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GUIDANCE FOR EARLY MAIL VOTING

I. Introduction

On September 20, 2023, Governor Hochul signed Chapter 481 of the Laws of 2023, Establishing the New York Early Mail Voter Act. This newly enacted legislation, which takes effect on January 1, 2024 and applies to all elections moving forward, establishes an additional method of voting early via mail.

Many of these procedures will be similar to your current Absentee or Special ballot processes. As such, the information below should help walk you through an already familiar set of operational steps, while noting differences between, to ensure your compliance with the new statutory requirements. While we endeavor to provide comprehensive guidance, do not hesitate to reach out with any questions you may have.

The following guidance covers applications, applicable contests, ballots, envelopes, canvassing procedures, and village elections.

II. Applications (Paper and Electronic) – §8-700

Any registered voter may apply by a duly signed instrument to the county board of elections (or in the City of New York) where they are registered for any election in which the voter is eligible. Voters must apply and applicants must be registered at the address on the application.

Voters may apply using one (1) of the following three (3) methods:

1. Via application promulgated by the New York State Board of Elections (NYSBOE), a copy of which can be found attached to this guidance as Appendix A.
 - a. Except for providing a reason, the rules for determining validity of an application should be consistent with existing Absentee guidance.
 - b. Voters may apply for all elections in a calendar year on one application.

- c. When a voter requests an Early Mail ballot application be sent to them via mail, the board shall provide a postage paid return envelope.
 - d. When a voter indicates they are picking up an application in person, the board shall offer a postage paid return envelope.
2. Via letter submitted to the board of elections requesting a ballot.
 - a. The letter must be signed and must contain enough information to be substantially compliant with the aforementioned application.
 3. Via the electronic Early Mail ballot transmittal system.

Applications submitted other than in person must be received not later than the tenth (10th) day before the election. Applications delivered in person for ballots being delivered in person must be received no later than the day before the election.

Applications for Early Mail ballots should be provided to voters in any instance where Absentee ballot applications are provided.

III. Review of Applications – §8-702

Applicants must be registered voters at the address listed on the application and must be eligible to vote in the elections requested on the application.

If the board determines an applicant is not registered in the county (or within New York City) at the address listed, or not eligible to vote in all of the elections on the application, the board shall immediately notify the applicant of the rejection with the reason. If the reason is that the voter's address on the application is not the same as their registration address, the voter shall be provided information on how to change their address.

IV. Tracking System – §8-712

As with Absentee voting, the State Board is directed to establish an electronic tracking system for both applications and ballots for Early Mail voting. The form and substance of this system shall follow the existing system(s) set up for Absentee tracking. Counties may develop and implement their own Early Mail tracking system with the approval of the State Board.

V. Ballots

Early Mail ballots must be labeled "Early Mail Ballots." However, since neither the Absentee nor Early Mail Ballot statutes limit the language (§7-122), you may consolidate ballot types for Early Mail Ballots, Absentee and Special ballots, where possible. Such consolidated ballots may say "Absentee / Special / Early Mail Ballots" on them as appropriate.

Timeliness: Early Mail Ballots follow the same timeliness restrictions as Absentee Ballots with regard to deadlines for postmarks and receipt.

Restrictions on Machine Voting: Any voter who is issued an Early Mail ballot, and who subsequently attempts to vote in person, must only be allowed to vote via affidavit ballot. Voter registration lists shall indicate that an Early Mail ballot was issued.

VI. Envelopes – §8-704; §7-119

In a manner similar to that employed for Absentee voters, sending voting materials to Early Mail Ballot voters requires three (3) envelopes to be used: the inner affirmation (security/oath) envelope, the postage paid return envelope addressed to the board of elections, and the outer envelope in which the board mails those envelopes to the voter, along with their ballot.

Please see Appendix B for examples of what Early Mail envelopes should look like.

VII. Canvassing

Early Mail Ballots are canvassed under 9-209 in a manner similar to that of Absentee, Military and Special Ballots. They should be canvassed under the same guidance previously given by the State Board for the canvass of such ballots. The same timeliness restrictions around postmarks and deadline for receipt by the board, along with the cure provisions provided for under § 9-209(3), should be employed.

VIII. Communication to Voters

Election Law is updated in several sections to include providing information to voters regarding Early Mail Voting. Listed below are the areas that require you to add Early Mail voting information. Unless otherwise specified, adding the term Early Mail will fulfill your requirement. Required areas include:

- a) Information Notices under §4-117(1), indicating that any registered voter may vote early by mail and providing information on how to apply for an Early Mail Ballot;
- b) Publication of list of polling places for registration under §4-119(1);
- c) Notices of general, village, and special elections under §4-201(3)¹; and
- d) Approval Notices under §5-210(9), indicating that any registered voter may vote early by mail and providing information on how to apply for an Early Mail Ballot.

IX. Village Elections – §15-119

Early Mail Voting also applies to village elections, and any eligible voter is entitled to apply for and receive an Early Mail Ballot.

Applications should be submitted to the Village Clerk for elections conducted by the village clerk under Article 15. As with Absentee Ballot applications for village elections, applications by mail must be received no earlier than four (4) months and not later than seven (7) days before the election. All ballots requested to be mailed by mailed application, shall be sent not later than six (6) days before the election. In-person applications shall be accepted until the day before the election.

Canvassing of Early Mail Ballots for village elections mirror Absentee Ballot rules for village elections.

¹ This section applies to New York City only.

APPENDIX A

New York State Early Mail Ballot Application

Please print clearly. See detailed instructions.

To receive an early mail ballot: **In-Person** - Application must be personally delivered to your county board of elections not later than the day before the election. **By Mail** - Application must be received by your county board of elections not later than the 10th day before the election.

The ballot itself must either be personally delivered to the board of elections in your county no later than the close of polls on election day, or postmarked by a governmental postal service not later than the day of the election and received no later than 7 days after the election.

BOARD USE ONLY: Town/City/Ward/Dist: _____ Registration No: _____ Party: _____ <input type="checkbox"/> voted in office
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1. early mail ballot(s) requested for the following election(s) : <input type="checkbox"/> Primary Election only <input type="checkbox"/> General Election only <input type="checkbox"/> Special Election only <input type="checkbox"/> All elections this year
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2. last name or surname	first name	middle initial	suffix
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3. date of birth MM/DD/YYYY ____/____/____	county where you live	phone number (optional)	email (optional)
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4. address where you are registered:	apt	city	state	zip code
NY				

5. Delivery of Primary Election Ballot (check one) <input type="checkbox"/> Deliver to me in person at the board of elections
<input type="checkbox"/> I authorize (give name): _____ to pick up my ballot at the board of elections.
<input type="checkbox"/> Mail ballot to me at: (mailing address)
_____ street no. street name apt. city state zip code

6. Delivery of General (or Special) Election Ballot (check one) <input type="checkbox"/> Deliver to me in person at the board of elections
<input type="checkbox"/> I authorize (give name): _____ to pick up my ballot at the board of elections.
<input type="checkbox"/> Mail ballot to me at: (mailing address)
_____ street no. street name apt. city state zip code

Applicant Must Sign Below

7. I certify that I am a qualified and a registered (and for primary, enrolled) voter- and that the information in this application is true and correct and that this application will be accepted for all purposes as the equivalent of an affidavit and, if it contains a material false statement, shall subject me to the same penalties as if I had been duly sworn /
Sign Here: <u> X </u> _____ Date _____ / _____ / _____ <small>MM/DD/YYYY</small>

If applicant is unable to sign because of illness, physical disability or inability to read, the following statement must be executed: By my mark, duly witnessed hereunder, I hereby state that I am unable to sign my application for an early mail ballot without assistance because I am unable to write by reason of illness or physical disability or because I am unable to read. I have made, or have received assistance in making, my mark in lieu of my signature. (No power of attorney or preprinted name stamps allowed. See detailed instructions.)

Date ____/____/____ Name of Voter: _____ Mark: _____
MM/DD/YYYY

I, the undersigned, hereby certify that the above named voter affixed their mark to this application in my presence and I know him or her to be the person who affixed his or her mark to said application and understand that this statement will be accepted for all purposes as the equivalent of an affidavit and if it contains a material false statement, shall subject me to the same penalties as if I had been duly sworn.

(address of witness to mark)

(signature of witness to mark)

Instructions:

Who may apply for an early mail ballot?

Each person must apply for themselves. It is a felony to make a false statement in an application for an early mail ballot, to attempt to cast an illegal ballot, or to help anyone to cast an illegal ballot.

Information for military and overseas voters:

If you are applying for an early mail ballot because you or your family are in the military or because you currently reside overseas, do not use this application. You are entitled to special legal provisions if you apply using the Federal Postcard Application (FPCA). For more information about military/overseas voting, contact your local board of elections or refer to the Military and Federal Voting sections at: <http://www.elections.ny.gov/Voting.html>

Where and when to return your application:

Applications for an early mail ballot that will be delivered in-person at the county board of elections to the voter or an agent of the voter must be received not later than the day before the election. Applications for a ballot to be delivered by mail to the voter must be received at the county board of elections no later than 10 days before the election. If the address of your county board of elections is not provided on this form, contact information for your local election office can be found on the New York State Board of Elections' website, under "County Boards of Election" directory at: <http://www.elections.ny.gov/CountyBoards.html>

Options available to you if you have an illness or disability:

You may sign the early mail ballot application yourself, or you may make your mark and have your mark witnessed in the spaces provided on the bottom of the application. Please note that a power of attorney or printed name stamp is not allowed for any voting purpose.

When your ballot will be sent:

Your early mail ballot materials will be sent to you beginning 46 days before federal, state, county, city or town elections in which you are eligible to vote. If you applied after this date, your ballot will be sent immediately after your completed and signed application is received and processed by your local board of elections. If you prefer, you may designate someone to pick up your ballot for you, by completing the required information in section 6 and/or section 7, as appropriate. Contact your local county board of elections if you have not received your ballot.

APPENDIX B

Board of Elections use only

**OFFICIAL EARLY MAIL BALLOT FOR GENERAL
(OR PRIMARY OR SPECIAL) ELECTION** _____, 20 ____

Name of voter _____

Residence (street and number if any) _____

City/or town of _____ (village, if any) _____

County of _____

Assembly district _____

Legislative district (as applicable) _____

Ward (as applicable) _____

Election district _____

Party enrollment (in case of primary election) _____

Inspector (D) _____ Inspector (R) _____

Instructions to voter:

1. First mark your ballot, then fold it and place it in this envelope, and then seal this envelope.
2. Sign and date the statement on the reverse side of this envelope. Your signature will be compared to the signature on file with the board of elections to verify your identity.
3. Place this envelope in the return envelope.
4. Your ballot can be returned to any Early Voting or Election Day poll site in your county, or to your local Board of Elections by 9:00 pm on Election Day, if delivered in person, or be postmarked by Election Day and received not later than seven days following the election.

If you are also returning a completed application, do not place it in this envelope. Instead, place it in the return envelope along with this sealed envelope.

**Ballot
envelope**

*Do not put anything except your ballot in this envelope.
You must sign, date and seal this envelope.*

Statement of Voter

I do declare that I am a citizen of the United States, that I am duly registered in the election district shown on the reverse side of this envelope and I am qualified to vote in such district; that I have not qualified nor do I intend to vote elsewhere, that I have not committed any act nor am I under any impediment which denies me the right to vote.

I hereby declare that the foregoing is a true statement to the best of my knowledge and belief, and I understand that if I make any material false statement in the foregoing statement of early mail voter, I shall be guilty of a misdemeanor.

Signature or mark of voter

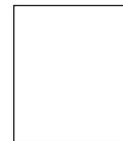
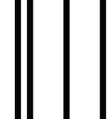
X

Date (MM/DD/YYYY)

Signature and address of witness

(Required only if voter does not sign his or her own name.)

County Name Board of Elections
4321 City Avenue
City, NY 99999-1234



County Name Elections Office
4321 City Avenue
City, NY 99999-1234

Return envelope



Information: 111-222-3333



www.countyname.gov/elections

Did you...

- Sign and date the Statement of Voter?
- Put your marked ballot in the ballot envelope?
- Put your sealed ballot envelope in this return envelope?

Your ballot can be returned to any Early Voting or Election Day poll site in your county, or to your local Board of Elections by 9:00 pm on Election Day, if delivered in person, or be postmarked by Election Day and received not later than seven days following the election.



County Name Board of Elections
4321 City Avenue
City, NY 99999-1234

RETURN SERVICE REQUESTED



Election Material - Please Expedite

Mr John Voter
12345 Main Street
Anytown NY 99999-1234

Official ballot

 Information: 111-222-3333

 www.countyname.gov/elections

How to return your ballot



Return by Mail

Mail your ballot so it is postmarked by Election Day and returned not later than 7 days following the election.



Drop Off

Your ballot can be returned to any Early Voting or Election Day poll site in your county, or to your local Board of Elections by 9:00 pm on Election Day.

www.yourcounty.gov/wheretovote