

NYDLC

NYS VOTER PROTECTION GUIDE

FOR THE 2018 GENERAL ELECTION

THE NEW YORK DEMOCRATIC LAWYERS COUNCIL (NYDLC) IS A COALITION OF LAWYERS AND VOTING RIGHTS ADVOCATES DEDICATED TO FOSTERING UNIVERSAL PARTICIPATION AND TRUST IN THE ELECTORAL PROCESS BY ENSURING THAT:

- ALL ELIGIBLE PERSONS CAN REGISTER TO VOTE EASILY;
- ALL REGISTERED VOTERS ARE ABLE TO VOTE CONVENIENTLY, FAIRLY, WITHOUT INTIMIDATION; AND
- ALL VOTES ARE COUNTED ACCURATELY BY OPEN AND RELIABLE VOTING SYSTEMS.



**NYDLC / NY DEMS STATEWIDE ELECTION DAY VOTER
ASSISTANCE HOTLINE: 855-VOTE-4-NY**
(855-868-3469)

- **Poll Watchers / Observers should not use this number to report incidents or turnout numbers!** Instead, please refer to your Voter Protection Assignment and follow the procedure for documenting/escalating Election Day incidents to the assigned campaign contact or Boiler.

NEW YORK DEMOCRATIC LAWYERS COUNCIL
www.NYDLC.org

ELECTION DAY CHECKLIST

1. Before your shift begins, make sure you have the following:
 - Cell Phone with charger or extra battery (or tablet)
 - Printed Poll Watcher Certificates (comes with your assignment; bring several copies)¹
 - This New York Voter Protection Guide and 5-page FAQ (digital or print)
 - Boiler Room or campaign phone number (comes with your assignment)
 - Access to incident reporting tool (online) and a few paper contingency forms.²
 - Access to [NYS Voter Database](#) to check registrations and poll sites
 - Digital camera, notepad and pen (if not using smart phone)
 - Dress: Professional (business/business casual) and comfortable shoes.
2. **For those observing the opening of polls, PLEASE arrive at the poll site between 5:00 and 5:30 AM latest.** Introduce yourself to election officials, police (if any), and other Poll Watchers. Present election officials with completed Poll Watcher Certificate(s). Keep extra copies with you. Note affiliations of other Poll Watchers.
3. Remove party, candidate, or issue-related stickers, buttons, or clothing. You may keep voter protection materials with you. Only remove voter protection sticker/button if asked.
4. Always try to resolve issues with election officials in a COURTEOUS manner. First, attempt to resolve issue with the Inspector. If problems persist, speak with the ED Chairperson or site Coordinator. If that fails, contact NYDLC. **GOAL:** Resolve issues quickly while voter is still there so voter can cast a ballot on Ballot Scanner, if possible.
5. Submit **Online Incident Reports to document issues** when they arise.
 - *Incident Reports* collect information necessary to adequately document the incident and allow voter protection counsel to advise on the best resolution. Our ability to identify and track systemic issues is dependent on the quality and reliability of your documentation. Get all *pertinent details* to memorialize the issue.
 - *Pertinent details* include contact info for impacted voters and identity of officials involved. *What happened, where, when, and to whom?* Respectfully gather these facts to enable follow up. If voter is reluctant to share personal info, please focus on resolving the issue and provide as accurate and thorough a description as you can.
6. **Where to focus?** If opening or closing a poll site that has more than one ED, focus on the EDs that are short-staffed, missing equipment, or had the most issues during the day.
 - If asked to obtain voter turnout numbers at your poll site, ask to record the public counter number for specific EDs and call or email them to your campaign contact.
 - **Tip:** If asked, Poll closers can snap a photo of the Results Tape(s) to report turnout.

¹ Sample Poll Watcher Authorization Certificate, *infra* Reference 5.

² Paper Backup Incident Report Form, *infra* Reference 6.

7. The **voting process** is as follows:
 - At ED Table, Inspector (i) verifies voter is entitled to vote; and (ii) issues a ballot.
 - Voter marks ballot at Privacy Booth or Ballot Marking Device / Plan B machine.
 - Voter casts ballot at Ballot Scanner or Plan B scanner, which reads and records vote.
8. **We want to ensure that all duly registered voters cast their ballot through the Ballot Scanner.** If a voter is unable to cast his or her ballot in the Ballot Scanner but is otherwise entitled to vote, ensure that the voter casts an Affidavit Ballot.
9. Keep a tally and general awareness of the number of **challenges to voter eligibility and Affidavit Ballots**. Contact Boiler Room if you observe ANY challenges. Obtain contact info of voters who cast Affidavit Ballots because they did not provide ID or if voter eligibility is being challenged by Poll Watchers or other voters.
10. **NY does not require a voter to show ID to vote (and prohibits asking) with exception**
 - An individual who registered by mail and who did not provide ID at the time voter registered must show a form of identification the first time voter appears to vote in order to cast a ballot on the Ballot Scanner. Such voter will have “ID REQ” written by the signature box in the registration book. If voter can’t provide ID, voter must be allowed to vote by Affidavit Ballot. “ID” is defined broadly (*infra* p. 20-21).
11. If officials are improperly requiring identification or are otherwise excessively restrictive on right to vote, please refer them to the relevant law and contact NYDLC immediately.
12. We anticipate a few common issues with the Ballot Scanner.
 - See *infra* Part III.E *Casting a Ballot in the Ballot Scanner* for common errors.
 - See *infra* Reference 8, *Know Your Voting Machine* links and videos.
13. **Signage/Electioneering.** Take a walk outside the poll site to see whether (i) posters, such as “Vote Here” and “No Electioneering” are appropriately placed; (ii) any electioneering is occurring within the “No Electioneering” area (100 feet from bldg. front door); or (iii) any voter intimidation is taking place.
 - Consider subtle actions that could cause intimidation or suppression: uniformed personnel at poll site for sustained period without legitimate purpose, unplanned construction or road blocks, parking lot closures, unusual/discouraging signage.
14. **VOTER INTIMIDATION IS ILLEGAL:** Pernicious political activity is a crime. Using or threatening violence or other intimidation is a crime. It is illegal to attempt to interfere with a voter’s decision whether to vote, and if so, how to vote. N.Y. Elec. Law § 17-150; 17-152; 154.

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NYDLC VOTER PROTECTION QUICK REFERENCES

1) 2018 Poll Worker Training Manuals and Materials:

New York City

- Board of Elections in the City of New York, *Basic Poll Worker Manual: 2018/2019* (v.2018A), <https://bit.ly/2Qd2j29> (“NYC 2018A Poll Worker Manual”).
- Board of Elections in the City of New York, *Poll Worker Training Videos*, vote.nyc.ny.us/html/workers/pollworkertraining.shtml# (“NYC Poll Worker Training Video:”) (accessed 9/2018)
 - Includes short videos: 1) *Opening Ballot Marking Device*; 2) *Closing Ballot Marking Device*; 3) *Opening DS200 Ballot Scanner*; 4) *Closing DS200 Ballot Scanner*

Westchester County

- Westchester 2018 Poll Worker Manual; Plan A Imagecast Manual (5/2016); Plan B Machine Manual (3/2017) <http://citizenparticipation.westchestergov.com/voting/election-inspectors>.

Monroe County (example of Sequoia/Dominion machines and procedures)

- Monroe County Board of Elections, *Training Manual for Election Inspectors 2018* (rev’d 6/5/2018), <https://www2.monroecounty.gov/elections-inspectors.php> (“Monroe 2018 Inspector Manual”) (accessed 9/2018).

Nassau County

- 2015/16 Inspector Guide, <http://www.nassaucountyny.gov/DocumentCenter/View/9770>.
- 2015/16 Coordinator Guide, www.nassaucountyny.gov/DocumentCenter/View/9771.
- Nassau BOE, *Election Day Scanner Opening and Closing Handbooks; AutoMARK Opening and closing Handbooks*, <https://www.nassaucountyny.gov/577/Poll-Worker-Training>.

2) Confirming NY Voter Registration Status; Finding Correct ED and Polling Places

- Check voter registration and poll sites: <https://voterlookup.elections.state.ny.us/>
- Find NYC poll sites by address: <http://nyc.pollsitelocator.com/search>
- NYC Board of Elections hotline (poll sites, inquiries): 866-VOTE-NYC

3) New York State Election Law (2018) (full)

- New York State Election Law and Rules, www.elections.ny.gov/ElectionLaw.html (last accessed 10/2018) (“N.Y. Elec. Law”).
- Statutes relating to misconduct of election officers, police officers, and others can be found: N.Y. Elec. Law §§ 17-106, 17-110(1), 17-130(3-7), 17-150(1-2), 17-154(1).

4) NYC Poll Watcher’s Rights and Limitations

- Board of Elections in the City of New York, *Poll Watcher’s Guide* (rev’d 02/2017), <http://bit.ly/2dBgLyv>.

5) Sample Poll Watcher’s Certificate

- NYC 2018A Poll Worker Manual, at 11, <https://bit.ly/2Qd2j29>.

6) Paper Contingency Incident Report (only use this paper form if online reporting tool fails)

- <http://goo.gl/491TRM>.

7) New York Voter's Bill of Rights

- NYS Voter's Bill of Rights (Eng), <http://bit.ly/2dNYIsI>.
- NYS Declaración de derechos de los votantes (Esp), <http://bit.ly/2dxRHbX>.

8) NYS List of Voting Equipment by County, with How-To Videos

- Board of Elections of the State of New York, *Know Your Voting Machine*, www.elections.ny.gov/VotingMachines.html (last accessed 10/2018).

9) NYS Consent Decree Guidance on Overvotes and Doublevotes

- Rev'd Oct. 1, 2012, <https://goo.gl/zyoM9k> (last visited 10/2018)

10) VIDEO: Opening and Closing the ES&S DS200 Scanner (NYC)

- NYC Poll Worker Training Video, <http://bit.ly/2dNZpNh> (last accessed 10/2018).

11) VIDEO: Opening and Closing the ES&S AutoMARK Ballot Marking Device (BMD) (NYC)

- NYC Poll Worker Training Video, <http://bit.ly/2dNZpNh> (last accessed 10/2018).

12) ES&S DS200 Scanner Seal Quick Reference Guide

- NYC 2018A Poll Worker Manual, at 38-39; 42-43, <https://bit.ly/2Qd2j29>.
- Nassau 2015/16 Inspector Guide, at 53, <http://www.nassaucountyny.gov/DocumentCenter/View/9770>.

13) Opening, Closing, and Using Sequoia/ Dominion ImageCast Scanner

- Verified Voting, Dominion ImageCast Democracy Suite, <https://www.verifiedvoting.org/resources/voting-equipment/dominion/imagecast/> (last accessed 10/2018). Link includes videos for open, closing, and use.

14) Sequoia/ Dominion ImageCast Security Seals Photos and Description

- Monroe County Board of Elections, *Training Manual for Election Inspectors 2018* (last accessed 10/2018), 6-10, <https://bit.ly/2oVonSo>.

15) Photos and Videos for using Ballot Marking Device and Accessories:

- NYC 2018A Poll Worker Manual, at 16, 24-26, 81-86.
- VIDEO: New York State Board of Elections, *ES&S AutoMARK: How to Use; Accessibility Features; Asking for Assistance*, www.elections.ny.gov/machine-automark.html (accessed 10/2018)
- VIDEO: NYS Board of Elections, *How to Use the ES&S AutoMARK*, Aug. 2013, <https://www.youtube.com/watch?v=E9xMVocU9FI> (accessed 10/2018),
- Nassau 2015/16 Coordinator Guide, at 10, 26-29.
- Note: When facing an opened BMD, there is an instruction guide for voters or staff that outlines how to use BMD accessories, in a sleeve on the door of the cart.

16) Ballot Marking Device (BMD) Paper Jam / Break Down

- NYC 2018A Poll Worker Manual, at 85-86, <https://bit.ly/2Qd2j29>.
- Board of Elections, City of New York, *Ballot Marking Device (BMD) Paper Jam Guide 2*, <http://bit.ly/2dNFSgO> (accessed 10/2018) [detailed BMD jam instructions]

17) Challenge Procedure and Sample Challenge Oath Forms,

- NYC 2018A Poll Worker Manual, at 59, <https://bit.ly/2Qd2j29>.

- Nassau 2015/16 Inspector Guide, Qualification and Challenge Oath Forms, at 30-32, <http://www.nassaucountyny.gov/DocumentCenter/View/9770>.
- N.Y. Elec. Law §§ 8-502, 8-504

18) Affidavit Ballot Images

- NYC 2018A Poll Worker Manual, at 71-77, 87, <https://bit.ly/2Qd2j29>.
- Nassau 2015/16 Inspector Guide, at 23-24, <http://www.nassaucountyny.gov/DocumentCenter/View/9770>.

19) New York State Poll Site Accessibility

- Center for Independence of the Disabled (CID-NY), *Poll Supervisor Accessibility Checklist for New York Polling Sites* (rev'd 10/2012), <https://cidny.org/wp-content/uploads/2017/07/Poll-Worker-Accessibility-Checklist-for-Election-Day-1.pdf> (last accessed 10/2018).

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Since 2005, the New York Democratic Lawyers Council (NYDLC) has organized and trained attorneys and others to conduct pro-voter election monitoring, education, and advocacy. Your generosity allows NYDLC to continue protecting the rights of voters.

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[Click Here to Support NYDLC Today \(http://www.nydcl.org/contribute\)](http://www.nydcl.org/contribute)

I. OVERVIEW: YOUR ROLE IN THE PROCESS

A. INTRODUCTION

1. WELCOME to the New York Democratic Lawyers Council (NYDLC). Our mission is to ensure that every voter knows his or her rights, has access to the ballot, and has his or her vote counted.
2. As an authorized Poll Watcher for NYDLC, the New York State Democratic Committee, and Democratic candidates, your role on Election Day is to observe/document the election, answer questions, inform voters of their rights, address problems as they arise, and relay information back to NYDLC.
3. Election officials share our goal in assuring that every eligible vote is counted and we anticipate having a cooperative relationship. **PLEASE ALWAYS BE COURTEOUS AND POLITE!** First, attempt to resolve issue with the Inspector. If problems persist, speak with the ED Chairperson or Poll Site Coordinator. If that fails, contact NYDLC. **GOAL:** Resolve issues quickly while voter is still there so voter can vote on Ballot Scanner, if possible.
4. Apart from your knowledge of the law, the most important tool is your cell phone, so you can keep NYDLC and the campaign apprised of problems as they arise. Please document pertinent voter/incident information.
5. This guide is largely based on New York City practice. We have included non-New York City procedures to illustrate alternative practices. We strongly suggest that you review local practices of the county where you will monitor.

B. ELECTION STRUCTURE

1. **New York City:** New York City is divided into Assembly Districts. Each Assembly District (“AD”) is subdivided into approximately one hundred Election Districts (“EDs”). Each ED usually has 750 voters.
2. **Other Counties:** The election structure differs by counties. For example, certain areas in Onondaga County are divided into Wards and EDs. Other areas in that county are divided into Towns and EDs.

C. POLL WATCHER AUTHORIZATION

1. Eligibility

- a. To be a poll watcher in any poll site **in New York City**, a Poll Watcher must be a qualified voter in any of the five boroughs of New York City.
- b. To be a poll watcher in a **county outside of New York City**, a Poll Watcher must be a qualified voter in the county where (s)he will serve.

- c. A poll watcher must be certified in writing issued by the candidate, the chairperson or secretary of a political party or independent body, and must present a certificate for each ED they monitor. N.Y. Elec. Law § 8-500.
2. **Number of Poll Watchers:** Any candidate or political party may have up to three Poll Watchers for each ED. Only one of these watchers may be within the voting area (“guardrail”) at any given time. This means that only one Poll Watcher for each party may stand next to the ED Table where the Inspectors verify voter registration and issue ballots.
3. **Poll Watcher Certificate:** Where there is more than one ED in a poll site, the Poll Watcher should have *a separate certificate for each of the EDs at the poll site*. As a courtesy, some Coordinators permit the listing of all EDs at a poll site on one certificate. See Reference 5 for a sample certificate.

D. POLL WATCHER’S RIGHTS AND RESPONSIBILITIES

1. As a poll watcher, you may:³
 - a. Arrive at the poll site to observe the opening of the polls, verify that no votes have been cast by confirming that the Zero Report Tape for each Ballot Scanner has recorded no votes, and the ballot boxes are empty.
 - b. Be “present at the polling place at least fifteen minutes before the unlocking and examination of any voting machine or ballot box at the opening of the polls[.]” N.Y. Elec. Law §§ 8-500(2); 8-102(1)(h); 8-102(2). Poll watchers may arrive at 5:00 am in New York City.
 - c. Examine the Voter Registration Books as long as you do not interfere with election process;
 - d. Challenge individual voters on the basis of: (i) signature authenticity; (ii) residence; (iii) multiple voting; (iv) qualification to vote; or (v) electioneering (*See id.* § 8-500(2)). Only challenge a voter if you are given specific instructions from NYDLC to do so.
 - e. Observe proceedings;
 - f. Be given information about who has voted;
 - g. Confirm that the paper ballot matches the posted sample ballot;

³ See N.Y. Elec. Law §8-500; NYC 2018A Poll Worker Manual, at 11-12. Westchester’s 2018 inspector manual (p.10) deviates from the law regarding when a poll watcher may be present. N.Y. Elec. Law §§ 8-500(2); 8-102(1)(h); 8-102(2). Use discretion, but the Election Law controls.

- h. Observe the Inspectors canvass the voting results at the poll site closing (N.Y. Elec. Law § 9-102); and
 - i. Remain at the poll site until after the signing of the Inspectors' canvass and the proclamation of the result (N.Y. Elec. Law § 8-500(2)).
 2. As a Poll Watcher, you may not:⁴
 - a. Electioneer within the poll site or in any public street within a one-hundred foot radial measured from the entrances, as designated by the Inspectors. (N.Y. Elec. Law § 8-104.) Electioneering includes distributing, wearing, or carrying political literature, posters, banners, or buttons; and soliciting votes;
 - b. Tamper with election materials;
 - c. Interfere with the election process; and
 - d. Assist voters at the Privacy Booth, Ballot Marking Device, or Ballot Scanner unless requested by the voter. It is not advisable to assist a voter in these areas as you may be seen as improperly soliciting votes.

II. OPENING THE POLLS

A. VOTING HOURS⁵

1. Poll watchers may be “present at the polling place at least fifteen minutes before the unlocking and examination of any voting machine or ballot box at the opening of the polls[.]” N.Y. Elec Law §§ 8-500(2); 8-102(1)(h); 8-102(2)
2. During a **General Election statewide**, voting hours are from 6:00 am to 9:00 pm. Please arrive between 5:00 and 5:30 am (5:30 am latest), so that you can observe the set-up. N.Y. Elec. Law §§ 8-500(2); 8-102(1)(h); 8-102(2).
3. **During a Primary Election in New York City, Nassau, Suffolk, Westchester, Rockland, Orange, Putnam and Erie counties**, voting hours are from 6:00 am to 9:00 pm. Please arrive between 5:00 and 5:30 am (5:30 am latest), so that you can observe the set-up.
4. **During a Primary Election in all other counties**, voting hours are from 12:00 pm to 9:00 pm. Please arrive by 11:30 am latest, so that you can observe the set-up.

⁴ NYC 2018A Poll Worker Manual, at 12; Nassau 2015/16 Inspector Guide, at 11-12.

⁵ N.Y. Elec. Law § 8-100.

5. **During a Special Election called by the Governor**, voting hours are from 6:00 am to 9:00 pm. Please arrive at 5:30 am (5:00 am in NYC) or earlier, so that you can observe set-up.
6. We must act quickly and effectively to ensure the polls open promptly as scheduled and to examine the Ballot Scanners prior to the casting of any ballot. If you are assigned to assist in opening a poll site, upon arrival, introduce yourself to the Inspectors and the Police Officer, if present. Please present your Poll Watcher's Certificate(s).

B. THE POLL SITE IS LOCKED; NO CUSTODIAN IS PRESENT

Inspectors and Clerks, if any, must meet at the poll site by 5:00 am in NYC (5:15 in Nassau; 5:30 in Westchester). If the poll site is locked and no custodian is present, contact NYDLC and/or the Campaign and verify that present inspectors have notified the Board of Elections to resolve the issue. Document incident times.

C. ELECTION OFFICIALS AT POLL SITE⁶

1. AD/Poll Site Monitor (NYC practice)

- a. In New York City, bipartisan AD/Poll Site Monitor teams ride circuit to poll sites within an AD. AD/Poll Site Monitor's duties include:
 - (i) Troubleshoots on Election Day, traveling to assigned poll sites, and assisting with Election Day activities;
 - (ii) Reports any problems and resolutions to the Borough Office;
 - (iii) Verifies Election Day poll site staffing and any other poll site data as requested by the Borough Office; and
 - (iv) Ensures poll workers are following proper procedures.

2. Coordinator

- a. The Board of Elections may appoint coordinator(s) to each poll site (N.Y. Elec. Law § 3-401; NYC 2018A Poll Worker Manual, at 8; Nassau 2015/16 Inspector Guide, at 7; Westchester 2018 Poll Worker Instruction Manual, at 8). Coordinator may be "in charge" of the poll site (NYC) or have lesser roles. Assigned duties vary by county and may include:
 - (i) Direct voters to correct ED or poll site using Streetfinder or device.

⁶ E.g. NYC 2018A Poll Worker Manual, at 8-10; Westchester 2018 Poll Worker Manual, at 6-8.

- (ii) Supervises all Inspectors and other poll site personnel;
 - (iii) Reassigns poll workers as needed; ensures procedures are followed;
 - (iv) Makes sure that the poll site is in the correct room, properly set up and accessible to all voters; and
 - (v) Refers difficult problems to the BOE and records unusual incidents.
- b. In NYC: 1- 6 EDs = 1 Coordinator; 7-12 EDs = 2; 13 or more EDs = 3. Because local practice varies widely, check the local Board's manual.

3. Chairperson

- a. One Inspector at each ED serves as chairperson (N.Y. Elec. Law § 3-400)
- (i) In **New York City only**: For odd-numbered EDs, the Chairperson should be a Democrat, and for even-numbered EDs, a Republican. Elec. Law § 3-400(5); *but see* NYC 2018A Poll Worker Manual, at 8.
 - (ii) **Outside of New York City**, the Chairperson may be elected by the Inspectors at the ED or selected by drawing lots. In Monroe County, the Chairperson is appointed by the Coordinator.
- b. Chairperson's duties include the following:
- (i) Organizes physical layout of polling area; accounts for ED supplies;
 - (ii) Manages work activities of Inspectors at that ED and does same work;
 - (iii) Ensures ED forms are completed accurately;
 - (iv) Westchester: Announces results and phones in results to the BOE.

4. Election Inspector

- a. Two Democratic and two Republican Inspectors are assigned to each ED. (N.Y. Elec. Law §§ 2-400(1) and (3)).
- b. In **New York City**, the Inspectors are assigned in the following manner:
- (i) Two Inspectors (one from each of the major parties) are assigned to each **ED Table**.
 - (ii) At each poll site, two Inspectors (one from each of the major parties) are assigned to the **Privacy Booths and Ballot Marking Device**.

(iii) Two Inspectors (one from each of the major parties) are at each **Ballot Scanner**.

(iv) Two **Relief** Inspectors (one from each of the major parties) are available for relief for every eight Inspectors per poll site.

c. If any or all the Inspectors are absent, *see infra* Missing Inspectors.

d. The Inspector's duties include the following (*See, e.g., id.* at §§ 3-400: 8-102; 8-104; 8-202; 8-306; 8-502-508; 9-102; 9-116; 9-124):

(i) Sets up the voting area for the ED and opens the polls;

(ii) Ensures that the voter is at the correct ED/AD or ED/Town/Ward by looking up the voter's enrollment record;

(iii) Is required to "preserve good order within and around the polling place" and maintains access to the polling place. (*Id.* § 5-206(9));

(iv) May in writing direct the police to arrest "any person who refuses to obey the lawful commands of the Inspectors or who is guilty of disorderly conduct disturbing [the election] proceedings." (*Id.* § 3-402(3)); and

(v) Canvasses the ballots and tallies the results.

5. **Information Clerk** (New York City and in certain counties)

Information Clerk (NYC: one for 3-6 EDs; two for 7+), sits near entrance of poll site, directing voters to correct ED table or poll site. If site has tablet/digital device, scans barcode on front of Street Finder to download Poll Site Locator to help voters find correct poll site. In Westchester, Coordinators may function as Information Clerks (if appointed at all).

6. **Interpreter** (only where required)

NYC: Chinese, Bengali, Hindi, Korean, and/or Spanish-speaking interpreters are required in certain designated poll sites. Interpreters translate instructions provided by the Inspectors. Outside NYC, certain EDs are required to have at least one bilingual Inspector instead of interpreter. Other language constituencies must rely upon private assistance and **are allowed private assistance under the Voting Rights Act** – see **Language Assistance section below**.

7. **Accessibility Clerk** (New York City Only)

Accessibility Clerk posts all outside signage, makes sure path is clear, monitors alternate accessible entrance, and installs door bell (if required).

8. Police Officer

- a. The officer may have a rudimentary knowledge of Election Day procedures, and usually has little or no knowledge of election law. The officer cannot be relied upon to arbitrate any disputes.
 - (i) **New York City.** A police officer is present throughout Election Day at each poll site. (Elec. Law § 8-104(6)).
 - (ii) **Outside New York City.** Election Law is silent. Police officers may ride circuit among assigned poll sites, or merely respond if called.
- b. The officer's duties include the following (in NYC):
 - (i) Delivers the police poll site envelope to the Inspectors at the start of the day;
 - (ii) Maintains law and order at the poll site; and
 - (iii) Closes the doors at 9 pm. Collects Ballot Bin Liner Cases, Large Scanner Voting Record Bags, Unused Ballot Return Bag(s), Return Envelopes, two copies of the Return of Canvass forms and scanner memory cards at the end of the day.

D. MISSING INSPECTORS⁷

1. Two Democratic and two Republican Inspectors are assigned to each ED. One of the Inspectors serves as Chair (*supra* p. 5).
2. If only one Inspector from each party is present, the poll may open. If both are absent, call NYDLC and/or campaign, and ask inspectors to notify the Board.
3. Ascertain whether more than one Inspector from the necessary political party is present at another ED within the poll site who can move to the empty position where needed. The Coordinator can re-assign these Inspectors from other EDs to the empty position. Note that only registered voters who are from the same political party as the missing Inspector can become an Inspector by being sworn in by another Inspector.
4. If there are not enough Inspectors to open all the EDs at the poll site, the Coordinator will call the Board of Elections. Contact NYDLC or campaign.

⁷ See N.Y. Elec. Law §§ 3-406; 3-418.

5. If there are not enough Inspectors, the Coordinator or an Inspector can swear in any registered voter from the same party as the missing Inspector to fulfill the role. Inspectors should call the Board to verify eligibility and complete a “provision to fill vacancy” form. Help avoid delays, then document incident.

E. ARRANGEMENT OF POLLING SITE

1. EXTERIOR SIGNS. Prior to entering the poll site, the Poll Watcher should see if the required signs are posted:
 - a. “**Vote Here**” near main entrance
 - b. “**Interpreter Available**” near main entrance (if specifically required)
 - c. “**Accessible Entrance Located**” at main entrance or at an alternate entrance for persons with disabilities
 - d. “**No Electioneering**” at “one hundred foot radial measured from the entrances designated by the Inspectors of election, to such poll site or within such distance in any place in a public manner.” (N.Y. Elec. Law § 8-104.)
 - (i) The “No Electioneering” sign should be at one hundred feet from the poll site entrance, and if it is not, the Poll Watcher should advise the Police Officer or Inspector to correct its placement. Very often, campaign workers will move the sign during the day. Please check on its placement from time to time.
 - (ii) As a practical matter, measuring whether the “No Electioneering” poster is exactly 100 feet away from the poll site entrance is less important than making sure that the “no electioneering” mandate is applied equally to all campaigners and that voters have access to the poll site entrance.

2. VOTING AREA

- a. **GUARDRAIL.** The Inspectors will establish a figurative buffer zone called the “guardrail” by delineating and marking out the voting area. The following shall be kept within such guardrail: (i) Ballot Scanner; (ii) Ballot Marking Device; (iii) ballot boxes and secure storage containers; (iv) Privacy Booths; (v) all ballots; and (vi) all equipment. (*Id.* § 8-102(d)(1)). The guardrail must be established at least three feet from the Ballot Scanner, Ballot Marking Service, and the ED Table (*id.* § 8-202).
- b. **ADMISSION.** “No person shall be admitted within the guard-rail [from poll opening to announcement of results] except the election officers, authorized watchers, persons admitted by the inspectors to preserve order

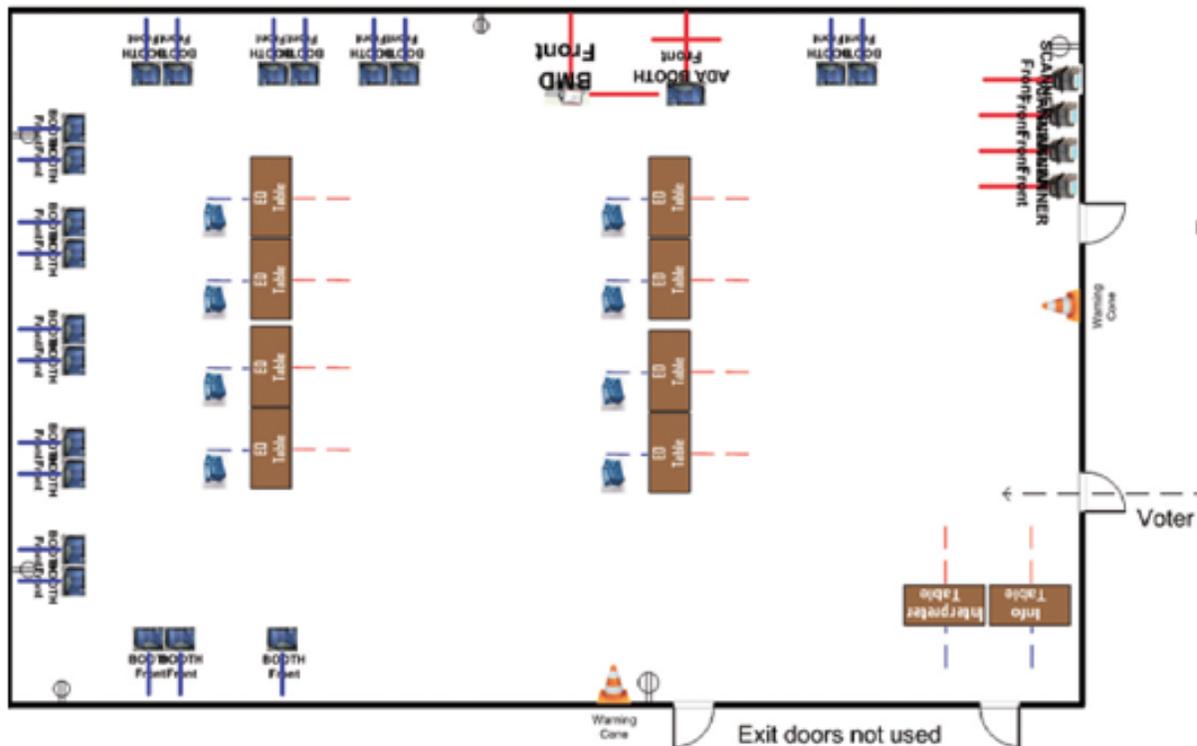
or enforce the law, voters duly admitted for the purpose of voting and children under the age of sixteen accompanying their voting parents or guardians; provided, however, that candidates voted for at the polling place may be within the guard-rail during the canvass.” *Id.* § 8-104(2).

- c. **LIMITED ACCESS TO PARTS OF VOTING AREA.** The Inspectors cannot be, or allow any other person to be, in or near any position that will permit them to see or ascertain how a voter votes, or has voted. Further, Inspectors will prevent any other person from being less than three feet from an occupied Privacy Booth, Ballot Marking Device, or Ballot Scanner (*id.* § 8-202(2)). However, voters may be given assistance by a person of their choice, with limited exceptions (*infra* Voters in Need of Assistance, p.40; N.Y. Elec. Law § 8-306(3)).

3. Placement of Equipment and Furniture within Voting Area

- a. The voting area must have an accessible route with adequate circulation and maneuvering space for voters who use wheelchairs or scooters or who walk with mobility aids.
- b. Check to see that the poll site has at least one Ballot Marking Device and one Ballot Scanner. Heavily populated poll sites have multiple Ballot Scanners. In New York City, every poll site will have at least two Ballot Scanners. Please encourage Inspectors to set up all voting machines including the Ballot Marking Device or Plan B machine, so that voters do not have to wait to cast their ballot. This is critical in Westchester, as the Plan B machine is used as a scanner if an ED scanner breaks down.
- c. The following page includes a “model” polling place floor plan for a poll site with eight EDs and a brief description of the equipment and its placement (NYC 2018A Poll Worker Manual, at 18-19). Due to logistical constraints, most polling places are not as nicely laid out.
 - (i) Poll Watchers should use discretion and check in with the boiler room when making suggestions about improving a poll site layout (in light of what is feasible, what is desirable, and any disruption a mid-day change may cause).

Floor Plan



(ii) **ED Table** is the place where the Inspector ascertains whether the voter is entitled to vote. The table must be at least three feet from the guardrail (N.Y. Elec. Law §8-202). The ED Table has certain materials, including the following: (i) voter registration list; (ii) ballots; (iii) Affidavit Ballot instructions; (iv) privacy sleeves; (v) void ballot envelope; (vi) large envelope for Affidavit Ballots. The **ED Supply Cart (or Supply Bag)** contains voting materials including packs of ballots and should be placed next to the ED Table and accessible only to the Inspectors.

(iii) **Privacy Booth** is where voters mark their paper ballots. The booth's exterior must be in "plain view" of the Election Inspector and Poll Watchers (*Id.* §8-202). The booth must be at least three feet from the guardrail and four feet from the ED Table to protect the secret ballot (*id.*). Ideally, the booth should be positioned so that the voter using the booth has his or her back to a wall and no one is passing behind the voter. Inspectors have a duty to "inspect the placement of privacy booths to preserve the secrecy of voting" (*id.* §§ 8-102(i); 8-300(2)). Further, the booth should be at least 3.5 feet from the wall. Each should have light, a pen, and a magnifying sheet.

- **ADA privacy booth** (lower writing surface) is placed nearest to the BMD with the voter's back to the wall and must have 5 feet of clearance on two sides to allow a voter in a wheelchair easy access. **Outside NYC** it may be called "Handicap Access table" (Nassau).
- (iv) **Ballot Marking Device ("BMD" or "Plan B Machine")** marks the ballot for those voters who are blind, vision-impaired, or have a disability or condition that would make it difficult or impossible for them to mark a ballot. It must be at least three feet from the guardrail and at least four feet from the ED Table to preserve the secret ballot (*id.* §8-202). Ideally, it should be near a wall so that the voter using the device has his or her back to a wall and no one is passing behind them. The device should be at least 5 feet from the wall and have a 5-foot clearance on the side, allowing a wheelchair voter easy access. A mat should cover the cord. In Westchester the BMD is called the "Plan B Machine" **THE DEVICE SHOULD BE PLACED NEAR AN ELECTRICAL OUTLET.**
- (v) **Ballot Scanner** reads marked paper ballots and tallies the results. The Ballot Scanner must be at least three feet from the guardrail and at least four feet from the ED/AD Table, so as to ensure that no one can see or ascertain how a voter votes or how he or she has voted. (*See id.* §8-202.) It should be positioned against a wall, with approximately 5 feet clearance in front, allowing voters in wheelchair easy access to the Ballot Scanner. **THE SCANNER SHOULD BE PLACED NEAR AN ELECTRICAL OUTLET.**
4. **Available Voter Information** The following voter information must be posted at the poll site (*Id.* § 8-104):
- Sample ballot and info for using Ballot Marking Device and Scanner;
 - Statement that "today is election day" and poll site operating hours;
 - Instructions on how to cast an Affidavit Ballot and a concise statement of a voter's right to such a ballot;
 - Instructions relating to requirements for voting on Ballot Scanners by those registrants who must provide identification under HAVA (2002);
 - Instructions for first-time voters;
 - A voter's *bill of rights* under federal and state law, including the right of accessibility and alternate language accessibility;
 - Info about voting by paper ballot, including consequences of casting an overvote, steps to prevent unintentional undervoting, and spoiled ballots;
 - Instructions on how to contact the appropriate officials if a voter's right to vote or participate in the electoral process has been violated; and
 - General information on federal and state laws regarding prohibitions on acts of fraud and misrepresentation.

F. OPENING THE BALLOT SCANNERS

The Ballot Scanner is used to read marked paper ballots and tallies the results. New York State uses two types of Ballot Scanner (i) the ES&S DS200 Ballot Scanners are used in New York City and in Albany, Erie, Nassau, Rockland, and Schenectady counties; and (ii) the Sequoia/Dominion ImageCast Ballot Scanners are used in all other counties.⁸

1. Opening the ES&S DS200 Ballot Scanner

- a. The ES&S DS200 sits on top of either a **plastic** or **steel** ballot box. As described below, the plastic and steel ballot boxes have different placements of security seals. The security seals are used to prevent tampering of the Ballot Scanner or its software. Please review the Scanner Opening Instructions to understand the process of setting up the ES&S DS200. Links are provided to NYC video and Nassau Cty instructions.⁹
- b. **PLEASE NOTE: During set-up, the Inspector must verify that a metal bar in the power cord compartment is in the unlocked (down) position.** If the metal bar is not in the unlocked position, this may cause ballots to jam.
- c. **Verify Integrity of Security Seals.** When the Inspector opens the Ballot Scanner, he or she will verify that each security seal, which is used to prevent tampering with the Ballot Scanner, is intact and present. The Inspector will then compare the serial numbers on each security seal on each Ballot Scanner with those on a verification list provided by the Board of Elections.
 - (i) **In NYC:** Green seals are what are on the scanner at opening and will be replaced, yellow seals are used as replacement seals, and red seals are not to be removed.
 - (ii) **If any security seal is broken or missing, or the security seal serial numbers are different from the verification list, record the issue on an incident report and contact NYDLC.**
 - (iii) The ES&S DS200 Scanner has the following internal security seals:¹⁰

⁸ NYS List of Voting Equipment by County, included as Reference 8.

⁹ NYC 2018A Poll Worker Manual, at 37-41. Watch the instructional NYC Poll Worker Training Video *Opening the DS200 Scanner and Closing the DS200 Scanner*, <http://bit.ly/2dNZpNh>, included as Reference 10. Each County using ES&S DS200 may have specific instructions that differ slightly from the New York City guide. Nassau County Board of Elections, Election Day Opening Handbook (rev'd 6/2015), www.nassaucountyny.gov/DocumentCenter/View/1267 (accessed 10/2017).

¹⁰ NYC 2018A Poll Worker Manual, at 38-39; 42-43; Nassau 2015/16 Inspector Guide, at 53. The security seal # references correspond to the photos of the placement of the security seals in the NYC manual.

- (1) **LCD Lid (Seal #6).** The Inspector will break the seal and open the LCD lid and reveal the LCD screen. The machine should automatically turn on once the LCD lid is lifted.
 - (2) **Backup Door (behind closed screen) (Seal #7).** This seal should not be broken under any circumstances.
 - (3) **PMD Compartment Top (Seal #1)** (houses USB flash drive). Not removed until poll closing to print results and access PMD.
- (iv) The **Plastic Ballot Box** has the following security seals:
- (1) **Ballot Box Door (Seal #2); Emergency Ballot Box Door (Seal #3).** The Inspector will break the seal and open both ballot box doors. **Once you and the Inspectors have verified that the emergency ballot box is empty,** the Inspector will close the doors and apply new seals to the doors.
 - (2) **External Top Lid (Seal #4).** The Inspector will break the seal and open the external top lid.
 - (3) **Sides (Seals #8 & #9).** The seals should not be broken under any circumstances, unless directed by the Board of Elections.
- (v) The **Steel Ballot Box** has the following three security seals:
- (4) **Ballot Box Upper Compartment Door; Ballot Box Lower Compartment Door; Emergency Ballot Box.** The Inspector will break the seal and open these ballot box doors. **Once you and the Inspectors have verified that the ballot boxes are empty,** the Inspector will close the doors and apply new seals to the doors.
- d. **Ballot Bin Liner Case.** Inside the Ballot Box, there is a Ballot Bin Liner Case that has a two-door top lid. Both lids must be fully open for ballots that have been scanned to properly fall into the Ballot Bin Liner Case. Accordingly, confirm that the both doors of the top lid are open, so that the Ballot Bin Liner Case can receive ballots.
- e. **Verify the Contents of the Zero Report Tape.** The Inspectors will print the “Zero Report Tape.” The “Zero Report Tape” should contain the following information: (i) machine’s serial numbers; (ii) name of the poll site; (iii) election district number; (iv) total votes cast for this particular election (public counter); (v) candidates’ and ballot proposal counters; and (vi) the protective counter. Each ED is listed on the Zero Report Tape.

- (i) **If the Zero Report Tape (i) does not print, (ii) does not include the correct EDs or (iii) has races or contests that are not at zero the Board of Elections must be called immediately.**
- (ii) **Record the Protective Counter**, which tallies the number of voters who have ever voted on the voting machine. If the voting machine has been used before, the protective counter will not be set at zero. This number should be recorded once at the opening of the polls and again at closing.
- (iii) **Verify that the Public Counter**, which records the votes on Election Day, should be set at "000". If the number is not set to "000", record this information, the voting machine number, and the number at which the counter is set on your Incident Report and notify your NYDLC Voter Protection Coordinator and/or Campaign as instructed. The Inspector is supposed to record this number, and the Poll Watcher should make sure that, if the number is above 000, that the Inspector has properly recorded this fact.
- (iv) **Verify the Ballot**. Check to make sure that the ED tables have the correct ballots for the corresponding Election Districts.

2. Opening the Sequoia/ Dominion ImageCast Ballot Scanner

- a. The Sequoia Dominion ImageCast consists of an optical scanning unit for verifying the contents of a marked ballot and *may* include a device for assisting voters in marking a blank ballot. To create the marked ballot, the device utilizes both a visual interface on a screen and an audio tactile interface ("ATI"). Selections cannot be made by touching the screen. Please review the Verified Voting instructional video for opening the polls to understand generally the process of setting up this model.¹¹
- b. **Verify Integrity of Security Seals**. When the Inspector opens the Ballot Scanner, he or she will verify that each security seal, which is used to prevent tampering with the Ballot Scanner, is intact and present. The Inspector will then compare the serial numbers on each security seal on each Ballot Scanner with those on a verification list provided by the Board of Elections.
 - (i) **If any security seal is broken or missing, or the security seal serial numbers are different from the verification list, record that the problem on an incident report and contact the NYDLC and/or Campaign as instructed.**

¹¹ Verified Voting, Dominion ImageCast Democracy Suite, <https://www.verifiedvoting.org/resources/voting-equipment/dominion/imagecast/> (accessed 4/2018). Link includes videos for open, closing, and use, included as Reference 13. Each County may have specific instructions that differ from this guide.

- (ii) The **Sequoia/ Dominion ImageCast** has the following security seals. Record the numbers of all seals. Red seals should not be removed. The following instructions reflect Westchester County practice.¹²
- (1) **Ballot Box Door Seal.** The Ballot Box door is pre-sealed. If the seal is red it should not be removed (eg Westchester); If the seal is blue it should be removed (eg Monroe). Local practice varies. In the latter case, Inspector removes the ballot security bag; removes any supplies; places it (open and empty) back in the ballot box; closes door; applies new seal. Please record the new seal number.
 - (2) **ImageCast Scanner Cover/Privacy Shield Seal.** Should be removed and placed in the return envelope.
 - (3) **Compact Flash Door (memory stick) Seals (2).** The seal is not broken until poll closing, when memory card is secured.
 - (4) **Port Cover Seal.** Should not be removed.
 - (5) **Tape Receipt Seal.** The seal must not be broken UNLESS there is a machine malfunction such as a receipt printer paper jam. If the seal is broken to open the door, the Inspector must note that the seal was broken, open the lid, fix the malfunction, close the lid, and apply a new seal. Please record the new seal number.
- c. **Verify the Contents of the Zero Report Tape.** The Inspectors will print the “Zero Report Tape.” The “Zero Report Tape” should contain the following information: (i) machine’s serial numbers; (ii) name of the poll site; (iii) election district number; (iv) total votes cast for this particular election (public counter); (v) candidates’ and ballot proposal counters; and (vi) the protective counter. Each ED is listed on the Zero Report Tape.
- (i) **If the Zero Report Tape (i) does not print, (ii) does not include the correct EDs or (iii) has races or contests that are not at zero the Board of Elections must be called immediately.**
 - (ii) **Record the Protective Counter,** which tallies the number of voters who have ever voted on the voting machine. If the voting machine has been used before, the protective counter will not be set at zero. This number should be recorded once at the opening of the polls and again at closing.
 - (iii) **Verify that the Public Counter,** which records the votes on Election Day, should be set at "000". If the number is not set to "000", record

¹² Westchester County Board of Elections, ImageCast Scanner Manual Plan A (5/5/2016), at 7, 10-12; See Monroe 2018 Inspector Manual, 6-10, <https://bit.ly/2oVonSo>, included as Reference 14.

this information, the voting machine number, and the number at which the counter is set on your Incident Report and notify your NYDLC Voter Protection Coordinator and/or Campaign as instructed. The Inspector is supposed to record this number, and the Poll Watcher should make sure that, if the number is above 000, that the Inspector has properly recorded this fact.

- (iv) **Verify the Ballot.** Check to make sure that the ED tables have the correct ballots for the corresponding Election Districts.

G. OPENING THE BALLOT MARKING DEVICE

The Ballot Marking Device is used to assist those voters who are blind, vision-impaired, or have a disability or condition that would make it difficult or impossible to mark a ballot by hand. Any voter who desires to do so, whether disabled or not, may choose to vote using the Ballot Marking Device available at the poll site. Further, voters with disabilities may choose to vote by hand marking the Ballot, rather than using the Ballot Marking Device.

New York State uses two types of Ballot Marking Devices: (i) ES&S AutoMark is used in New York City and Albany, Erie, Nassau, Rockland and Schenectady Counties; and (ii) Sequoia/Dominion ImageCast is used in all other counties.

1. Opening the ES&S AutoMark Ballot Marking Device

- a. Please review the Ballot Marking Device Setup and Close, published by the NYC Board of Elections, to understand generally the process of setting up this machine. A link to the NYC Board of Elections' instructional video is included as Reference 11.¹³
- b. Your role is to do the following while the Inspector sets up the machine:
 - (i) **Verify all security seals on the Ballot Marking Device are present when the Scanner is open and the numbers on each security seal match the ones on a verification list provided by the County Board of Elections.**
 - (1) If the machine is opened and any seal is found to be broken or missing, notify the Inspectors immediately who should contact the County Board. You should record that the seal is broken or missing and contact NYDLC and/or Campaign as instructed.

¹³ NYC 2018A Poll Worker Manual, at 24-26. Watch the instructional video on opening and closing the Ballot Marking Device ("BMD"): NYC Poll Worker Training Video: *Opening and Closing the Ballot Marking Device*, <http://bit.ly/2dNZpNh>, included as Reference 11. Each County using ES&S AutoMark may have specific instructions that differ from New York City.

- (2) The Inspector will compare the security seal numbers on each machine with those on a verification list provided by the Board of Elections. **If the numbers do not match, the Inspector should contact the Board of Elections and you should contact the NYDLC about the discrepancy. If possible, please record each seal number and whether they match.**
- (3) The ES&S AutoMark has the following two security seals and may also be equipped with a standard ballot box, which may have an additional seal:
 - **Compact Flash (CF) Card Door; Printer Compartment – USB Port.** The seals must not be broken under any circumstances.

2. Opening the Sequoia/ Dominion ImageCast Ballot Marking Device

- a. Please review the Sequoia/ Dominion ImageCast section above for a description of opening this model.

H. OPENING THE POLLS: SUPPLIES

1. All the supplies needed are brought in (a) the “police envelope” by the Police Officer or the “security envelope/bag” by an election officer, or (b) the ED Supply Cart, “suitcase” (Nassau/Onondaga) or blue supply Bag (Westchester).
 - a. **Police Poll Site Envelope or Security Envelope/ Bag.** The police officer or an election official brings this envelope to the Poll Site. The envelope includes the following: (i) keys to ED Supply Cart, Ballot Marking Device, and Ballot Scanner; (ii) Seals Report; (iii) plastic numbered seals for the ED Supply Car, Ballot Marking Device and Ballot Scanner; and (iv) any last-minute instructions.
 - b. **ED Supply Cart or Bag.** In New York City, there should be an ED Supply Cart for each ED. Other areas have an ED Supply Bag or Envelope (Nassau). The ED Supply Cart includes the following:
 - (i) Election Day Scannable Ballots (in stubbed books);
 - (ii) Voter Registration Books, which have the names and signatures of enrolled members of the various political parties from that particular ED. In the event that the Voter Registration Book is missing, voting cannot begin. The Board of Elections must be called immediately.
 - (iii) Challenge Oaths (in New York City);
 - (iv) Affidavit Ballot Envelopes;

- (v) Return of Canvass forms; and
- (vi) Large Separate Envelopes for the Affidavit Ballot Envelopes; the Excess Emergency Ballot Envelope; the Void Paper Ballots Envelopes; and the Return of Canvass forms.
 - Nassau: Green Un-Scanned Ballots bag; Blue Spoiled Ballots bag; Orange Affidavit Ballots bag; “SPOILED” stamp or label; Yellow folder (language assistance); Red Data Bag (keys, seals, USB).
- c. In New York City, the ED Supply Cart at the lowest ED of the lowest AD contains the following: Yellow Small Scanner Voting Records Pouch (*See, infra*, “Closing the Polls”); Yellow Large Scanner Records Bag (*See, infra*, “Closing the Polls”); Ballot Scanner privacy screen; tablet and MiFi

III. VOTING PROCESS

The voting process consists of the following steps: (i) verifying that the voter is entitled to vote; (ii) getting the ballot in a privacy sleeve¹⁴ at the ED Table; (iii) marking the ballot either at the Privacy Booth or the Ballot Marking Device; and (iv) casting the ballot using the Ballot Scanner.

Inspectors will admit within the voting area only two voters at a time for each Privacy Booth, Privacy Booth, or Ballot Marking Device, or Ballot Scanner. (N.Y Elec. Law § 8-300.)

A. VERIFYING THAT THE VOTER IS ENTITLED TO VOTE

1. Voter must be at his or her poll site and at the correct ED Table

- a. With certain exceptions, such as absentee voting, registered voters must vote at their designated poll site. Within the poll site, the voter must go to the assigned ED Table in order to verify his or her voter registration and get the ballot for his or her election district. Determining which poll site and ED Table to go to is determined by the voter’s residential address.

- (i) **New York City.** Offer to help! To find a voter’s correct poll site by address, go to: <http://nyc.pollsitelocator.com/search>.

1. ED supply cart has a paper Street Finder (and digital QR code), listing correct AD and ED for every address in the borough, and a separate list of all the poll sites in the borough by AD and ED.¹⁵
2. Information Clerk should provide voters unsure of correct poll site with correct info by checking Street Finder and Poll Site List.

¹⁴ In Westchester, this is offered to voters upon request.

¹⁵ NYC 2018A Poll Worker Manual, at 46-54, included as Reference 1.

3. **If poll site has tablet/smart phone**, information clerk scans barcode on the front of Street Finder to download poll site locator, to help voters find correct poll sites.
 - (ii) **Outside of New York City.** Election officials in Monroe and Westchester use a Street Guide, which lists the correct ED for every address to confirm that a voter lives in the election district.¹⁶ In Nassau, each ED at a Polling Location will have an ED Street list to supplement the Countywide Street list. The countywide street list is in alphabetical order by TOWN/ZIP name.¹⁷ In Westchester, an “AskEd” device is used to look up a voter’s correct polling location.
 - b. **Offer to help!** Check voter registration and poll site locations with a smart phone: <https://voterlookup.elections.state.ny.us/votersearch.aspx>.
2. **Standard Procedure**¹⁸
- a. Two Inspectors representing different parties act together at all times in supervising the use of the Voter Registration Book and in verifying that an individual is duly registered to vote on the basis of such records.¹⁹
 - b. The voter gives name and residence to the Inspectors. An Inspector then loudly and distinctly announces the name and residence of the voter.
 - c. The Inspectors locate the voter’s name in the Voter Registration Book. If name cannot be found, Inspectors should check for first name/last name reversal, maiden/former names, and name spelling.
 - d. If name is found, voter signs name in the space provided in the Voter Registration Book. **ONLY** voters with “ID REQ”, “ID”, “I”, or an ID icon listed must present a form of ID (not limited to photo ID (see just below)).
 - e. The Inspectors compare the voter’s signature with his or her registration signature to their satisfaction that the signatures are similar.
 - f. In a primary election, Inspector(s) confirm party enrollment.
 - g. Inspector removes a ballot from ballot pad and gives ballot stub number to other Inspector who writes it on a list with his/her initials. Inspector

¹⁶ See Monroe 2018 Inspector Manual at 17, 48, <https://bit.ly/2oVonSo>.

¹⁷ Nassau County Board of Elections, Poll Coordinator Reference Guide (Rev'd 7/2015), at 22-23, www.nassaucountyny.gov/DocumentCenter/View/9771 (accessed 10/2017) (“Nassau 2015/16 Coordinator Guide”).

¹⁸ N.Y. Elec. Law §§ 8-302; 8-304.

¹⁹ NYC 2018A Poll Worker Manual, at 55.

provides voter a ballot and privacy sleeve (often a manila folder). Voter is directed to privacy booths or BMD to mark the ballot before it is scanned.

3. No Requirement For NYS Voter to Provide ID, with Limited Exception

GENERAL RULE: Presentation of ID is not required to vote in New York and Poll Workers may not request ID (signature is proof of identity). A voter has the right to vote after signing the Voter Registration Book (*Id.* § 8-304), except as provided below. Voters who do not have “**ID REQ**”, “**ID**”, “**I**” or an **ID icon** by their names in the ED registration list should never be asked to present identification.²⁰

EXCEPTION: The Help America Vote Act (HAVA) requires persons who register by mail and who did not provide ID at time of registration to show ID the first time they appear to vote in order to cast a (regular) ballot in the Scanner. (*Id.* §§ 8-302(2-a); 8-303). Such registrants have “**ID REQ**”, “**ID**”, “**I**” or an **ID icon** by their names or in signature box of the registration book.

- (i) **A statutorily acceptable ID can be EITHER:** (A) A current and valid photo identification with the voter’s name and picture – **OR** – (B) A copy of a *current* utility bill, bank statement, government check, paycheck or government document that shows the name and address of the voter.²¹

A. Acceptable current / valid Photo ID includes *but are not limited to:*

- NY or out-of-state driver licenses;
- Passports;
- Student identification cards;
- Photo debit or credit cards;
- Pilots' licenses;
- Discount cards issued to senior citizens or persons with disabilities by a public authority;
- Employee or volunteer identification cards;
- Non-driver identification cards;
- Military or military dependent identification cards;
- Insurance plan identification cards;
- Pistol or firearms permits;
- Government photo identification cards;
- Access-A-Ride cards;
- Health club identification cards;
- Or any other form of photo identification that includes the voter's name and shows no signs of being fabricated or altered.

²⁰ NYC Manual 2018 at 55; Orange County 2018 Manual, at 17; Ulster County 2018 Manual, at 37.

²¹ N.Y. Elec. Law §§ 8-303(2); Nassau 2015/16 Inspector Guide, at 15-18.

In this case, “[p]hoto ID does not require the voter’s address. Most ID does not have an expiration date; assume that it is current unless it has an expiration date and it has expired. Assume that photo identification is valid so long as it shows no signs that it has been altered or fabricated.”²² The request for ID is for identity verification, not address verification. The voter should be allowed to cast his or ballot at the Ballot Scanner.

B. Acceptable forms of a *current* utility Bill, Bank Statement, Government Check, Paycheck or Government Document *includes but are not limited to:*

- Utility bills: bills from electric, gas, heating oil, propane, water, telephone, or cable providers;
- Bank statements: bank statements, investment account statements, brokerage statements, pension fund statements, dividend checks, or other correspondence from a financial institution to a person with an established relationship with the institution;
- Government checks: Social Security Administration check statements, government or military paychecks or paycheck stubs,
- Paychecks: a paycheck, paycheck stub or any document or statement provided to an employee by his or her employer evidencing income;
- Other government documents: Voter registration cards, Electronic benefit transaction (EBT) cards, Public housing lease or rent statements and agreements or rent statement agreements provided pursuant to subsidized housing programs, Correspondence or bills from a federal, state or local government, Hunting, fishing or trapping licenses, Unemployment insurance statements, Interim driver licenses or computer-generated learner permits, Tuition statements or bills from public colleges and universities (e.g., SUNY and CUNY), Public housing identification cards, Government homeless shelter or transitional housing identification cards, Discharge certificates, pardons or other official documents issued in connection with the resolution of a criminal case, indictment, sentence or other matter, in accordance with state law, Tribal identification cards, Any document or statement provided to a taxpayer evidencing income or eligibility for a tax deduction or tax credit, Social Security Administration benefits statements, I.R.S. statements, Insurance cards issued pursuant to government administered or subsidized health insurance programs (e.g., Medicare and Medicaid cards)
- Any other government document that shows the name and address of voter.

²² Nassau 2015/16 Inspector Guide, at 16.

Note: In this case, a fair interpretation of the law appears to require that a document is current if it bears the voter's *current* address.²³

(ii) If the first-time voter is unable to provide proper ID, he or she has the statutory right to vote an Affidavit Ballot (*Id.* § 8-303(2)(b)(1)).

(iii) **Nassau County provides the following instruction to poll workers:** "If the voter is unable to present one of the above, he or she is not permitted to vote on a voting machine. Tell the voter that he or she is entitled to vote by Affidavit Ballot, and offer the voter an affidavit envelope. The voter may choose to decline to vote by affidavit, and may return to the polling place with identification or go to Supreme Court and ask to present his or her case to a judge, but do not require the voter to do either."²⁴

(iv) If there are non-complying election officials, the on-site coordinator should be alerted. If problem is not resolved, contact NYDNC and/or the campaign, document incident (with contact info of affected voters).

4. **Voter Who Has Moved** (there are three possible scenarios (i-iii below))

a. Due to the enactment of the National Voter Registration Act (Motor Voter), voters who have moved *within the jurisdiction* (county or City) of their Boards of Election can vote even if they have not re-registered or transferred their registration. However, the following applies:

(i) **If a voter has moved within the same ED**, the Inspector should note the new address in the voter registration record and **the voter should cast a regular ballot in the Ballot Scanner** (*id.* §8-302(3)(b)).

(ii) **If a voter has moved within the same county or within New York City** but has moved *outside* their old ED, the voter must vote in the ED of the new residence by *Affidavit Ballot*. The voter checks the box ("I have moved...") on the Affidavit Envelope and fills out the rest of the envelope. By voting by Affidavit Ballot, the voter transfers his or her registration to the new address and ballot will count (*Id.* § 5-208).

(iii) **If a voter has moved to New York State from elsewhere, to a new county, or to New York City from outside the City**, they must have registered with their (new) local Board by the registration deadline (deadlines: <https://www.elections.ny.gov/VotingDeadlines.html>), as NYS does not have same-day registration. A voter who genuinely believes they have done so, whose registration cannot be found may

²³ N.Y. Elec. Law §§ 8-303(2).

²⁴ Nassau 2015/16 Inspector Guide, at 15.

vote by affidavit ballot from the correct poll site in their new home county or City to preserve their rights. In the event the Board determines that the voter was not duly registered by the deadline, the vote will NOT count, but the completed Affidavit Ballot/Envelope “shall constitute an application to register to vote.” *See id.* § 8-302(3)(e)(ii). *See* Affidavit Ballots, *infra* p. 38).

- b. If a voter casts an Affidavit Ballot in the correct poll site but the wrong ED, her Affidavit Ballot will be counted, *Panio v. Sunderland*, 824 N.E.2d 488, 490 (N.Y. 2005). If an Affidavit Ballot is cast in the wrong poll site (and thus the wrong election district), the Affidavit will not be counted. *Id.*

5. Voter has Changed His or Her Name

- a. A voter who claims to have changed his or her name is permitted to cast a *regular ballot* in the Ballot Scanner, unless the right to vote is challenged on other grounds. The voter will first have to sign the registration poll record with the name the voter registered to vote under, and then his or her new name. Thereafter, the voter shall vote only under the new name. (*See* N.Y. Elec. Law § 8-302(3)(c); NYC 2018A Poll Worker Manual, at 59).

6. Voter’s Name Is Missing From The Voter Registration Book

- a. If voter’s name is not located in the Registration Book at the ED table, the Inspectors must first ascertain whether voter’s current address is in that particular ED (N.Y. Elec. Law § 8-302(3)(e)). If so, inspectors should check first name/last name reversal, maiden/former names, and spelling.
- b. If voter is at *correct* poll site but *incorrect* ED, Inspector should direct voter to correct ED. **If voter is at *incorrect* poll site, make sure the Inspector directs voter to correct poll site or the vote will not count.**
- c. **If a person believes they are registered and their address is in that ED but voter is not found in the Registration Book, the Inspectors are required** to give the voter an Affidavit Ballot (*Id.*; *see, infra*, Casting an Affidavit Ballot) *Alternatively*, voter can obtain a Court Order to vote by regular ballot.²⁵
- d. There may be several reasons why the person’s name is not in the Voter Registration Book:
 - (i) If the voter is a new registrant, the Voter Registration Book might not have been updated to include the voter.

²⁵ N.Y. Elec. Law § 8-302(3)(e). Obtaining a Court Order is a time-consuming process which involves an appearance by voter before a designated judge at the Board of Elections or a courthouse and often results in the voter simply failing to cast a ballot at all. In most cases, an Affidavit ballot is preferable.

- (ii) The voter's name might not be alphabetized in the Voter Registration Book, but instead might be listed on an addendum or improperly listed under the voter's first name. In New York City, the Board of Elections now uses double-sided pages in the Voter Registration Book, so make sure that the poll worker is checking both sides of the pages when seeking for a voter name.
 - (iii) The voter might have moved within New York City and did not re-register using his/her new residential address. Please note that if a voter moves within New York City, he or she is not required to re-register.
 - (iv) The voter may have registered too late to be eligible to vote in the election.
 - (v) The voter may have an "inactive status." The Board of Election may have cancelled the voter's registration form for several reasons. For instance, an address confirmation letter sent to the voter's address was returned as undeliverable to the Board of Elections. If the voter has not moved, the voter may still vote by Affidavit Ballot. His or her vote will be counted and his or her name will appear the next time s/he appears to vote. (N.Y. Elec. Law § 5-213.)
 - (vi) The voter may have been "purged" from the rolls because he or she (i) moved to another county or city; (ii) was convicted of a felony; or (iii) has not voted in two federal elections after being placed on "inactive status." (*See id.* § 5-400.) A "purged" voter will only have a vote counted by court order. If the voter seems unlikely to seek a court order, you should encourage them to vote by Affidavit Ballot, which may be counted if the cancellation is determined to have been in error.
- e. **NYS Ballot Saving Rule:** If voter's address is not in the correct ED, the voter should be directed to the correct ED, which may be at a different poll site. If a voter casts an Affidavit Ballot in the correct poll site but the wrong ED, his or her Affidavit will be counted. *Panio*, 824 N.E.2d at 490. If an Affidavit Ballot is cast in the wrong poll site and therefore cast in the wrong election district, the Affidavit Ballot will not be counted. (*Id.*)

7. Absentee Voter Appears at the Polls

- a. If such voter appears (and is found in the book), the signature line will bear a reference to "Absentee". Voter still signs in and must be permitted to vote by regular ballot. The mailed or un-mailed Absentee is voided.²⁶

²⁶ Erie 2018 Manual, at 28; Monroe 2018 Manual, at 47; Cortland 2018 Manual, at 50; Westchester 2018 Manual, at 43; Dutchess 2018 Manual, at 7; Orange 2018 Manual, at 24. NYC follows this practice.

B. CHALLENGES TO VOTER ELIGIBILITY

1. Before casting his or her vote in an election, any person may be challenged as to his/her right to vote by the following people: (i) Inspector; (ii) duly appointed poll watcher; and (iii) registered voter properly in the poll site (N.Y. Elec. Law §§ 8-502; 8-504).
2. It is imperative that voters and Inspectors are aware that **a challenge does not deprive voter of the right to cast a vote in the Ballot Scanner!**
3. An Inspector will challenge a voter when:²⁷
 - a. (S)he suspects voter does not reside at their registered address (residency);
 - b. current signature does not match signature in registration book (identity);
 - c. Someone else using same name has already voted (multiple voting)
 - d. The person's name appears on an official list furnished by the Board of Elections of persons to be challenged on Election Day (due to any of the above or eg: bribery, convicted felon on parole, adjudicated incompetent).
4. If the Board of Elections has reason to suspect that the voter is no longer qualified to vote, the word "challenge" may appear in the signature box beneath the voter's name in the Voter Registration Book.
5. **NYS Election Law does NOT require the voter to provide ID/proof** when a Challenge is made (*Id.* § 8-504; Columbia 2018 Manual, at 32). Instead, the law provides an "oath" process to resolve challenges and protect rights. *Id.* No voter *who believes they are eligible* should be turned away due to a challenge. Voter takes the appropriate Oaths and votes by regular ballot on the machine.
6. **New York City.** The Board of Elections has provided simple instructions to the Inspectors in the event of a challenge:
 - a. The Inspector must advise the voter that he or she has been challenged and offer the "Challenge Oath" to the voter.²⁸
 - b. If the voter signs the Challenge Oath, he or she must be permitted to cast a regular ballot on the Ballot Scanner! N.Y. Elec. Law § 8-504(7).**
 - c. If voter *refuses* to sign the Challenge Oath, the voter may only vote on the machine if they get a court order *or alternatively* vote by affidavit ballot.²⁹

²⁷ N.Y. Elec. Law §§ 8-502; 8-504. *See* NYC 2018A Poll Worker Manual, at 56-59; Westchester 2018 Poll Worker Manual, at 52-54 (manuals included as Reference 1).

²⁸ NYC 2018A Poll Worker Manual, at 59.

7. **Outside New York City.** The Inspector administers a preliminary oath to the voter in which the voter swears that he or she will provide true answers to questions concerning his or her qualifications as a voter. The Inspector then will ask questions to determine whether there is a basis for challenging the voter's right to vote. If the Inspector is satisfied with the voter's answer or the challenge is withdrawn, the Inspector will permit him or her to vote a regular ballot (N.Y. Elec. Law § 8-504).
 - a. If after the Inspector dismisses with the voter's answer and explains the basis for his or her dismissal and the voter asserts his or her right to vote, the Inspector will administer the "The Qualification Oath".
8. The Inspector may administer other oaths regarding voter qualifications, if applicable:
 - a. **Bribery Oath.** N.Y. Elec. Law § 8-504(4). Oath requires voter to swear/affirm they have not received or offered, and do not expect to receive, any money or any other valuable thing as a compensation or reward for the giving or withholding of a vote at this election;
 - b. **Conviction Oath.** N.Y. Elec. Law § 8-504(5). Oath requires voter to swear/affirm they have not been convicted of any felony, or if so convicted, that voter has been pardoned or restored to all the rights of a citizen, or the maximum term of imprisonment to which voter was sentenced has expired, or voter has been discharged from parole or sentence has been suspended.
 - (i) Probationers and persons on parole granted conditional voting rights pardons may register to vote (*infra* Felon disenfranchisement)
 - c. **Incompetency Oath.** N.Y. Elec. Law § 8-504(6). Oath requires voter to swear/affirm they have not been adjudged incompetent by order of competent judicial authority, or if so adjudged, has since been adjudged competent which fully warrants his or her right to vote. *Id.*
9. **If voter takes the applicable oath, he or she must be permitted to cast a regular ballot through the Ballot Scanner!**³⁰
 - a. If voter *refuses* to sign the Challenge Oath, the voter may only vote on the machine if they get a court order *or alternatively* vote by affidavit ballot.³¹

²⁹ N.Y. Elec. Law § 8-504, included as Reference 3; NYC 2018A Poll Worker Manual, at 59. HAVA, 52 U.S.C. § 21082.

³⁰ N.Y. Elec. Law § 8-504. If challenged voters who have taken the challenge oath are instructed to vote by Affidavit Ballot, this is a clear misinterpretation of the law, *see id. E.g.*, NYC 2018A Poll Worker Manual, at 59; Nassau 2015/16 Inspector Guide, at 29-32; Westchester 2018 Poll Worker Manual, at 52-54. The instruction on the face of the challenge oath itself may clearly state this point.

³¹ N.Y. Elec. Law § 8-504, included as Reference 3; HAVA, 52 U.S.C. § 21082; Orange County 2018 Poll Inspector Manual, at 21.

10. Challenges to Student Eligibility

- a. As noted above, the NY State Election law does NOT require the voter to provide documentation of proof of residence when a challenge is made at the poll site. (*See id.* §8-504.) All the voter needs to do is to take an oath affirming that he or she is qualified to vote.
- b. Please note that in the context of voter registration, a county board of elections cannot constitutionally deny university students the right to register to vote on ground that campus dorm could not be considered fixed, personal, or principal home (*Williams v. Salerno*, 792 F.2d 323 (2nd Cir. 1986) (interpreting New York State election law)). Further the policies and procedures of local county election board may not deny students their right to vote on the sole basis that they were students who lived in on-campus housing (*Levy v. Scranton*, 780 F. Supp. 897 (N.D.N.Y. 1991) (finding the practice an unconstitutional denial of the student's right to vote)).

C. GETTING THE BALLOT AT ED TABLE

1. If the voter's name is in the Voter Registration Book, he or she will sign the list, be given a ballot, and a Privacy Sleeve used to cover the ballot.
2. When a voter has received a paper ballot, he or she is deemed to have commenced the act of voting, and if, after receiving such ballot, he or she leaves the voting area before casting the ballot, he or she will not be entitled to pass again within the guardrail for the purpose of voting, or to receive any further ballots (*See N.Y. Elec. Law § 8-312*).
3. The voter will be directed to the voting area to mark his or her ballot.

D. MARKING A BALLOT AT THE PRIVACY BOOTH OR BALLOT MARKING DEVICE

1. **Ballot Marking Methods.** The voter will be given the opportunity to mark his or her ballot either with an official pen at a Privacy Booth or with the Ballot Marking Device. While the Ballot Marking Device is used to assist those voters who are blind, vision-impaired, or have a disability or condition that would make it difficult or impossible to mark a ballot, any voter may choose to use the Ballot Marking Device to mark his or her ballot.
2. **Time Limit.** No voter can remain within the Privacy Booth or at a Ballot Marking Device beyond a reasonable time and if s/he refuses to leave after the lapse time, he or she will be removed by the Inspector (*See N.Y. Elec. Law § 8-300(3)*). If other voters are waiting to use the Privacy Booth, a voter shall not occupy a Privacy Booth for more than five minutes (*Id.* § 8-312(1)).

3. **Abandoned Ballot.** If voter abandons a ballot **in a Privacy Booth**, the ballot is spoiled and should be voided. The Inspector will place the voided ballot in the Voided/Spoiled Ballot Envelope A ballot abandoned near, on top of or in the scanner is valid and should be scanned by a bipartisan team. **Nassau** saves ballots “abandoned” at the ED check-in table, while **Westchester** spoils all other abandoned ballots.³²
4. **Protecting the Secret Ballot.** The use of a privacy booth or Ballot Marking Device for marking a ballot shall be secret and obscured from all other persons with the exception of those who are assisting the voter and children under the age of sixteen accompanying their voting parents or guardians. (*See* N.Y. Elec. Law §8-300; *See infra* for info on voters in need of assistance).
 - a. **Inspector’s Affirmative Duty.** The Inspectors cannot themselves be, or allow others to be, in or near any position that will permit one to see how a voter is voting. The Inspectors will prevent any other person from being less than three feet from an occupied Privacy Booth or Ballot Marking Device (*Id.* § 8-202(2)), as practical based on poll site layout/facility.
 - b. **Placement of Privacy Booths and Ballot Marking Devices.** To protect the secrecy of the voter’s ballot, the privacy booths and ballot marking devices should be placed near a wall so that a voter using the booth or device has his or her back to a wall and no one is passing behind the voter. (*See supra*, Placement of Equipment and Furniture within Voting Area).
 - c. **Privacy Sleeve.** At the ED table, Privacy Booth, or Ballot Market Device, a privacy sleeve (often a manila folder) will be provided to the voter in order for the voter to carry his or her marked ballot to the Ballot Scanner. In Westchester, this may be offered to voters upon request.
5. **Marking a Ballot at the Privacy Booth**
 - a. The voter will **mark the ballot using an official pen** that will either be given to the voter by the Inspector or found in the Privacy Booth. Failure to use the official pen may result in his or her vote not being counted by the Ballot Scanner.
 - b. **It is important that each voter marks every contest by completely filling in the oval or square to the upper right of the candidate or issue of his or her choice.** The voter may also write in a candidate within the designated space. **The voter must not use an “X”, “check”, or “circle” and must not make any stray marks, or use white out or other corrective fluids, as the Ballot Scanner will not scan and tally a ballot**

³² N.Y. Election Law Rules and Regulations Part 6210.13(a)(11), www.elections.ny.gov/ElectionLaw.html (last visited 9/10/18); NYC 2018A Poll Worker Manual, at 85, 90, 96; Nassau 2015/16 Inspector Guide, at 38-39; Westchester 2018 Poll Worker Manual, at 41.

so marked. An improperly marked ballot will be placed in the Emergency Ballot Box and a determination will be made at the poll closing whether that ballot should be counted. (*See* 9 NYCRR 6210.13.)

- c. **Voter can include write-in candidates.** Voter should locate the appropriate write-in section on the ballot. Voter fills in the oval marked “WRITE-IN” and writes the candidate’s name on the line provided.
- d. **The ballot must not be folded or rolled.** The Ballot Scanner may jam, as a folded or rolled ballot is fed into it.
- e. **If the voter makes an error, he or she cannot “cross-out” the error.** Rather, voter may successively obtain others, one at a time, not to exceed three paper ballots. N.Y. Elec. Law §8-312. The Inspector will write “VOID” on the ballot with the error and put it in the Void Ballots Envelope. (*Id.* § 8-316.) The Inspector will give the voter another ballot.
- f. The marked ballot may be placed in the Privacy Sleeve for feeding into the Ballot Scanner.

6. Using a Ballot Marking Device (BMD)

The BMD is used to assist those voters who are blind, vision-impaired, or have a disability or condition that would make it difficult or impossible to mark a ballot by hand. Any voter who desires to do so, whether disabled or not, may choose to vote using the BMD available at the poll site. Further, voters with disabilities may choose to vote by hand marking the Ballot, rather than using the BMD.

New York State uses two types of Ballot Marking Devices.

- (i) **New York City and Albany, Erie, Nassau, Rockland and Schenectady counties** use the ES&S AutoMark; and
 - (ii) **Other counties** use the Sequoia/Dominion ImageCast.
- b. **ES&S AutoMARK BMD Instructions**³³

- (i) The voter should hold the ballot level and straight, and insert the ballot into the ballot feed slot on the front of the machine. Every BMD (Ballot Marking Device) automatically offers the ballot in English and Spanish. Additionally, if the poll site is designated for Chinese, Hindi, or Bengali, the voter can press the language button on the BMD welcome screen to change the language. The voter will select the preferred language by touching the proper box on the screen.

³³ NYC 2018A Poll Worker Manual, at 16, 81-86; Nassau 2015/16 Coordinator Guide, at 26-29.

- (ii) For each candidate's name or ballot proposal, the voter will touch the screen in the area indicated for that candidate or issue, or use one of the available assistive devices.³⁴ Those devices are (i) Braille embossed keypad with up, down, right and left arrows for navigating the ballot and changing the size of the information on the screen; (ii) sip and puff device; (iii) rocker paddle device; (iv) stylus (to help with touchscreen). Instead of using the screen images, the voter can use any of the above devices in combination with available headphones, which provide audio ballot information and voting instructions. The voter may change his or her selection at any time.
- (iii) To cast a vote for a write-in candidate, the voter should touch the "Write-in" option on the screen. A keyboard will appear on the screen. The voter will type in the name of a candidate and press "OK."
- (iv) After he or she has completed the last page of the ballot, the voter will press the "Review" button on the screen, or as instructed by the audio feature. To change a selection, the voter can touch the box next to a candidate's name or ballot proposal and reselect. Then, he or she can touch the "Review" button again to return to the summary screen.
- (v) When finished, the voter will press "Mark Ballot" to complete the voting procedure and print the ballot. The voter may remove and review the printed marked ballot. If any selection is not accurate, or if he or she changes his or her mind about a selection, the voter may return the marked ballot to the Inspector to obtain a replacement ballot.
- (vi) Once he or she has verified that the marked ballot is correct, the ballot should be put it in the privacy sleeve, taken to the Ballot Scanner and inserted into it.
- (vii) **Paper Jam.** Please review procedures to fix a paper jam in the ES&S AutoMARK.³⁵

c. **Sequoia/Dominion ImageCast (a/k/a "IC-2 BMD") Instructions³⁶**

- (i) The Sequoia Dominion ImageCast consists of both a device for marking a blank ballot and an optical scanning unit for verifying the contents of the marked ballot. To create the marked ballot, the device

³⁴ NYC 2018A Poll Worker Manual, at 82-84; Nassau 2015/16 Coordinator Guide, at 26-29.

³⁵ NYC 2018A Poll Worker Manual at 85-86. Detailed BMD jam instructions can be found in the NYC Board of Elections, Special Instructions for Inspectors at Ballot Marking Device, at p.2, vote.nyc.ny.us/downloads/pdf/documents/boe/2015PrimaryElection/2015_BMD_Ballot_Insert_Special_Instructions_2015_Ballot.pdf (visited 9/10/2018).

³⁶ Monroe 2018 Inspector Manual, at 37-43, <https://bit.ly/2oVonSo>.

utilizes both a visual interface on a screen and an audio tactile interface (“ATI”). Selections cannot be made by touching the screen.

- (ii) The voter should hold the blank ballot level and straight, then insert it into the slot on the device. The ballot will be drawn into the device. The voter should affix the privacy sleeve to the device’s slot, where it will receive the printed ballot when the voter has completed his or her selections. If the device has been programmed with different languages, the voter will be able to select from among them using the ATI.
- (iii) For each candidate’s name or ballot proposal, the voter can make the choice using the ATI, which also allows him or her to adjust volume, and pause and repeat audio messages. The voter may also choose to receive audio instructions through the use of available headphones, which can also be used with the other available assistive devices, which are a sip and puff device; and a rocker paddle.
- (iv) If the voter wants to enter a write-in candidate, the device will provide instructions on how to spell out the candidate’s name.
- (v) After the voter has completed making his or her selections, the device will display a summary review screen and allow the voter to review and change or edit his or her ballot choices. Once the voter has confirmed his or her ballot choices, the device will print a completed paper ballot, which will be inserted into a privacy sleeve.
- (vi) If the voter wishes to review his or her completed paper ballot using the same assistive devices on the machine, he or she must notify the poll worker who will enable the machine’s feature. The voter then inserts the ballot with the privacy sleeve into the scanner section of the device, which will draw the ballot in and permit the voter to review the ballot by means of the assistive devices previously provided.

E. CASTING A BALLOT IN THE BALLOT SCANNER

The Ballot Scanner is used to read marked paper ballots and tallies the results. New York State uses two types of Ballot Scanners.

- **New York City, Albany, Erie, Nassau, Onondaga, Rockland, and Schenectady counties use ES&S DS200 Ballot Scanners;** and **All other counties** use the Sequoia/Dominion ImageCast Ballot Scanners.
- **Secret Ballot preserved.** The ballot scanner shall be operated in a way that keeps the ballot secret and obscured (*see* N.Y. Elec. Law §8-300). Privacy sleeve allows voter to insert marked ballot without others viewing ballot.
 - Eg: New York City Board of Elections manual instructs inspectors to: “STAND 5 FEET FROM THE SCANNER to make sure voters have

privacy when scanning their ballots”; “Do not look at the voter’s ballot. The ballot should be in a black striped privacy sleeve”; and, “Avoid looking at or touching the voter’s ballot.”³⁷

- **Abandoned Ballot.** A ballot abandoned near, on top of or in the **Scanner** is not considered abandoned and ballot should be scanned by a bipartisan team. If it can’t be scanned, the ballot is saved and hand-counted later. Ballots abandoned at the privacy booth must be spoiled. **Nassau** also saves ballots “abandoned” at the ED check-in table, while **Westchester** spoils all other abandoned ballots.³⁸

4. **ES&S DS 200 Ballot Scanner Instructions**³⁹

- a. If multiple language ballots are available, the voter may select his or her preferred language by touching the proper box on the screen. The paper ballot is then inserted.
- b. The Ballot Scanner accepts ballots in any direction and reads both sides of the ballot.
- c. When a paper ballot is inserted, the ES&S DS200 will display one of several messages to the voter. The voter can press on the screen either (i) a red button with the phrase, “Don’t Cast – Return Ballot” or (ii) a green button with the phrase, “Cast Ballot.” Pressing the green button will cast the ballot.
- d. **There is no under vote notification.** Accordingly, a voter will not be informed that he or she has missed voting for that contest or ballot proposal. Once the voter has pressed the green button “Cast Ballot,” he or she should receive a confirmation message.
- e. Common issues include the following:
 - **Voters Wants to Change His or Her Ballot.** The Inspector will void the ballot and issue a new ballot.
 - **Touch Screen Lid is Closed.** Open touch screen immediately and press “CANCEL” on the screen.

³⁷ NYC 2018A Poll Worker Manual, at 87.

³⁸ *Matter of Stewart v Chautauqua County Bd. of Elections*, 2010 N.Y. Slip Op. 01530, *4-6 (counting two “abandoned” ballots: one where voter left immediately after feeding ballot into Scanner but before learning it was rejected by Scanner; and, one where voter knew it was unscannable but refused to complete another paper ballot); N.Y. Election Law Rules and Regulations Part 6210.13(a)(11), www.elections.ny.gov/ElectionLaw.html (last visited 9/10/18); NYC 2018A Poll Worker Manual, at 85, 90; Nassau 2015/16 Inspector Guide, at 38-39; Westchester 2018 Poll Worker Manual, at 41.

³⁹ NYC 2018A Poll Worker Manual, at 87-91.

- **Touch Screen is Black When Not in Use.** If the machine is idle for 10 minutes, the touch screen will turn off. If you touch the screen, the screen will turn back on.
- **“Your Ballot is Blank” Message.** If the voter has not marked any choices on the ballot, he or she may choose to cast it anyway, or can have it returned. The Voter can return to the Privacy Booth to mark the ballot.
- **“Overvote” Message.** The voter has selected a greater number of candidates than vacancies to be filled for an office. If the voter chooses to cast the ballot, the ballot will be void for the public office or party position for which the voter has selected too many candidates. If the voter chooses not to cast the ballot, the ballot will be returned. The Inspector will void the ballot and issue a new ballot. This is contrasted with “Doublevote”.⁴⁰
- **Jammed Ballot.**⁴¹ An Inspector should pull out the ballot and reinsert. If ballot is damaged, a replacement ballot should be issued. A jam should be reported to the Coordinator who can call for a technician. Direct voters to another scanner until technician arrives. If all Ballot Scanners are not working, the voter should cast his or her ballot in the Emergency Ballot Box in the designated Ballot Scanner.
- **Ballot Cannot Be Scanned and Voter Refuses to Get Another Ballot to Mark.** The voter will cast the ballot in the Emergency Ballot Box in the designated Ballot Scanner. (*See* 9 NYCRR 6210.13(a)(8); *Stewart v. Chautauqua County Board of Elections*, 2010 N.Y. Slip Op. 01530, *4 (February 23, 2010) (affirming the counting of an unscannable ballot in which the voter had refused to replace that ballot with a new one, even though he knew that the Ballot Scanner was unable to scan that ballot).
- **Nassau:** Should there be an over vote, the ballot must be ejected from the machine and placed in the GREEN UNSCANNED BALLOTS (a/k/a unscanned emergency ballots) Bag. These cannot be scanned because we don’t know the Voter’s Intent.
- **“Election Definition Not Found” Message.** The memory stick is missing or not installed properly. The Inspector must contact the County Board of Elections.
- **Ballot Will Not Feed or “Missing Timing Mark Error (101)” Message.** The ballot box entrance is in a “locked” position or is blocked, often times by the power cord, which can move over the course of an election.

⁴⁰ *Overvotes and Doublevotes Guidance*, included as Reference 9. “A message is displayed if a ballot contains overvotes (more candidates selected than indicated for a contest) The scanner will not display a message for double votes (more than one vote for the *same candidate*).” *Id.* Unlike an “Overvote”, if a voter selects *the same candidate* on multiple ballot lines, candidate intent is clear. The first Party line listed with the completed oval will count for that office. *Id.*; Nassau 2015/16 Inspector Guide, at 43; Westchester 2018 Manual, at 31.

⁴¹ NYC 2018A Poll Worker Manual, at 88.

- **Ballot Scanner breaks down.** The Inspector directs the voter to the next available Ballot Scanner. Ask Coordinator to report the problem and follow up after a reasonable time. If Coordinator refuses to report the issue, call NYDLC. Wait for the technician to come and fix the problem.
- **If all Ballot Scanners break down.**⁴² Notify Coordinator immediately to report the issue. The number to call for breakdowns is on the side of each Scanner. Ask Coordinator to begin **Emergency Procedures:** a) Inspector breaks the yellow seal on the Emergency Ballot Box at Scanner A; b) Inspector puts a metal flap down to reveal the Emergency Ballot slot; c) Inspector reseals the door with a yellow plastic numbered seal from the Police Envelope and records the seal number; d) Directs all voters to place ballots in the Emergency Ballot Box of Scanner A. If Scanner A becomes full, prepare and use Scanner B in same manner. e) **At the close of polls,** if scanners have been fixed, ALL Emergency Ballots must be scanned into Scanner A. If they have not been fixed, Coordinator collects Emergency Ballots for tally at the ED tables.
 - **If Scanner is repaired before the close of polls,** Emergency Ballot Box should be reopened, silver flap is lifted to prevent further ballots from being placed in it; new strap seal is applied and the new seal number is recorded.
- **No Print is Visible on Receipt.** The printer paper roll is inserted incorrectly and must be reinserted.

5. Sequoia/ Dominion ImageCast Instructions

- a. When a paper ballot is inserted, the voter can select either “Reject” or “Cast” the ballot. If the ballot is rejected, the ballot is returned. The voter must return the ballot to the Inspector and obtain a replacement ballot. If the voter chooses to press “Cast” the machine will deposit the ballot into the attached ballot box.
- b. The Ballot Scanner accepts ballots in any direction and reads both sides of the ballot.
- c. Please note that there is no under vote notification. Accordingly, a voter will not be informed that he has missed voting for that contest or ballot proposal.
- d. Common issues include the following:
 - **Voter Wants to Change His or Her Ballot.** The Inspector will void the ballot and issue a new ballot.
 - **“Your Ballot is Blank” Message.** If the voter has not marked any choices on the ballot, he or she may choose to cast it anyway, or can

⁴² Comparable instructions for Nassau County can be found in the Nassau 2015/16 Inspector Guide, at 13-14.

have it returned. The Voter can return to the Privacy Booth to mark the ballot.

- **“Overvote” Message.** The voter has selected a greater number of candidates than vacancies to be filled for an office. If the voter chooses to cast the ballot, the ballot will be void for the public office or party position for which the voter has selected too many candidates. If the voter chooses not to cast the ballot, the ballot will be returned. The Inspector will void the ballot and issue a new ballot.
- **“Misread Ballot” Message.** If the ballot is misfed, the machine will automatically reject the ballot. The ballot may be physically damaged, have stray markings, or was inserted into the Ballot Scanner incorrectly. If the ballot is rejected multiple times, the voter should request a replacement ballot.
- **“Ballot Jam” Message.** If any part of the ballot is protruding through the entry slot, the Inspector should pull the ballot out and return it to the voter.
 - If the ballot is not damaged, it can be re-inserted. If, after re-inserting the ballot, the Ballot Scanner still detects a paper jam, the following message will be displayed, “Turn off machine and clear jam.” **The Inspector must not turn off the machine. Rather, he or she must call the Board of Elections.** The ballot must be inserted into another Ballot Scanner.
 - If the ballot is damaged, a replacement ballot can be issued.
- **Ballot Cannot Be Scanned and Voter Refuses to Get Another Ballot to Mark.** The voter will cast the ballot in the Emergency Ballot Box in the designated Ballot Scanner. (*See* 9 NYCRR 6210.13(a)(8)); *Stewart*, 2010 N.Y. Slip Op. 01530, *4 (February 23, 2010) (affirming the counting of an unscannable ballot in which the voter had refused to replace that ballot with a new one, even though he knew that the Ballot Scanner was unable to scan that ballot).)
- **Ballot Scanner Breakdown.** The Inspector directs the voter to the next available Ballot Scanner. If all Ballot Scanners stop working, the Inspector will call the emergency number on the device to report the problem. He or she will cut the yellow seal on the #2 Emergency Ballot Box at the designated scanner and open the metal flap to reveal the ballot slot. He or she will then reseal the #2 Emergency Ballot Box Door with a yellow plastic numbered seal and record the seal number. **Please record the seal number as well.**

F. CASTING AN EMERGENCY BALLOT

1. If a Ballot Scanner is not working, voters should be directed to other Ballot Scanners to cast their ballots (*see* N.Y. Elec. Law § 7-120). In NYC, all

scanners can technically accept all ballots at that poll site. In Westchester, only designated scanner for the ED will accept ballots for that ED (Instead, the “Plan B” machine will accept ballots from all EDs in the polling site). Ask Coordinator to report the issue to the Board of Elections and follow up after a reasonable time. Contact NYDNC about the malfunctioning Scanner.

2. The Inspector must not wait for the repair. Voters should continue to vote on another available scanner (or “Plan B” machine in Westchester).⁴³
3. While New York City and counties like Monroe have directed their election officials to use emergency ballots only when all Ballot Scanners become inoperable, you should encourage the use of emergency ballots in the event of a Ballot Scanner breakdown, if there are long waiting lines. We want to ensure that voters are not discouraged from voting due to a long waiting time.
4. During the first hour of break down, Inspectors **may** use emergency ballots, and after one hour, they **must** use them (N.Y. Elec. Law § 7-120(2)).
5. **Please note that the term “emergency ballot” is a designation only—it is the same as a regular ballot and is scanned by the Ballot Scanner (when the scanner is fixed/available).**
6. An Emergency Ballot **IS NOT** an Affidavit Ballot!
 - a. An **Emergency** ballot is used if any voting machine shall become out of order during an election. These ballots are opened at the polls after the polls are closed and counted as machine votes.
 - b. An **Affidavit** ballot is used when a voter’s name has been omitted from the computer generated poll books. These voters must swear that they are a registered voter and provide current and previous addresses, and at a primary election must include the party in which she is enrolled. A voter may also use an affidavit ballot to challenge his/her party enrollment state in the poll book.
7. The following are illustrative procedures for Emergency Ballots.
 - a. **New York City Instructions**⁴⁴
 - (i) There is a check box on the Voter Registration List for “emergency” when ALL scanners are not working. Voter signs Voter Registration List; Inspector checks the EMERGENCY box on the list, and writes in the stub number; Inspector gives voter a scannable ballot. The voter goes either to the Privacy Booth or Ballot Marking Device to mark his or her ballot.

⁴³ NYC 2018A Poll Worker Manual, at 88; Westchester 2018 Poll Worker Manual, at 40.

⁴⁴ NYC 2018A Poll Worker Manual, at 61, 91.

(ii) After voter marks his or her ballot, voter goes to Ballot Scanner that has been designated to receive an Emergency Ballot and place the Emergency Ballot into the Emergency Ballot Box.

b. Westchester County Instructions⁴⁵

(i) Have the voter sign the poll roster book as usual, but check the box in the voter's record that states "Emergency". Write "EB" and the Ballot Stub Number next to the voter's name in the Poll Roster Book.

(ii) Give the voter a ballot **DIRECTLY FROM THE BALLOT BOOK** (DO NOT give them a trim-fold affidavit ballot). Instruct him or her to complete the ballot privately. In a PRIMARY ELECTION, the ballots are color-coded to indicate political party enrollment. Ensure that primary voters are given the correct ballot

(iii) Write "EB" next to voter's name on the Sign In Sheet. Keep a "Stick Count" of emergencies in the Canvass Report.

(iv) Instruct the voter to scan his/her ballot into the BMD (Plan B) Machine. Explain that they should not "push" the ballot into the scanner opening. The scanner will pull the ballot in on its own. Trying to push the ballot in may cause a paper jam. If the BMD (Plan B) Machine is inoperable or will not accept ballots, then have the voter place their ballot in the ORANGE Security Pouch. Do not use Affidavit ballots or Affidavit envelopes for this purpose.

c. Monroe County Instructions⁴⁶

(i) If the scanner on any voting machine becomes inoperable for any reason, then direct voters to other scanners and call the Board of Elections immediately. If all scanners become inoperable, call the Board of Elections immediately.

(ii) Inspectors will receive instructions/permission from Commissioners to unlock the Emergency Compartment at the side of the Voting Machines below the scanner units and unlock the Emergency Compartment using the metal ballot box door key. Bring the compartment door down to reveal ballot entry slot and relock in place.

(iii) While the scanners are not functioning, the check-in procedure for voters remains the same. The voter will deposit their marked ballot into the ballot entry slot. Once the voter has deposited the ballot, they may not receive another ballot. Inspectors may not remove ballots from Emergency Compartment unless authorized by Commissioners.

⁴⁵ Westchester 2018 Poll Worker Manual, at 40.

⁴⁶ Monroe 2017 Inspector Manual, at 54, <http://bit.ly/2ya9rGj>.

- d. **Common mistakes:** Emergency Ballots must not be placed in an Affidavit Envelope. Affidavit Ballots must not be given out due to a scanner breakdown, because the voter's registration is not in question.
- e. If the supply of official Ballots is exhausted before the polls are closed, then the Board of Elections must prepare forms (printed or written) as nearly in the form of the official ballots as possible, and treat them as emergency ballots (N.Y. Elec. Law § 7-120(2)).
- f. **If Scanner is repaired before the close of polls,** Emergency Ballot Box should be reopened, silver flap is lifted to prevent further ballots from being placed in it; new strap seal is applied and the new seal number is recorded. **At the close of polls,** if scanners have been fixed, ALL Emergency Ballots must be scanned into Scanner. If they have not been fixed, Coordinator collects Emergency Ballots for tally at the ED tables.

G. CASTING AN AFFIDAVIT BALLOT

1. An Affidavit Ballot⁴⁷ is a rights-preserving safeguard. It should be proactively offered in the following situations once it is determined that a person claiming to be a voter is at the polling place assigned to his/her current address:
 - a. Voter's name is not found in the Voter Registration List (at check-in). Applies to all voters impacted if all or part of a check-in List is missing.
 - b. A registered voter moved within the same locality (NYC or county) to an address in a *different* ED without updating registration address. Person votes at the ED of new residence (see "Voter Who Has Moved", *supra*).
 - c. Voter's signature is missing, or the wrong signature is in the record.
 - d. Voter who is required to show ID ("ID REQ", "ID", "I", or ID Icon in registration record) does not have it or will not show it to the Inspector.
 - e. Voter has "inactive" registration status.
 - f. A formally challenged voter *refuses* to take/sign the Challenge Oath.⁴⁸
2. **Every attempt should be made in the first instance to ensure that the voter is in the correct poll site and ED for their address and to locate the voter's registration record in the Voter Registration Book or online. Offer to help!** Check voter registration and poll site locations with a smart phone: <https://voterlookup.elections.state.ny.us/votersearch.aspx>.
 - a. Some County Board websites maintain their own poll site finder tool.
3. If voter cannot be located after a diligent search we must make sure that, at minimum, an Affidavit ballot is offered by Inspector as matter of course.

⁴⁷ An Affidavit Ballot is not scanned by a Ballot Scanner. It is placed in an Affidavit Ballot Envelope which must be filled out by the voter. Affidavit ballots are segregated and scrutinized and may or may not ultimately count.

⁴⁸ HAVA, 52 U.S.C. § 21082; Orange County 2018 Poll Inspector Manual, at 21.

4. Offer to assist both the voter and Inspector in correctly completing the Affidavit Ballot Envelope. Affidavit Ballots are returned inside an Affidavit Ballot Envelope and researched prior to determining eligibility to be counted. Small errors and omissions may be exploited late to invalidate the affidavit.
5. Affidavit ballots are a different shape than scannable (regular) ballots and cannot be fed into the scanners. In **Westchester** affidavits are tri-folded.
6. **The affidavit process is as follows** (N.Y. Elec. Law § 8-302(3)(e)):

If it is determined that the voter resides in the ED, but the voter is not listed in the Voter Registration Book, or signature does not appear next to the name, or during a primary the registration does not show the voter as enrolled in the party in which voter claims, the Inspector is required by law to provide an Affidavit Ballot, or the voter can seek a court order to vote a regular ballot on the scanner (voter is unlikely to return, so suggest the affidavit ballot option).

- a. The Inspector issues the following: (i) Affidavit; (ii) Affidavit Ballot Envelope; and (iii) voting rights flyer to the voter.
- b. The voter marks the ballot, completes the information on the envelope, places the ballot in the envelope and seals it, and returns the envelope and empty privacy sleeve to the Inspector. The sealed Affidavit Ballot Envelope is placed in the Large “A” Envelope by the ED cart/table.⁴⁹
- c. The “Affidavit” requires voter to swear that voter has duly registered; to provide the address in such election district at which they registered; that he or she remains a duly qualified voter in such election district; that his or her registration record appears to be lost or misplaced or the signature was omitted, or that he or she has moved within the county or city since he or she last registered (voter must provide the address from which he or she was previously registered and the address at which he or she currently resides); and, at a primary election, the missing party enrollment. **The inspectors of election shall offer such an affidavit to each such voter whose residence address is in such election district.**
- d. If the voter makes a mistake on the ballot or somehow damages it, the Inspector will write “VOID” on it and put it in the Void Ballot Envelope. A voter may be issued up to three ballots. *Id.* § 8-316.
- e. At either the Privacy Booth or the Ballot Marking Device, the voter marks the ballot. Once he or she marks the ballot, fills out the affidavit envelope, inserts the ballot into the envelope, and seals the envelope, the voter returns to the ED Table to submit the envelope. The voter should NOT proceed to the Ballot Scanner. The Inspector will place the affidavit envelope in a large “A” envelope (or e.g. Nassau: Affidavit Ballot bag).

⁴⁹ NYC 2018A Poll Worker Manual, at 71.

H. VOTERS IN NEED OF ASSISTANCE

1. Voter Has a Disability

- a. Inspectors shall assist any voter who informs them, under oath, that s/he cannot read, see, or mark ballot due to physical disability (EL § 8-306).
- b. Any voter who needs assistance to vote by reason of blindness, disability or inability to read or write may be given assistance by a person of the voter's choice, with the exception of: (i) voter's employer or agent of the employer or (ii) officer or agent of the voter's union. (*Id.* § 8-306(3)).
- c. Prior to assisting the voter at the Privacy Booth or Ballot Marking Device, the chosen assistant must take an oath that he or she will not persuade or reveal the vote of the person he or she assisting (*Id.* at § 8-306(5)).
- d. A voter who is entitled to assistance in voting and does not select a particular person may be assisted by two Inspectors not of the same political party (*Id.* at § 8-306(7)).
- e. The New York City Board of Elections has detailed suggestions on how to provide services to voters in need of assistance.⁵⁰
- f. Please see above for instructions for Ballot Marking Device.

2. Language Assistance⁵¹

- a. The Boards of Elections in certain counties are mandated by the Federal Voting Rights Act to provide written and oral language assistance for certain languages. (28 C.F.R. §55.3- 55.4(2)(b); Voting Rights Act §§4(f)(4), 203(c)).
 - (i) Spanish assistance is required in NYC at designated poll sites.
 - (ii) Chinese assistance is mandated at designated poll sites in Manhattan, Brooklyn, and Queens.
 - (iii) Korean assistance is mandated at designated sites in Queens alone.
- b. **NYC: BMD** allows voter to access ballot in English and Spanish. If poll site is designated for additional languages, those are available on BMD.⁵²
- c. **Right to personal assistance.** Any voter who needs English language assistance (“inability to read or write”) may be assisted by a person of the voter's choice, except: (i) voter's employer or agent of the employer or (ii) officer/agent of voter's union. Prior to assisting the voter at the Privacy Booth or Ballot Marking Device, the chosen assistant must take an oath that he or she will not persuade or reveal the vote of the person he or she assisting (N.Y. Elec. Law § 8-306(3) and (5)).

⁵⁰ NYC 2018A Poll Worker Manual, at 5-6.

⁵¹ NYC 2018A Poll Worker Manual, at 4, 59.

⁵² NYC 2018A Poll Worker Manual, at 16.

IV. ELECTIONEERING AND INTIMIDATION

A. ELECTIONEERING OUTSIDE THE POLL SITE

1. Periodically check outside the poll site to make sure that no one is attempting to intimidate voters, distributing literature, or otherwise campaigning within 100 feet of the poll site entrance. The Inspectors should post signs at the points where electioneering must stop (N.Y. Elec. Law § 8-104).
2. As a practical matter, measuring whether the “No Electioneering” poster is exactly 100 feet away from the poll site entrance is less important than making sure that the “no electioneering” mandate is applied equally to all campaigners and that voters have access to the poll site entrance.

B. ELECTIONEERING INSIDE THE POLL SITE

1. No campaign material or buttons should be displayed at the poll site.
2. If you see anyone electioneering in any way whatsoever, ask the Election Inspector or Police Officer to stop that person.
3. Voters are entitled to take campaign materials into the polls with them, but they are not allowed to leave it anywhere in the voting area, including ED Table, Privacy Booth, Ballot Scanner.
4. If you see campaign materials anywhere in the voting area, including ED Table, Privacy Booth, or Ballot Scanner, have the materials removed immediately.

C. VOTER INTIMIDATION OR DISRUPTION IS ILLEGAL

1. **Pernicious political activity is a crime. Further, using or threatening violence or other intimidation is a crime.** It is illegal to attempt to interfere with the voter’s decision whether to vote, and if so, how to vote. Examples of interference include physical violence, threats of the same, bribery, or promise of employment (N.Y. Elec. Law §§ 17-150, -152, -154).
2. **Election Inspectors have a duty to protect voting rights.** Inspectors “Shall preserve good order within and around the polling place or place of registration, and shall keep access thereto unobstructed. The board of inspectors, or any member thereof, by order in writing may direct the arrest of any person who refuses to obey the lawful commands of the inspectors or who is guilty of disorderly conduct disturbing their proceedings or violating or attempting to violate any of the provisions of this chapter. Any peace officer, acting pursuant to his special duties, or police officer shall, when requested by the board or a member thereof, execute such order forthwith” (*Id.* § 3-402(3)).

3. **Help prevent intimidation/disruption.** If anyone is intimidating voters or obstructing the process, report that person to the inspectors and police and ask that they be removed from the site (and possibly arrested) for pernicious political activity. Report to Boiler; Document who was involved in incident.

D. EXAMPLES OF VOTER INTIMIDATION/MISINFORMATION

1. Requesting identification at the poll site entrance is voter intimidation.
2. Signs, posters, phone calls, sound trucks giving misleading or false “information” about voter requirements or eligibility. False information may include: (i) the police will arrest those voters who owe child support or have pending warrants; (ii) If a voter's house is under foreclosure they will not be able to vote; (iii) If a college student registers to vote at their college address, the parents will not be able to claim student as dependent for tax purposes; and (iv) Republicans vote Tuesday and Democrats vote the following day.
3. **Challenges.** Use of challenge process to intimidate or interfere with voters, including slowing the voting process for other voters (see *supra* Challenges to Voter Eligibility). Although the legal right to challenge exists, the challenge process must not be abused or used as a means of obstructing access to the polls. Generalized challenges are prohibited. **Our goal is to see to it that challenged voters are offered and take the necessary oath and cast a regular ballot in the Scanner despite the challenge.** If challenged voters who take the challenge oath are instructed to vote by Affidavit Ballot, this is a clear misinterpretation of the law, N.Y. Elec. Law §8-504, and the poll worker training (e.g., NYC 2018A Poll Worker Manual, at 59; Nassau 2015/16 Inspector Guide, 29-32; Westchester 2018 Poll Worker Instruction Manual, at 52-54). The face of the challenge oath itself may also clarify this point.
4. Poll Watchers, local law enforcement officers, or persons with official-looking badges or insignia stationed at poll sites taking pictures, asking for names, or engaging in other types of intimidating conduct. Also watch out for other persons deliberately placed at poll sites to harass or hassle voters.
5. Efforts to create longer lines at the polls through means such as limiting the number of Voter Registration Books and deliberately sending unregistered voters into certain poll sites to create confusion, delay, and create a scene and slow down voting at those poll sites.
6. Acts intended to obstruct voting, such as evacuating a poll site because of a non-existent fire, causing a disturbance at the poll site, or placing road blocks on access roads for non-scheduled “construction” activity.

V. CLOSING THE POLLS & RESULTS CANVASS

A. VOTERS IN LINE OR IN POLL SITE

1. The polls close at 9:00 p.m. Anyone who is in line or inside the poll site by closing time must be permitted to vote (N.Y. Elec. Law § 8-104(5)). In NYC, the Police Officer will make sure no one else joins the line after 9:00 p.m.
2. **Please do not leave your poll site early!** Make sure that everyone who was in line by 9:00 p.m. is permitted to vote and the polls are closed properly.

B. WHO MAY BE PRESENT

1. Any candidate or duly accredited Poll Watcher may be present at the poll site during the canvassing time (N.Y. Elec. Law. § 9-102(3)(a)).

C. CANVASSING

1. As soon as the polls are closed, an Inspector will be stationed at the Ballot Scanner to prevent further voting (N.Y. Elec. Law § 9-102(1)(a)).
2. The room in which the canvass is made must be clearly lighted. Ingress and egress through the main entrance must be freely permitted. The canvass must be made in plain view of those entitled to be present (*Id.* § 9-102(6)).
3. Inspectors will account for all the paper ballots furnished to that Election District on an official reconciliation form (*Id.* §§ 9-102(b), 9-106). The following are the categories of ballots and how the ballots are processed:
 - a. **Unused Ballots.** Inspectors count and record the number of unused ballots (includes unopened shrink-wrapped packages and pads on tables).
 - b. **Ballots Cast in Ballot Scanner.** Inspectors count and record the number of cast ballots from the results/cosing tape of each Ballot Scanner.
 - c. **Affidavit Ballots.** Inspectors count and record the number of Affidavit Ballot Envelopes. The Poll Watcher also should record this number. **The envelopes are not to be opened at this time.** The ballots are placed in the “A” Labeled Envelope (or designated Affidavit Ballot Bag) and will be reviewed subsequently at the Board of Elections offices.
 - d. **Emergency Ballots.** Bipartisan Inspectors should attempt to scan any Emergency Ballots at poll closing, prior to the memory card being removed (see *infra* Portable Memory Device (PMD) Chain of Custody). Any that could not be scanned are placed in the appropriate container—NYC: Valid Emergency Ballot Envelope; Nassau: Green Unscanned Ballots Bag; Westchester: Orange Security Bag. Inspectors count and record number of valid unscanned ballots.

- (i) **Issue: Excess Emergency Ballots.** If there are more unscannable Emergency Ballots than the accounting indicates there should be, the Inspectors follow a procedure to remove the excess ballots (*See id.* § 9-108(1) and (2)). In summary: Ballots shall all be replaced in the box from where they were taken without being unfolded and are shuffled. One inspector with his or her back to the box, publicly draws out as many ballots as are equal to the excess amount and puts them in a sealed and labeled envelope ("excess ballots"), and places envelope in box for defective or spoiled ballots.
- (ii) **Issue: Unscannable Emergency Ballots.** If an Emergency Ballot is rejected by every scanner in the polling site, each jurisdiction has developed a procedure to determine whether the ballot should be counted, in accordance with N.Y. Elec. Law § 9-110.⁵³
 - (1) **New York City.** The Inspectors unfold Unscannable Emergency Ballots and put them face down in one stack. Inspector turns over one at a time loudly declaring the vote registered for each section of the ballot, or that the ballot is void, or a section is blank. Both Inspectors must agree the whole ballot is void and NOT to be tallied if (i) there is any mark or erasure outside the spaces for voting; or (ii) the ballot encloses any paper or other article when folded. If the ballot is void, the Inspectors will write "VOID" on it and place it in the **Void Ballot Envelope**. (*Id.* § 9-124(1) and (3)). When this tally is complete and results announced, inspectors shall affix tally sheets on the return of canvass.
 - (2) **Monroe County.** Unscannable Emergency Ballots are placed in **Unscannable Emergency Ballot Envelope** and returned to County Board, which will determine whether they count.
 - (3) **Westchester County.**⁵⁴ Unscannable Emergency Ballots are placed in **Orange Security Pouch** and returned to County Board, which determines whether they count.
- e. **Void Ballots.** The Inspectors records the number of void ballots and place them into the **Void Ballot Envelope** (N.Y. Elec. Law § 9-124(1) and (3)).
- f. **Absentee Ballots.** Completed absentee ballots are typically mailed to or completed at the local BOE. They will be accepted at poll sites for return (unopened) to the BOE in NYC, Westchester, Erie, Columbia, Orange, Dutchess, Monroe, Madison. Absentees will not be accepted at poll sites in Cortlandt or Nassau.

⁵³ If requested by a Poll Watcher or candidate, the Inspectors must, during the canvass of any ballots, exhibit to him or her the ballot then being canvassed, fully opened and in such a condition that he may fully and carefully read and examine it, but no Inspector shall allow any ballot to be taken from his or her hand or to be touched by any person but an Inspector (N.Y. Elec. Law § 9-102(6)).

⁵⁴ Westchester County Board of Elections, ImageCast Scanner Manual Plan A (5/5/2016), at 33.

4. Canvass of the Ballot Scanners

New York State uses two types of Ballot Scanner. The ES&S DS200 Ballot Scanners are used in New York City and in Albany, Erie, Nassau, Rockland, Schenectady and Onondaga counties. The Sequoia/Dominion ImageCast Voting Machines are used in all other counties.

a. **ES&S DS200 Ballot Scanner.** Complete procedure for closing the Ballot Scanner can be found online in an instructional video put out by the NYC Board of Elections,⁵⁵ in the poll worker manual put out by the Board of Elections,⁵⁶ or Inspector's "closing the scanner" card. A summary of the process and various safeguards / legal authority is included below.

- (i) Inspector unlocks access door on Scanner to reveal the "Close Poll" Button and holds it down. On screen, Inspector presses "Close Poll". Inspector prints two results/closing tapes in presence of Poll Watchers and others lawfully present, allowing for a "full view" of results (N.Y. Elec. § 9-102(2)(a)). A copy of the tape is posted for review (*Id.* § 9-102(3)(a)). Inspectors sign the tapes.
- (ii) Chairperson announces results as shown on the tape, including write-ins. Inspector records Public Count and Protected Count displayed on Scanner screen (*Id.* § 9-102(2)(c)).
- (iii) Inspectors turn off the Scanner and remove the Portable Memory Device (PMD), placing it in a secure/sealed container, signed by inspectors (*Id.* § 9-102(2)(d)). Details of this process vary depending on the jurisdiction.
- (iv) The following security seals are applied to the Scanner at closing (record the seal numbers for the Return of Canvass):⁵⁷ LCD Lid; Ballot Box; Ballot Box Door(s); Emergency Ballot Box Door; External Top Lid; Hinged Access Door.

b. **Sequoia/ Dominion ImageCast Voting Machine Instructions.**⁵⁸ Complete procedure for closing the Voting Machine ("ICVM") varies by jurisdiction and can be found in the specific county's poll worker manual. Summary of the process, safeguards, and legal authority is included here.

- (i) Inspector holds the iButton/security key against metal pad labeled "Security Key" to bring up administrative menu on screen. Inspector presses "Close Poll" on screen. Message "Are you certain you wish to

⁵⁵ NYC Poll Worker Training Video: *Closing the DS200 Ballot Scanner*, <http://vote.nyc.ny.us/html/workers/pollworkertraining.shtml#>.

⁵⁶ NYC 2018A Poll Worker Manual, at 96-100.

⁵⁷ For further info on the security seals, please review the Opening Ballot Scanner section *supra*.

⁵⁸ Please note each County has specific instructions that differ. *E.g.*, Monroe 2018 Inspector Manual, *Closing the Image Cast Voting Machines*, at 26-27, <https://bit.ly/2oVonSo>.; Westchester County Board of Elections, ImageCast Scanner Manual Plan A (5/5/2016), at 22.

close polls?” appears. Inspector presses “Yes”. Inspectors print two copies of results/closing tape in presence of Poll Watchers and others lawfully present, allowing for a “full view” of results (N.Y. Elec. Law § 9-102(2)(a)). One tape should be posted for review (*id.* § 9-102(3)(a)). Inspector records Machine Serial Number at bottom of tape and inspectors sign Certificate of Inspectors at bottom of tape.

- (ii) Chairperson announces results on the tape, including the aggregate number of write-in votes (*id.*). Inspector records the Public Count and Protected Count displayed on the Scanner screen. (*Id.* § 9-102(2)(c)).
 - (iii) Inspector places closing tape in an envelope which is placed in the appropriate security pack (along with Opening Tape). In **Monroe**, this is Red Security Bag. In **Westchester** this is Orange Security Bag.
 - (iv) Inspectors turn off Voting Machine and check that operator panel and status lights next to memory card compartment are completely out. Inspector removes the Portable Memory Device (PMD), placing it in a sealed/secure container, which is signed by the inspectors (*Id.* § 9-102(2)(d)). Details of this process vary depending on the jurisdiction.
 - (v) The following security seals are applied to Voting Machine at closing (record seal numbers for Return of Canvass): Metal Scanner Cover/Privacy Shield; Ballot Box Door, ATI Port seal, Compact Flash (CF) Door Seals (2); and Thermal (receipt) Printer.⁵⁹
- c. Inspectors record the election results and security seal numbers on the Return of Canvass. Election results consist of the tabulated results tape numbers and results of any hand counting of ballots (*id.* at § 9-102(2)(a)).
 - d. **The Poll Watcher should verify and record the results, Public Count, and Protected Count.**
- 5. Completion of Return of Canvass
 - a. The Inspectors will complete the Return of Canvass form⁶⁰ by recording the tally of ballots issued in the appropriate box. The Inspectors must certify the information on the Return of Canvass is true in all respects.
 - 6. Proclamation of the Results
 - a. Upon the completion of the Canvass and of the Return of the Canvass, the chairperson shall “make public oral proclamation” of the election results (*id.* § 9-122).

D. PORTABLE MEMORY DEVICE (PMD) CHAIN OF CUSTODY

- 1. Each Ballot Scanner has a PMD (aka flash drive, memory stick) in addition to the results (closing) tape that must be removed, uploaded, and delivered.

⁵⁹ For further info on the security seals, please review Opening the Ballot Scanner, *supra*.

⁶⁰ In some counties, the form is known as the Statement of Canvass.

Chain of custody is important. In NYC, side of scanner contains a closing card with instructions.

2. **New York City.**⁶¹ **After upload, Police or AD Monitor receive PMD during Round #1 pick up, as follows:** 1) Inspector checks that all 9:00 p.m. voters have scanned their ballot; 2) The yellow seal on Emergency Ballot Box is broken and put in the Scanner Police Envelope. Any ballots are removed and scanned if possible (see below for how unscanned ballots are handled). 3) The yellow paper seal from the PMD door is removed and the black barrel key from Scanner Police Envelope is used to unlock door (**NOTE:** PMD must not yet be removed!). 4) "CLOSE POLL" button is pressed until "closing poll" screen appears. 5) Public Count and Protective Count are entered on worksheet. 6) Touch "Poll Close" 7) Once it reads "Safe to remove Election Media", PMD is removed and handed to Coordinator to upload results to a tablet. 8) After, Inspector secures PMD inside pink Ziploc bag that is in the small yellow scanner pouch. It is sealed with a white paper seal, signed by both Scanner Inspectors. 9) Pink Ziploc bag is placed into small yellow scanner pouch. 10) Inspector brings small yellow scanner pouch and Scanner Booklet with yellow 2-pronged seal to the Coordinator.
3. **Westchester** (Eg. ImageCast).⁶² **Memory card is placed in sealed Silver Security Bag and collected, as follows:** 1) After last 9:00 p.m. voter leaves, bipartisan teams shut down and unplug scanners so that the two red lights are completely off. 2) Cut the seal of the compact door labeled "Poll Worker" (**NOTE:** do not cut both, only cut the one on the right). 3) Push the tab on the right side of the "Poll Worker" labeled door to open flash door. 4) Push the slim button to right of the memory card to eject card. 5) Insert card into the Silver Security Bag and place seal on bag. 6) Record the seal number on the Report of Canvass / Seal Recording Sheet. 7) One staffer at poll site is designated to collect all Silver Security Bags for delivery to the BOE.
4. **Nassau County.**⁶³ **ED Chairperson shows Poll Coordinator that PMD is in visible pocket of Red Data Bag before departing, as follows:** 1) After last 9:00 p.m. voter leaves, bipartisan teams remove strap seal and unlock Emergency bin and scan any ballots. 2) Unscannable ballots are placed in Green Unscanned Security Bag. 3) After pressing "CLOSE POLL" button, two Results Tapes are printed. ED Inspectors sign them. 4) Results are read. Results tape is placed in Red Data Bag (second tape is made public and then placed in Red Data Bag). 5) The "Finished - Turn Off" screen option is pushed and DS200 powers down and power button/light goes off. 6) Bipartisan team removes PMD and places it in Red Data Bag. 7) Sticker seal

⁶¹ NYC 2018A Poll Worker Manual, at 93, 96-100.

⁶² Westchester County Board of Elections, ImageCast Scanner Manual Plan A (5/5/2016), at 24-25.

⁶³ Nassau County Board of Elections, *Election Day Closing Handbook* (Rev'd 06/2015), www.nassaucountyny.gov/DocumentCenter/View/1266; Nassau 2015/16 Coordinator Guide, at 37.

from Red Data Bag seals the compartment; rest of DS200 closing procedure occurs, using seals from Red Data Bag to seal DS200 internal blue ballot bins, Ballot and Emergency Ballot Doors, lid on the DS200. 8) DS200 silver key and barrel key are placed inside Red Data Bag. 9) Four seals are used for each of the supply bags (Green, Orange, Blue, Red). 10) Completed and signed Return of Canvass placed in Red Data Bag. 11) ED Chairperson shows Poll Coordinator Red Data Bag with PMD drive visible in front pocket before leaving poll site. Red Data Bag is NOT put into the ED suitcase. Both are returned to police precinct and Red Data Bag is handed to officer on duty.

5. **Monroe County** (Eg. Imagecast).⁶⁴ 1) After last 9:00 p.m. voter, inspector pushes black button on side of **red memory card** to eject. 2) Inspector places red memory card in Red Security Bag, seals, and records white plastic seal number on “After the Polls Close” sheet. 3) Inspector records another white plastic seal number on “Red Bag Transmittal Form”. 4) Form is placed inside Red Security Bag facing out clear window. This seal is used to secure Red Security Bag. 5) Site Chair responsible for return of Red Security Bag verifies contents and leaves to deliver it to designated location. 6) Inspector opens ballot box door and removes Blue Ballot Security Bag. 7) Inspector pushes black button to eject **blue memory card**. 8) Blue memory card is placed inside clear plastic zipper pouch inside of Blue Ballot Security Bag. 9) Write-in compartment ballots are counted and placed in “Write-In Return Envelope” which is sealed/signed (bipartisan) and placed inside Blue Ballot Security Bag, along with closing tape and voting machine keys in the “Voting Machine Key Return Envelope”. 10) Blue Ballot Security Bag zipped and sealed. 11) Site Chair responsible for return of Blue Ballot Security Bags will deliver them to designated location when polling site is completely closed.

E. PREP AND DELIVERY OF BALLOTS AND OTHER MATERIALS

1. Inspectors prepare delivery of the following to the Board of Elections:⁶⁵
 - a. Return Envelope, which includes: (i) Emergency Ballot Envelope; (ii) Void Ballot Envelope; (iii) Excess Ballot Envelope; (iv) Large Affidavit “A” Ballot Envelope; (v) Voter Registration Book; (vi) Signed Challenge Oaths; (viii) Court Orders; and (ix) Return of Canvass Sheet.
 - b. Ballot Bin Liner Case, which contains the scanned ballots, is removed from the Ballot Scanner, and is locked and sealed with plastic numbered seal.
 - c. Small Scanner Voting Records Pouch contains (i) the portable memory disk from the Ballot Scanner, (ii) signed Zero Report Tape from the poll

⁶⁴ Monroe 2018 Inspector Manual, at 26-27, <https://bit.ly/2oVonSo>.

⁶⁵ NYC 2018A Poll Worker Manual, at 93-110.

- opening; (iii) signed Results Report Tape from the poll closing; and (iv) Ballot Scanner key.
- d. Large Scanner Voting Records Bag includes the following (i) Small Scanner Voting Records Pouch; and (ii) Ballot Marking Device and ED Supply Cart keys.
2. Each Inspector must read and sign a certification statement at the end of the day.
3. **Verify that the marked ballots and memory cards from all Ballot Scanners are secured and are to be delivered by the proper individual to the Board of Elections.**
- (a) **In New York City**, the police officer takes the Return Envelope, large scanner voting records bag, unused ballot return bag(s), return of canvass, and ballot liner cases.
- (b) **Outside of New York City**, the police officer or designated election official delivers the Return Envelope large scanner voting records bag, unused ballot return bag(s), return of canvass, and ballot liner cases to the Board of Elections.

VI. BASIC NYS VOTER INFORMATION

A. ELIGIBILITY

1. **Qualifications to Register to Vote in New York:** To be eligible, a person must be a United States citizen; be 18 years old by December 31 of the year in which the registration form is filed (note: you must be 18 years old by the date of the general, primary or other election in which you want to vote); live at your present address at least 30 days before an election; not be in prison or on parole for a felony conviction; not be adjudged mentally incompetent by a court; and, not claim the right to vote elsewhere.
2. **NYS Registration Deadline:** Voters need to file voter registrations (in-person or mail-by) not later than 25 days prior to the date of the next ensuing primary, general or special election, and a mailed form must be received no later than 20 days before such election.
3. NYS registration: [English](http://bit.ly/1MhuNBO) (<http://bit.ly/1MhuNBO>) | [Spanish](http://bit.ly/1MSurUt) (<http://bit.ly/1MSurUt>)

B. CONFIRM VOTER REGISTRATION AND POLL SITE LOCATION

- Find NYS voter registration record and poll site locations: <https://voterlookup.elections.state.ny.us/>
- Find NYC correct poll sites by address, at: <http://nyc.pollsitelocator.com/search>.
- NYC Board of Elections hotline (poll sites, inquiries): 866-VOTE-NYC

NYS ABSENTEE VOTING:

- Used if voter will be absent from County (or NYC) on Election Day or unable to appear for limited reasons <https://www.elections.ny.gov/votingabsentee.html>. Last day to apply IN-PERSON: The day prior to Election Day. Last day to deliver absentee IN-PERSON to local BOE: Election Day (by someone other than voter).

NEW YORK IS A “CLOSED PRIMARY” STATE

- In New York, only voters enrolled in a party can participate in primaries. Voters who register to vote for the first time (or after a move) by the deadline above can participate, but the deadline for a change of party enrollment was in October, 2015.
- "Change of enrollment" applies to applications by a registered voter already enrolled in a party to enroll in a different party, or to delete enrollment in any party, or an application by a registered voter not enrolled in a party to enroll in a particular party.

NEW YORK FELON DISENFRANCHISEMENT LAW:

- A convicted felon has the right to register to vote if (i) maximum sentence of imprisonment has expired; (ii) discharged from parole, or (iii) has been pardoned or restored to the rights of citizenship. Probationers can vote. *Id.* §§ 5-106(2), -106(4).
- Persons conditionally pardoned by Exec. Order 181 (2018), must still register to vote.

C. ACCESSIBILITY SAFEGUARDS FOR DISABLED VOTERS

Poll watchers should take particular care to ensure that voting rights for people with disabilities are safeguarded. BOE practices designed for the general public may disproportionately impact these voters. Consider the following when you arrive your poll site:

I. General Disability Awareness:

1. Workers/watchers should never assume voter needs assistance. If voter is assisted by an aide, make eye contact/speak to voter, not the aide; Keep poll site and paths free of clutter or barriers. **Any voter may use the BMD and no voter is required to do so.**

II. Make sure the following are present at the polling place:

1. A sign reading “Accessible Entrance Located” at main entrance that clearly directs voters along an accessible path to at an alternative accessible entrance.
2. **ADA privacy booth** (lower writing surface), placed nearest to the BMD with the voter’s back to the wall and having 5 feet of clearance on two sides to allow a voter in a wheelchair easy access.
3. **Ballot Marking Device (BMD or Plan B Machine)**. Includes several accessibility tools to help voters read and mark the ballot. The BMD must be placed to **preserve the secret ballot** (at least three feet from the edge of the “guardrail” and four feet from the ED Table (NY Election Law §8-202)). It should be positioned near a wall so that the voter has his or her back to a wall, and not the public. Further, the device should have **at least a 5-foot clearance** from the wall and the sides, allowing a voter in a wheelchair easy access. A mat covers the cord. BMD should be placed near an electrical outlet.
 - a. In many counties BMD only marks the ballot. It must then be scanned to “count”.
 - b. On side of an open BMD, a folder has instructions on how to use the accessibility tools.

III. On Election Day:

1. Ensure that the BMD is present, set up, operative, and accessible. Staff should not wait to set up the BMD until a voter who wants to use it arrives.
2. **Make sure disabled voters receive the assistance they need.**
 - a. Inspectors shall assist any voter who informs the board, under oath, that s/he (i) cannot read; (ii) see; or (iii) mark ballot due to disability (N.Y. Elec. Law § 8-306).
 - b. Voter who needs assistance may be given assistance by a person of their choice, with exception of: voter’s employer/agent or union officer/agent (Id. § 8-306(3)).
 - c. Prior to assisting voter at Privacy Booth or BMD, chosen assistant must take an oath that s/he will not persuade or reveal the vote of the person assisted (Id. § 8-306(5)).
 - d. A voter who is entitled to assistance in voting and does not select a particular person may be assisted by two Inspectors not of the same political party (Id. at § 8-306(7)).
 - e. NYC 2018A Poll Worker Manual, at pp. 5-6 has detailed suggestions on how to provide services to voters in need of assistance. <https://bit.ly/2Qd2j29>.

VII. SUMMARY: “LBJ” INCIDENT REPORT TOOL

- In addition to a local Boiler Room contact phone number, 2018 volunteers who sign up for shifts and complete voter protection training will receive an email invitation and comprehensive guide for using the *Lawyers Bound for Justice* (“LBJ”) online incident reporting tool.
- LBJ is a useful online resource for reporting, escalating, and tracking voting issues on Election Day. Volunteers can access LBJ from a smartphone or tablet, but will need cell service or WiFi to submit incidents. Please be sure you can access/login to LBJ on your device before Election Day.
- **Logging in:**
 - You will receive an email invitation with a link to log in. For security, the setup link may expire quickly, so volunteers should activate/authenticate their accounts ASAP after receiving the email invitation to log in to LBJ.
 - After logging in, please verify that the email address and cell phone number listed will be those you intend to check/access on Election Day so we can stay in touch.
- **Viewing your assignment:**
 - Once you have a location assignment, you will receive an email notification
 - You can view your assignment(s) by selecting “My Assignments”
- **Checking in on Election Day:**
 - Volunteers should use LBJ to “check in” when they arrive at their assigned poll site.
 - Please check in with the boiler room every 2 hours or more frequently as needed.
- **Reporting incidents:**
 - Who reports:
 - Watchers and Observers (by logging LBJ incidents or calling the boiler room)
 - Boiler room users
 - Voters (by calling the public Voter Hotline)
 - Voter Hotline users
 - How to report:
 - Tap New Issue
 - Include the location affected (should be pre-populated based on assignment)
 - Add description and incident type to help the team respond effectively
 - Include specific pertinent information about impacted voters, if applicable
- **Resolving an issue:**
 - Issues are resolved when no further action can be taken (e.g., a broken machine is fixed)
 - Click on “mark as resolved” or inform the boiler room that the incident is resolved.

Tip: Familiarize yourself with the list of categories and subcategories of question and incident issue classes in the full LBJ training guide (slides 17 and 18) you’ll receive prior to Election Day.

VIII. LEGAL DISCLAIMER

These materials are provided for Election Day monitoring activity and are not intended to form the basis for legal advice or any attorney-client relationship.

SUPPORT NYDLC

This NYDLC Voter Protection Guide was last updated in **October, 2018**.

The Voter Protection Guide is based on Election Day manuals authored by Henry Berger, Jerry Goldfeder, David William Wang, Jarret Berg, and public sources, including materials from the New York State Board of Elections, the New York City Board of Elections, and local County Board of Elections throughout New York State.

Since 2005, the New York Democratic Lawyers Council (NYDLC) has organized and trained attorneys and others to conduct pro-voter election monitoring, education, and advocacy. Your generosity allows NYDLC to continue protecting the rights of voters.

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