

Executive

PART 6201

FAIR CAMPAIGN CODE

(Statutory authority: Election Law,
§§ 3-106, 3-102)

Sec.

6201.1 Fair campaign code

6201.2 Use of public opinion polls

6201.3 Procedure in fair campaign code proceedings

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Section 6201.1 Fair campaign code.

In order that all political campaigns be conducted under a climate promoting discussion of the issues and presentation of the records and policies of the various candidates, stimulating just debate with respect to the views and qualifications of the candidates and without inhibiting or interfering with the right of every qualified person and political party to full and equal participation in the electoral process, the following is hereby adopted by the New York State Board of Elections pursuant to section 3-106 of the Election Law as the fair campaign code for the State of New York. No person, political party or committee during the course of any campaign for nomination or election to public office or party position shall, directly or indirectly, whether by means of payment of money or any other consideration, or by means of campaign literature, media advertisements or broadcasts, public speeches, press releases, writings or otherwise, engage in or commit any of the following:

(a) Practices of political espionage including, but not limited to, the theft of campaign materials or assets, placing one's own employee or agent in the campaign organization of another candidate, bribery of members of another's campaign staff, electronic or other methods of eavesdropping or wiretapping.

(b) Political practices involving subversion or undermining of political parties or the electoral process including, but not limited to, the preparation or distribution of any fraudulent, forged or falsely identified writing or the use of any employees or agents who falsely represent themselves as supporters of a candidate, political party or committee.

(c) Deliberate misrepresentation of the contents or results of a poll relating to any candidate's election; also, failure to disclose such information relating to a poll published or otherwise publicly disclosed by a candidate, political party or committee as required to be disclosed by rule or regulation of the New York State Board of Elections.

(d) Any acts intended to hinder or prevent any eligible person from registering to vote, enrolling to vote or voting.

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6201.2 Use of public opinion polls.

No candidate, political party or committee shall attempt to promote the success or defeat of a candidate by, directly or indirectly, disclosing or causing to be disclosed, the results of a poll relating to a candidate for such office or position, unless within 48 hours after such disclosure, they provide the following information concerning the poll to the board or officer with whom statements or copies of statements of campaign receipts and expenditures are required to be filed by the candidate to whom such poll relates:

(a) The name of the person, party, or organization that contracted for or who commissioned the poll and/or paid for it.

(b) The name and address of the organization that conducted the poll.

(c) The numerical size of the total poll sample, the geographic area covered by the poll and any special characteristics of the population included in the poll sample.

(d) The exact wording of the questions asked in the poll and the sequence of such questions.

(e) The method of polling--whether by personal interview, telephone, mail, or other.

(f) The time period during which the poll was conducted.

(g) The number of persons in the poll sample; the number contacted who responded to each specific question; the number of persons contacted who did not so respond.

(h) The results of the poll.

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6201.3 Procedure in fair campaign code proceedings.

(a) Initiation of Proceeding.

(1) A proceeding under the Fair Campaign Code (hereinafter "Code") shall be commenced by the New York State Board of Elections when:

(i) the Board receives a written signed complaint alleging the commission or omission of acts, in violation of the Code; The County Board of Elections are advised to forward any complaints they may receive to the State Board of Elections; or

(ii) the State Board staff proposes to the Board an investigation of an alleged violation of the Code.

(2) A complaint shall be filed by mailing to, or by personally serving, the Board of Elections at 40 Steuben Street, Albany, New York 12207-2109. A duplicate copy of the complaint shall be mailed to or personally served upon the candidate or the candidate's representative (hereinafter "respondent"). Proof of service of the complaint upon the respondent must be filed not later than three days after service of the complaint upon the respondent. This requirement is waived when the respondent is unknown.

(b) Form of Complaint.

(1) A complaint shall be based on personal knowledge and belief and be specific as to times, places and names of witnesses to the acts charged as violations of the Code. If a complaint is based upon information and belief, the complainant shall state that source of the information and belief. Copies of all documentary evidence available to the complainant shall be attached to the complaint. Evidence deemed by the complainant to be of a confidential nature need not be sent to the respondent, so long as an explanation is made to the Board.

(2) A respondent shall file a signed answer, after service upon the respondent of the complaint. Such an answer shall be based on personal knowledge and belief and be specific as to times, places, and names of witnesses to acts relevant to the complaint. Copies of all documentary evidence available to the respondent shall be annexed to the answer. If an answer is based on information and belief, the respondent shall state the source or sources of the information and belief. An answer shall be filed by certified mail or by personally serving the Board at 40 Steuben Street, Albany, New York 12207-2109 and the complainant. An answer to the complaint must be made by the respondent within 10 days after receipt of the complaint. Proof of service of the answer upon the complainant must be filed not later than three days after service of the answer upon the complainant.

(c) Answer.

(1) If after receipt and preliminary review of a complaint and answer alleging a violation of the Code, or following commencement of an investigation initiated by the Board, where the Board determines a hearing shall be held, the Board shall send notice, by certified mail, to the complainant and to any person, organization or committee whose conduct is complained of or whose conduct is under investigation. Such notice shall specify when and where a hearing is held.

Such hearing shall be conducted by enforcement counsel of the State Board of Elections. A report with counsel's recommendation shall be made to the Board, which shall render a final decision.

(2) A respondent shall file an answer, sworn to or affirmed (within seven days or such shorter period as the board may for good reason require) after service upon him of the notice of hearing. Such an answer shall, if possible, be based on the personal knowledge and belief and be specific as to times, places and names of witnesses to acts relevant to the complaint. Copies of all documentary evidence available to the

respondent shall be annexed to the answer. If an answer is based on information and belief, the respondent shall state the source or sources of his information and belief. An answer shall be filed by certified mail or by personally serving the Board at 40 Steuben Street, Albany, New York 12207-2109.