

**Onondaga County Board of Elections**

**Meeting Agenda**

February 28, 2024

2:30 PM

Type of Meeting: Decision Making

Commissioners: Dustin Czarny and Michele Sardo

Invitees: Candice Clemens, Julie Cook, Michelle Edinger, Sydney Szczesniak

- I. Call to Order: DUSTIN CZARNY AT 2:40 PM
- II. Roll Call: DUSTIN CZARNY, JULIE COOK, SYDNEY SZCZESNIAK  
MICHELE SARDO, CANDICE CLEMENS MICHELLE EDINGER
- III. Approval of Agenda: 2 YES / 0 NO
- IV. New Business
  - a) Approval of Clear Ballot Invoice Thermal Paper: 2 YES / 0 NO
  - b) Approval of KNOWiNK Invoice Firmware for Printers: 2 YES / 0 NO
  - c) Approval for Purchase of Convert XLS for Inspector payment: 2 YES / 0 NO
  - d) Approval of Obtaining Scans of Petitions: 2 YES / 0 NO
  - e) Early Polling Sites for April 2, 2024: 2 YES / 0 NO
  - f) Election Day Polling Sites: 2 YES / 0 NO
    - a. April 2, 2024
    - b. June 25, 2024
    - c. November 5, 2024
  - g) Revision to procedure to prevent Public Release of Election Results: 2 YES / 0 NO
- V. Adjournment: DUSTIN CZARNY AT 2:45 PM / MICHELE SARDO SECOND

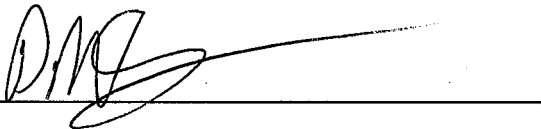
ONONDAGA COUNTY BOARD OF ELECTIONS

DUSTIN M CZARNY and MICHELE L SARDO

Wednesday, February 28, 2024

Obtaining Scans of Petitions

1. During the objection period for any candidate petitions copies of the scans of petitions can be requested via email to either commissioner, deputy, or assistant.
2. Outside of the objection period, past candidate petitions must be obtained through the County FOIL process.



Dustin M Czarny  
Commissioner (D)  
Onondaga County Board of Elections



Michele L SarDO  
Commissioner (R)  
Onondaga County Board of Elections

# ONONDAGA COUNTY BOARD OF ELECTIONS

## PROCEDURE FOR EARLY CANVASS OF ABSENTEE AND MAIL BALLOT; PREVENTION OF DOUBLE VOTING AND PREMATURE RELEASE OF RESULTS

COMMISSIONERS DUSTIN M. CZARNY and MICHELE L. SARDO

February 28, 2024

The Onondaga County Board of Elections shall follow the attached guidance from the New York State Board of Elections in relation to the early canvass of absentee and mail ballot.


In the effort to prevent double voting, our office shall conduct the following procedures:

- Before the Board of canvassers opens the ballot envelope, they will compare the voter's name to a list of ballots received and handled through the cure process. If the voter's name does not appear on this list, the ballot will not be opened until it is handled through the cure process and properly tracked.
- Before the Board of canvassers opens the ballot envelope, they will compare the voter's name to a list of voters who have been issued and returned a second ballot.
- During early voting, voter history will be uploaded to our voter registration system on a daily basis at the close of each poll. Any subsequent ballot received during and after early voting, will be reviewed against in person history to be sure the voter has not cast a vote.

In the effort to prevent premature release of results, our office will be tabulating absentee and early mail ballots using the currently certified Clear Count 2.4 system. This system gives the ability to suppress results prior to election night.

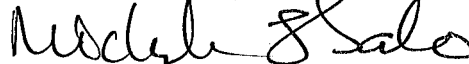
Onondaga County will begin to tabulate results from early voting and absentee and mail ballots at 8:00 PM on election night.

Onondaga County utilizes clean memory sticks for each day of early voting at each of the County's early voting sites. While ClearBallot ClearCast Go voting systems has the printing ability of the results tape suppressed, the ability to view and print results on the screen of the machine after closing polls is still available. To lessen the chance of premature release of results, the polls will not be closed on the machines at the early voting site. The memory sticks containing the results of that day's early voting will be brought back to the Onondaga County Board of Elections where a bipartisan team will load them into a machine and close the polls.



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Dustin M. Czarny  
Commissioner (D)  
Onondaga County Board of Elections



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Michele L. Sardo  
Commissioner (R)  
Onondaga County Board of Elections



**Board of  
Elections**

# **Canvassing Guidance for County Boards**

Prepared by:  
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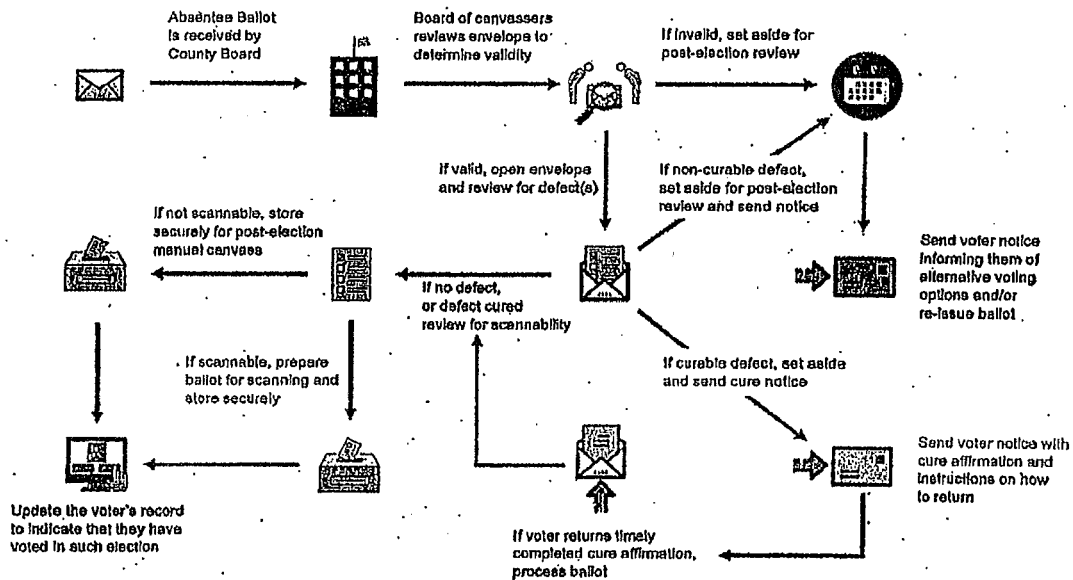
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## General Provisions

### Overview

The new law changes the way that absentee ballots are handled by County Boards of Elections upon their receipt. Whereas under previous law, absentee ballots were kept sealed and not canvassed until after Election Day, the new law now requires that absentees be reviewed and prepared for scanning prior to Election Day on a rolling basis. With regard to the scanning of absentee ballots itself, it should be made clear that this is not to be done on a rolling basis. Rather, it is only to take place at two times prior to Election Day – on the day before the first day of Early Voting and after the close of polls on the last day of Early Voting. At no point should any absentee ballots be manually canvassed prior to Election Day.

The diagram below provides a very basic overview of the process to be followed for handling ballots received prior to Election Day.



The information set forth below serves to provide a more detailed overview of the processes to be followed as a result of the recent changes in law. As always, should you have any questions about any of the material below, please do not hesitate to contact the State Board of Elections for more information.

### Prevention of Double Voting and Premature Release of Results

Similar to procedures previously established for Early Voting, the board of elections shall adopt procedures, consistent with regulations of the state board of elections, to prevent voters from voting more than once and to secure ballots and prevent public release of election results prior to election day. Such procedures shall be consistent with the regulations of the state board of elections and shall be filed

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with the state board of elections at least ninety days before they shall be effective. Existing procedures for Early Voting may be expanded to include the early canvassing of absentee ballots to maintain consistency.

### **At the Poll Site**

If a voter's name appears in the poll book or computer generated registration list with a notation indicating that the board of elections has issued the voter an absentee, military or special ballot, such voter shall not be permitted to vote on a voting machine at an early voting site or on election day but may vote by affidavit ballot.

### **Watchers**

Nothing in this law prohibits a representative of a candidate, political party, or independent body entitled to have watchers present at the polls in any election district in the board's jurisdiction from observing the review of ballot envelopes. Such representatives can observe the opening process, but they cannot make any objections that would cause a ballot to be set aside, preventing opening of the absentee envelope. Whether to open the ballot envelope is a determination made solely by the board of canvassers. Pursuant to the new law, a candidate or objector can no longer go to court to challenge the board of canvassers' decision to open and count an absentee ballot. If the board of canvassers splits as to whether a ballot is valid, such ballot shall be prepared to be cast and canvassed. Also, since the ballots are prepared for later scanning without examining the face of the ballot, observers cannot inspect the face of the ballot to make any objections on the ballot itself. In this way, absentee and affidavit ballots are treated in a manner consistent with election day voters' ballots, which are placed into the scanner directly without any prior review. Additional changes made in this legislation relating to challenges are outlined in article 16, where a court cannot alter the canvass schedule unless a candidate demonstrates to the court clear and convincing evidence a change to the schedule is needed.

### **Processing Ballots**

#### **Central Board of Canvassers**

- Within 4 days of the receipt of the first absentee ballot (including military, special federal, special ballots, etc), board must designate central board of canvassers.
- Central board of canvassers shall consist of at least one set of poll clerks, and that each such set shall be divided equally between representatives of the two major political parties.
- If the central board of canvassers splits as to whether a ballot is valid, it shall immediately prepare such ballot to be cast and canvassed.
- If canvassing board finds that ministerial error by the board of elections or any of its employees caused a ballot envelope not to be valid on its face, it shall process the ballot for scanning as if it were valid.

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### **How to process a ballot**

- Once you have determined that an individual is properly registered and has requested an absentee ballot, the envelope shall be opened, and the ballot(s) shall be taken out, unfolded, stacked face down and placed in a secure ballot box or envelope. The voters record shall then be updated with a notation that the voter has voted in the election. The ballots shall be held until the appropriate time to scan them.

### **Timeframe for the processing of a ballot**

- Prior to Election Day = within 4 days of receipt
- On or after Election Day = within 1 day of receipt

### **Organization of ballots for processing**

All ballots from a single election district shall be assigned to a single set of clerks.

### **Examination of ballot envelopes**

1. Identify ballots to be set aside for post-election review. Board of canvassers to indicate on the ballot envelope, in red ink, the specific reason for invalidity. In the case where there is a split between the canvassers as to whether or not a ballot meets the specific criteria set forth in the list below for invalidity, that ballot should be set aside for post-election review.
  - a. Voter not registered
  - b. No voter name on affirmation envelope (regardless of signature)
  - c. Not timely postmarked or received
    - i. Any absentee ballot delivered in person and received by the board on or before the close of polls on Election Day shall be considered to be timely.
    - ii. Any absentee ballot received by the board via mail, and not bearing a postmark, shall be considered timely if received on or before the day after Election Day.
  - d. Both outer and inner envelopes unsealed
    - i. The board shall notify the voter by mail, sent within three business days of such rejection, and by either electronic mail or telephone, if such information is available to the board in the voter's registration information, and notify the voter of other options for voting, and, if time permits, provide the voter with a



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ii. new ballot. (see State Board's Cure Procedures for more information)

2. Voters who returned multiple ballots

- a. If board issued a second ballot, any initial ballot should be set aside unopened to provide the voter time to return the second ballot.
- b. Both timely?
  - i. One with later date of execution accepted and other(s) rejected
    - 1. Unless earlier one already opened. Then set aside more recent one unopened.
  - ii. Can't determine? All ballots rejected

3. Compare signature on envelope against voter record (same name & address)

- a. If the signatures are found to correspond, such central board of canvassers shall certify thereto, indicating as much on the envelope with the initials of inspectors from both parties.
- b. If signatures do not match; follow guidance for curable defect.

4. If voter registered, requested a ballot and signature matches:

- a. The ballot envelope shall be opened, the ballot(s) withdrawn from the envelope.
  - i. If Primary Election ballot, confirm voter is of proper party. In previewing the ballot, the board shall take all measures necessary to ensure the privacy of voters.
    - 1. If yes, place ballot(s) unfolded, stacked face down and deposited in a secure ballot box or envelope.
    - 2. If not, ballot shall be rejected and shall be returned to the ballot envelope which shall be endorsed "not enrolled".
  - ii. Aside from confirmation of proper enrollment, no further review of the ballot or the votes contained therein, shall be made.
  - iii. If a ballot envelope shall contain more than one ballot for the same offices, all the ballots in such ballot envelope shall be rejected.

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- iv. As each ballot envelope is opened, if one or more of the different kinds of ballots to be voted at the election are not found therein, the central board of canvassers, shall make a memorandum showing what ballot or ballots are missing.
    1. When the review of such ballots shall have been completed, the central board of canvassers shall ascertain the number of such ballots of each kind which have been deposited in the ballot box by deducting from the number of ballot envelopes opened with the number of missing ballots and shall make a return thereof.
    2. The number of 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.
  - v. If unscannable (like FWABs and those downloaded and printed by military, special fed and accessible absentee voters), then set aside for post-election manual canvass.
    - b. Upon such processing of the ballot, the voter's record shall be updated with a notation that indicates that the voter has already voted in such election. This information should be included in all print and electronic poll books where possible, and voter history shall be recorded for inclusion in the information provided to the State to conduct its post-election statewide voter data match.

#### **Additional Procedures for Scanners/Systems Used for Early Canvassing of Absentee Ballots**

The Operations Unit of the State Board has prepared additional procedures specific to the various systems which can be used for the scanning of absentee ballots prior to Election Day. Similar to procedures provided to boards for the different configurations of precinct scanner systems which can be used during Early Voting; this guidance explains how scanners/systems used for the early canvassing of absentee ballots should be configured, operated and secured. Please contact Election Operations for more information on the particular system that your board expects to use for this purpose.

#### **Ballot Defects and the Cure Process**

##### **Steps for determining curable defects**

1. At the time a ballot affirmation envelope is reviewed, the board of elections shall determine whether the ballot envelope has one of the following curable defects:

- 
- a. is unsigned
  - b. has a signature that does not correspond to the registration signature
  - c. has no required witness to a mark
  - d. is returned without a ballot affirmation envelope in the return envelope
  - e. has a ballot affirmation envelope that is signed by the person that has provided assistance to the voter but is not signed or marked by the voter
  - f. contains the signature of someone other than the voter and not of the voter
2. Ballot envelopes are not invalid and do not require a cure if:
- a. a ballot envelope is undated or has the wrong date, provided it is postmarked on or prior to election day or is otherwise received timely by the board of elections
  - b. the voter signed or marked the ballot affirmation envelope at a place on the envelope other than the designated signature line
  - c. a voter used a combination of ink (of any color) or pencil to complete the ballot envelope
  - d. papers found in the ballot envelope with the ballot are materials from the board of elections, such as instructions or an application sent by the board of elections
  - e. an extrinsic mark or tear on the ballot envelope appears to be there as a result of the ordinary course of mailing or transmittal
  - f. the ballot envelope is partially unsealed but there is no ability to access the ballot
3. When the board of elections invalidates a ballot affirmation envelope, and the defect is not curable:
- a. the ballot envelope shall be set aside for the post-election review
  - b. the board shall notify the voter by mail, sent within three business days of such rejection, and by either electronic mail or telephone, if such information is available to the board in the voter's registration information, and notify the voter of other options for voting, and, if time permits, provide the voter with a new ballot.

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4. If a ballot is returned by a voter with both outer and inner envelopes unsealed, the board shall notify the voter by mail, sent within three business days of such rejection, and by either electronic mail or telephone, if such information is available to the board in the voter's registration information, and notify the voter of other options for voting, and, if time permits, provide the voter with a new ballot.

#### **Notifying voter of curable defect**

1. If ballot envelope found to have curable defect, the board shall indicate the issue that must be cured on the ballot envelope in red ink.
  - a. Within one day of such determination, send to the voter's address indicated in the registration records and, if different, the mailing address indicated on the ballot application, a notice explaining the reason for such rejection and the procedure to cure the rejection. The board shall include a cure affirmation with the notice to the voter. The affirmation shall be in a form prescribed by the state board of elections.
    - i. 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.

#### **Voter process for curing defects**

1. The voter may cure any identified curable defects by filing a duly signed affirmation with the board no later than seven business days after the board's mailing of such curable rejection notice or the day before the election, whichever is later.
  - a. If the board determines that such affirmation addresses the curable defect, the rejected ballot shall be reinstated and prepared for canvassing.
  - b. If the board of elections is split as to the sufficiency of the cure affirmation, such envelope shall be prepared for canvassing.
  - c. If the ballot envelope contains one or more curable defects that have not been timely cured, the ballot envelope shall be set aside for the post-election review.

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## **Scanning of Ballots Prior to Election Day**

### **General considerations for scanning ballots**

Although the processing of returned absentee ballots is a continual process, the scanning of processed ballots is not. The law requires that, prior to Election Day, scanning of ballots that have been examined and prepared occurs at two specific times. The times at and manner in which ballots shall be scanned are described below.

### **When to scan ballots**

1. The Day Before the First Day of Early Voting
  - a. The day before the first day of early voting, the central board of canvassers shall scan all valid ballots previously reviewed and prepared.
2. After the Close of the Polls on the Last Day of Early Voting
  - a. After the close of the polls on the last day of early voting, the central board of canvassers shall scan all valid ballots received and prepared pursuant to this section, and not previously scanned on the day before the first day of early voting

### **Manner in which to scan ballots**

1. The central board of canvassers shall scan all valid ballots previously reviewed and prepared as nearly as practicable in the following manner:
  - a. Such ballots may be separated into sections before being placed in the counting machine and scanned.
  - b. Upon completion of the scanning of such valid ballots, the scanners used for such purpose shall be secured, and no tabulation of the results shall occur until one hour before the close of the polls on election day.
  - c. All portable memory devices containing such scanning data shall be secured in the same manner as portable memory devices used during early voting or on election day.
  - d. Any ballots scanned during this period shall be secured in the same manner as voted ballots cast during early voting or on election day.
  - e. Any valid ballots that cannot be cast on a 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 manually canvassed.

- f. Boards have the option of using the same or different scanners for the two instances of pre-Election Day scanning.
- g. In casting and canvassing such ballots, the board shall take all measures necessary to ensure the privacy of voters.

### **Tabulating Unofficial Results for Election Night**

The board of elections may begin to obtain tabulated results for all ballots previously scanned no earlier than one hour before the scheduled close of polls on election day.

No unofficial tabulations of election results shall be publicly announced or released in any manner until after the close of polls on election day at which time such tabulations shall be added into the election night vote totals provided to the State Board.

### **Audit of Scanners Used In Canvassing Early-Processed Absentees**

Within three days of any election, the board of elections or a bipartisan committee appointed by such board shall audit the scanners used for early-processed absentees by auditing the ballots from three percent of election districts that were tabulated by such scanners within the jurisdiction of such board by that time. This audit should be conducted in the same manner as the traditional post-election audit of scanners used to centrally count absentee ballots pursuant to §6210.18.

To the extent additional ballots are tabulated through scanners after the initial audit, three percent of election districts shall thereafter be audited as to the additional ballots tabulated. The certification of the canvass shall not await the completion of such additional audit; provided, however, if upon the completion of such additional audit the criteria are met for the results of the audit to replace the canvass then the board of canvassers shall forthwith reconvene and adjust the canvass as required.

### **New Data Match Timeline**

Pursuant to §6211.6, county boards are required to provide information to the State Board with regard to in-person voter history during the early voting period and on election day, absentee requests/returns and affidavit ballots. The State Board then aggregates this information, searches for potential matches between counties and provides information on those matches to the counties involved.

Although the deadlines for each type of information differ, the information overall was due to the State Board not later than 7 days after a primary election and 10 days after a general. During the 2021 election cycle, the Governor issued an Executive Order which reduced that timeframe to 48 hours after the election.

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As a result of some of the changes contained in the new law, the State Board will be revising its regulations to call for this information to be provided not later than three days after an election, regardless of election type. The State Board will then strive to provide the processed information back to counties by the following day, in advance of the required timeframe for canvassing affidavit ballots.

### **Canvass of Affidavit Ballots**

Within four business days of the election, the board of elections shall review all affidavit ballots cast in the election.

1. If the central board of canvassers determines that a person was entitled to vote at such election it shall cast and canvass such affidavit ballot in the following manner:
  - (i) If the board of elections receives one or more timely absentee ballots from a voter who also cast an affidavit ballot at a poll site, the last such timely absentee ballot received shall be canvassed and the affidavit ballot shall be set aside unopened.
  - (ii) If a voter was issued an absentee ballot and votes in person via an affidavit ballot and the board does not receive such absentee ballot, the affidavit ballot shall be canvassed if the voter is otherwise qualified to vote in such election.
  - (iii) Affidavit ballots are valid when cast at a polling site permitted by law by qualified voters:
    - i. who moved within the state after registering
    - ii. who are in inactive status
    - iii. whose registration was incorrectly transferred to another address even though they did not move
    - iv. whose registration poll records were missing on the day of such election
    - v. who have not had their identity previously verified
    - vi. whose registration poll records did not show them to be enrolled in the party in which they are enrolled
    - vii. who are incorrectly identified as having already voted.
  - (iv) Affidavit ballots are valid to the extent 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. If the central board of canvassers determines that a person was entitled to vote at such election, the board shall cast and canvass such affidavit 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 and regardless of whether the voter's name was in the registration poll record.
3. If the central board of canvassers finds that a voter submitted a voter registration application through the electronic voter registration transmittal system pursuant to title eight of article five of this chapter and signed the affidavit ballot, the board shall cast and canvass such affidavit ballot if the voter is otherwise qualified to vote in such election.
4. If the central board of canvassers determines that a person was entitled to vote at such election, the board shall cast and canvass such affidavit ballot if such board finds that the voter substantially complied with the requirements of this chapter. For purposes of this paragraph, "substantially complied" shall mean the board can determine the voter's eligibility based on the statement of the affiant or records of the board.
5. If the central board of canvassers finds that the statewide voter registration list supplies sufficient information to identify a voter, failure by the voter to include on the affidavit ballot envelope the address where such voter was previously registered shall not be a fatal defect and the board shall cast and canvass such affidavit ballot.
6. If the central board of canvassers 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 canvassed if the voter is otherwise qualified to vote in such election.
7. When the central board of canvassers determines that an affidavit ballot is invalid due to a missing signature on the affidavit ballot envelope, or because the signature on the affidavit ballot envelope does not correspond to the registration signature, such ballots shall be set aside and subject to the cure procedure as earlier described. The voter may cure any identified curable defects by filing a duly signed affirmation with the board no later than seven business days after the board's mailing of such curable rejection notice. Those affidavit ballots which have been set aside for this reason shall be canvassed upon receipt of a timely completed cure affirmation from the voter.
8. The board of elections shall enter information into its voter registration system to be transmitted to the statewide ballot tracking system to allow a voter who cast a ballot in an affidavit envelope to determine if the vote was counted.



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## **Post-Election Review of Set Aside Ballots**

Within four business days of the election, the board of elections shall designate itself or such of its employees to act as a central board of canvassers and meet to review absentee, military and special ballots determined to be invalid upon their initial examination, ballot envelopes that were returned to the board as undeliverable, and ballot envelopes containing one or more curable defects that have not been timely cured.

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 post-election review. Alternatively, this date can be included on the candidate notice sent by the board which contains the dates and times of other pre and post election activities they are entitled to participate in and/or observe.

Each such candidate, political party, and independent body shall be entitled to appoint such number of watchers to attend upon each central board of canvassers as the candidate, political party, or independent body was entitled to appoint at the election in any election district for which the central board of canvassers is designated to act.

Upon assembling at the time and place fixed for such meeting, each central board of canvassers shall then review the ballot as described above.

Each such candidate, political party, and independent body shall be entitled to object to the board of elections' determination that an absentee or affidavit ballot is invalid. Such ballots shall not be counted absent an order of the court. In no event may a court order a ballot that has been counted to be uncounted.

## **Canvassing of Ballots After Election Day**

As stated previously, the board of canvassers shall process absentee ballots received on or after Election Day within one day. Such board shall then canvass the following categories of ballots:

- all valid ballots received and prepared, and not previously scanned on the day before the first day of early voting or scanned after the close of the polls on the last day of early voting.
- all absentee ballots that were deemed valid but were unable to be scanned previously (Military, Overseas, Accessible, etc.).
- all absentee ballots that were determined to have a curable defect and for which a timely and complete cure affirmation was returned by the voter on or after election day.
- all affidavit ballots that were determined to have a curable defect and for which a timely and complete cure affirmation was returned by the voter.

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For the purposes of the candidate notice sent by the board which contains the dates and times of various pre and post election activities for which they are entitled to participate in and/or observe, the post-election canvassing activities may either be considered a continuation of canvassing which has taken place prior to Election Day, or may be considered a separate event with its own specific date and time. Either way, it should be made clear when any post election canvassing of absentee ballots is to begin.

### **Certification of Results**

Upon completing the casting and canvassing of any remaining valid ballots as hereinabove provided for any election district, the central board of canvassers shall thereupon, as nearly as practicable in the manner provided in this article for absentee, military and special 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 record the result.

The record of the vote counted by each scanner and manually 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.

The certification of the board of canvassers must be transmitted to the State Board no later than twenty-five days following a general or special election.

### **Conducting Post-Election Audits**

The process and timeline for conducting the 3% audit of the precinct scanners used during early voting and on Election Day, as described in §6210.18, remains unchanged. For scanners used to centrally count absentee ballots after Election Day, a separate audit of 3% of the election districts scanned on such equipment shall also be conducted.

As was stated previously, the certification of the canvass shall not await the completion of such additional audit; provided, however, if upon the completion of such additional audit the criteria are met for the results of the audit to replace the canvass then the board of canvassers shall forthwith reconvene and adjust the canvass as required.

Peter S. Kosinski  
Co-Chair



**Board of  
Elections**

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Co-Chair

Anthony J. Casale  
Commissioner

40 NORTH PEARL STREET, SUITE 5  
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Andrew J. Spano  
Commissioner

Raymond J. Riley, III  
Co-Executive Director

Phone: 518/474-8100 Fax: 518/486-4068  
<http://www.elections.ny.gov>

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## **GUIDANCE FOR EARLY MAIL VOTING**

### **I. Introduction**

On September 20, 2023, Governor Hochul signed Chapter 481 of the Laws of 2023, Establishing the New York Early Mail Voter Act. This newly enacted legislation, which takes effect on January 1, 2024 and applies to all elections moving forward, establishes an additional method of voting early via mail.

Many of these procedures will be similar to your current Absentee or Special ballot processes. As such, the information below should help walk you through an already familiar set of operational steps, while noting differences between, to ensure your compliance with the new statutory requirements. While we endeavor to provide comprehensive guidance, do not hesitate to reach out with any questions you may have.

The following guidance covers applications, applicable contests, ballots, envelopes, canvassing procedures, and village elections.

### **II. Applications (Paper and Electronic) – §8-700**

Any registered voter may apply by a duly signed instrument to the county board of elections (or in the City of New York) where they are registered for any election in which the voter is eligible. Voters must apply and applicants must be registered at the address on the application.

Voters may apply using one (1) of the following three (3) methods:

1. Via application promulgated by the New York State Board of Elections (NYSBOE), a copy of which can be found attached to this guidance as Appendix A.
  - a. Except for providing a reason, the rules for determining validity of an application should be consistent with existing Absentee guidance.
  - b. Voters may apply for all elections in a calendar year on one application.

- c. When a voter requests an Early Mail ballot application be sent to them via mail, the board shall provide a postage paid return envelope.
  - d. When a voter indicates they are picking up an application in person, the board shall offer a postage paid return envelope.
2. Via letter submitted to the board of elections requesting a ballot.
    - a. The letter must be signed and must contain enough information to be substantially compliant with the aforementioned application.
  3. Via the electronic Early Mail ballot transmittal system.

Applications submitted other than in person must be received not later than the tenth (10<sup>th</sup>) day before the election. Applications delivered in person for ballots being delivered in person must be received no later than the day before the election.

Applications for Early Mail ballots should be provided to voters in any instance where Absentee ballot applications are provided.

### **III. Review of Applications – §8-702**

Applicants must be registered voters at the address listed on the application and must be eligible to vote in the elections requested on the application.

If the board determines an applicant is not registered in the county (or within New York City) at the address listed, or not eligible to vote in all of the elections on the application, the board shall immediately notify the applicant of the rejection with the reason. If the reason is that the voter's address on the application is not the same as their registration address, the voter shall be provided information on how to change their address.

### **IV. Tracking System – §8-712**

As with Absentee voting, the State Board is directed to establish an electronic tracking system for both applications and ballots for Early Mail voting. The form and substance of this system shall follow the existing system(s) set up for Absentee tracking. Counties may develop and implement their own Early Mail tracking system with the approval of the State Board.

## **V. Ballots**

Early Mail ballots must be labeled "Early Mail Ballots." However, since neither the Absentee nor Early Mail Ballot statutes limit the language (§7-122), you may consolidate ballot types for Early Mail Ballots, Absentee and Special ballots, where possible. Such consolidated ballots may say "Absentee / Special / Early Mail Ballots" on them as appropriate.

Timeliness: Early Mail Ballots follow the same timeliness restrictions as Absentee Ballots with regard to deadlines for postmarks and receipt.

Restrictions on Machine Voting: Any voter who is issued an Early Mail ballot, and who subsequently attempts to vote in person, must only be allowed to vote via affidavit ballot. Voter registration lists shall indicate that an Early Mail ballot was issued.

## **VI. Envelopes – §8-704; §7-119**

In a manner similar to that employed for Absentee voters, sending voting materials to Early Mail Ballot voters requires three (3) envelopes to be used: the inner affirmation (security/oath) envelope, the postage paid return envelope addressed to the board of elections, and the outer envelope in which the board mails those envelopes to the voter, along with their ballot.

Please see Appendix B for examples of what Early Mail envelopes should look like.

## **VII. Canvassing**

Early Mail Ballots are canvassed under 9-209 in a manner similar to that of Absentee, Military and Special Ballots. They should be canvassed under the same guidance previously given by the State Board for the canvass of such ballots. The same timeliness restrictions around postmarks and deadline for receipt by the board, along with the cure provisions provided for under § 9-209(3), should be employed.

## **VIII. Communication to Voters**

Election Law is updated in several sections to include providing information to voters regarding Early Mail Voting. Listed below are the areas that require you to add Early Mail voting information. Unless otherwise specified, adding the term Early Mail will fulfill your requirement. Required areas include:

- a) Information Notices under §4-117(1), indicating that any registered voter may vote early by mail and providing information on how to apply for an Early Mail Ballot;
- b) Publication of list of polling places for registration under §4-119(1);
- c) Notices of general, village, and special elections under §4-201(3)<sup>1</sup>; and
- d) Approval Notices under §5-210(9), indicating that any registered voter may vote early by mail and providing information on how to apply for an Early Mail Ballot.

#### **IX. Village Elections – §15-119**

Early Mail Voting also applies to village elections, and any eligible voter is entitled to apply for and receive an Early Mail Ballot.

Applications should be submitted to the Village Clerk for elections conducted by the village clerk under Article 15. As with Absentee Ballot applications for village elections, applications by mail must be received no earlier than four (4) months and not later than seven (7) days before the election. All ballots requested to be mailed by mailed application, shall be sent not later than six (6) days before the election. In-person applications shall be accepted until the day before the election.

Canvassing of Early Mail Ballots for village elections mirror Absentee Ballot rules for village elections.

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<sup>1</sup> This section applies to New York City only.

# **APPENDIX A**

# New York State Early Mail Ballot Application

Please print clearly. See detailed instructions.

To receive an early mail ballot: **In-Person** - Application must be personally delivered to your county board of elections not later than the day before the election. **By Mail** - Application must be received by your county board of elections not later than the 10th day before the election.

The ballot itself must either be personally delivered to the board of elections in your county no later than the close of polls on election day, or postmarked by a governmental postal service not later than the day of the election and received no later than 7 days after the election.

BOARD USE ONLY:

Town/City/Ward/Dist: \_\_\_\_\_

Registration No: \_\_\_\_\_

Party: \_\_\_\_\_

voted in office

1. early mail ballot(s) requested for the following election(s) :  
 Primary Election only     General Election only     Special Election only     All elections this year

2. last name or surname \_\_\_\_\_ first name \_\_\_\_\_ middle initial \_\_\_\_\_ suffix \_\_\_\_\_

3. date of birth MM/DD/YYYY \_\_\_\_\_ county where you live \_\_\_\_\_ phone number (optional) \_\_\_\_\_ email (optional) \_\_\_\_\_

4. address where you are registered: \_\_\_\_\_ apt \_\_\_\_\_ city \_\_\_\_\_ state **NY** zip code \_\_\_\_\_

5. Delivery of Primary Election Ballot (check one)     Deliver to me in person at the board of elections  
 I authorize (give name): \_\_\_\_\_ to pick up my ballot at the board of elections.  
 Mail ballot to me at: (mailing address)  
 street no. street name apt. city state zip code

6. Delivery of General (or Special) Election Ballot (check one)     Deliver to me in person at the board of elections  
 I authorize (give name): \_\_\_\_\_ to pick up my ballot at the board of elections.  
 Mail ballot to me at: (mailing address)  
 street no. street name apt. city state zip code

## Applicant Must Sign Below

7. I certify that I am a qualified and a registered (and for primary, enrolled) voter- and that the information in this application is true and correct and 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 /  
 Sign Here: X \_\_\_\_\_ Date \_\_\_\_/\_\_\_\_/\_\_\_\_  
MM/DD/YYYY

If applicant is unable to sign because of illness, physical disability or inability to read, the following statement must be executed: By my mark, duly witnessed hereunder, I hereby state that I am unable to sign my application for an early mail ballot without assistance because I am unable to write by reason of 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. (No power of attorney or preprinted name stamps allowed. See detailed instructions.)

Date \_\_\_\_/\_\_\_\_/\_\_\_\_ Name of Voter: \_\_\_\_\_ Mark: \_\_\_\_\_

I, the undersigned, hereby certify that the above named voter affixed their mark to this application in my presence and I know him or her to be the person who affixed his or her 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.

\_\_\_\_\_  
 (address of witness to mark)

\_\_\_\_\_  
 (signature of witness to mark)



## **Instructions:**

### **Who may apply for an early mail ballot?**

Each person must apply for themselves. It is a felony to make a false statement in an application for an early mail ballot, to attempt to cast an illegal ballot, or to help anyone to cast an illegal ballot.

### **Information for military and overseas voters:**

If you are applying for an early mail ballot because you or your family are in the military or because you currently reside overseas, do not use this application. You are entitled to special legal provisions if you apply using the Federal Postcard Application (FPCA). For more information about military/overseas voting, contact your local board of elections or refer to the Military and Federal Voting sections at: <http://www.elections.ny.gov/Voting.html>

### **Where and when to return your application:**

Applications for an early mail ballot that will be delivered in-person at the county board of elections to the voter or an agent of the voter must be received not later than the day before the election. Applications for a ballot to be delivered by mail to the voter must be received at the county board of elections no later than 10 days before the election. If the address of your county board of elections is not provided on this form, contact information for your local election office can be found on the New York State Board of Elections' website, under "County Boards of Election" directory at: <http://www.elections.ny.gov/CountyBoards.html>

### **Options available to you if you have an illness or disability:**

You may sign the early mail ballot application yourself, or you may make your mark and have your mark witnessed in the spaces provided on the bottom of the application. Please note that a power of attorney or printed name stamp is not allowed for any voting purpose.

### **When your ballot will be sent:**

Your early mail ballot materials will be sent to you beginning 46 days before federal, state, county, city or town elections in which you are eligible to vote. If you applied after this date, your ballot will be sent immediately after your completed and signed application is received and processed by your local board of elections. If you prefer, you may designate someone to pick up your ballot for you, by completing the required information in section 6 and/or section 7, as appropriate. Contact your local county board of elections if you have not received your ballot.

# **APPENDIX B**

*Board of Elections use only*

**OFFICIAL EARLY MAIL 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) \_\_\_\_\_

Inspector (D) \_\_\_\_\_ Inspector (R) \_\_\_\_\_

**Instructions to voter:**

1. First mark your ballot, then fold it and place it in this envelope, and then seal this envelope.
2. Sign and date the statement on the reverse side of this envelope. Your signature will be compared to the signature on file with the board of elections to verify your identity.
3. Place this envelope in the return envelope.
4. Your ballot can be returned to any Early Voting or Election Day poll site in your county, or to your local Board of Elections by 9:00 pm on Election Day, if delivered in person, or be postmarked by Election Day and received not later than seven days following the election.

**Ballot  
envelope**

If you are also returning a completed application, do not place it in this envelope. Instead, place it in the return envelope along with this sealed envelope.

*Do not put anything except your ballot in this envelope.  
You must sign, date and seal this envelope.*

**Statement of Voter**

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 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 early mail voter, I shall be guilty of a misdemeanor.

Signature or mark of voter

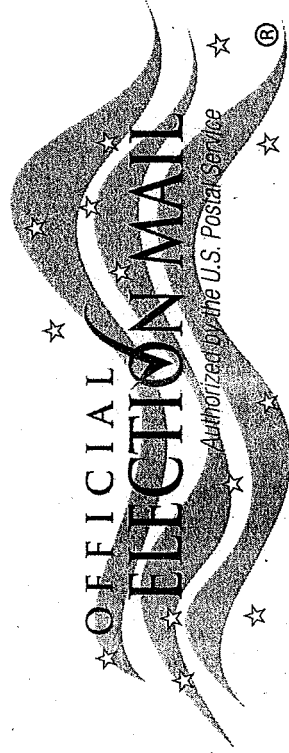
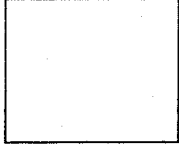
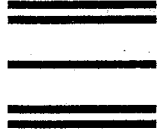
X

Date (MM/DD/YYYY)

Signature and address of witness

(Required only if voter does not sign his or her own name.)

County Name Board of Elections  
4321 City Avenue  
City, NY 99999-1234



County Name Elections Office  
4321 City Avenue  
City, NY 99999-1234

**Return envelope**



Information: 111-222-3333

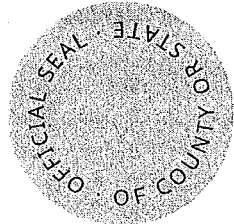


[www.countyname.gov/elections](http://www.countyname.gov/elections)

**Did you...**

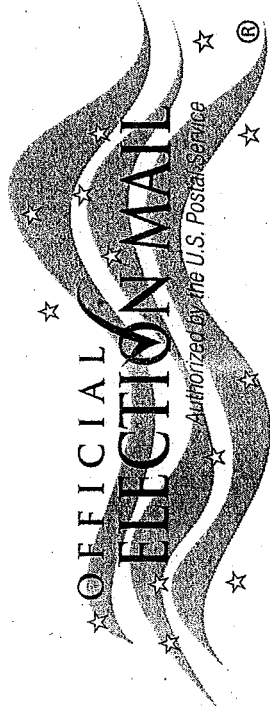
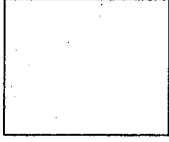
- Sign and date the Statement of Voter?
- Put your marked ballot in the ballot envelope?
- Put your sealed ballot envelope in this return envelope?

Your ballot can be returned to any Early Voting or Election Day poll site in your county, or to your local Board of Elections by 9:00 pm on Election Day, if delivered in person, or be postmarked by Election Day and received not later than seven days following the election.



County Name Board of Elections  
4321 City Avenue  
City, NY 99999-1234

RETURN SERVICE REQUESTED



**Election Material - Please Expedite**

Mr. John Voter  
12345 Main Street  
Anytown NY 99999-1234

**Official ballot**

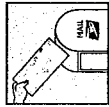


Information: 111-222-3333



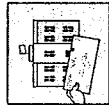
[www.countyname.gov/elections](http://www.countyname.gov/elections)

## How to return your ballot



### Return by Mail

Mail your ballot so it is postmarked by Election Day and returned not later than 7 days following the election.



### Drop Off

Your ballot can be returned to any Early Voting or Election Day poll site in your county, or to your local Board of Elections by 9:00 pm on Election Day.

[www.yourcounty.gov/wheretovote](http://www.yourcounty.gov/wheretovote)