

Disclaimer:

This guide is designed for informational purposes only. It is not legal advice and is not intended to create an attorney-client relationship. The Election Protection Coalition does not warrant any information contained in this guide, nor does the Coalition suggest that the information in this guide should be used as a basis to pursue legal advice or decision making.

Questions Involving Access to the Ballot:**1. It is after 6:00 a.m. and the polling place is not open.**

If it is a general election, immediately contact the local County Election Official. You can find contact information at <http://www.elections.ny.gov/CountyBoards.html>.

If it is a primary election, the polls open at 6:00 a.m. only for counties in or near New York City or Buffalo (i.e., New York City, Nassau, Suffolk, Westchester, Rockland, Orange, Putnam and Erie counties). For counties other than those listed above, polls for primary elections are open only from 12:00 noon until 9:00 p.m. **N.Y. Elec. Law § 8-100(2).**

If the polling place is open but the voting machines have not arrived, contact a Captain immediately. Voters should be permitted to vote by emergency paper ballots until voting machines arrive. **N.Y. Elec. Law § 7-120.**

2. It is 9:00 p.m. and my precinct is closed or closing and they will not let me vote.

Any eligible voter on line or in the polling place at 9:00 p.m. must be allowed to vote. Immediately contact a Captain, who should call the local County Election Official. You can find contact information at <http://www.elections.ny.gov/CountyBoards.html>. **N.Y. Elec. Law § 8-104(5).**

3. The voting machines are not being used. How can I vote?

If the voting machines are not available or are not being used, any eligible voter must be allowed to vote by emergency paper ballots. If the voting machines are not being used because of a breakdown, however, the inspectors of elections at each polling place have the discretion (but are not required) to use emergency paper ballots during the first hour after a breakdown. Inspectors of elections are required to use emergency paper ballots if the breakdown lasts more than one hour. **See N.Y. Elec. Law §§ 7-120.**

Note that emergency ballots are different than affidavit (provisional) ballots. If the poll workers do not know the difference, a Captain should speak to them. The New York City poll workers' manual explains the emergency ballot procedure at p. 82. You can find the manual at <http://www.vote.nyc.ny.us/pdf/documents/boe/pollworkers/pollworkersmanual.pdf>.

If you mistakenly mark or tear a ballot, you are entitled to another ballot upon return of the spoiled ballot to the election officials. Any eligible voter is entitled to up to two replacement ballots. **N.Y. Elec. Law §§ 8-312(1), 8-316.**

If a caller reports problems with machines, immediately contact a Captain, who can then locate an expert to walk you through the appropriate steps to solve the machine problem.

4. There are equipment problems at my precinct and I cannot vote. What should I do?

Encourage the voter to ask to vote by an emergency paper ballot. (See the previous question for more information.) If a caller reports problems with machines, immediately contact a Captain who can then locate an expert to walk you through the appropriate steps to solve the machine problem.

Identification and Provisional Ballots:

1. I do not have any identification with me. Can I vote?

Yes. Limited by the following exception, voters in New York do not need to show identification at the polls but need only sign the registration poll record. If the voter is a first-time voter who registered by mail and did not present acceptable identification when registering, the voter present proper identification (see Question 2 below) before the voter is permitted to vote by regular ballot; even without proper identification, though, the voter may still vote by affidavit (provisional) ballot. A first time voter who registered by mail should be encouraged to go and get an ID and NOT cast an affidavit (provisional) ballot, because if ID is not provided on Election Day but is otherwise required before the election is certified, the affidavit (provisional) ballot will not be counted. **N.Y. Elec. Law §§ 8-304(1), 8-302(2-a)(a), 8-303(2)(b)(1).**

2. I am a first-time voter who registered by mail. What identification do I need to bring with me in order to vote?

If you did not provide identification at registration and have not previously voted, you need to bring one of the following forms of ID: driver's license, non-driver photo ID card, other current and valid photo identification, or a copy of a current utility bill, bank statement, government check, paycheck or other government document that shows your name and address. **N.Y. Elec. Law § 8-302(2-a)(a).**

3. Poll workers are turning voters away if they don't have photo ID.

Contact a Captain immediately. An attorney may be dispatched to the polling place. Encourage the voter to go back inside the polling place and demand the right to vote by a REGULAR ballot (which generally means on a voting machine), unless the voter is a first time voter who registered to vote by mail and has not previously provided a copy of their ID, in which case they can vote by affidavit (provisional) ballot, although there is a chance that the vote won't be counted (see questions #1 and #4 of this subsection). **N.Y. Elec. Law §§ 8-304(1), 8-302(2-a)(a).**

4. I am a registered voter who is not on the rolls at my precinct. Can I vote?

Confirm that the voter registered in time to vote in this election (25 days before the election – by August 17, 2012 for the September 13, 2012 primary, or by October 12, 2012 for the November 6, 2012 general election), and that the voter is qualified to vote (i.e., U.S. citizenship, meets the age, criminal status, and durational residency requirements found under the "Voter Registration" section of the manual).

Second, make sure the voter is at the correct polling place. For New York City, you can look up poll information at <http://gis.nyc.gov/vote/ps/index.htm>.

Next, if the voter is in New York City, make sure that the poll worker has checked both the regular poll book as well as the supplemental poll book for voters whose registrations were processed after the regular poll books were printed. Not all poll sites will have supplemental books, but it is important to check.

If the voter has registered on time, is eligible, and is in the correct polling place, check the voter's registration for them online. You can look up voter's registration status on the State's online database at <https://voterlookup.elections.state.ny.us/votersearch.aspx>.

If the voter still is not on the rolls, let them know that the voter can vote provisionally (by "affidavit ballot"). This is a LAST resort alternative as affidavit (provisional) ballots will be counted only if the poll workers can later verify the voter's registration status. **See N.Y. Elec. Law § 9-209.**

Tell a captain immediately if a voter is listed on the statewide database but not on the poll worker's rolls.

Also let the voter know that NY State Supreme Court judges will be stationed throughout the State on Election Day. These judges will hear complaints by voters who claim they were wrongly left off the rolls, forced to vote by affidavit (provisional) ballot and/or turned away from the polls, and will issue court orders directing poll workers to allow eligible voters to vote on the machines. If a caller wishes to pursue this legal strategy, ask a Captain for the names and locations of sitting judges.

5. I recently moved. Can I vote?

If you moved within the same election district (precinct), you can vote by regular ballot (i.e., on the voting machine). You must fill out a written affirmation of your new address. **N.Y. Elec. Law § 8-302(3)(b).**

If you moved within the same city or within the same county, but to a different election district, you may vote by affidavit (provisional) ballot in your new election district. You must complete an affidavit swearing that you have properly registered to vote, the address at which you previously registered, and your new address. Make sure that you are in the correct district in order for your affidavit (provisional) ballot to count. **N.Y. Elec. Law § 8-302(3)(e)(ii).**

6. I have been offered an affidavit (provisional) ballot. What should I do?

Affidavit (provisional) ballots are a LAST resort. Affidavit (provisional) ballots will be counted only if the poll workers can later verify that the individual who cast the affidavit (provisional) ballot is registered to vote in the applicable election and lives at an address within the district. If the voter has registered on time, is eligible and is in the correct polling place, direct the voter to ask the poll worker to call the county clerk and confirm his or her registration. If the voter still is not on the rolls, let them know that the voter can vote by affidavit (provisional) ballot. But remember, for the reasons stated above, voting by affidavit (provisional) ballots is a LAST resort.

7. I have changed my name. Can I vote?

Any voter that has changed her or his name must be permitted to vote by regular ballot (i.e., on the voting machine). The voter will be required to sign both the old and new names on the registration list. **N.Y. Elec. Law § 8-302(3)(c).**

8. I haven't voted in a long time. Can I vote?

If you have not voted in the last two general federal elections (i.e., you did not vote in November 2008 or November 2010) and/or you received a notice from the BOE asking that you confirm your registration status and address and you did not respond, your name may have been removed from the poll ledgers, and either put on inactive status or cancelled altogether. You should have received a notice to that effect. If you have been placed in inactive status, you may cast an affidavit (provisional) ballot, and your registration should then be restored to active status. Be sure to pay attention to any notices that you receive from the board of elections after you cast an affidavit (provisional) ballot, because if your registration has been cancelled (not just placed on inactive status) you may need to re-register. **N.Y. Elec. Law §§ 5-213, 5-400(1)(f).**

Where to Vote:

1. Where do I vote (for voters who have not moved)?

You can look up polling locations for New York City at <http://gis.nyc.gov/vote/ps/index.htm>.

2. I have moved within the SAME ELECTION DISTRICT and have not updated my address for voter registration purposes. Where should I vote?

If the voter has moved within the same election district, the voter should go to the appropriate polling place for that election district. If the voter registration list still lists the voter's old address, the voter will be asked to update the registration. If the updated address is within the precinct, the voter must be permitted to vote. **N.Y. Elec. Law § 8-302(3)(b).**

3. I have moved to a DIFFERENT ELECTION DISTRICT within the SAME COUNTY or CITY and I have not updated my address for voter registration purposes. Where should I vote?

The voter should go to the new polling location that corresponds to the new address or to the county board of elections, complete and sign an affidavit indicating the address from which he or she was previously registered and the address at which he/she currently resides. The voter will be able to vote by affidavit (provisional) ballot. **N.Y. Elec. Law § 8-302(3)(e)(ii).**

4. I have MOVED from one COUNTY or CITY to another and have not updated my address for voter registration purposes. Where should I vote?

The voter should go to the board of elections office in the voter's NEW COUNTY or CITY, complete and sign a new voter registration form at least 25 days before the Election Day. In the meantime, the voter may vote by an affidavit (provisional) ballot, but such vote will not count unless the poll workers verify that the voter is registered to vote in the applicable election and lives at an address within the district. **N.Y. Elec. Law § 8-302(3)(e)(ii).**

A voter who has moved from one county to another county in New York State or from New York State to another State 30 days before the election may still vote for President and Vice President in the county where they were last registered to vote by applying for a special presidential ballot. Such applications must be mailed to the board of elections in that county not later than the 7th day before the election OR delivered to the board of elections not later than the day of such election. **N.Y. Elec. Law § 11-104.**

Assistance at the polls:

1. I am physically disabled and need assistance; will my polling place be accessible?

Federal and New York law requires that each polling place be accessible to physically disabled voters. Additionally, at least one machine in each election district must be accessible to persons with disabilities. **N.Y. Elec. Law §§ 4-104(1-a), 7-202(2); HAVA § 301(a)(3).**

Unfortunately, many polling places do not meet these requirements. If a voter reports that a polling place is not accessible to the handicapped or that there is no machine for persons with disabilities, contact a Captain so an attorney can get in touch with the responsible election official to report the problem immediately. A physically disabled voter whose polling place is not accessible is entitled to vote in another election district with an accessible polling site, provided that the candidates and ballot are the same. **N.Y. Elec. Law § 5-601(1).**

As of September 2008, all poll sites in New York State should have at least one Ballot Marking Device (BMD) that is accessible to disabled voters. If a voter reports that a poll site does not have a BMD machine or that poll workers do not know how to work the BMD machine, alert a Captain.

2. I am blind, physically disabled or cannot read English and require assistance at the polls in order to vote. Can I get assistance at the polls?

A voter requiring assistance at the polls for any of these reasons can take a person of his or her choice (excluding an employer, an agent of employer, or an officer or agent of his or her union) or two election officials of different political parties into the voting booth. If a poll worker refuses to allow a disabled or language minority voter to bring a person of his or her choice into the voting booth, contact a Captain. **N.Y. Elec. Law § 8-306(1)-(5).**

In New York City, voter information must be provided in certain languages other than English when a sufficient number of the population does not speak English as its first language. **28 C.F.R. § 55.3-55.4(b) and Appendix; Voting Rights Act §§ 4(f)(4); 203(c).**

Miscellaneous Issues:

1. I have been approached by candidates or others at the polls.

All poll monitors must stay at least 100 feet from the entrance to the polling place; they can solicit you if they comply with this rule. If they are violating the 100-foot requirement, contact a Captain, let them know the extent of the problem and work with them to assess whether calling an election official is necessary. **N.Y. Elec. Law § 8-104(1).**

Please note that Election Protection volunteers also have to comply with the 100 feet rule if standing outside the polling place, but they may enter the polling place if they are invited by a voter or if a poll worker permits them to do so.

2. There are people at the polls trying to intimidate voters.

Contact a Captain immediately. An attorney may be dispatched to the polling place. If the voter agrees, put them on hold while you contact a Captain so they can send an attorney to the location immediately. Then, gather as much information from the voter as possible. **See N.Y. Elec. Law §§ 3-402, 17-150, 17-154.**

3. I have a felony conviction. Can I vote?

Yes, although you may need to re-register in order to do so. New York law permits persons with felony convictions to vote so long as they are not currently serving a felony sentence of incarceration or death or currently on parole. This includes those who are on probation, those who have completed a felony sentence of incarceration and/or parole in the past, or those whose sentence has been suspended. In addition, the Governor of New York or the President of the United States may pardon or restore the voting right of a person serving a felony sentence of incarceration or death. The name of a person with a felony conviction may have been removed from the registration rolls during the period of ineligibility; however, so he or she may need to re-register. If the person's name does not appear on the registration list, have the voter vote an affidavit (provisional) ballot. If the person's name appears on the registration list but also appears on a challenge list, he or she may vote by regular ballot if he or she takes "The preliminary oath" and "The Conviction Oath" as administered by the inspector. **N.Y. Elec. Law §§ 5-106(2)-(5), 5-400(1), 8-504.**

4. My vote has been challenged. Can I still vote?

Yes. Depending on the basis for the challenge, you will be allowed to vote by regular ballot if you: (1) take "The preliminary oath" promising to tell the truth with regards to your qualifications as a voter, and (2) answer questions posed by the inspector pertaining to the challenge. The inspector may also require you to take a second oath pertaining to the specific basis for the challenge, such as "The Conviction Oath" discussed in Question 4 above. If you take the oath(s) as instructed by the inspector, however, you will be allowed to vote by regular ballot. If you refuse, you will not be allowed to vote. **N.Y. Elec. Law § 8-504.**

5. What happens if I have restored my voting rights but I am not removed from the list of disenfranchised voters?

New York registration lists do not automatically remove from the list of disenfranchised voters the name of previously disenfranchised voters who have had their right to vote restored. If a voter is denied the opportunity to vote based on these grounds, the voter has the right to complete an affidavit (provisional) ballot or to get a court order requiring that he be permitted to vote. **N.Y. Elec. Law § 8-302(3)(e).**

6. I am a college student, can I vote where I go to school?

College students may register and vote where they go to school provided that they consider in *bona fide* that location their voting residence. A voting residence is the residence the student claims as their home; the residence which qualifies them to vote on a particular ballot. "Residence" is defined as the place where a person maintains a fixed, permanent and principal home and to which he or she, wherever temporarily located, always intends to return. Students must be held to the SAME eligibility requirements as any other voter in the jurisdiction. If a student has been turned away at the polls, ascertain if they have fulfilled all of the registration requirements (age, criminal status, durational residency requirements) and that they have registered on time for this election (by 25 days before the election). If so, contact the Captain to dispatch an attorney to the location and/or contact the appropriate election official. **N.Y. Elec. Law §§ 1-104(22), 5-102.**

7. What if I make a mistake or "spoil" my paper ballot while voting?

Prior to submitting a ballot, if a voter makes a mistake in completing the ballot or wishes to change his/her ballot choices, the voter may obtain and complete a new ballot. The voter has a right to a replacement ballot upon return of the original ballot. **N.Y. Elec. Law § 7-106(5).**