



**Board of
Elections**

Election Law Update

September 26, 2022

LAWS OF 2022

Legislative Action Statistics For 2022

- 006 New Chapters in 2022
- 107 New Chapters since 2019 (aggregate)

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Locating New Chapter Law Text

- When new chapters are signed into law they are emailed to commissioners by co-executive directors.
- Text of new chapters is also available from <http://public.leginfo.state.ny.us/navigate.cgi?NVLIO>:
- **Tip:** The text of a section of law as amended appears accurately in the codification of the law provided by the NYS Assembly or NYS Senate websites. Here: <http://public.leginfo.state.ny.us/lawssrch.cgi?NVLWO>:

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Laws: Application Came And Went

- Signature requirements are “back to normal.”
- OTB Ban Lifted. But rules have changed.
- Nursing home canvass required again.

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To Be Covered In Other Presentations

- Confidential Reg., Ch. 521 Laws of 2021 (10:45 am)
- New Canvassing Law Ch. 763 Laws of 2021 (1:00 pm)
- Early Voting Changes, Ch. 781 of 2021 (1:00 pm)
- Absentee Portal, Ch. 746 Laws of 2021 (3:15 pm)
- Absentee Tracking, Ch. 727 Laws of 2021 (3:15)

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CHAPTERS 13 through 16 (2022)

- Chapter 13 – Congressional District Lines
- Chapter 14 – Senate and Assembly Lines
- Chapter 15 – Amendments to Congressional District Lines (Districts 9, 10 and 11)
- Chapter 16 – Amendments to Senate Lines (4, 9, 52, 53 and 62) and Assembly Lines (61, 62, 63 98, 100, 101, 108, 109)

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COVID19 Absentee Excuse Extended

- **Chapter 2 of 2022**
 - **Permits voting by absentee ballot where there is a risk of contracting or spreading a disease that may cause illness to the voter or to others.**
 - **Expires December 31, 2022**

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Chapters that relate to ballot access NAME OF CANDIDATE

- **Chapter 490 (2021)**
 - **Use of alternate, familiar or anglicized name is permissible on petitions and ballots.**

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Chapters that relate to ballot access OTB RECAP

Chapter 480 (2021)

- Only candidate enrolled in the party eligible to be write-in
- OTB petition form change

Chapter 440 (2019)

- Committee to receive notices can sue to validate petition.

Chapter 456 (2019)

- OTB Committee to Receive Notices must file acceptance

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Chapters that relate to ballot access ***NEW DECLINATION RULE***

Chapter 276 (2021)

- A person who loses a primary may:
 - no later than 10 days post primary
 - decline the nomination of any other party

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CASE LAW

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Salem v Petsas, 73 Misc.3d 497 (Dutchess County 2021)

- Candidate is disqualified by moving out of jurisdiction.
- Substitution due 10 days from disqualification. EL 6-158(8).
- Ten days runs from when candidate “presents legal basis” for basis of disqualification, not timing of “event” giving rise to disqualification.
- Substituted candidate not enrolled in party requires Authorization per EL 6-120.

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Ross v NYSBOE 2021 NY Slip Op 05663, 4th Department

- “Election Law 8-400 (1) (b) is declared valid and constitutional.”
 - *"illness" shall include, but not be limited to, instances where a voter is unable to appear personally at the polling place of the election district in which they are a qualified voter because there is a risk of contracting or spreading a disease that may cause illness to the voter or to other members of the public;*

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People v Renss. County BOE, 199 AD3d 5 (Third Dept 2021)

- Board must consider and document how it applied the early voting site standards in assigning EV sites.
- If Board does not, court may find site selection “arbitrary and capricious” and order Board to redo selection process.
- 8-600 (2) (h): “Polling places for early voting shall be located so that voters in the county have adequate and equitable access, taking into consideration population density, travel time to the polling place, proximity to other early voting poll sites, public transportation routes, commuter traffic patterns and such other factors the board of elections deems appropriate.”
- Note certain sites must if practicable be on public transportation routes.

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Brown v Erie Cty Board of Elections, 197 AD3d 1503 (2021)

- Independent nomination periods in the political calendar are Constitutional.
- Cannot improve on Ralph Mohr's exposition of yesterday.

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Bard College v Dutchess Cty BOE, 2021 NY Slip Op 05937 (2nd Dept)

- Poll site designation when challenged falls under “arbitrary and capricious” review standard.
- Breaking a tie: “whenever commissioners...fail to designate a polling place...by majority vote, the previously designated polling location is used for that district by default.”

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Voccio v Kennedy, 2021 NY Slip Op 21359 (Niagara Cty Supreme Court)

- Ballot marked with additional “X” and initials DDH – **BAD**
- Words “Byron Brown” written on the face of the ballot but in no particular voting square – **BAD**
- Ballot with respondent William D. Kennedy’s middle initial “D” and the voting square oval filled in -- **GOOD**

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Maclay v DiPasquale, 197 AD3d 1502 (4th Dept 2021)

- 21 voters “printed name on petition” and this was not similar to their registration signature.
- Court was correct to permit affidavits into evidence to validate them.
- Where there is “credible evidence” “signatures are valid, notwithstanding discrepancy with the voter registration forms.”
- Chapter 553 Laws of 2019 – Voter can testify about signature and “other evidence” may be submitted.

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