

**Minutes of the New York State Board of Elections
July 25, 2019**

The meeting of the Commissioners of the New York State Board of Elections held at the offices of the New York State Board of Elections, 40 North Pearl Street, Albany, New York in the 5th Floor Conference Room was called to order at 12:05 p.m. The meeting was chaired by Commissioner Peter Kosinski. Commissioners present were Douglas Kellner by WebEx, Gregory Peterson and Andy Spano. Staff members present were Robert Brehm, Todd Valentine, Brian Quail, Kim Galvin, Nick Cartagena, Bill McCann, Tom Connolly, Brendan Lovullo, John Conklin and Bill Cross. Guests in attendance was: Bill Mahoney – Politico.

Minutes of June 6 and June 27, 2019 – Minutes were approved as written. **The motion was approved unanimously (Commissioners Kellner, Kosinski, Spano and Peterson voting in the affirmative; 4 Yes and 0 No).**

Unit Updates:

Executive – Robert Brehm and Todd Valentine reported on several issues including:

- Putting together a plan to implement online voter registration.
- Risk assessment reports have been completed on 25 counties.
- Working on implementing the new legislation and how to pay for it.

Legal – Kim Galvin reported on activities related to the Counsel/Compliance unit including:

- Update on all the litigation cases.
- The forms for the PLLC and LLC to file by December 31st are on the website.
- Training seminars are finished.

Election Operations – Tom Connolly reported that the Election Operations unit is working on several ongoing issues including:

- Continuing testing on Dominion, ES&S and Clear Ballot voting machines.
- Meeting with e-poll book vendors.
- Visited Albany County Board to review some of their processes focusing on cyber security.

PIO/NVRA – John Conklin reported that the PIO/NVRA unit is working on several issues.

- Processed 77 FOIL requests.
- NVRA refresher training with the NYC Board and the five boroughs.
- Working on contracts for the early voting and e-poll book grant programs.

ITU – Bill Cross reported on projects IT is working on:

- Development is continuing on the CAPAS-FIDAS project.
- Finalized development of the in-house MOVE application.
- Working with DHS to perform an assessment of the infrastructure and applications.

Enforcement– Risa Sugarman did not attend the board meeting and did not present a unit report.

Old Business:

New Business:

- VOTE on Resolution to approve the change to KNOWInk e-poll book. **The motion was approved unanimously (Commissioners Kellner, Kosinski, Spano and Peterson voting in the affirmative; 4 Yes and 0 No).**
- VOTE on Resolution to remove NTS from the list of approved e-poll book vendors. **The motion was approved unanimously (Commissioners Kellner, Kosinski, Spano and Peterson voting in the affirmative; 4 Yes and 0 No).**
- VOTE on Resolution to approve emergency regulation 6210.10 and 6210.18. **The motion was approved unanimously (Commissioners Kellner, Kosinski, Spano and Peterson voting in the affirmative; 4 Yes and 0 No).**
- VOTE on Resolution to approve emergency regulation 6210.19. **The motion was approved unanimously (Commissioners Kellner, Kosinski, Spano and Peterson voting in the affirmative; 4 Yes and 0 No).**
- VOTE on Resolution to approve emergency regulation 6211. **The motion was approved unanimously (Commissioners Kellner, Kosinski, Spano and Peterson voting in the affirmative; 4 Yes and 0 No).**
- Resolution on policy for peace officers tabled to next meeting.
- VOTE on Resolution to approve updated voter registration form allowing 16-year-old the right to register early. **The motion was approved unanimously (Commissioners Kellner, Kosinski, Spano and Peterson voting in the affirmative; 4 Yes and 0 No).**
- VOTE on Resolution to approve the contract for alternative dispute resolution. **The motion was approved unanimously (Commissioners Kellner, Kosinski, Spano and Peterson voting in the affirmative; 4 Yes and 0 No).**
- VOTE on Resolution to approve cyber security spending. **The motion was approved unanimously (Commissioners Kellner, Kosinski, Spano and Peterson voting in the affirmative; 4 Yes and 0 No).**
- Fair Campaign Code #19-1 will be on hold for next month.
- Next board meetings are scheduled for August 28th (web meeting if necessary) and October 2nd.
- Motion to adjourn the meeting. **The motion was approved unanimously (Commissioners Kellner, Kosinski, Spano and Peterson voting in the affirmative; 4 Yes and 0 No).**

The meeting was adjourned at 2:15 p.m.



19-18

APPROVED RESOLUTION – JULY 25, 2019

APPROVAL OF ELECTRONIC POLL BOOK SYSTEMS

WHEREAS, Part XX of Chapter 55 of the New York Laws of 2019 authorizes the use of Electronic Poll Book Systems (EPBS) in New York State during elections; and

WHEREAS, said chapter law provides that the State Board of Elections "shall promulgate minimum security standards" for EPBSs being used in New York State; and

WHEREAS, said chapter law provides that the State Board shall "promulgate a list of devices that are approved for use" as EPBSs during elections; and

WHEREAS, KNOWiNK has submitted an additional system configuration to be considered as an approved EPBS in New York State; and

WHEREAS, the Election Operations Unit is tasked with evaluating the devices to ensure they meet security standards and other relevant standards; and

WHEREAS, the Election Operations Unit has conducted evaluations of said systems, and has provided summary reports, for the consideration of the Board; and

WHEREAS, vulnerability scanning was performed on the systems submitted, to the extent practicable, by the New York State Division of Homeland Security and Emergency Services (DHSES) and the New York State Technology Enterprise Corporation (NYSTEC), and reports of their findings have been provided, for the consideration of the Board; and

WHEREAS, having considered the reports and the results of evaluation conducted by the Election Operations Unit, we do hereby recommend the approval of an additional system configuration submitted by KNOWiNK for use in New York State;

NOW THEREFORE BE IT RESOLVED that the Commissioners of the New York State Board of Elections, at their meeting convened on July 25, 2019, do hereby approve the EPBS submitted by the vendors above. Such approval is based on the specific EPBS hardware and software submitted by each vendor and reviewed by the State Board of Elections. Should the vendor make, or plan to make, any modifications or alterations to the EPBS configuration approved, such modifications or alterations shall be reviewed by the State Board of Elections for approval, consistent with all change management procedures and the use of such systems shall comply with all related State Board procedures and requirements.

Approved July 25, 2019

VOTE 4-0



19-18a

APPROVED RESOLUTION – JULY 25, 2019

WITHDRAW PRIOR APPROVAL OF ELECTRONIC POLL BOOK SYSTEM

WHEREAS, Part XX of Chapter 55 of the New York Laws of 2019 authorizes the use of Electronic Poll Book Systems (EPBS) in New York State during elections; and

WHEREAS, the NTS poll book system was previously approved on June 27, 2019;

WHEREAS, on July 15, 2019, NTS withdrew their electronic poll book system from consideration in New York State; and

NOW THEREFORE BE IT RESOLVED that in accordance with the decision of the vendor, the Commissioners of the New York State Board of Elections, at their meeting convened on July 25, 2019, do hereby withdraw the approval of the EPBS submitted by NTS.

Approved July 25, 2019

VOTE 4-0



**New York State Board of Elections
APPROVED RESOLUTION**

19-19

**Resolution to Adopt Emergency Amendments to 9 NYCRR Subtitle V Part 6210.7
and 6210.10 Related to the Ballot Accountability Pursuant to State
Administrative Procedures Act (SAPA) § 202**

WHEREAS, on July 3, 2019, the Governor signed into law Chapter 63 of the Laws of 2019, which provides for additional ballot accountability practices; and

WHEREAS, Election Law § 7-105 provides that "the State Board of Elections shall promulgate regulations for ballot accountability consistent with this section;" and

WHEREAS, Early Voting will be implemented by the November 5, 2019 General Election; and

WHEREAS, local boards of elections require adequate notice in relation to ballot accountability procedures to administer an election; and

WHEREAS, time is of the essence, as boards of elections will not otherwise have adequate time implement the provisions of Chapter 63 if amendments to the Rules were to be adopted in the normal course of business; and

WHEREAS, based upon the foregoing, it is necessary for the general welfare of the public that Part 6210.7 and 6210.10 of Title 9 of the NYCRR be amended on an Emergency Basis, in accordance with SAPA § 202;

NOW THEREFORE BE IT RESOLVED: that the New York State Board of Elections does hereby adopt the amended Part 6210.7 and 6210.10 of the NYCRR, and the Office of Counsel is hereby authorized and directed to take steps necessary pursuant to SAPA § 202 to effectuate this ninety-day emergency adoption of the amendment to 9 NYCRR Subtitle V Part 6210.19; and

BE IT FURTHER RESOLVED: that the Office of Counsel is hereby authorized and directed to take steps necessary pursuant to SAPA § 202 to provide for the publication of the proposed rule making.

Approved July 25, 2019
VOTE 4-0



New York State Board of Elections

APPROVED RESOLUTION

19-20

Resolution to Re-Adopt Emergency Amendments to 9 NYCRR Subtitle V Part 6210.18 Related to Audits for Voting Machines or Systems used for Early Voting Pursuant to State Administrative Procedures Act (SAPA) § 202

WHEREAS, on January 24, 2019, the Governor signed into law Chapter 6 of the Laws of 2019, which, among other things, provides for the conduct of Early Voting; and

WHEREAS, Election Law § 9–211 outlines audit procedures of voting machines or systems after each general, special, village or primary election; and

WHEREAS, it is necessary to amend 6210.18 to provide for the auditing of voting machines or systems that will be used for early voting; and

WHEREAS, Early Voting will be implemented by the November 5, 2019 General Election; and

WHEREAS, local boards of elections require adequate notice in relation to the audit process it must undertake for early voting machines or systems in order to budget and plan for the general election; and

WHEREAS, time is of the essence, as boards of elections will not have adequate time to budget and plan if this amendment were to be adopted in the normal course of business; and

WHEREAS, based upon the foregoing, it is necessary for the general welfare of the public that Part 6210.18 of Title 9 of the NYCRR be amended on an Emergency Basis, in accordance with SAPA § 202;

WHEREAS, an initial Emergency Adoption and Proposed Rule Making was duly published in the State Register on May 29, 2019 (SBE-22-19-00001-EP);

NOW THEREFORE BE IT RESOLVED: that the New York State Board of Elections does hereby re-adopt the amended Part 6210.18 of the NYCRR, and the Office of Counsel is hereby authorized and directed to take steps necessary pursuant to SAPA § 202 to effectuate this sixty-day emergency adoption of the amendment to 9 NYCRR Subtitle V Part 6211; and

Approved July 25, 2019
VOTE 4-0



New York State Board of Elections

APPROVED RESOLUTION

19-21

Resolution to Adopt Emergency Amendments to 9 NYCRR Subtitle V Part 6210.19 Related to the Minimum Required Voting Machines and Privacy Booths needed for Early Voting Polling Sites Pursuant to State Administrative Procedures Act (SAPA) § 202

WHEREAS, on January 24, 2019, the Governor signed into law Chapter 6 of the Laws of 2019, which, among other things, provides for the conduct of Early Voting; and

WHEREAS, Election Law § 7-203(2) provides that "the State Board of Elections shall establish ... for each election, the minimum number of voting machines required in each polling place and the maximum number of voters that can vote on one machine"; and

WHEREAS, Early Voting will be implemented by the November 5, 2019 General Election; and

WHEREAS, local boards of elections require adequate notice in relation to the minimum number of voting machines and privacy booths required in order to budget and plan for the general election; and

WHEREAS, time is of the essence, as boards of elections will not have adequate time to budget and plan if this amendment were to be adopted in the normal course of business; and

WHEREAS, based upon the foregoing, it is necessary for the general welfare of the public that Part 6210.19 of Title 9 of the NYCRR be amended on an Emergency Basis, in accordance with SAPA § 202;

NOW THEREFORE BE IT RESOLVED: that the New York State Board of Elections does hereby adopt the amended Part 6210.19 of the NYCRR, and the Office of

Counsel is hereby authorized and directed to take steps necessary pursuant to SAPA § 202 to effectuate this ninety-day emergency adoption of the amendment to 9 NYCRR Subtitle V Part 6210.19; and

BE IT FURTHER RESOLVED: that the Office of Counsel is hereby authorized and directed to take steps necessary pursuant to SAPA § 202 to provide for the publication of the proposed rule making.

Approved July 25, 2019
VOTE 4-0



New York State Board of Elections

APPROVED RESOLUTION

19-22

Resolution to Re-Adopt Emergency Amendments to 9 NYCRR Subtitle V Part 6211 Related to Implementation and Procedures for Early Voting Pursuant to State Administrative Procedures Act (SAPA) § 202

WHEREAS, on January 24, 2019, the Governor signed into law Chapter 6 of the Laws of 2019, which, among other things, provides for the conduct of Early Voting; and

WHEREAS, Election Law § 8-602 provides that "the state board of elections shall promulgate rules or regulations necessary for the implementation of the provisions of (early voting). Such rules and regulations shall include, but not be limited to, provisions to (i) ensure that ballots cast early, by any method allowed under law, are counted and canvassed as if cast on election day, (ii) ensure an efficient and fair early voting process that respects the privacy of the voter, and (iii) require that the voting history record for each voter be continually updated to reflect each instance of early voting by such voter"; and

WHEREAS, Early Voting will be implemented by the November 5, 2019 General Election; and

WHEREAS, local boards of elections require adequate notice in relation to the early voting process in order to budget and plan for the general election; and

WHEREAS, time is of the essence, as boards of elections will not have adequate time to budget and plan for early voting by the general election if this amendment were to be adopted in the normal course of business; and

WHEREAS, based upon the foregoing, it is necessary for the general welfare of the public that Part 6211 of Title 9 of the NYCRR be amended on an Emergency Basis, in accordance with SAPA § 202;

WHEREAS, a proposed rulemaking for the aforesaid amendments was previously published on May 29, 2019 (SBE-22-19-00003-EP),

NOW THEREFORE BE IT RESOLVED: that the New York State Board of Elections does hereby re-adopt the amended Part 6211 of the NYCRR, and the Office of Counsel is hereby authorized and directed to take steps necessary pursuant to SAPA § 202 to effectuate this sixty-day emergency re-adoption of the amendment to 9 NYCRR Subtitle V Part 6211; and

BE IT FURTHER RESOLVED: that the Office of Counsel is hereby authorized and directed to take steps necessary pursuant to SAPA § 202 to provide for the publication of this rule making.

Approved July 25, 2019
VOTE 4-0



New York State Board of Elections
APPROVED RESOLUTION – July 25, 2019

RESOLUTION TO APPROVE REVISED VOTER REGISTRATION FORM AND AFFIDAVIT ENVELOPE

WHEREAS, the New York State Board of Elections (hereinafter “the State Board”), is charged with designing statewide application forms for voter registration purposes as described in New York State Election Law, Sections 5-210.5 and 5-211.13; and

WHEREAS, the New York State Board of Elections (hereinafter “the State Board”), is charged with prescribing a form to be used in polling place on election day by voters who find themselves in circumstances articulated in New York State Election Law, Section 8-302.2c and/or Section 8-302.3e; and

WHEREAS, the State Board has previously prescribed such forms, and approved at their January 24, 2019, meeting an amended affidavit envelope and voter registration form; and

WHEREAS, Chapter 2 of the Laws of 2019 authorized 16 year olds to pre-register to vote effective January 1, 2020; and

WHEREAS, changes to the statewide and agency-based voter registration forms, and the affidavit envelope, are required to reflect the pre-registration of 16 year olds, effective January 1, 2020,; and

WHEREAS, the attached samples reflect the consensus of the State Board staff’s review of said forms and affidavit envelope;

NOW THEREFORE BE IT RESOLVED, that the State Board does hereby approve the sample voter registration forms and affidavit envelope as attached herewith, and directs staff to distribute said samples on or around December 15, 2019, to county boards and applicable agencies advising them to use the attached samples effective January 1, 2020.

Approved July 25, 2019
VOT 4-0



19-24

New York State Board of Elections APPROVED RESOLUTION – July 25, 2019

RESOLUTION AUTHORIZING AND APPROVING NATIONAL ARBITRATION AND MEDIATION, LLC (NAM) TO PROVIDE ALTERNATIVE DISPUTE RESOLUTION SERVICES

WHEREAS, the New York State Board of Elections (“the Board”), is legally required by Title IV of the Help America Vote Act of 2002 (“HAVA”), and NYS Election Law Section 3-105 and the rules and regulations promulgated thereunder (section 6216 et seq), to provide for alternative dispute resolution services (“ADR”) for complaints relative to Title III of HAVA; and

WHEREAS, NYS Election Law Section 3-105(8) requires that any contract for such services be approved by the Board by vote pursuant to NYS Election Law Section 3-100(4); and

WHEREAS, the Board, through the Office of General Services (“OGS”), issued a Request for Quote (“RFQ”) #2187 seeking qualified entities to submit quotes for providing requisite ADR services, on an as-needed basis; and

WHEREAS, as a result of the RFQ, National Arbitration and Mediation, LLC (“NAM”) submitted a quote in response to the Board’s solicitation, said quote which was reviewed by Counsel’s Office and found to be responsive; and

WHEREAS, Counsel’s office requests that the Board, pursuant to its authority outlined above, authorize and approve NAM as a vendor to provide ADR services, on an as-needed basis, and authorize Counsel’s Office to work with OGS and the Board’s Administrative Office to formalize the procurement with NAM, and approve a sum not to exceed \$50,000 from the State Operations HAVA Fund for total expenses related to any ADR services which are to be provided on an as-needed basis;

NOW, THEREFORE, BE IT RESOLVED that the State Board does hereby authorize and approve NAM to provide ADR services on an as-needed basis and authorize Counsel’s Office to work with OGS and the Board’s Administrative Office to formalize the procurement with NAM, and approve a sum not to exceed \$50,000 from the State Operations HAVA Fund for expenses related to any ADR services which are to be provided on an as-needed basis.

Approved July 25, 2019
VOTE 4-0



19-26

New York State Board of Elections APPROVED RESOLUTION – July 25, 2019

RESOLUTION AMENDING THE CYBERSECURITY PLAN PURSUANT TO THE SFY 2019-20 BUDGET AND APPROVING ADDITIONAL CYBERSECURITY SPENDING AUTHORITY.

WHEREAS the SFY 2019-20 budget amended the State Cybersecurity Fund language to authorized the use of such Fund additional routine NYSBOE office services to include: “services and expenses related to campaign finance compliance training and compliance reviews, national voter registration act training and compliance reviews, election technology systems operations and securing election systems infrastructure and operations from cyber-related threats including, but not limited to the creation of an election support center, development of an elections cybersecurity support toolkit, and providing cyber risk vulnerability assessments and support for local board of elections(;)” and

WHEREAS, per the SFY 2019-20 budget, expenditures of such funds shall be approved by a vote of the State Board of Elections Commissioners pursuant to subdivision 4 of section 3-100 of the election law; and

WHEREAS the SFY 2019-20 State Operations Budget appropriates \$4,065,000 for personal services and \$2,995,000 for non-personal service or contractual expenses, for a total available appropriation of \$7,060,000; and

WHEREAS the Co-Executive Directors, working with the NYSBOE Administrative Officers and Director of Information Services forecasts SFY 2019-20 actual personal service expenses of \$6,067,074 and non-personal services/contractual expenses of \$3,380,000 for total expenses of \$9,447,074 for the current fiscal year; and

WHEREAS the forecasted \$2,387,094 gap in State Operations Budget funds may be partially met through an amendment to the existing Cybersecurity Plan that has was originally adopted by unanimous vote of the State Board Commissioners on May 3, 2018 and amended by unanimous vote of the State Board Commissioners on December 14, 2018; and

WHEREAS the State Board has been leveraging existing technological and security resources by partnering with the federal Department of Homeland Security, MS-ISAC and EI-ISAC; and

WHEREAS, the federal Elections Administration Commission (EAC) has allocated New York State \$19,483,647 (19.5 M) dollars subject to a State 5% match of cybersecurity related funds; and

WHEREAS, the \$5 million dollar State cybersecurity funds will be leveraged to meet the federal 5% match requirement to secure federal Cybersecurity grant funding;

WHEREAS, per the SFY 2019-20 budget, expanded the use of dedicated cybersecurity funding to include funding day to day “campaign finance compliance training and compliance reviews, national voter registration and compliance reviews, election technology systems operations;”

WHEREAS the State Board staff through their work with the federal, state, local, and other partners mentioned above, have drafted and an allocation plan, and will shift funding to meet the budget directive of the expanded use of funds;

WHEREAS, the Board of Commissioners granted initial spending authority of \$1.25 million in State cybersecurity funds and \$5 million dollars of federal HAVA cybersecurity funds at the May 4 ,2018, Board meeting (NYSBOE resolution 18-07);

WHEREAS, The Board of Commissioners granted subsequent authority to expend a total of \$10 million dollars of federal HAVA cybersecurity funds in the implementation of the state cybersecurity plan. (NYSBOE resolution 18-17)

WHEREAS, the State Board entered into contracts for risk assessment, intrusion detection and managed cybersecurity services to provide services to support the State's election infrastructure at both the State and County level of government and the State Board is currently working to create a procurement to provide cybersecurity mitigation services for use by the State Board or the county boards of elections;

WHEREAS, the Co-Executive Directors recommend approving a sum not to exceed \$1.2 million dollars of State cybersecurity funds will be utilized to partially offset the gap in the SFY 2019-20 State Operations Budget and again review after the Second and Third Quarters of the fiscal year if further changes need to be made; and

NOW THEREFORE BE IT RESOLVED that the State Board staff is authorized to expend up to \$1.2 million in State cybersecurity funds to partially offset the gap in SFY 2019-20 State Operations Budget expenses; and

NOW THEREFORE BE IT FURTHER RESOLVED that the State Board staff is authorized to expend a total amount not to exceed \$19,483,647 million dollars of federal HAVA cybersecurity funds, in the implementation of the state cybersecurity plan.

Approved July 25, 2019
VOTE 4-0