

**Minutes of the New York State Board of Elections  
December 3, 2020**

The meeting of the New York State Board of Canvassers held remotely by WebEx was called to order at approximately 12:00 p.m. The meeting was chaired by Commissioner Douglas Kellner. Commissioners present were Douglas Kellner, Peter Kosinski, Andrew Spano and Anthony Casale. Staff members present were Robert Brehm, Todd Valentine, Brian Quail, Kim Galvin, Nicholas Cartagena, William McCann, Tom Connolly, Brendan Lovullo, John Conklin, Cheryl Couser, and Bill Cross. Also present was Commissioner Ekow Yankah who is the first appointee to the new Public Campaign Finance Board. Commissioners Kosinski and Kellner welcomed new Commissioner Anthony J. Casale to his first meeting.

· VOTE: The Board of Canvassers voted to certify the results of the 11/03/2020 General Election with the exception of NY-22 which is still in litigation. The motion was approved unanimously (Commissioners Casale, Kellner, Kosinski and Spano voting in the affirmative; 4 Yes and 0 No).

The Board of Canvassers was adjourned, and the meeting of the State Board of Elections was convened at 12:06 pm.

**Minutes from September 8, 2020** – Minutes were approved as written. The motion was approved unanimously (Commissioners Casale, Kellner, Kosinski and Spano voting in the affirmative; 4 Yes and 0 No).

**Unit Updates:**

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

- Submitted annual budget with new program for Public Financing.
- Grant money provided by Center of Election Innovation and Research New York to educate voters on how to vote safely during the Pandemic.
- Discussed political party changes to Voter Registration forms required.
- Described absentee process and canvass.

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

- Briefing on all open litigation, and update on closed ballot access or post-election issues cases.
- Drafting set of Public Campaign Finance regulations as well as proposed legislation.
- Compliance statistics.

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

- Published Early Voting and Election Day results from the counties on NYSBOE website.
- Collected statements of canvass from all counties and aggregated that data for Commissioner certification.
- Continued work on ranked choice voting with NYC BOE.

**PIO/NVRA** – John Conklin and Cheryl Couser reported that the PIO/NVRA unit is working on several issues:

- Continued meetings with regard to the online voter registration system and automatic voter registration.
- Issued a press statement on how using a sharpie on the ballot is acceptable.
- Provided an overview of the extensive statewide media campaign ahead of the 2020 Presidential Election centering on educating voters on the three voting options, where to vote and when to vote.
- Update on Grant administration, what was paid out and their remaining balances.

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

- CAPAS-FIDAS set to go live for January 25, 2021.
- Added the ability to look up early voting poll site locations, hours open, maps to the locations and directions in the poll site look up.
- Secure Election center developed a comprehensive set of cyber security standards for the county boards which will become regulation.

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

**New Business:**

**a. Discussion on ranked-choice voting in New York City.**

After a short discussion on whether the New York City Board can or is required to submit ranked-choice voting to the State Board for certification, Commissioner Kellner stated he believed that it depends on whether the system required a change in the source code of voting machines which would require state certification or merely the application of software to an existing report which would require only the approval of a procedure. Nonetheless, Commissioner Kellner believed that a locality could adopt a voting system under the authority of a municipal charter that could compel the State Board to carry out its mandate under Article 7 of the Election Law. While there is no current legal challenge to what NYC was doing, he believed it would survive legal scrutiny.

Commissioner Kosinski agreed that any voting system operating in the state should be examined and certified by the State Board, but expressed skepticism as to whether a NYC could adopt a voting system that was contrary to state Election Law, which required a run-off election, without the endorsement of the State Legislature. He also noted that the Legislature has established standards against which the SBOE tests voting machines, but there were none established for the ranked-choice system. He and Commissioner Casale believed they were limited by what the Legislature has authorized them to do.

All sides agreed there was nothing before them requiring state action since NYC had not submitted anything for examination or certification.

**b.** · VOTE on Resolution 20-14 to approve revised voter registration form. The motion was approved unanimously (Commissioners Casale, Kellner, Kosinski and Spano voting in the affirmative; 4 Yes and 0 No).

c. · VOTE on Motion to approve Public Campaign Finance budget as prepared by Staff. The motion was approved unanimously (Commissioners Casale, Kellner, Kosinski, Spano and Yankah voting in the affirmative; 5 Yes and 0 No).

**d. Fair Campaign Code Complaint**

Discussion was had concerning an FCC Complaint against the Columbia County Democratic Committee and the use of a mailer concerning absentee ballots which appeared to be from the Columbia County Board of Elections and used official election insignia.

Brian Quail explained it was clearly inappropriate to use the insignia and that the Columbia County Democratic Committee agreed it was a mistake to misrepresent the mailer as coming from the Columbia BOE. Commissioner Kellner and Spano agreed that a reprimand was warranted without any further action.

Commissioner Kellner and Casale believed there were potential findings of fact that could come out of a hearing before a board-appointed hearing officer. Bill McCann argued that given the use of the insignia and the Democratic Committee’s explanation as to why it was used, deceit was an open question that could be resolved in a hearing.

Commissioner Kellner accused Commissioner Kosinski of partisan political motives in wanting a hearing. Commissioner Casale argued that the four commissioners of the board were the partisans and that sending it to a hearing officer was the impartial act.

Commissioner Spano made it plain that neither he nor Commissioner Kellner would vote to send the complaint to a hearing. Recognizing the recalcitrance of the other two commissioners, Commissioner Kosinski agreed that “something” was better than nothing. Consensus was reached that an appropriate reprimand would be drafted by Counsels and put before the commissioners.

· Motion to adjourn the meeting. The motion was approved unanimously (Commissioners Casale, Kellner, Kosinski and Spano voting in the affirmative; 4 Yes and 0 No). Next meeting scheduled for January 7, 2020

The meeting was adjourned at 2:05 p.m.

Approved February 10, 2021  
VOTE: 4 YES – 0 NO