



STATE OF NEW YORK

DAVID A. PATERSON
GOVERNOR

TO: NYS Board of Election Commissioners
County Party Chairs
Commissioners, County Boards of Elections
FROM: Governor David A. Paterson
DATE: October 31, 2008
SUBJECT: Election Preparation

I am reaching out to you because of the historic surge of voter registration this election year. Statewide, hundreds of thousands of new voters have been registered, bringing the total number of registered voters in New York State to 11.9 million. This record number of registrants is a testament to the strength of our democracy, but also poses certain logistical challenges. I would take this opportunity to underscore that for all 62 counties: 1) all voters on line to vote at the time of poll closing must be permitted to do so; 2) voter identification requirements must be uniformly applied and well publicized; and, 3) affidavit ballots should be timely processed and uniformly reviewed.

I. Eligible Voters Must be Allowed to Vote

a. All Voters on Line to Vote at the Time of Poll Closing Must Be Permitted To Vote

We are all aware of the news reports indicating that some States have responded to the anticipated volume of voters by extending voting hours. The voting hours in New York State are set by statute and provide for 15 hours of voting on Election Day--the most of any State in the nation. (Election Law §8-100) Additionally, Election Law also provides that, "voters entitled to vote who are on line or in the polling place at the time fixed by law for the closing of the polls shall be allowed to vote." (Election Law §8-104(5)) Uniformity in the application of this requirement throughout the state is essential. Therefore, each polling place should be prepared to physically mark the end of the line of voters at 9 p.m. I would emphasize that the line does not end at the doors of the polling place, but can extend well beyond them. All voters on line by 9 p.m. must be accommodated. I want to be sure that the vote of each and every eligible voter who arrives at the polls within the time prescribed by law is counted.

b. Need for Adequate Board of Election Staffing

I want to underscore that the unprecedented number of voters expected to cast their ballots this coming Tuesday will require adequate staffing to manage the crowds and ensure an orderly voting process. Please take the appropriate steps to ensure that each polling site is able to handle in a timely manner the anticipated increase in people seeking to vote.

II. Voter Identification Requirements Must Be Uniformly Applied and Well Publicized

Administrative difficulties may also arise in conjunction with the application of Election Law §8-302, which requires voters who are newly registered by mail to produce appropriate identification at the polling place. First, all poll workers should be reminded that identification is not required except with respect to these newly registered voters who have not had their identification validated prior to Election Day. Further, appropriate identification includes a valid driver's license or other government issued ID,

or a bank statement, utility bill or government document which shows the name and address of the voter. Because it can be anticipated that some voters will not know of this requirement, I would ask that you broadly publicize it on your websites and by all other appropriate media.

III. Affidavit Ballots Should Be Timely Processed and Uniformly Reviewed

Due to the high volume of anticipated voters in this election, you should maintain a sufficient supply of affidavit ballots to accommodate, among others, those newly registered voters who did not bring appropriate identification or voters who do not appear on the registration lists. Affidavit ballots exist to ensure that no qualified voter is turned away at the polls.

I would also remind you that democratic precepts encourage voter participation and consequently, in the subsequent counting of affidavit ballots, ministerial errors on the ballot should not be used to invalidate it. See Election Law §16-106(1) and Panio v. Sunderland, 4 NY3rd 123, 2005. Your review instructions should take all such relevant guidance into account.

Boards of Elections are gatekeepers to our vibrant democracy. Thank you for your hard work and dedication to this effort.

Thank you.