



New York State Board of Elections

PROPOSED RESOLUTION 25-16

Resolution to Amend Part 6210.13 of 9 NYCRR Subtitle V Relating to Standards for Determining Valid Write-In Votes, Pursuant to State Administrative Procedures Act (SAPA) § 202

WHEREAS, on September 20, 2023, the Governor signed into law Chapter 474 of the Laws of 2023, which amended provisions of the Election Law relating to determining the validity of write-in votes; and

WHEREAS, Election Law Section 3-308(2) now provides: “Any write-in vote for a candidate whether or not such candidate’s name is on the ballot for that contest shall be counted for such candidate unless such write-in vote creates an invalid overvote in the contest”; and

WHEREAS, it is necessary to amend Part 6210.13 of Title 9 of the NYCRR in order to fully conform with the provisions of Chapter 474 of the Laws of 2023;

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 the amendment of Part 6210.13 of 9 NYCRR Subtitle V and to provide notice of the public comment period of sixty days thereafter.

9 NYCRR 6210.13(12) is amended to read as follows:

6210.13. Standards for determining valid votes.

(12) Write-in votes are votes cast for a person or persons whose name(s) do not appear on the official ballot.

(i) ~~Write-in votes for persons whose names appear on the official ballot for that office or party position shall not be counted~~Any write-in vote for a candidate whether or not such candidate's name is on the ballot for that contest shall be counted for such candidate unless such write-in vote creates an invalid overvote in the contest.

(ii) A write-in vote may be cast by the use of a name stamp.

(iii) A write-in vote must be cast in the appropriate place on the machine, or it shall be void and not counted.

(iv) A voter need not write in the first and last name of a candidate in every situation; the standard is whether the election inspectors can reasonably determine the intent of the voter when they cast their ballot.