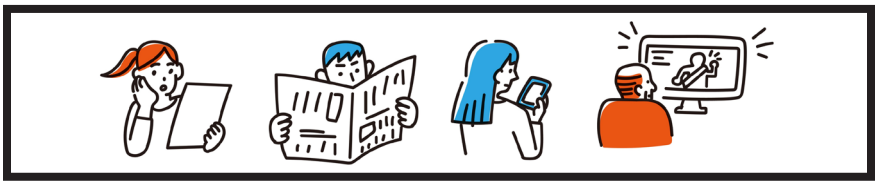
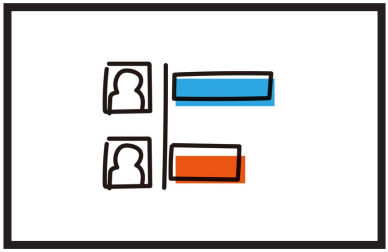
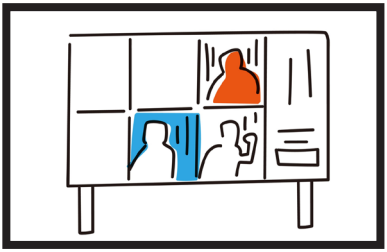
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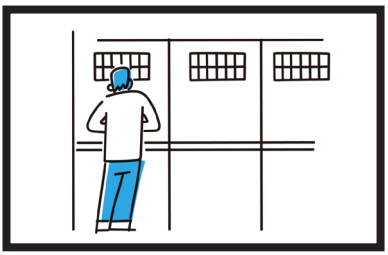


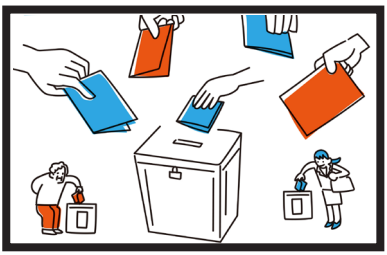




Your First Step Toward Local Leadership Starts with Understanding the Election Process







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A Primer for Running for Village Office

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September 2026

From Citizen to Candidate:
A Primer for Running for Village Office

Your First Step Toward Local Leadership Starts with Understanding the Electoral Process

The village election material contained in this publication was compiled by the New York State Conference of Mayors. The information is based upon current statutory provisions, including amendments through the 2026 session of the State Legislature.

Table of Contents

A Note About NYCOM iv

Introduction: So You Want to Be an Elected Official… 1

Knowledge is Power 1

Some Considerations When Deciding to Run for Office 1

- Qualifications for Holding Office 2
- Dual Office Holding and Office Compatibility 2
- Doing Business with the Village 3
- Local Code of Ethics and Financial Disclosure Requirements 4

New York State Election Law 5

Campaign Finance 5

General Information 5

- Election Law § 15-104. General village election 5
- Election Law § 1-106. Filing of papers; when received 6
- Timely Filing of Petitions and Papers 6

The Role of the Village Clerk 6

Ballot Access 7

- Party Designation and Nomination of Candidates 8
  - The Party Caucus 9
  - The Party Primary 9
  - Nominating a Non-Party Member a/k/a Wilson Pakula 10
  - Filing Party Nominations 11
- Independent Nominations 11
  - Number of Signatures Required for Valid Independent Nominating Petition 12
  - Independent Nominating Body Name 13
  - Candidates' Names 14
  - Filing Deadlines for Independent Nominating Petitions 15
  - Cover Sheet 15
  - Timely Filing of Petitions 15

Accepting or Declining a Nomination 16
Party Nominations 16
Independent Nominations 16
Challenging Petitions and Nominations 17
Poll Watchers 17
Registration Day(s) 18
Election Day 18
Write-Ins 18
Frequently Asked Questions 19

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A Note About NYCOM

The New York State Conference of Mayors and Municipal Officials (NYCOM) is an association of, and for, cities and villages in New York. Since 1910, NYCOM has united local government officials in an active statewide network focused on finding the most effective means of providing essential municipal services.

While NYCOM is not a state agency nor does it oversee the conduct of village elections, ***NYCOM works to support villages by educating its members and sharing resources that are also publicly available***, including NYCOM's annual calendar of dates and this candidates' guide.

As a membership organization, NYCOM provides guidance to current officers and employees of its member cities and villages. Consequently, the NYCOM staff is unable to answer questions from individuals who fall outside that group.

Candidates for village office should consult with an attorney to obtain specific legal advice about a proposed course of action and/or the consequences of running for local office.

Introduction: So You Want to Be an Elected Official…

Serving as an elected village official is an opportunity to contribute meaningfully to the governance and betterment of one's community. Individuals may choose to run for office for a variety of reasons, including a desire to improve local services, address community challenges, or provide a new perspective on village leadership. Whatever the motivation, pursuing elected office is a serious undertaking that requires careful attention to legal requirements and procedural obligations.

This guide is intended to assist village clerks in providing general information about the village election process to those interested in pursuing elected office. While much of this document may be relevant to candidates for village office whose elections are conducted by the county, **this guidance is not intended for candidates in villages where the county board of elections administers the election**.

Knowledge is Power

Candidates for local office are ***strongly encouraged to carefully review all relevant legal materials and to seek professional legal counsel***. An informed and prepared candidate strengthens not only the electoral process, but the community as a whole.

Candidates for village office should also be aware that multiple state statutes govern the qualifications, responsibilities, and conduct of local elected officials. While the New York State Election Law establishes the rules for ballot access and the conduct of elections, other laws, including the Village Law, Public Officers Law, and General Municipal Law, address issues such as eligibility for office, powers and duties, conflicts of interest, and compatibility of offices. Familiarity with these statutes is essential for any individual considering service in village government.

Some Considerations When Deciding to Run for Office

The process of becoming a candidate under Article 15 of the New York State Election Law is detailed and, at times, complex. Potential candidates must adhere to specific petitioning procedures, meet critical filing deadlines, and comply with various rules concerning ballot access. A single error or missed deadline may jeopardize a candidacy. Therefore, it is strongly recommended that all prospective candidates consult with an attorney familiar with New York State election law.

Again, individuals considering candidacy should be aware of their obligation to comply with all campaign finance requirements established by the New York State Board of Elections. These regulations are strictly enforced, but are separate from the petitioning and filing processes.

Qualifications for Holding Office

To run for elective village office, an individual must be:

- 18 years old;
- A citizen of the United States; and
- A resident of the village **by the day of the election**.[1]

Accordingly, one may run for office in a village in which they were not a resident, so long as the individual became a resident of the village by the day of the election. In addition, an individual may not run for two offices which are incompatible.[2] For example, a person may not run for village mayor and village trustee at the same time.

Dual Office Holding and Office Compatibility

Compatibility is a limitation applicable to the holding of two or more municipal offices simultaneously. The doctrine of compatibility of office is a court-made rule of law based upon public policy concerns. In the absence of a constitutional or statutory prohibition against dual-office holding, a person may hold two offices simultaneously unless they are incompatible.[3] Two offices are incompatible if one is subordinate to the other or if there is an inherent inconsistency between the two offices.[4]

Subordinate offices may be characterized as "being your own boss" with regard to issues of compensation, discipline, or supervision.[5] Inherent inconsistency between two offices requires an analysis of the duties of the two offices.[6] One of the guidelines is whether one person can faithfully and impartially discharge the duties of both offices.[7] If a conflict of interests exists by simultaneously holding both positions and such circumstances are inevitable and substantial and cannot be avoided by declining to participate in the disposition of the matter, the offices are incompatible.[8]

The general common rule against dual office holding is stated as follows, "Incompatibility…is an inconsistency in the functions of the two offices, as where one is subordinate to the other, or where a contrariety and antagonism would result in the attempt by one person to discharge faithfully and impartially the duties of both…"[9] This principle covers an office and a position of municipal employment or two positions of municipal employment. This test is applied to determine whether a common law incompatibility exists.

There are also statutory prohibitions against specific instances of dual office holding in villages. For example:

- **Town Board Member/Village Board Member.** Under Highway Law § 277, the town board may exempt village property from certain town highway taxes. Because this authority directly affects village taxation during the town budget process, serving on both boards creates an inherent conflict and is incompatible during that period.[10]

- **Fire Chief/Village Board Member.** Village Law § 10-1012 generally prohibits simultaneous service as a village mayor or trustee and as a village fire chief or assistant chief. Limited exceptions apply, but if a chief or assistant chief assumes village office, the fire position becomes vacant.
- **Elected/Appointed.** Village Law § 3-300(3) generally prohibits holding both an elective and an appointive village office. An exception allows up to two village trustees to serve on each village board or commission.[11]
- **Village Board of Trustees/Village Zoning Board of Appeals.** Village Law § 7-712(3) provides that a member of the board of trustees is ineligible to serve on the village zoning board of appeals.
- **Village Board of Trustees/Village Planning Board.** Village Law § 7-718(3) provides that a member of the board of trustees is ineligible to serve on the village planning board.

In addition to case law and statutory prohibitions, there are various other instances in which offices may be incompatible.

It is important to note that most questions of compatibility arise only after an individual has been elected or appointed to office. The legal restrictions discussed above do not typically prohibit an individual from seeking election while holding another office or position. Rather, incompatibility becomes an issue if and when an individual attempts to hold both offices simultaneously, at which point the law may require resignation from one position.

Because the application of these rules is highly fact specific and the consequences of an error may include forfeiture of office, candidates are strongly encouraged to consult with their own legal counsel to evaluate any potential compatibility issues prior to seeking elected office.

Doing Business with the Village

Article 18 of the General Municipal Law addresses ***conflicts of interest*** involving municipal officers and employees. Generally, a municipal officer or employee may not have an interest in a contract with the municipality when the officer or employee has the power or duty to negotiate, prepare, authorize, or approve the contract or payments under the contracts, audit bills or claims under the contract, or appoint an officer or employee who has any of these powers or duties.[12]

An **interest** is a direct or indirect pecuniary (monetary) or material benefit accruing to a municipal officer or employee as a result of a contract with the municipality.[13] An officer or employee may also be deemed to have an interest in the contract involving a spouse, minor children or dependents, or a business corporation with which the officer or employee has certain ownership, employment, or management relationships.[14]

The fact that a candidate or election official has an interest in a village contract does not necessarily mean that the contract is prohibited.

Article 18 contains several exceptions. For example, an interest in a contract entered into before the individual was elected generally falls within an exception. However, this exception does not apply to renewals of the pre-existing contract and disclosure of the interest may be required.

While certain exceptions may exempt a contract from the prohibitions of Article 18, including contracts that were in existence prior to an officer's election[15], candidates are strongly encouraged to review Article 18 and understand whether these prohibitions apply to them and their personal businesses and interests.

Consequently, candidates are encouraged to carefully consider any existing business relationships with the village before seeking office.

A candidate who owns or works for a business that contracts with the village, or whose spouse or other covered family member has such an interest, should thoroughly review Article 18 and the village's code of ethics to determine whether the relationship presents a prohibited interest or requires disclosure.

Candidates should also be aware that competitive bidding, disclosure of the interest, and abstaining from a vote does not eliminate a prohibited interest under Article 18.

Local Code of Ethics and Financial Disclosure Requirements

Article 18 of the General Municipal Law is not the only source of conflict-of-interest requirements for municipal officials. General Municipal Law § 806 requires each municipality to adopt a local code of ethics. ***A local code of ethics may impose requirements that are more restrictive than those contained in Article 18.*** However, a local code cannot authorize conduct that is prohibited by Article 18.

Candidates should also be aware of financial disclosure requirements.

Municipalities with populations of more than 50,000 residents are subject to the financial disclosure requirements established by General Municipal Law § 812. Municipalities with populations fewer than 50,000 residents may establish their own financial disclosure requirements or adopt the financial disclosure requirements set forth in General Municipal Law § 812.

Candidates are strongly encouraged to review the village's local code of ethics an applicable financial disclosure requirements (if any) prior to running for office.

New York State Election Law

By default, village elections are conducted pursuant to Article 15 of the New York State Election Law. In villages that administer their own elections under Article 15, the village clerk serves as the chief election officer and administers the election. In this role, the village clerk is responsible for receiving petitions, certifying ballot access, preparing ballots, coordinating election inspectors, and overseeing the canvass.

Some villages have chosen to have their elections administered by the county board of elections. In those villages, the county conducts the election like other local elections and the responsibilities typically carried out by the village clerk are performed by the county. Candidates must file ballot access documents directly with the county board of elections.

It is essential for prospective candidates to confirm whether their village conducts their own elections or whether the county conducts the elections for the village, as this determination affects filing locations, statutory deadlines, procedural requirements, and voting and canvass procedures.

Campaign Finance

NYCOM maintains a longstanding policy of not offering advice or guidance on matters relating to campaign finance, as such issues are political in nature and outside the scope of its organizational mission as a nonpartisan membership association.

All candidates have an independent obligation to understand and comply with the State's campaign finance laws and regulations. For more information related to campaign finance please consult with an attorney and visit, https://elections.ny.gov/campaign-finance.

General Information

The following excerpts from the Election Law relate to the village election and ballot access.

Election Law § 15-104. General village election

1. a. The general village election shall be held on the third Tuesday in March except in any village which presently elects, or hereafter adopts a proposition to elect, its officers on a date other than the third Tuesday in March.

b. In any village in which the general village election, or a special village election for officers pursuant to this chapter, is scheduled to be held on the third Tuesday of March, for any year in which the seventeenth day of March shall fall on such Tuesday, the board of trustees of such village shall provide that such election shall be held on the eighteenth day of March. Any provision of a resolution adopted pursuant to this subdivision shall not otherwise alter the political calendar for any such election, which shall continue to be computed from the third Tuesday of March.

Election Law § 1-106. Filing of papers; when received

1. All papers required to be filed pursuant to the provisions of this chapter shall, unless otherwise provided, be filed between the hours of 9:00 a.m. and 5:00 p.m. If the last day for filing shall fall on a Saturday, Sunday or legal holiday, the next business day shall become the last day for filing.

All papers sent by mail in an envelope postmarked prior to midnight of the last day of filing shall be deemed timely filed and accepted for filing when received, except that all certificates and petitions of designation or nomination, certificates of acceptance or declination of such designations or nominations, certificates of authorization for such designations or nominations, certificates of disqualification, certificates of substitution for such designations or nominations and objections and specifications of objections to such certificates and petitions required to be filed with the state board of elections or a board of elections outside of the city of New York shall be deemed timely filed and accepted for filing if sent by mail or overnight delivery service pursuant to subdivision three of this section, ***and received no later than two business days after the last day to file*** such certificates, petitions, objections or specifications (emphasis added).

Failure of the post office or any other person or entity to deliver any such petition, certificate or objection to such board of elections outside the city of New York no later than two business days after the last day to file such certificates, petitions, objections or specifications ***shall be a fatal defect*** (emphasis added).

2. The failure to file any petition or certificate relating to the designation or nomination of a candidate for party position or public office or to the acceptance or declination of such designation or nomination within the time prescribed by the provisions of this chapter ***shall be a fatal defect*** (emphasis added).

Timely Filing of Petitions and Papers

Petitions ***must*** be rejected if not timely filed. Additionally, all other papers (e.g., certificates of acceptance/declination, written objections, written specifications, etc.) that are not filed within the time prescribed by the Election Law are **NOT** valid.

As stated above, Election Law § 1-106, requires any paper that must be filed pursuant to the Election Law, to be filed between 9:00 A.M. and 5:00 P.M., unless otherwise specifically provided by law.

The Role of the Village Clerk

The village clerk serves as the **chief election officer** for a village that conducts its own elections and is responsible for administering the election in accordance with the state's Election Law.[16] The clerk is vested with all authority reasonable and necessary to conduct the election and is responsible for overseeing the various administrative requirements associated with the election.

The role of the village clerk differs fin several respects from that of a county board of elections. For example, village clerks are not under any obligation to provide blank petitions to prospective candidates. Nor do village clerks determine whether candidate's petitions are sufficient or accurate.

Candidates are responsible for understanding the requirements that apply to their candidacy and for ensuring their petitions and other required filings comply with the Election Law.

It is important for candidates and prospective candidates to understand that the clerk's role does not include providing individualized legal or election advice. ***It is not the responsibility of the clerk to advise candidates or individuals interested in running for village office about whether they are eligible to run, how the law applies to their particular circumstances, or what steps they should take in connection with their candidacy.***

Election law involves numerous requirements, and information provided by the clerk could be misunderstood or relied upon as legal advice. Providing advice to one candidate may also create concerns about fairness if other candidates do not receive the same information or assistance.

Candidates or prospective candidates should therefore obtain legal advice from their own attorney when they have questions relating to the election. General information about ballot access and campaign finance reporting is also available from the New York State Board of Elections website at www.elections.ny.gov.

Ballot Access

Ballot access refers to the legal and procedural steps a prospective candidate must complete in order to have their name appear on the official village election ballot. These requirements ensure that candidates demonstrate a minimum level of community support and comply with the statutory framework established by the New York State Election Law.

Ballot access is achieved through the nomination process. In New York State, candidates may only appear on a ballot if they are nominated by a political party or independent nominating body.

Villages have no authority or control over the nomination process. This means the manner in which a candidate is nominated to appear on the ballot is determined solely by the relevant political parties and, as is often the case with independent nominations, by the candidates themselves.

Because both party and independent body nominations are secured through the procedures prescribed by the Election Law, candidates must comply with the statutory requirements governing the proper preparation, signing, and filing of petitions, as well as all associated deadlines and requirements.

Because a single error may result in disqualification, it is essential for candidates to understand these procedures fully and to seek professional legal guidance when necessary.

Party Designation and Nomination of Candidates

There are two methods by which individuals may place their names on village election ballots. Candidates for village office may be nominated either by a political party or by an independent nominating body.[17] A "**party**" is defined as "political organization which, excluding blank and void ballots, at the last preceding election for governor received, at least two percent of the total votes cast for its candidate for governor, or one hundred thirty thousand votes, whichever is greater, in the year in which a governor is elected and at least two percent of the total votes cast for its candidate for president, or one hundred thirty thousand votes, whichever is greater, in a year when a president is elected."[18] As a result of the 2024 presidential election, the current political parties are:

1. Democratic Party
2. Republican Party
3. Conservative Party
4. Working Families Party

An individual may be nominated as a candidate for village office by his or her party at a party caucus or primary. Under the law, the default manner of party nominations is by party caucus. However, county party committees may decide that party candidates will be chosen via primary.[19]

If there is no village party committee with a chairperson, the chair of the county party committee or another person or body as the rules of the county committee may provide, must designate an enrolled party member who is a qualified voter of the village as the village election chairperson. The village election chairperson is responsible for conducting the party caucus or primary election.[20] In addition to the chairperson, a secretary and tellers must also be appointed by the appropriate party officials.[21]

If a village is located in more than one county, when determining which county political organization controls the party nominating process in the village, the village is deemed to be located within a county if more than 50% of the village's population resides in that portion of the village located in that county.[22]

Villages **may not pay** for any expense associated with the holding of a primary or caucus.[23] Each political party is responsible for organizing, running, and paying for their own caucus or primary, including publishing all notices.

The Party Caucus

A caucus is a meeting of enrolled political party members who are village residents at which candidates are nominated for elective village offices. Any village resident who is an enrolled voter of the party may participate in the caucus.[24]

The party must post and file a notice of the caucus in the public areas of the offices of the village clerk and the board of elections at least 10 days prior to the caucus.[25] The notice must also be published at least once in a newspaper of general circulation at least one week, but not more than two weeks, before the caucus.

As an alternative to publishing notice of the caucus in a newspaper, the party may post notice of the caucus in six public places in the village at least 10 days prior to the caucus.[26] The notice must specify the time, place, and purpose of the caucus, including the offices for which candidates will be nominated.[27]

The party caucus itself is conducted pursuant to the party rules. Consequently, nothing in state law specifically directs how the caucus is conducted or enrolled party members select candidates for village office. All questions related to the conduct of the party caucus must be directed to party officials.

The Party Primary

Instead of nominating its candidates by a party caucus, county party committees may provide that candidates for elective village office will be selected at a primary election. If the party's county rules require a primary, the primary must be held 49 days prior to the village election.[28] Any village resident who is an enrolled voter of the party may participate in the primary.

Only party members may participate in a caucus or primary.[29] For a village primary, the party must publish a notice of the primary in at least one newspaper of general circulation at least once in each of the two weeks preceding the primary.[30]

Petitions for Placing Names on Primary Ballots

If a party nominates its candidates at a primary election, party members[31] wishing to appear on the primary election ballot must file a party designating petition[32] in the village clerk's office not earlier than 22 days and not later than 15 days prior to the primary election.[33] Election Law § 15-108(3) provides a form for the designating petition. **A sample party designating petition is available online on the NYS Board of Elections' website at https://elections.ny.gov/system/files/documents/2023/10/sample-village-designating-petition2017.pdf.**

To appear on the primary ballot, at least 5% of the party's enrolled voters residing in the village must sign the party designating petition.[34] To determine the number of enrolled party members residing in a village, the county board of elections must furnish the village clerk with an official certified list of all village residents who are enrolled in the party.

Once the list is filed in the village clerk's office, it becomes a public record and must be made available for inspection by any interested person. The party designating petitions are filed in the village clerk's office.[35]

Signers of party designating petitions must be:

1. Residents of the village,
2. Registered to vote, and
3. Enrolled in the political party conducting the primary.[36]

Nominating a Non-Party Member a/k/a Wilson Pakula

Although only enrolled members of a party may participate in a primary or caucus, the political party may nominate an individual who is enrolled in a different political party or who is not a member of any party or body.[37] The authorization to nominate someone not registered with the party is known as a *Wilson Pakula*. The moniker pays tribute to Senator Irwin Pakula and Assemblymember Malcom Wilson who sponsored the original legislation requiring candidates to receive specific authorization by the political party before being nominated by a political party of which they are not enrolled members.[38]

Article 15 is silent as to non-party member nominations. Election Law § 6-120(3) requires the members of the party committee to, by a majority vote of those present, authorize the designation or nomination of a non-party member as a candidate for office. At this meeting, a quorum of the party committee must be present.[39] Following the vote, a certificate of authorization must be filed not later than four days after the last day to file the designating petition, certificate of nomination, or certificate of substitution.[40] The certificate of authorization must be signed and acknowledged by the presiding officer and the secretary of the authorizing meeting.[41]

However, it should be noted that a certificate of authorization does NOT have to be filed when:

- A political party is designating or nominating candidates for the first time,
- Candidates are nominated by party caucus, or
- Candidates are nominated for judicial office.[42]

As a practical matter, in most elections where nominations are made at a caucus, the only time a certificate of authorization may be required is when a vacancy occurs after

the caucus and the committee on vacancies meets to fill the vacancy by nominating a candidate who is neither an enrolled member of the party nor a judicial candidate.

When a party nominates an individual who is not an enrolled member of the party, the nomination process is referred to as an endorsement. The term "endorsement," however, has no significance under the Election Law. **A sample certificate of authorization is available on the NYS Board of Elections' website at https://elections.ny.gov/system/files/documents/2023/11/sample-certificate-of-authorization.pdf.**

Filing Party Nominations

A party designating petition (the petition needed to place a candidate's name on a primary ballot) must be filed with the village clerk not earlier than 22 days and not later than 15 days before the primary.[43] A certificate of party nomination must be filed with the clerk not earlier than 54 days and not later than 47 days prior to the election.[44]

Once these forms are received, the village clerk notifies by mail each person nominated or designated of their nomination or designation.[45]

The list of the enrolled party members who participated in the caucus or primary must be filed with the certificate of nomination. If the list is not filed, the clerk must send a notice, by first class mail, to those who signed the certificate, stating that this list must be filed within five days of the notice being mailed.[46] The certificate of nomination and the list of enrolled party members who participated in the caucus or primary must also be filed with the county board of elections.[47] Similarly, if the list is not filed, the board of elections must also send a notice, by first class mail to those who signed the certificate, stating that the list must be filed within five days of the notice being mailed.

Independent Nominations

Many village officials are elected as independent body candidates, meaning that they are not nominated as a candidate of one of the recognized political parties. To be nominated by an independent body, an independent nominating petition must be filed not earlier than 42 days and not later than 35 days preceding the election.[48]

A sample independent nominating petition is available on the NYS Board of Elections' website at https://elections.ny.gov/system/files/documents/2023/11/samplevillageindependentpetition2017.pdf

Any qualified registered voter who has not participated in a caucus or primary and has not signed a nominating petition for a particular office may sign an independent

nominating petition for a particular office. A signer of an independent nominating petition must be:

1. A village resident; and
2. (a) Registered with the appropriate county board of elections, or
   (b) Appear on the village register from the previous village election.[49]

For example, assume that the mayor and two trustees are up for election. If a registered voter participated in the caucus or primary, they may not sign any independent nominating petitions. If the registered voter did not participate in a party caucus or primary, they may sign one independent nominating petition for mayor and two independent nominating petitions for trustee (since two seats are up for election).

If a registered voter signs more independent nominating petitions than they are allowed (for instance, the voter signed three independent nominating petitions for trustee when there are only two open seats), those petitions that are signed first are the ones that would count; the later signatures would be held as invalid, should the petitions be challenged.[50]

For example, assume that the mayor and two trustees are up for election. If a registered voter participated in the caucus or primary, they may not sign any independent nominating petitions. If the registered voter did not participate in a party caucus or primary, they may sign one independent nominating petition for mayor and two independent nominating petitions for trustee (since two seats are up for election). If a registered voter signs more independent nominating petitions than they are allowed (for instance, the voter signed three independent nominating petitions for trustee when there are only two open seats), those petitions that are signed first are the ones that would count; the later signatures would be held as invalid, should the petitions be challenged.[51]

Number of Signatures Required for Valid Independent Nominating Petition

In villages with populations of 5,000 or more, at least 100 registered voters must sign the independent nominating petition. In villages of at least 3,000 residents but less than 5,000 residents, at least 75 registered voters must sign the petition. In villages with populations of at least 1,000 residents but less than 3,000 residents, at least 50 registered voters must sign the petition. In villages with populations of less than 1,000 residents, at least 5% of the number of registered voters that were registered during the last regular village election must sign the petition.[52]

	Population			
	0 – 999	1,000 - 2,999	3,000 - 4,999	5,000 +
Minimum number of required signers	5% of ***registered*** voters	50	75	100

Many questions arise concerning villages with populations under 1,000. Although the language of the statute seems to imply that 5% of those who actually voted in the last village election must sign the petition, the New York State Board of Elections has stated that 5% of the **registered voters** in the village at the time of last election must sign the nominating petition. For example, if at the last regular village election, 500 of the village's 900 residents were registered to vote and only 100 residents actually voted, the petition would have to be signed by 25 registered voters (500 x 0.05 = 25).

Independent Nominating Body Name

An individual running for elected office as an independent body must choose a name to identify him or her on both the independent nominating petition and on the ballot. The name must be in English, and must not include the name, part of the name, or abbreviation of any existing political party.[53] **Note that a candidate's name must be listed on the ballot in the same manner as it is listed on the petition**.[54]

In 2020, State law was amended so that the emblem is no longer printed on the ballot.[55] Despite this change, the Election Law still requires candidates to designate an emblem on independent nominating petitions.

The name on the independent nominating petition must conform to the requirements of the Election Law relating to party names.[56] A candidate's independent nominating body name **may not** include the words:

- American;
- United States;
- National;
- New York State;
- Independence;
- Independent;
- Empire State; or
- Any abbreviation or plural thereof.[57]

In addition, the name **may not** be similar to, or likely to create confusion with, the name of an existing political party or independent body.[58]

If a petition filed with the village clerk violates these requirements, the clerk should still accept the petition for filing and ask the candidate(s) to change the name and emblem. Failure to change impermissible names could open the petition to a challenge. If a petition filed with the village clerk fails to select an independent body name the village clerk must notify the candidate that he or she must select such and, if the candidate fails to, the clerk selects a name for the candidate.[59]

If two or more independent nominating petitions nominating candidates for the same office are filed and each has selected the same or similar name, the petition that is filed first may use the selected name, while the other candidates must select a different name.[60]

The exception to this rule is in situations where there is an established independent body in the village and a candidate not associated with that body files his or her petitions first, claiming that independent body's name.[61] Since allowing another candidate to usurp the name of an established independent body would create confusion amongst voters, that candidate should select a new name.[62]

Candidates may choose to run together and list all the candidates' names on the independent nominating petition. However, candidates may also choose to circulate separate petitions and still run together under the same independent nominating body.

Candidates' Names

When a person is running for office, they do not have to use their exact given name or the name that appears on their voter registration record. Under Election Law § 1-104(39), candidates may use a nickname, shortened version of their name, or another name they are commonly known by in their community.

That said, candidates' names must be printed on the ballot as they appear on the Certificate of Party Nomination or on the Independent Nominating Petitions that are filed with the village clerk.[63] Moreover, names that describe the candidates, including titles or descriptive terms, cannot be used.

For example, a candidate whose name is William Ralph Smith may be placed on the ballot as William Ralph Smith, William R. Smith, William Smith, Will Smith, Bill Smith, or Ralph Smith if he goes by those names. However, a candidate's descriptive nickname may **NOT** be placed on the ballot. Thus, William "Lucky" Smith is NOT allowed. This issue has been litigated. The actor Al Lewis, when running for governor, was not allowed to have "Grandpa Al Lewis," his nickname from a television series, placed on the ballot.[64]

Filing Deadlines for Independent Nominating Petitions

Independent nominating petitions must be filed with the clerk not earlier than 42 days and not later than 35 days preceding the election.[65]

Cover Sheet

Both Election Law § 6-134 and Title 9, Part 6215 of the New York State Compilation of Codes, Rules, and Regulations govern the format of petitions and cover sheets. Petitions consisting of two or more sheets must be securely bound and numbered sequentially at the foot of each page.[66] Petitions consisting of 10 or more pages must have a cover sheet.[67] **A sample cover sheet is available on the NYS Board of Elections' website at https://elections.ny.gov/system/files/documents/2023/11/coversheetdesignatingindependentcombined.pdf.**

If, within two days of the filing of a petition, the clerk finds that it does not satisfy the cover sheet or binding requirements, the clerk must notify the candidate of the defect.[68] The clerk must either send notice of the defect by overnight delivery on the day the clerk makes the determination, or arrange for the notice to be personally delivered not later than one day after the determination is made. If authorized on the petition's cover sheet, the clerk may notify the candidate by facsimile transmission at the time that the determination is made and also by mail. The candidate then has three days from the date of the clerk's determination to cure the defect.[69]

All notices required by the Election Law must be signed originals. This requirement extends to notifications sent by the clerk to candidates. However, to ensure the notification is received by the candidate in a timely manner, NYCOM recommends that clerks provide a duplicate notice via email when possible.

Timely Filing of Petitions

Petitions must be rejected if not timely filed. Pursuant to Election Law § 1-106, any paper that must be filed pursuant to the Election Law must be filed between 9:00 A.M. and 5:00 P.M., unless otherwise specifically provided by law. If the last day for filing falls on a Saturday, Sunday, or legal holiday, then individuals have until the next business day to file the petition. For example, if the last day for filing papers would fall on a Saturday, the last day for filing becomes the following Monday, unless that Monday is a legal holiday, in which case the last day to file the papers is the following Tuesday.

All papers sent by mail in an envelope postmarked prior to midnight of the last day of filing are also deemed timely.[70] However, pursuant to Chapter 5 of the Laws of 2019, only those properly postmarked filings received not later than two business days after the last day to file may be accepted. [71] Therefore, filings received after this date,

irrespective of the postmark, are considered untimely and must be rejected. The failure of the post office or delivery service to transmit the filing within two business days of the last day to file is a fatal defect.[72]

Papers that are not filed within the time prescribed by the Election Law are **NOT** valid.[73] **Clerks MUST provide for acceptance of filings until 5:00 P.M. on the last day of a filing, even if normal business hours of the office end earlier than 5:00 P.M.**

In Westchester County only, petitions of designation or nomination must be filed between the hours of 9:00 A.M. and midnight on the last day of filing, and village clerks' offices within Westchester County must remain open to receive such filings until midnight.[74]

Accepting or Declining a Nomination

Party Nominations

Any candidate nominated by a political party must file a certificate of acceptance or declination not later than 44 days prior to the village election.[75] However, if candidates are enrolled members of the party that nominated them, they do not have to file a certificate of acceptance and are deemed to have automatically accepted the nomination. Accordingly, any candidate that is non-member of the political party must file a certificate of acceptance.

In contrast, if the candidate is not an enrolled member of the party having filed the nomination, **failure to accept the party nomination will result in the candidate's declination of the nomination and prevent the candidate's name from being printed on the ballot**.[76]

If a candidate declines a party's nomination, the clerk must notify within one day the committee to fill vacancies of the declination.[77] The committee to fill vacancies must then file a certificate to fill the vacancy along with the written consent of the person designated with the village clerk within three days of the last day to file a declination.[78]

Sample certificates of acceptance and declination and a sample certificate of substitution by committee to fill vacancies are available on the NYS Board of Elections' website at https://elections.ny.gov/petition-information.

Independent Nominations

Independent body candidates must file a certificate of acceptance or declination in the village clerk's office within three days of the last day to file the independent nominating petition.[79]

Unlike party nominations, there are no default acceptances for independent bodies as no person is an enrolled member of an independent nominating body. Consequently, candidates nominated by independent nominating petitions must file a certificate of acceptance to properly appear on the ballot.[80] **Stated differently, the failure to file a certificate of acceptance of an independent nomination will result in the candidate's automatic declination of the independent nomination and** *the candidate's name will NOT be printed on the ballot***.**

If a candidate declines an independent nomination, the committee to fill vacancies makes an appointment to fill the vacancy caused by the declination and must file such appointment with the village clerk within three days of the last day to file a declination. The candidate nominated by the committee must attach his or her written consent to the appointment.[81]

Sample certificates of acceptance and declination and a sample certificate of substitution by committee to fill vacancies are available on the NYS Board of Elections' website at https://elections.ny.gov/petition-information.

Challenging Petitions and Nominations

Individuals wishing to object to the legal sufficiency of an independent nominating petition, designating petition, or certificate of nomination must file a written objection in the village clerk's office no later than one day after the last date to file the petition or certificate, or no later than one day after the clerk receives the petition or certificate if the papers were timely mailed as permitted by law.[82] Within two days of filing the written objection, the challenger must also file in the clerk's office written specifications that form the basis of the objection. Failure to file the written specifications renders the original objection null and void.[83]

When a village clerk receives the written specifications of the objection, he or she must immediately notify both the candidate(s) named in the petition or certificate and the county board of elections.[84] The clerk must then forward the materials on to the county board of elections.

The county board of elections must render a determination as to the merits of the challenge, including issuing a finding as to whether the petition is sufficient or insufficient. Once the county board renders its determination, it must immediately notify the village clerk, each candidate named in the petition or certificate, and, if the determination was made on an objection, the objector.[85]

Poll Watchers

Poll watchers are individuals designated to be the "eyes and ears" of the candidates or their political parties at a general or special election. Poll watchers may not politick or attempt to influence voters; rather, they must be silent observers of the election process.

Registration Day(s)

Each political party or independent body, may appoint two watchers to attend any election inspectors' meeting for the registration of voters. For the appointment to be effective, the party or independent body chairman or secretary must file the written appointments with the election inspectors.[86]

Election Day

At any general or special village election, any party committee, independent body, or political committee supporting or opposing a ballot proposal whose candidates are on the ballot can have three poll watchers present at each election district.[87] However, no more than one of the watchers may be allowed within the guardrail area at any given time. The chairman of the party, committee, independent body, or the candidate appoints the watcher.[88] ***Write-in candidates have no statutory authority to appoint poll watchers.***[89]

The chairman or secretary of the political party, independent body or the candidate must certify in writing the appointment of the poll watchers. The certificate must be delivered to an inspector for the election district where the watchers will be serving.[90] A watcher must be a qualified voter of the county in which they serve.[91] However, a qualified voter who is a New York state resident and is licensed to practice law in the State may serve as a watcher at any polling place.[92]

In 2014, State Law was amended to prohibit candidates from serving as poll watchers.[93] However, the law does **NOT** prohibit a candidate's spouse or other family member from serving as a poll watcher.

Watchers may be present at polling places 15 minutes before the voting machines and ballot boxes are unlocked and examined at the opening of the polls. The poll watchers may remain at the polling places until after the election inspectors sign the returns and proclaim the results.[94]

Write-Ins

Ballots voted for any person whose name does not appear on the ballot as a nominated or designated candidate for public office are referred to as write-in ballots.[95] Until 2023, voters were prohibited from writing in a person's name if the candidate's name already appeared on the ballot for the same contest. The law stated: "No write-in ballot shall be voted for any person for any office whose name appears on the ballot as a nominated or designated candidate for the office or position in question; any write-in ballot so voted shall not be counted."[96]

In 2023, the **law was modified to allow written-in votes to be counted even if the candidate's name is printed on the ballot for that contest**, provided that the write-in does not create an invalid overvote in the contest.[97] In other words, a candidate for mayor may be written-in for mayor without creating an overvote, as long as the voter does not vote more than once in the contest.[98] This change clarifies that a voter may

either check the box or write in a candidate's name and the vote will be validly counted.

Write-in votes may only be counted when the name is written in the proper space provided on the ballot.[99] However, a voting mark made before or after a written in name does not invalidate the vote.[100]

A **name stamp** may be used to cast a write-in vote.[101] If a write-in ballot is properly submitted, the ballot must be counted if the voter's intent is apparent.[102]

Frequently Asked Questions

Q. How many signatures are required for Independent Nominating Petitions?

A. The number of signatures required for an independent nominating petition depends on the population of your village. for villages with populations of 5,000 or more, a successful candidate would need 100 signatures. for villages with between 3,000 and 4,999 residents, 75 signatures are required. for a village with between 1,000 and 2,999 residents, 50 signatures are required. In villages with less than 1,000 residents, the number of signatures needed is at least 5% of the numbers of registered voters at the last regular village election. for purposes of this provision, the population of a village must be determined by the last federal decennial or local special population census federally supervised pursuant to General Municipal Law § 20.

Q. In a village with fewer than 1,000 residents, is that the number of signatures on an independent nominating petition equal to 5% of those who actually voted in the last election? When calculating the number of signatures required, and that amount is not a whole number, what is the actual number of necessary signatures?

A. No. The State Board of Elections has stated that it is 5% of the number of registered voters in the village at the time of the last election. When calculating the necessary signatures for independent nominating petitions in villages with fewer than 1,000 residents, round up to the next whole number. for instance, if there were 483 registered voters at the last village election, 5% of that number is 24.15. Thus, the candidate must get 25 signatures on his or her petition.

Q. Who may carry an independent nominating petition for a candidate?

A. Pursuant to Chapter 106 of the Laws of 2017, the Election Law no longer requires subscribing witnesses to be qualified voters who reside in the village. This change is consistent with previous Court of Appeals' rulings that residency requirements for witnesses of nominating and designating petitions is an unconstitutional violation of the First Amendment. Therefore, a witness must simply be qualified to vote (at least eighteen years of age or older and a citizen of the United States) to carry an independent nominating petition for a candidate.

Q. What is a committee to fill vacancies? Is it a necessary part of the petition?

A. A committee to fill vacancies is a group selected by a party or an independent nominating body consisting of at least three qualified voters of the village enrolled in such party or independent body that selects an alternate candidate to represent the party or body in the event that one or more candidates decline their respective nominations. The absence of a committee to fill vacancies on a party designating petition or independent nominating petition is not a facial defect, and a clerk should not reject a petition if a committee to fill vacancies has not been selected. However, in the event that a candidate declines the nomination and the party or body has not selected a committee to fill vacancies, there is no way that the party or independent body can select a replacement candidate to be placed on the ballot.

Q. What is the village's role in terms of the party primary or caucus?

A. Primaries and caucuses are organized and financed solely by the political parties themselves. The role of the village comes after the primary or caucus, when the village clerk accepts party designating petitions prior to the primary election, as well as certificates of party nomination and a list of enrolled members of the party that participated in the primary or caucus. Note that the clerk is obligated to notify the parties, in the event that the list of enrolled members is not filed with the certificates of nomination and that the party has five days to furnish to the clerk the list of enrolled members of the party that participated in the primary or caucus.

Q. What types of names are proper for an independent body?

A. Election law explicitly prohibits certain names from being used by independent nominating bodies. An independent body name may not include the words American, United States, National, New York State, Empire State, Independence, Independent, or any abbreviation thereof. In addition, the name of an independent body may not be similar to, or likely to create confusion with, the name of an existing political party or independent body. In the event that two or more independent bodies select the same or similar name, the party who files first may use the selected name and the other party or parties must select different names, unless it would create confusion among voters.

Q. What is an emblem? Why are emblems required on petitions if they are not printed on the ballot?

A. Previously, an individual running for elected office as an independent body was required to choose an emblem to identify themselves on both the independent nominating petition and the ballot. The emblem could be a picture or symbol associated with the independent body, such as an animal or other appropriate design, provided that it was not the same or similar to any emblem, insignia, symbol or flag of any political or governmental body or entity. The emblem would appear at the head of

the column on the ballot or at the beginning of the row with the party/body name, depending upon the orientation of the ballot.

In 2020, State law was amended to prohibit emblems from being printed on the ballot. Despite this change, the Election Law still requires candidates to designate an emblem on independent nominating petitions. While the petitions continue to request emblems, their elimination from the ballot renders this requirement effectively moot. Consequently, the failure to submit an emblem does not impact the validity of an otherwise proper petition.

Q. How would someone challenge an independent nominating petition, designating petition, or certificate of nomination?

A. The challenge is a two-step process. Pursuant to § 15-108(10) of the Election Law, anyone wishing to challenge a petition or certificate of nomination must file a written objection in the village clerk's office. This initial objection must be done no later than one day after the last day to file the petition or certificate with the village clerk, or no later than one day after the clerk receives the petition or certificate if the papers were timely mailed. Within two days of filing the initial, written objection, the challenger must also file in the clerk's office written specifications that form the basis of the objection. If an individual fails to file the written grounds, the objection is void.

Q. Can an individual challenging a petition or certificate file the initial objection and the grounds in the same document?

A. Yes, this is permissible, so long as the document is received by the initial deadline, which is one day after the last day to file the petition or certificate or one day after the petition or certificate has been received by the clerk via mail, as mentioned in the previous answer. If the challenger files such a document later than this date, he or she has missed the initial deadline and the objection is void.

Q. What do village clerks do when they receive an objection and written grounds? Do the clerks decide whether the challenge is valid?

A. No. The clerk is not responsible for assessing the validity of a challenge to an independent nominating petition, designating petition, or certificate of nomination. The county board of elections renders a determination. Upon timely receipt of both the initial objection and the grounds for the objection (or one document containing both as mentioned in the previous answer), the clerk must immediately notify both the candidate(s) named in the petition or certificate AND the county board of elections that there has been an objection. Then, the clerk must forward all relevant materials (the petition or certificate and the objection and grounds) to the county board of election. Once the county board of election renders its determination, it must immediately notify the village clerk, each candidate named in the petition or certificate, and if the objection was made by another individual, the objector in question.

Q. May a candidate for office change how his or her name will appear on the ballot to something different than what was set forth on the certificate of party nomination or independent nominating petition?

A. No. A candidate's name on the ballot must match what was listed on the petition or certificate. However, candidates may list their nickname, shortened version of their name, or another name they are commonly known by in their community on the petition or certificate of nomination. Professional titles (such as M.D. or J.D.) and academic degrees (such as Ph.D. or M.A.) may not be included with the candidate's name, unless they are necessary to distinguish between candidates who share the same name.

Endnotes

[1] Public Offices Law § 3, DeCaprio v. Rockland County Bd. of Elections, 33 Misc.3d 217 (2011).

[2] See, Election Law § 6-122 and 1991 N.Y. Op. Atty. Gen. (Inf.) 1110. See also Brayman v Stevens, 54 Misc.2d 974 (Sup Ct Dutchess Co), aff'd, 28 A.D.2d 1090 (2d Dept 1967).

[3] See, 1961 Op. Atty Gen (Inf.) No. 97.

[4] Ryan v. Green, 58 N.Y. 295 (1894).

[5] 1992 Op. Atty Gen. (Inf.) No. 92-8.

[6] 1989 Op. Atty Gen. (Inf.) No. 89-70.

[7] See, 1991 Op. Atty Gen. (Inf.) No. 91-48.

[8] Id.

[9] Ryan v. Green, 58 N.Y. 295 (1874).

[10] Id.

[11] Op. Atty. Gen. No. 85-58.

[12] General Municipal Law § 801.

[13] General Municipal Law § 800(3).

[14] Id.

[15] General Municipal Law § 802.

[16] Election Law § 15-124(1). Election Law § 15-124(2) requires the police and sheriff's office to aid the clerk in enforcing election laws. These services include, but are not limited to, using the police telephone service, investigating a registrant or applicant for an absentee ballot to determine qualifications, and maintaining order and regulating traffic control on registration days and election day. These services are provided at no charge to the village.

[17] See, generally Election Law § 15-108.

[18] Election Law § 1-104(3).

[19] Election Law § 15-108(2)(a).

[20] Id.

[21] Election Law § 15-108(2)(d).

[22] Election Law § 15-108(2)(a).

[23] Election Law § 15-108(2)(d).

[24] Id.

[25] Election Law §§ 6-202(3) & 15-108(2)(c).

[26] Election Law §§ 6-202(3) &15-108(2)(c).

[27] Election Law §§ 6-202(4) & 15-108(2)(d).

[28] Election Law §§ 6-202(1) & 15-108(2)(a).

[29] Election Law § 15-108(2)(d).

[30] Election Law §§ 6-202(2) & 15-108(2)(b).

[31] Election Law § 6-120(1).

[32] Election Law § 15-108(3)(a).

[33] Election Law § 15-108(7)(d).

[34] Election Law § 15-108(3)(b).

[35] Id.

[36] Election Law §15-108(3)(a).

[37] Election Law § 6-120(3).

[38] See, id. See also, Wilson Pakula, Wikipedia, https://en.wikipedia.org/wiki/Wilson_Pakula (last visited July 16, 2021).

[39] Id.

[40] Id.

[41] Id.

[42] Election Law § 6-120(4).

[43] Election Law § 15-108(7)(d).

[44] Election Law § 15-108(7)(a).

[45] Election Law § 6-144.

[46] Election Law § 15-108(2)(e); See Keane v. Lefever, 118 A.D.2d 674 (2nd Dep't 1986) (noting that failure to file the list of caucus participants is a fatal defect within the meaning of the Election Law § 1-106).

[47] Election Law § 6-202(5).

[48] Election Law § 15-108(8)(a).

[49] Election Law § 15-108(4).

[50] Keenan v. Chemung County Bd. of Elections, 43 A.D.3d 623 (3d Dept 2007).

[51] Id.

[52] Election Law § 15-108(6).

[53] Election Law § 15-108(5).

[54] Election Law § 6-144.

[55] See, Chapter 411 of the Laws of 2020. See also, Election Law § 7-104(21).

[56] Election Law § 2-124, Falcone v. Manupella, 159 A.D.2d 795 (3d Dep't 1990) (noting that Election Law § 15-108(5) incorporates by reference Election Law § 2-124 relating to party names and emblems).

[57] See, Chapter 671 of the Laws of 2022 which added the terms "Independence," Independent," and "plural" thereof.

[58] Election Law § 2-124(2).

[59] Election Law § 15-108(5).

[60] In re Nomination of Candidates, 186 NY 266 (1906).

[61] Election Law § 2-124(4).

[62] Id. See also, McCarthy v. Lawley, 314 N.Y.S.2d 619 (Sup Ct Erie Co 1970), modf on other grounds,
35 A.D.2d 126 (4th Dept 1970), aff'd, 27 N.Y.2d 754 (1970).

[63] Election Law § 6-144.

[64] See, Lewis v. NYS Board of Elections, 254 A.D.2d 568 (3d Dept. 1998).

[65] Election Law § 15-108(8)(a).

[66] 9 NYCRR § 6215.1(c). See also, Braxton v. Mahoney, 63 N.Y.2d 691 (1984).

[67] 9 NYCRR § 6215.1(b).

[68] 9 NYCRR § 6215.7.

[69] 9 NYCRR § 6215.7(d).

[70] Election Law § 1-106.

[71] See, Chapter 5 of the Laws of 2019.

[72] Id.

[73] Election Law § 1-106(2).

[74] Election Law § 1-106(1).

[75] Election Law § 15-108(7)(b).

[76] See, 1963 Op. Atty. Gen. 109.

[77] Election Law § 15-108(7)(e).

[78] Id.

[79] Election Law § 15-108(8)(b). Baird v. Ness, 109 A.D.2d 975 (3rd Dep't 1985) (holding that a failure to timely file certificate of acceptance of nomination is a fatal defect if the issue is raised for judicial review. Those challenging the nomination, however, must file the appropriate challenge pursuant to Election Law 16-102 within 7 days after the late date of the final petition for village election.).

[80] See, 1963 Op. Atty. Gen. 109.

[81] Election Law § 15-108(8)(c).

[82] Election Law § 15-108 (10).

[83] Id.

[84] Id.

[85] Id.

[86] Election Law § 5-206(1).

[87] Election Law § 8-500.

[88] Election Law § 8-500(1).

[89] Id.

[90] Election Law § 8-500(3).

[91] Election Law § 8-500(4).

[92] Election Law § 8-500(5); see also, L. 2024, c.218 § 1).

[93] Chapter 254 of the laws of 2014.

[94] Election Law § 8-500(2).

[95] Election Law § 8-308(1).

[96] Election Law § 8-308(2) (McKinney 2022), repealed by L.2023, c. 474.

[97] See, L.2023, c. 474, § 10, eff. Sept. 20, 2023. Election Law § 8-308(2).

[98] See, Bill Jacket, N.Y. State Assembly Bill No. 7690, c. 474, 2023.

[99] Election Law § 8-308(3).

[100] Election Law § 9-112(3).

[101] Election Law § 8-308(4).

[102] Carbery v. Carbery, 131 Misc.2d 727 (1986).



The New York State Conference of Mayors and Municipal Officials (NYCOM) is an association of, and for, cities and villages in New York. Since 1910, NYCOM has united local government officials in an active statewide network focused on the singular purpose of finding the most effective means of providing essential municipal services. Through the active participation of our membership, which represents more than 12 million New Yorkers, NYCOM is an aggressive advocate for city and village interests before the Executive, Legislative and Judicial branches of state government. Our association is a readily accessible source of practical information touching upon every area of municipal activity, and is also a leader in the on-going training and education of local officials.