

BOARD OF ELECTIONS IN THE CITY OF NEW YORK

RECORDS ACCESS POLICY

Adopted: May 14, 2002

PREAMBLE

In accordance with the provisions of Article 6 of the New York State Public Officers Law, commonly known as the New York State Freedom of Information Law, the Board of Elections in the City of New York, pursuant to the provisions of Section 87(1) of the Public Officers Law does hereby adopt and promulgate the following procedures for making available to the public for inspection and copying all of the records and materials mandated by such law for such purposes, subject to the provisions of Section 1 of this Policy.

Section 1: PRIMACY OF THE NEW YORK STATE ELECTION LAW

The Election Law of the State of New York mandates that certain materials and records maintained and/or compiled by a Board of Elections must be available for public inspection and review (including duplication thereof). In addition, the New York State Election Law empowers this Board to adopt Rules, Regulations, Policies and Procedures, consistent with said Election Law. In the event of a conflict between the provisions of the New York State Election Law and/or the Rules, Regulations, Policies and Procedures promulgated pursuant to the authority vested in the Board by the Election Law and the provisions of the New York State Freedom of Information Law and this Records Access Policy, the provisions of the New York State Election Law or the Rules, Regulations, Policies and Procedures promulgated thereunder shall control.

Section 2: PUBLIC INSPECTION OF RECORDS

- (a) Application shall be made in writing either on printed forms prescribed by the Board and submitted either personally or by mail to: Board of Elections in the City of New York, 32 Broadway, 7th Floor, New York, NY 10004, Attention Records Access Officer or by written communication.
- (b) The person to whom such request shall be made and from whom such records or copies thereof may be obtained and certified shall be the Board of Elections' Director of Personnel/Records Management Officer, who shall be deemed the "records access officer" of the board.

In cases where the Finance Office is required to furnish certain records, requests shall nevertheless be made through the records access officer, who will inform the Finance Office to make the necessary arrangements.

In cases where the candidate records unit is required to furnish certain records, requests made, upon written authorization of the records access officer, be made directly to the Candidate Records Unit on such forms as the records access officer may prescribe.

The duties of the records access officer shall be:

- (1) assist the applicant in identifying the record or records sought;
- (2) determine whether the record is available for inspection;
- (3) search for the identified record and, upon locating the record, take one of the following actions:
 - (i) review such record and delete any information which would constitute an unwarranted invasion of personal privacy, and thereafter make the record promptly available for inspection or schedule an appointment for inspection; or
 - (ii) deny access to the record;
- (4) upon request, for copies of records, make copies available upon payment of the established fees;
- (5) certify, upon request, to the correctness of the copies of the records;
- (6) if the record cannot be located, take one of the following actions:
 - (i) certify in writing that the Board of Elections is not the legal custodian for such records; or
 - (ii) certify in writing that the record of which the Board of Elections is a legal custodian cannot be found;

- (7) if access is denied, advise the applicant of the right to appeal to the Commissioners of Elections in the City of New York;
 - (8) pursuant to Section 87(3)(i) of the Public Officers Law, maintain the records of the Board setting forth the final vote of each Commissioner of the Board in every agency proceeding in which the Commissioner votes;
 - (9) pursuant to Section 87(3)(ii) of the Public Officers Law, maintain the record setting forth the name, public office address, title and salary of every officer or employee of the agency;
 - (10) pursuant to Section 87(3)(iii) of the Public Officers Law, maintain and update, not less than semiannually, a reasonably detailed list, by subject matter, of all records maintained by the agency, whether or not available under the Freedom of Information Law for public inspection and copying.
- (c) Applications will be entertained during the hours of 10 a.m. to 4 p.m. on each business day.
 - (d) The records access officer shall respond to the applicant, within five days of a request for inspection or copying of records, by:
 - (1) appointing a time for inspection or copying the requested records;
 - (2) providing a written statement of denial, which shall include notice of the right to appeal to the records access appeals officer, together with the name, title, business address and telephone number of the records access appeals officer; or
 - (3) informing the applicant that his request for inspection or copying of records has been reported to the person, association, corporation or other legal entity which filed the records requested with the board, so that such person, association, corporation or legal entity may have an opportunity to protest the inspection or copying of such records as not being available pursuant to the exception provisions of the Public Officers Law.
 - (e) If more than five days are required to produce records, an explanation shall be sent within five days of the request to the applicant, indicating the reason for and extent of the delay anticipated. If access to records is neither granted nor denied within 10 business days after the date of acknowledgment of receipt of request, the request may be construed as a denial of access that may be appealed.

- (f) Inspection shall take place in a room designated by the Board, and in the presence of such board representatives as may be designated.
- (g) If feasible to the operations of the business of the Board, the Board may furnish copies of such materials at a price of 25 cents per page, up to size 8 1/2 inches by 14 inches per page. If not feasible, the Board may arrange by private contract for such copying to be performed, the cost to be borne by the applicant.
- (h) All charges for copying must be paid in advance to the Board.
- (i) Whenever a person, association, corporation or other legal entity is required to file records with the board, such person, association, corporation or legal entity shall be notified by the records access officer whenever a request is made to inspect or copy such records, unless such request is made by a governmental enforcement agency, so that such person, association, corporation or legal entity may have an opportunity to protest the inspection or copying of such records as not being available pursuant to the exemption provisions of the Public Officers Law. The records access officer will inform the applicant of such notice and, after reviewing the argument, if any, of the party who filed the record, will determine whether the record is exempt from public access.
- (j) The Commissioners of the Board of Elections in the City of New York shall constitute the records access appeals officer.

Section 3. APPEALS OF DENIAL OF ACCESS TO RECORDS

- (a) Any person who has been denied access to records by the records access officer may appeal such denial to the records access appeals officer.
- (b) The appeal must be made within 30 days of the denial of access.
- (c) The time for deciding on an appeal by the records access appeals officer shall commence upon receipt by him of the written appeal, which shall identify:
 - (1) the date and location of requests made for records;
 - (2) the records to which the applicant was denied access; and
 - (3) the name and return address of the applicant.
- (d) The records access appeals officer shall, within seven business days of the receipt of a written appeal, review the matter and affirm, modify or reverse the denial.

- (e) If the records access appeals officer determines that the denial of access was erroneous, he shall instruct the records access officer to allow the prompt inspection or copying of the records as requested.
- (f) If the records access appeals officer affirms or modifies the denial, he shall communicate his reasons in writing by either first class mail or certified mail, return receipt requested, to the person making the appeal and inform such person of his right of judicial appeal.
- (g) The Commissioners of the Board of Elections in the City of New York shall constitute the records access appeals officer for the Board.

Adopted unanimously by the Commissioners of Elections in the City of New York at their meeting held on Tuesday, May 14, 2002.