

A new Part 6211 is added to read as follows:

PART 6211- Early Voting Regulations

6211.1 Early Voting Site Designations

(a) *Deadline for Early Voting Site Designations.* By May first of each year, the board of elections shall designate early voting sites for the general election held in such year. Early voting sites for primaries and special elections shall be designated no later than forty-five days before such an election.

(b) *Minimum Number of Early Voting Sites*

(1) For a general election, the board of elections shall designate at least the number of early voting sites required by this Part, based on the number of registered voters in each county, including voters in active and inactive status as of February 1, as follows:

(i) If the number of voters in the county is less than 99,999, the county must have at least one early voting site.

(ii) If the number of voters in the county is equal to or more than 100,000 and less than or equal to 149,999, the county must have at least two early voting sites.

(iii) If the number of voters in the county is equal to or more than 150,000 and less than or equal to 199,999, the county must have at least three early voting sites.

(iv) If the number of voters in the county is equal to or more than 200,000 and less than or equal to 249,999, the county must have at least four early voting sites.

(v) If the number of voters in the county is equal to or more than 250,000 and less than or equal to 299,999, the county must have at least five early voting sites.

(vi) If the number of voters in the county is equal to or more than 300,000 and less than or equal to 349,999, the county must have at least six early voting sites.

(vii) If the number of voters in the county is equal to or more than 350,000, the county must have at least seven early voting sites.

(2) For a primary election or special election, the minimum number of early voting sites shall be based on the number of voters eligible to participate in the election pursuant to subparagraph 1 of this subdivision, unless the board of elections adopts a resolution determining that a lesser number of early voting sites is sufficient to meet the needs of early voters. Such resolution shall state the basis of such determination and shall specify how the board of elections will monitor voter wait times at early voting sites and ensure compliance with 6210.19 (d) throughout the period of early voting.

(3) The board of elections may designate more early voting sites than the minimum number required for the convenience of voters.

(4) All sites must be open for voting for the sixty-hours required by Election Law § 8-600, but the board of elections may expand the hours the early voting sites are open beyond the statutory minimums.

(c) Standards For Early Voting Site Designation

(1) Adequate and Equitable Access. Early voting sites shall be located so that voters in each county have adequate and equitable access to early voting, and such sites shall comply with the provisions of the Election Law related to poll sites and accessibility for voters with physical disabilities. A polling place accessibility survey shall be completed, filed and updated for each early voting site as required by Part 6206.

(2) The board of elections shall consider, in totality, the following factors when designating early voting sites:

(i) population density;

(ii) travel time to the early voting location from the voter's place of residence;

(iii) proximity of an early voting site to other early voting sites;

(iv) whether the early voting site is on or near public transportation routes;

(vi) commuter traffic patterns;

(vii) any other factors the board of elections deems appropriate.

6211.2 Canvass of Ballots Cast During Early Voting.

- (a) **All ballots cast during early voting period, by any method allowed under law, shall be canvassed and counted as if cast on Election Day. At the end of each day of early voting, all voted and unvoted ballots shall be reconciled and, along with any portable memory devices containing voting information and registration poll records, returned to the board of elections or otherwise secured pursuant to a plan approved by the state board at least sixty days before the first election at which such plan shall be applicable. Such plan submitted by the commissioners of a board of elections shall be approved or rejected by the co-executive directors of the state board no later than two weeks after receipt.**
- (b) **The manner of canvassing the voting machines used at early voting and announcing the results shall be consistent with section 8-600 of the election law and in the same manner as provided by title one of article 9 of the election law and the procedures of the state board of elections, except that the canvass of ballots cast during the early voting period may begin no earlier than at eight o'clock p.m. on Election Day, provided the board of elections adopts procedures to prevent the public release of any election results prior to the close of polls on election day. Such procedures must be consistent with the regulations of the state board of elections and must be filed with the state**

board of elections at least thirty days before any early voting period for an election to which they will apply. To prevent the premature release of voting results prior to the close of all polls on Election Day, all persons lawfully present at the canvass of ballots cast during early voting period shall remain incommunicado with all persons outside of the place of canvass and shall remain at the room or area of the canvass once the canvass has begun, absent exigency or a board of elections purpose that requires leaving the canvass room or area, until at least the close of polls on the day of election.

6211.3 Ballots Cast When Scanner Unavailable During the Early Voting Period.

At the end of each day of early voting, those ballots which were not scanned because a scanner was not available or because the ballot was abandoned at the ballot scanner, shall, if a scanner is then available, be scanned by the election inspectors as provided for by Election Law § 9-110. Any ballots that are unscannable because it is rejected by the scanner or because of an overvote or wholly blank vote warning provided by the ballot scanner, shall be secured in the manner applicable to voted ballots on election day and shall remain unexamined until the time of canvass on the day of the election, at which time they shall be examined as provided for in Election Law § 9-110 and duly canvassed. Such ballots shall be reconciled as required by the procedures of the state board and must be held inviolate until the time of canvass

on election day under tamper evident seal and lock and key.

6211.4 Affidavit Ballots Cast During Early Voting.

Affidavit ballots cast during early voting shall be accounted for in the manner of affidavit ballots cast on election day. Boards of elections shall complete the bi-partisan review of the affidavits to determine the eligibility of such voter prior to the canvass of affidavit ballots cast during the early voting period, in the same manner as for affidavit ballots submitted on election day. Until the time of canvassing, affidavit ballot envelopes shall be secured, when not in bipartisan custody for processing and researching, under tamper evident seal and lock and key as required by the procedures of the state board.

6211.5 Privacy of Voting.

To ensure an efficient and fair early voting process that respects the privacy of the voter, the manner of voting on days of the early voting period shall be the same as the manner of voting on the day of election.

6211.6 Voter History and Prevention of Duplicate Voting.

(a) During the early voting period, the voting history record for each voter shall be continually updated to reflect that a voter has voted early. A record indicating a voter has voted during the early voting period shall be available to poll workers at every

early voting site at which a voter is eligible to vote in near real time. In such instance where a voter is only eligible to vote at one early voting site, the single poll book at such site for such voter may serve as the continually updated record of voter history throughout the early voting period.

(b) By Election Day, the voting history record of each voter who has cast a ballot during the early voting period shall be entered into the voter registration system of the board of elections. Such voting history shall be included in the voter registration poll record that is used on Election Day to determine the eligibility of voters. Such Election Day record must differentiate voters who voted early from those who appeared to vote on the day of election.

(c) Any voter who the board of elections has identified as having voted during the early voting period shall not be eligible to vote on Election Day, except such voter shall be entitled to complete an affidavit ballot if such voter claims not to have voted early. Such affidavit shall be marked as such.

(d) No later than the seventh day after a primary or special election or the tenth day after the general election, the voting history record of each voter who has signed a poll record and thus cast a ballot on such election day shall be entered into the voter registration system of the board of elections, and the voter history for such election day voters and early voters shall be uploaded to the statewide voter registration list.

(e) Not later than the seventh day after a primary or special election or the tenth day after a general election, by five o'clock p.m. on such day, the board of elections shall prepare a list, including data elements prescribed by the board of elections and in the format specified by the state board of elections, of all persons who submitted an affidavit ballot. Such list shall be provided to the state board of elections, and the state board of elections shall provide a combined list of all affidavit ballots submitted statewide to the boards of elections.

(f) No later than seven businesses days after the completion of the canvass, the voting history record of each voter who has cast an absentee, military, special or federal ballot on Election Day or who has cast an affidavit ballot during early voting or on Election Day shall be entered into the voter registration system of the board of elections and the statewide voter registration list.

(g) Boards of elections shall provide information regarding voter registration records or voting records in their custody to other boards of elections, upon request, as soon as reasonably practicable.

(h) The board of elections, as required by Election Law § 8-600 (1), shall establish procedures to ensure that persons who vote during early voting shall not be permitted to vote subsequently in the same election. Such procedures shall remain in effect until amended by the board of elections and shall be filed with the state board of elections on or before the sixtieth day preceding the first day of the early voting period. Such procedures shall be

approved or rejected by the co-executive directors of the state board of elections within one week of filing. If such procedures are rejected, notice shall be provided to the board of elections of the reasons therefor. The board of elections shall then have three business days to amend their procedures and resubmit the same to the state board of elections for approval.

(i) Boards of elections shall provide to the state board, in the manner specified by the state board, the number of voters who vote early on each day of early voting by the next business day after such day of early voting.

6211.7 Early Voting Communications Plan.

(a) Early Voting Information. The board of elections shall provide at least the following information to media outlets within the county:

(i) The location of early voting sites and their dates and hours of operation;

(ii) A statement that all early voting sites are accessible to voters with physical disabilities;

(iii) A clear statement that if a voter casts a ballot during early voting the voter will not be allowed to vote on election day or on a subsequent day of early voting;

(iv) If early voting sites are specific to particular cities, towns or other political subdivisions, a statement describing the area served by each early voting site.

(b) Communications Outreach. County board of elections may also provide early voting information by using social media venues and any other communication mechanisms, including but not limited to broadcast advertisements, direct mail or newspaper advertisements. The board of elections communications plan shall identify the community based groups that were involved in the development of the plan or were provided early voting information.

(c) Filing Communications Plan With State Board of Elections. The board of elections shall annually file a copy of the communications plan on or before June 1, except in the first year of early voting, on or before the first day of July.

6211.8 Applicability

This part shall apply in relation to any election at which early voting is held pursuant to title VI of article 8 of the election law as enacted by chapter 6 of the laws of 2019.