



**State of New York  
STATE BOARD OF ELECTIONS**

**Guidelines for Counting Ballot Marking Device Ballots**

The following Guidelines are being offered by the State Board of Elections for use by the County Boards of Election to implement the use of the Federally Court Ordered Ballot Marking Devices for the 2006 Elections.

The Ballot Marking Devices provide accessibility to the voting booth for persons with disabilities. The Guidelines are designed to provide guidance to election officials in processing ballots that are cast using the ballot marking device. They are designed to ensure that County Boards provide outreach to the community and to ensure that the privacy of the voter is maintained when the ballots are counted.

# Guidelines for Counting Ballot Marking Device Ballots

Adopted 8/2/06

---

1. Designation of Sites for the Accessible Ballot Marking Device
  - a. County Boards of Elections shall designate a site or sites that will contain ballot marking devices accessible to disabled voters for the 2006 primary and general elections.
  
2. Application of the Election Law
  - a. Ballots voted on these devices shall be treated in a manner similar to absentee ballots.
  - b. Except to the extent otherwise provided, all provisions of the Election Law apply, including but not limited to: allowing poll watchers at the designated sites, implementing the voter identification provisions when applicable, and ballot canvassing procedures.
  - c. Each of these designated sites shall be operated by election inspectors as provided in Election Law §8-202. It is permissible, however, to staff these sites with 2 inspectors rather than the 4 otherwise required by statute, provided that each represents the two major political parties.
  
3. Who Can Use the Accessible Ballot Marking Devices
  - a. Notwithstanding any contrary provision in the Election Law, pursuant to the order of the U.S. District Court for the Northern District of New York, each Board of Elections shall permit voters from any election district located in a political subdivision designated by the Board of Elections (e.g., borough, county, assembly district, etc.) who are disabled to cast their ballot at the designated site.
  - b. The target voting population for the accessible devices is voters with disabilities who would like to cast their ballots in person. Boards should work with local advocacy groups, to help inform voters with disabilities of the opportunity to vote privately and independently in a central site, using an accessible ballot marking device. To the extent feasible, all outreach efforts implemented by a county board should include a post card or telephone number. Outreach efforts do not have to be county wide, but rather can be targeted to the population most likely to use the device. County boards should use the responses to determine the sufficient number of devices and ballots they need to meet the demands of these voters.

## **Guidelines for Counting Ballot Marking Device Ballots**

Adopted 8/2/06

---

- c. Pursuant to the order of the U.S. District Court, in order to ensure the privacy of the ballots cast by voters with disabilities, to the extent possible, county boards shall take steps to encourage the use of accessible voting devices by non-disabled person as well as persons with disabilities. Steps to encourage participation may include but are not limited: encouraging county board staff and other people who work in the same building as the central site, to vote on the ballot marking device.
4. Voting at the Ballot Marking Device Site:
- a. When a voter arrives at the site, the inspectors shall verify that the voter appears on the County Boards list of registered voters. Voters who appear at a designated site shall have their registration and enrollment verified pursuant to the procedures provided in Election Law §8-302.
  - b. County Boards shall require all voters who appear at the site to sign-in to record that they have voted at the site. This would require the inspector to record the name of the voter on a list and then have the voter sign next to their name. This would then become the poll book that was used at the site.
  - c. In addition, at the option of the County Board, they may also allow interested voters to ask to have their voter record moved from their regular poll site, to the accessible ballot marking device site. This process may help identify the number of voters to be served at these sites. This process may also be helpful where boards intend to arrange for transportation for voters who are disabled. Most importantly, boards could produce poll books for use in these sites in addition to the written list of those who voted.
    - i. Boards will acknowledge receipt of any request for a move of a voter's record, providing details on the system to be provided and its use, directions to the site, and other important details.
    - ii. Such application must be received and processed by the county board of elections no later than 15 days prior to the election, pursuant to Election Law 5-601(2). A voter who requested that their record be moved to the accessible device site shall have their record removed from the poll book at their original poll site, thus eliminating the opportunity for voting twice.

## **Guidelines for Counting Ballot Marking Device Ballots**

Adopted 8/2/06

---

- d. Any ballot cast using the accessible ballot marking device, shall be placed in a privacy envelope of similar size and quality used for other paper ballot envelopes, on which only the voter's name, address, date of birth, town, ward, election district, assembly district, or other jurisdictional information (and in the primary election, political party) shall appear, and the ballot shall be canvassed with that district's absentee ballots.
- e. Upon the return of poll books from each election district, the privacy envelope containing the ballot shall be compared to the poll book for that particular voter's election district, to ensure that no other ballot (machine, emergency, absentee, affidavit, etc), was cast by that voter. If no other ballot was cast by that voter, the ballot cast using the accessible ballot marking device, shall then be canvassed with that same district's absentee ballots.
- f. Any voter whose name does not appear on the list of registered active voters, and who wishes to cast a vote at the accessible ballot marking device site, shall be permitted to cast their ballot using the accessible ballot marking device, however their ballot shall be placed in an affidavit envelope, which shall then be processed with all other affidavit ballots in a manner consistent with the procedures provided in Election Law §8-302(3) (e) (ii).