

6221.38 Debate, Statewide Office

- A. Participating candidates for statewide office are required to take part in at least one debate before each election for which the candidate receives public funds, unless the participating candidate is running unopposed, or no other non-participating candidate qualifies for such a debate.
 - 1. Nonparticipating candidates may participate in such debates subject to meeting criteria in paragraph (c)(2) of this section.
 - 2. Each debate held shall be at least one hour's duration.
 - 3. For the purposes of this section, a "debate" shall mean the moderated reciprocal discussion among candidates on the ballot for the same office.
- B. The Public Campaign Finance Board shall select one or more hosts for each debate required by this section:
 - 1. Organizations which have been in existence for at least two years, and are not owned or controlled by a political party, political committee, or holder or candidate for public office which have not endorsed or opposed any candidate in the pending primary, special or general election, nor made any contributions or expenditures independent or otherwise, to or regarding any such candidate, from either the organization itself or any affiliated political committees, shall be eligible to host a debate. Upon applying, an applicant shall certify to the criteria above. If the applicant is a subsidiary or related company, whose parent or sister company does not meet the criteria above, the applicant must show that an adequate firewall is in place where the persons, or companies, with controlling authority, meet the criteria outlined above.
 - 2. The rules for conducting such debate, and the date, time, and location of such debate, shall be solely the responsibility of the organizations selected, but shall not be made final without consultation and agreement from the PCFB. Debate locations shall take into consideration the geographic diversity of New York State.
 - i. The debate for each office shall be no earlier than five (5) weeks before and no later than one week before early voting.
- C. Written applications by organizations to host a statewide debate shall be submitted to the public campaign finance board on a form provided by the board not later than a date chosen by the PCFB in any year in which an election is held for statewide offices.

1. The written application shall:
 - i. Demonstrate that the organization and any proposed co-host shall meet the criteria in paragraph (b)(1) of this section;
 - ii. Specify any elections for statewide office for which the organization seeks to host debate(s);
 - iii. Demonstrate the ability to broadcast the debate statewide. Broadcast is defined as radio and television as such are regulated by the federal communications commission, including digital radio and television. Cable television is also a viable option. Broadcast via television is the preferred vehicle, which can be supplemented by radio broadcast. Broadcasting of debates shall also be supplemented by internet/web streaming when technologically feasible.
 - iv. Set forth proposed dates, times, duration, and location(s) of the debate(s) and the specific and exclusive circumstances under which the date(s) or time(s) may be changed, together with a provision for when the rescheduled debate(s) would be held;
 - v. Provide a detailed description of the format and ground rules for the debate(s) as well as general topic areas for questions. Topic areas should reflect the geographic and population diversity of New York State;
 - vi. Verify that the staging, promotion, coverage, and broadcast of the debate(s) shall be in conformance with all applicable state laws;
 - vii. Include an agreement to indemnify the State, including the State Board, for any liability arising from the acts or omissions of the host;
 - viii. Set forth plans for publicity and for broadcast and other media coverage for the debate(s);
 - ix. Set forth plans to have the transcript of the debate translated and provided to the public campaign finance board in Spanish; and
2.
 - i. Except as otherwise provided for, each debate for a primary or general statewide election shall include those participating candidates and non-participating candidates the PCFB has determined to meet the non-partisan, objective and non-discriminatory criteria set forth in subdivision 2(b).

- ii. Each participating and non-participating candidate shall meet criteria, including financial criteria requiring that a participating or non-participating candidate shall be eligible to participate in such debate if they have, by the last filing date prior to such debate raised, and spent an amount equal to or more than 5% of the limits on public funding for the candidate provided under section 14-204 of the election law during the applicable election cycle
 - iii. Money “raised” or “spent” does not include outstanding loans and liabilities, transfers, or the roll-over of funds from a past election cycle.
 - iv. If a non-participating candidate does not accept such invitation to debate or does not appear at such debate, the debate shall go forward as scheduled; provided, however, if there is only one candidate participating, such debate shall be cancelled.
- D. Prior to choosing a host, the board shall provide for the receipt of comments from interested persons and candidates regarding the qualifications of potential hosts. The board shall consider and give substantial weight to such comments submitted by candidates. The board shall publish a list of applicants on its website as soon as practicable upon closing of the application period. Interested persons, including candidates, may submit written comments regarding the qualifications of applicants to the Board via a dedicated email address conspicuously posted by the board on its website for such purpose, or by mail to the Board, addressed to the PCFB, Attn: Debate Applicant Comments. Such comments must be submitted no later than the date indicated by the Board in conjunction with its publication of the list of applicants.
- E. Based upon the sufficiency of the host applications and the discussions with the applicant regarding their ability to meet all the requirements outlined above, the ability to present a fair and impartial debate and any comments received, the board shall select the organization or organizations to sponsor the debate(s) and shall provide written notification to the organization or organization(s) so selected. The board shall accept an application subject to modifications as it deems appropriate.
 - 1. Should more than one written application be deemed acceptable pursuant to this paragraph, then the host shall be chosen from the acceptable applications by random lottery drawing.
 - 2. In the event that the debate is for a statewide primary, the candidates shall be provided a list of approved hosts by the PCFB. If the candidates can agree on a preference for a

debate host, they shall notify the PCFB of that preference within 72 hours of receiving the list of those approved. If no preference is received, the lottery system outlined in (1) shall be used to determine who the host shall be.

- F. For all debates, the board shall provide each debate host it has selected with a list of participating candidates and non-participating candidates who are eligible to participate in such debates.
- G. If a participating candidate inexcusably fails to participate in any debate required under this section before an election, the candidate, shall potentially be ineligible to receive any further matching funds for that election. For purposes of this subdivision, each primary or general election shall be considered a separate election. Should the candidate choose to be heard on the consequences listed above for failure to participate in a debate, they may petition the PCFB to be heard on the matter.
- H. Following the submission of a petition on behalf of the candidate and a hearing before the board, the sanction or sanctions provided in §6221.XX applicable to a candidates failure to participate in any debate as required under this section may be waived upon a determination by the board that the failure to participate in the debate occurred under circumstances beyond the control of the candidate, including Acts of God, and of such nature that a reasonable person would find the failure justifiable or excusable.
- I. Nothing contained in this section shall preclude any candidate from agreeing to participate in any number of additional debates between any and all candidates for a statewide office, including non-participating candidates. These debates need not be held under guidelines or the purview of the public campaign finance board.
- J. Any broadcast plan accepted by the public campaign finance board shall include a requirement that the debate be made available, at no cost, for simultaneous broadcast. Any organization, other than the selected host, that simultaneously broadcasts the debate after receiving the consent of the host shall not automatically be deemed a host of such debate. Hosting of a debate may only be granted by the board. Further, such broadcast plan shall provide for a livestream of the debate on the internet at no cost to the public.
- K. Any broadcast plan shall provide for live closed captioning as well as American Sign Language interpretation of the debate.

- L. Any broadcast plan accepted by the public campaign finance board shall include a provision that the debate broadcast and transcript be made available, at no cost, to the Public Campaign Finance Board for publication purposes.
- M. Each debate held pursuant to these provisions shall be broadcast simultaneously, to the extent technologically practicable and in accordance with federal law and the rules and regulations of the federal communications commission. Additionally, debates shall be made available via internet/web-streaming to the extent technologically practicable and in accordance with all related state and federal laws, rules, and regulations.