hours for three days and 15 hours on the last day to file). Under this proposal, the Board of Elections in the City of New York would be open for a total of 48 hours during the same four-day period, an increase of 9 hours, almost 20%. Similarly, with respect to general objections, under the present statute the Board is open for such filings for a total of 31 hours spread over three days. Under this proposal, the time for the public to file would increase to 36 hours over three days. These 5 additional hours are almost a 15% increase in the amount of time that the Board would be open to serve concerned voters.

In addition to better serving the voters of the City of New York, this proposal would allow for the better utilization of the valuable resources, including personnel of the Board of Elections in the City of New York. The need for a continuous work period for some Board staff (of twenty-four to thirty-six hours) would be eliminated, while enhancing the services offered to the public.

The Board estimates that enactment of this legislation would reduce the number of mandatory overtime hours during the designating and independent nominating filing periods (based on actual experiences during 2010) by at least twenty-five (25) hours with a net cost savings of over \$18,000 a year.

PROPOSAL # 20 – 13

PROPOSED REVISION

To amend Section 5-202 of the Election Law to provide for optional local registration every year.

The Commissioners of Elections recommend that the current Section 5-202 of the Election Law be repealed and the following shall be added as the new Section 5-202 of the Election Law:

1. any board of elections and in the city of New York, the board of elections in the city of New York, may by resolution adopted not later than the first day of July in any year, provide that either a central or local board of inspectors shall meet for the purposes of taking the registration of voters. In said resolution, the board of elections shall establish the date(s), time(s) and place(s) for conducting such meeting(s), which shall be uniform throughout the county and in the city of New York, throughout such city.
2. Local registration conducted pursuant to subdivision (1) shall always be received either by two employees of said board of elections serving as a central board of inspectors or two members of a local board of inspectors; in each instance, representing the two political parties, as provided herein for the appointment of inspectors, as directed by resolution of said board of elections.
3. If a board of elections determines, pursuant to subdivision (1), to conduct local registration, it shall establish the date or dates to conduct the same, which shall not be earlier than 60 days before the general election or later than 30 days before the general election. No such local registration shall be held on the religious holidays of Yom Kippur, Rosh Hashanah, Simchas Torah, Shimini Atzereth, or Succoth, or the legal holiday, Columbus Day.
4. Each board of elections shall make and file a copy of a resolution adopted pursuant to subdivision (1) in its office and with the state board of elections not later than ten days after the adoption of such resolution.
5. If a board of elections, pursuant to subdivision (1) determines to conduct local registration, it shall publish the date(s), time(s) and place(s) of such local registration at least once in the two weeks preceding the first day of such local registration. Such publication shall be in at least 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 is more than one.

PROPOSAL # 20 – 13
(continued)

STATEMENT IN SUPPORT

The Commissioners of Elections recommend that local registration of voters be made discretionary at the option of each board of elections. This past Presidential Election Year is a perfect example of the waste and inefficiency that result from the current statutory framework. In 2016, there were 2,503 voters registered at local registration in the entire City of New York, at a total cost exceeding \$ 726,000 or more than \$ 290 per new registrant.

With the enactment of the National Voter Registration Act (NVRA), local registration is no longer a cost-effective or successful way of registering voters. By mandating that local registration be conducted at each poll site, the current law does not give boards of elections the necessary flexibility to conduct local registration at sites more accessible to potential eligible voters. With New York State and its local governments anticipating significant budgetary shortfalls, enactment of this legislation would save taxpayer dollars without impairing a board of elections ability to assist a potential voter to register to vote.

In addition, the flexibility this revised Section 5-202 of the Election Law offers may:

- assist Boards of Elections in complying with the registration requirement of the “HELP AMERICA VOTE ACT OF 2002”; and
- reduce confusion and problems on Election Day itself.

PROPOSAL # 20 – 14

PROPOSED REVISION

Section 8-400(2) of the Election Law, relating to absentee ballots, is amended to read:

(c) All applications must be ~~mailed to~~ **received by** the board of elections not later than the ~~seventh~~ day before the election for which a ballot is requested ~~or delivered to such board not later than the day before such election.~~

(d) 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 a ~~letter~~ **writing (which shall include a letter, telefax, or other written instrument containing the signature of the voter)**, which is signed by the voter and received by the board of elections not earlier than the thirtieth day **(if said absentee ballots have been prepared, or immediately upon their receipt by the board)** 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. The board of elections shall enclose with such ballot a form of application for the absentee ballot.

STATEMENT IN SUPPORT

This proposal is designed to amend the Election Law to better serve voters who are entitled to obtain absentee ballots by recognizing new improved means of communications which can reduce the time frames now specified in the statute and would reflect the practice and procedures of many boards of elections throughout the State of New York.

This proposal would permit voters to apply for and receive absentee ballots (if they otherwise qualify under the requirements of Section 8-400) through the day before an election. Thus, the written request time frame would be made the same as that for personal request/delivery.