



**New York State Board of Elections**

**PROPOSED RESOLUTION 24-17**

**Resolution to Provide for Publication of Proposed Rulemaking, Part 6223 of Title 9 of NYCRR Related to Automatic Voter Registration, Pursuant to State Administrative Procedures Act (SAPA) § 202**

**WHEREAS**, Title 9 of Article 5 of the Election Law provides for Automatic Registration at certain state agencies; 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;" and

**WHEREAS**, Election Law § 5-900 provides the Board "shall promulgate rules and regulations for the creation and administration of an integrated and electronic voter registration process as provided for by this section;" and

**WHEREAS**, it is necessary to add part 6223 of Title 9 of the NYCRR in order to implement the provisions Title 9 of Article 5 of the Election Law;

**NOW THEREFORE 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 the proposed rulemaking related to adding Part 6223 of 9 NYCRR Subtitle V and to provide notice of the public comment period of sixty days thereafter.

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## New Part 6223 – Automatic Voter Registration Program

### **6223.1 Participating agencies.**

(a) Any State or local agency, department, division, office, institution, or other entity designated in subdivision thirteen or designated by the governor pursuant to subdivision fourteen of section 5-900 of the Election Law shall be subject to the provisions of these regulations.

### **6223.2 Agency services, assistance, or transactions**

(a) Unless a person declines to register to vote, agencies shall provide to the State Board of Elections voter registration qualification information associated with each such person who submits: (1) an application for services or assistance at such agency, including a renewal, recertification, or reexamination transaction; (2) a change of address form; or (3) a change of name form. For purposes of this part, registration shall also include pre-registration pursuant to section 5-507 of the Election Law.

(b) Agencies shall determine and provide the State Board of Elections with a list of all services, assistance, or transactions provided by such agency that are subject to the automatic voter registration program. Such agencies shall review such list and update as necessary no less than once a year. Agencies shall provide the State Board of Elections with the updated list or certify that there are no changes to such list. Agencies are responsible for ensuring that their services, assistance, or transactions and the associated applications, forms, and notices meet the applicable requirements of the automatic voter registration program and these regulations.

### **6223.3 Transmission of Voter Registration Information**

(a) For each application or form submitted to an agency, whether electronically or on paper, such agency shall electronically transmit to the State Board of Elections through an interface with the electronic voter registration transmittal system established and maintained by the State Board of Elections that portion of the application or form that includes voter registration information.

(b) Each agency shall electronically transmit voter registration information to the State Board of Elections not later than ten days after receipt except that all voter registration information received by the agency after the twentieth day prior to an election and by the twelfth day before such election shall be electronically transmitted to the State Board of Elections as soon as practicable and not later than the tenth day before such election.

(c) The State Board of Elections shall develop and provide all agencies with the requirements for the transmission of electronic and paper integrated voter registration applications to the State Board of Elections. Such requirements shall relate to the manner, format, and content of the transmission of such applications to the State Board of Elections and shall include, but not be limited to, data standards, data elements to be transmitted, security obligations, transmittal information, and technical specifications. The State Board of Elections shall receive feedback from agencies related to such requirements and shall review and, if necessary, update such requirements no less than once a year.

(d) (1) Any transmission of an integrated voter registration application submitted to an agency in a paper or electronic format shall conform with all of the requirements of state law, the regulations of the State Board of Elections, and the requirements developed pursuant to this section and such agency shall certify annually thereto.

(2) If the State Board of Elections determines that such transmission does not conform, it shall, as rapidly as practical, notify such agency of the nature of the nonconformity and provide a date when such nonconformity shall be corrected. To the extent practical, such date shall provide the shortest amount of time necessary for such agency to correct such nonconformity. Such agency's correction of the nonconforming aspects of such system shall be by the date provided and such agency shall provide to the State Board of Elections such evidence of the change or changes in such system as the State Board of Elections may deem appropriate.

(e) (1) No agency shall transmit to the State Board of Elections any voter registration information for a person that indicates on the integrated personal voter registration application or form that they do not meet one of the eligibility requirements, including but not limited to, U.S. citizenship.

(2) Agencies shall redact or remove from the application or form to be transmitted to the State Board of Elections any information solely applicable to the agency application or form.

(3) No integrated personal voter registration application or form shall be transmitted if the applicant declines registration or fails to sign such application.

(4) Information concerning the citizenship status of individuals, when collected and transmitted shall not be retained, used, or shared for any other purpose except as may be required by law.

(f) Each agency, after complying with the notice and comment rulemaking requirements set forth in subdivision sixteen of section 5-900 of the Election Law, shall enter into an agreement with the State Board of Elections finalizing the format and content of electronic transmissions.

Such agreement shall incorporate by reference the requirements created by the State Board of Elections pursuant to this section.

#### **6223.4 Integrated personal voter registration application and forms**

(a) Agency programs shall have a personal voter registration application integrated within the agency's application for services, assistance, or transactions and change of address or name forms. Agencies shall ensure agency paper and electronic applications or forms substantially include all of the elements required by section 5-210 of the Election Law, including the appropriate attestation, so that persons completing such applications or forms shall be able to also submit an application to register to vote through the electronic voter registration transmittal system.

(b) The voter registration portion of any paper or electronic integrated personal voter registration application, form, or notice subject to the automatic voter registration program shall be approved by the Co-Executive Directors of the State Board of Elections. Agencies shall submit such application, form, or notice to the State Board of Elections for review before such application, form, or notice is provided to the public pursuant to subdivision sixteen of section 5-900 of the Election Law and shall provide the State Board of Elections with details on how such application, form, or notice meets the requirements of state law and the regulations of the State Board of Elections.

(c) The voter registration portion of any electronic integrated personal voter registration application or form subject to the automatic voter registration program shall not repeat any question that is asked in other parts of the agency's application or form.

(d) To the extent practical, the voter registration portion of any paper or electronic integrated personal voter registration application or form subject to the automatic voter registration program may require only the minimum amount of information necessary to: (1) prevent duplicate voter registrations; and (2) enable election officials to assess the eligibility of the applicant and to administer voter registration and other parts of the election process.

(e) The statements required by subdivision 6 of section 5-900 of the Election Law shall be stated in a clear and concise manner using plain language and be printed in a format and type size that is clear and easy to read and understand.

(f) The statement related to the address confidentiality program required pursuant to paragraph (f) of subdivision 6 of section 5-900 of the Election Law shall inform applicants that individuals eligible for such program should contact the State Board of Elections before registering or pre-registering to vote to ensure confidentiality.

(g) Applicants shall be able to sign the voter registration application and the agency application or form by means of a single manual or electronic signature unless the agency requires more

than one signature for other agency purposes. If such agency requires more than one signature, then such agency shall provide the State Board of Elections with such purpose and certify that such purpose is necessary.

(h) If an electronic application or form has multiple screens such application or form shall state the signature portion of the application or form may be on a different screen.

(i) The voter registration portion of any paper or electronic integrated personal voter registration application or form subject to the automatic voter registration program shall be reviewed for usability and accessibility.

### **6223.5 Signatures**

(a) An integrated voter registration application submitted to an agency in an electronic format may be signed by electronic signature and an exemplar signature may be obtained pursuant to subdivision (b) of this section.

(b) If an applicant applies to register to vote electronically, such applicant shall consent to the use of an electronic copy of the individual's manual signature that is in the custody of the Department of Motor Vehicles, the State Board of Elections, or other agency designated by 5-900 of the Election Law, as such applicant's voter registration exemplar signature. Such applicant may also provide such exemplar signature by other means approved by the State Board of Elections including, but not limited to, electronic upload in a manner that complies with the requirements developed by the State Board of Elections pursuant to section 6223.3.

(c) Any agency subject to the provisions of these regulations shall have access to an interface developed and administered by the State Board of Elections for electronic signature upload. Should any agency subject to the provisions of these regulations elect to develop its own method for electronic signature upload, such method shall have the capability to fully integrate with the interface developed and administered by the State Board of Elections.

(d) If a voter registration exemplar signature is not received from an applicant who submits a voter registration application and such signature exemplar is not otherwise available from the statewide voter registration database or a state or local agency, the local county board of elections shall, absent another reason to reject the application, proceed to register or pre-register and, as applicable, enroll the applicant. Within ten days of such action, the local board of elections shall send a standard form promulgated by the State Board of Elections to the voter whose record lacks an exemplar signature, requiring such voter to submit a signature for identification purposes. The voter shall submit to the local board of elections a voter registration exemplar signature by any one of the following methods: in person, by mail with return postage paid provided by the local board of elections, by electronic mail, or by electronic upload to the local board of elections through the State Board of Election's electronic voter

registration transmittal system. If such voter does not provide the required exemplar signature, when the voter appears to vote the voter shall be entitled to vote by affidavit ballot.

#### **6223.6 State Board of Elections Responsibilities**

(a) The State Board of Elections shall prepare and distribute to agencies written instructions as to the implementation of the program and shall be responsible for establishing training programs for employees of such agencies. Such instructions and training program may include, but not be limited to: (1) the transmission requirements created by the State Board of Elections pursuant to 6223.3; (2) usability of agency integrated applications for low English proficiency voters; (3) voter registration eligibility criteria; and (4) confidential voter information.

(b) The State Board of Elections shall provide guidance on the type of services, assistance, or transactions that are subject to the automatic voter registration program.

#### **6223.7 Agency Responsibilities**

(a) Each agency shall comply with the notice and comment rulemaking requirements set forth in subdivision sixteen of section 5-900 of the Election Law.

(b) Agencies shall provide the State Board of Elections with such agency's plan for implementation before such plans are provided to the public pursuant to subdivision sixteen of section 5-900 of the Election Law. Such agencies shall also provide the State Board of Elections with the time and manner in which such agency intends to provide such plans to the public.

(c) Agencies shall designate an Automatic Voter Registration program coordinator. Such coordinator shall be the point of contact for the State Board of Elections. (d) Agencies shall place in a conspicuous position in each of its offices a sign which indicates that a person may register to vote in that office.