

**Minutes of the New York State Board of Elections
February 27, 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 12:25 p.m. The meeting was chaired by Commissioner Douglas Kellner. Commissioners present were Peter Kosinski, Gregory Peterson and Andy Spano by WebEx. Staff members present were Robert Brehm, Todd Valentine, Brian Quail, Nick Cartegena, Bill McCann, Tom Connolly, Brendan Lovullo, John Conklin, Cheryl Couser and Bill Cross. Guest in attendance was: Bill Mahoney - Politico

Minutes of January 24, 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).** Executive minutes were approved as amended. **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:

- Discussed budget issues.

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

- Attended a meeting of Village Clerks in Herkimer County.
- Inquiries related to the June Primary.
- Demonstration on the new CAPAS-FIDAS user interface.

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

- Working with ES&S and Dominion.
- Reviewing security incident response procedures and policies.
- Reviewing the process for electronic pollbooks and early voting.

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

- Participated in meetings on Cybersecurity, Election Commissioners Association.
- Posted updated 2019 deadlines, etc. to website.
- Processing county contracts for education training and capital funds.

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

- Development continues on CAPAS-FIDAS.
- Working on the accessibility of all files on the website.
- Cybersecurity meetings are ongoing.

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

Old Business:

- VOTE on Resolution to adopt the revised affidavit envelope. **The motion was approved unanimously (Commissioners Kellner, Kosinski, Spano and Peterson voting in the affirmative; 4 Yes and 0 No).**

New Business:

- VOTE on Resolution to amend regulation 6217.17. **The motion was approved unanimously (Commissioners Kellner, Kosinski, Spano and Peterson voting in the affirmative; 4 Yes and 0 No).**
- VOTE on Resolution to amend regulation 6217.9. **The motion was approved unanimously (Commissioners Kellner, Kosinski, Spano and Peterson voting in the affirmative; 4 Yes and 0 No).**
- VOTE to approve Advisory Opinion on candidate liability. **The motion was approved unanimously (Commissioners Kellner, Kosinski, Spano and Peterson voting in the affirmative; 4 Yes and 0 No).**
- Commissioner Kellner brought up the litigation between the New York City Board and the Mayor's Office concerning interpreters at New York City poll sites. It was the consensus of the Board that the Operations Unit contact all parties involved to see if the State Board can help mediate a resolution.
- Next Board Meeting dates will be March 19th and April 29th.

The meeting was adjourned at 1:45p.m.



19-05

New York State Board of Elections Approved Resolution

RESOLUTION TO APPROVE REVISED AFFIDAVIT ENVELOPE

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 8-302.2-a(c) and/or Section 8-302.3(e); and

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

WHEREAS, subsequent to this meeting, Chapter 6 of the Laws of 2019 was enacted, which amended subdivision 3 of section 8-302 pertaining to the affidavit oath; and

WHEREAS, Chapter 6 of the Laws of 2019 requires that the affidavit oath capture instances where a voter affirms that they have not voted although the poll book indicates that they have voted; and

WHEREAS, changes to the statewide and agency-based affidavit ballot envelope form is required to comply with Chapter 6 of the Laws of 2019; and

WHEREAS, the attached sample reflect the consensus of the State Board staff’s review of said form;

NOW THEREFORE BE IT RESOLVED, that the State Board does hereby approve the sample affidavit ballot envelope form as attached herewith, and directs staff to distribute said sample immediately to county boards advising them to use said sample forthwith.

Approved February 27, 2019
Vote 4-0



19-06

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

Resolution Proposing Rule Making Related to Amendments to 9 NYCRR Subtitle V Part 6217 Related to Pre-Registration of Persons Who Are At Least 16-Years-Old, Pursuant to State Administrative Procedures Act (SAPA) § 202

WHEREAS, on January 24, 2019, the Governor signed into law Chapter 2 of the Laws of 2019, which provides that persons who are at least 16-years-old, and are otherwise qualified to register to vote, to pre-register to vote; and

WHEREAS, Election Law § 3-102 (1) provides the Board "shall have the power and duty to ... promulgate rules and regulations relating to the administration of the election process ... consistent with the provisions of law"; and

WHEREAS, amending Part 6217 is necessary in order to comply with Chapter 2 of the Laws of 2019;

BE IT 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 proposed rule making related to the permanent amendment to 9 NYCRR Subtitle V Part 6217 and to provide notice of the public comment period of sixty days thereafter.

**Approved February 27, 2019
VOTE 4-0**

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

**Resolution to Adopt Emergency Amendments to 9 NYCRR Subtitle V Part 6217
Related to Transfers of Voter Registration and Enrollment to Reflect Statutory
Changes As Required By Chapter 3 of the Laws of 2019 and Resolution Proposing
Rule Making Related to Amendments to 9 NYCRR Subtitle V Part 6217 Pursuant
to State Administrative Procedures Act (SAPA) § 202**

WHEREAS, on January 24, 2019, the Governor signed into law Chapter 3 of the Laws of 2019, which provides that boards of elections transfer a registration and enrollment of a voter to wherever they move in the state; and

WHEREAS, Chapter 3 of the Laws of 2019 requires the State Board of Elections to promulgate regulations as to the procedures for transferring a voter from one county to another; and

WHEREAS, Chapter 3 of the Laws of 2019 becomes effective sixty days after it became law, or March 25, 2019; and

WHEREAS, promulgating regulations in the ordinary course would cause the regulations to be promulgated after the March 25, 2019 deadline, as the publication of a notice of proposed rule making is required, along with a period of time during which the public may submit comments on the proposed rule, in accordance with SAPA § 202; and

WHEREAS, the purpose of this timeframe is to effectuate these changes by the June primary elections of the 2019 election cycle; and

WHEREAS, based upon the foregoing, it is necessary for the general welfare of the public that Part 6200 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 6217 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 6200; 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 proposed rule making related to the permanent amendment to 9 NYCRR Subtitle V Part 6217 and to provide notice of the public comment period of sixty days thereafter.

Approved February 27, 2019
VOTE 4-0