

CHAPTER 10 ELECTIONS

Authority

N.J.S.A. 19:23-45 et seq., 19:4-10 et seq., 19:31-6 et seq., and P.L. 1991, c. 318.

Source and Effective Date

R.1996 d.211, effective April 10, 1996.
See: 28 N.J.R. 1344(b), 28 N.J.R. 2393(b).

Executive Order No. 66(1978) Expiration Date

Chapter 10, Elections, expires on April 10, 2001.

Chapter Historical Note

Chapter 10 became effective September 25, 1974 as R.1974 d.270. See: 6 N.J.R. 356(a), 6 N.J.R. 412(b). Revisions became effective May 1, 1975 as R.1975 d.114. See: 7 N.J.R. 173(b), 7 N.J.R. 278(a). New rules became effective April 21, 1976 as R.1976 d.119. See: 8 N.J.R. 253(a). New rules became effective November 23, 1976 as R.1976 d.375. See: 8 N.J.R. 484(b), 8 N.J.R. 42(b). Amendments became effective June 9, 1977 as R.1977 d.205. See: 9 N.J.R. 187(a), 9 N.J.R. 346(c). Further amendments became effective July 29, 1977 as R.1977 d.271. See: 9 N.J.R. 443(b). Further amendments became effective March 15, 1979 as R.1979 d.105. See: 11 N.J.R. 203(c). Chapter 10 was repealed and a new Chapter 10 was adopted by R.1986 d.32, effective February 18, 1986. See: 17 N.J.R. 2381(a), 18 N.J.R. 422(a). Subchapter 6, Voting Accessibility for the Elderly and Handicapped, was adopted by R.1988 d.450, effective September 19, 1988. See: 20 N.J.R. 1527(a), 20 N.J.R. 2378(a).

Pursuant to Executive Order No. 66(1978), Chapter 10 expired on February 18, 1991 and a new Chapter 10, Elections, was adopted by R.1991 d.191, effective April 15, 1991. See: 23 N.J.R. 288(b), 23 N.J.R. 1145(a). Subchapter 7, Distribution of State Voter Registration Forms Through Public Agencies, was adopted by R.1993 d.54, effective January 19, 1993. See: 24 N.J.R. 736(a), 24 N.J.R. 1688(a), 24 N.J.R. 2531(a), 25 N.J.R. 320(a).

Pursuant to Executive Order No. 66(1978), Chapter 10 was readopted by R.1996 d.211, effective April 10, 1996. See: Source and Effective Date. As part of R.1996 d.211, Subchapter 1, Voter Registration By Mail, was repealed and a new Subchapter 1, Voter Registration, was adopted; and Subchapter 7, Distribution of State Voter Registration Forms Through Public Agencies, was repealed, effective May 6, 1996. See, also, section annotations.

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SUBCHAPTER 1. VOTER REGISTRATION

15:10-1.1 Purpose and scope

This subchapter identifies the responsibilities of the Secretary of State to provide voter registration applications to the offices of voter registration agencies, public agencies and other sources for forms availability as directed under N.J.S.A. 19:31-1 et seq., and those agencies' responsibilities to provide voter registration applications to their clients and collect completed forms. This section also provides definitions for terms that are utilized in this subchapter and N.J.S.A. 19:31-1 et seq., and delineates the procedures for citizens to file a complaint on voter registration activity and obtain an appropriate response from the Secretary of State's office.

Repeal and New Rule, R.1996 d.211, effective May 6, 1996.
See: 28 N.J.R. 1344(b), 28 N.J.R. 2393(b).

Section was "Availability of forms; reasonable quantity defined".

15:10-1.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

“Application” means the voter registration form described in N.J.S.A. 19:31-6.4.

“Applicant” means a person applying to register to vote, or a person applying for participation in Federal or State programs, or renewing participation in said programs, administered by State and county agencies designated as voter registration agencies.

“Registered voter” means a person who has completed a voter registration which has been accepted by the appropriate county commissioner of registration and has not been removed from the registry list for any reason.

“Secretary of State” means the State officer designated as the Chief Election Official of this State with specific election administrative responsibilities assigned under the Voter Registration Act, and who has further specific regulatory authority under N.J.S.A. Title 19. The Division of Elections in the Department of State shall perform the activities listed in this chapter on behalf of the Secretary of State.

“Public agency” means those agencies and their offices explicitly named in N.J.S.A. 19:31-6.3.

“Voter registration agencies” means those agencies and their offices, explicitly named or which administer programs specified in N.J.S.A. 19:31-6.11.

Repeal and New Rule, R.1996 d.211, effective May 6, 1996.
See: 28 N.J.R. 1344(b), 28 N.J.R. 2393(b).

Section was “Reordering forms; notification”.

15:10-1.3 Voter registration applications; availability, printing and distribution

(a) The Secretary of State shall cause to be printed a sufficient supply of voter registration applications in English and Spanish languages for utilization by voter registration agencies and public agencies. The applications shall bear a postage paid return address of the Secretary of State’s office in Trenton, except those applications which are printed for the county commissioners of registration and municipal clerks within their jurisdiction which bear the return address of the appropriate county commissioner of registration.

(b) Each public agency shall prominently display voter registration applications and voting instructions at each public office, make applications readily available to their applicants for benefits or customer service and collect completed applications if the applicant so chooses.

(c) Each voter registration agency shall offer a notice of the opportunity to register to vote with each application, recertification, renewal of service, or change of address; provide assistance where necessary, and collect completed voter applications for transmittal to the Secretary of State or county commissioners of registration.

(d) Each voter registration agency and public agency shall prepare and maintain a list of the public offices where voter registration services are offered and provide an updated list to the Secretary of State as changes occur. The agency office address, street location if different, and telephone number shall be listed.

(e) Through coordination with each State department and the offices of the county commissioners of registration, the Secretary of State shall distribute a sufficient supply of applications, including Spanish language applications, where appropriate, to the coordinating office or individual offices of each department.

(f) The coordinating office of each department and the superintendents/commissioners of registration shall notify the Secretary of State when their applications inventory needs to be restocked.

(g) When the supply of voter registration applications has reached a level of 25 percent of the amount of such applications previously allocated to a county, the county voter registration official shall notify the Office of the Secretary of State, which shall then take appropriate steps to supply the county with an adequate number of applications to meet reasonably expected needs.

Repeal and New Rule, R.1996 d.211, effective May 6, 1996.
See: 28 N.J.R. 1344(b), 28 N.J.R. 2393(b).

Section was “Acceptance of photocopies and reproductions of form”.

15:10-1.4 Availability of voter registration applications; reasonable quantity defined; reorder notification

(a) An organization or candidate for public office may request a reasonable quantity of voter registration applications from the superintendents/county commissioners of registration or the Secretary of State. The number of applications requested may be limited to two percent of the total number of voter registration applications which the superintendent/commissioner of registration has available at the time of the request, or 2,500 forms if request is made to the Secretary of State. There shall be no limit to the number of requests an organization or candidate may make. The commissioner of registration shall maintain a record of all organizations and candidates requesting more than 100 applications. Requests will be met at an agreed upon time at the office of the commissioner of registration or Secretary of State.

(b) An individual may request in person up to 25 voter registration applications from the superintendent/commissioner of registration or Secretary of State. There shall be no limit to the number of requests an individual may make. An individual making a telephone request shall be entitled to at least two application forms.

(c) The superintendent/commissioner of registration may adopt a method of identifying a supply of voter registration applications provided to any organization, candidate or individual for the sole purpose of reporting any deficiencies in returned registrations.

Repeal and New Rule, R.1996 d.211, effective May 6, 1996.
See: 28 N.J.R. 1344(b), 28 N.J.R. 2393(b).

Section was "Acceptance of registrants after the 29th day before any election".

15:10-1.5 Photocopies and reproduction of voter registration application

(a) The voter registration application may be photocopied or reproduced except that the return address portion of the voter registration application shall not be photocopied or reproduced. Any completed voter registration application form which includes a reproduced return address portion shall be rejected. Any photocopies or reproductions to be utilized by individuals completing the form or soliciting other individuals to register to vote must be true facsimiles of the application.

(b) Any completed voter registration application identified as distorted, unintelligible, or altered in the reproduction process may be rejected by the superintendent/commissioner of registration.

Repeal and New Rule, R.1996 d.211, effective May 6, 1996.
See: 28 N.J.R. 1344(b), 28 N.J.R. 2393(b).

Repealed section was "Completion of the form".

15:10-1.6 Completion of application

(a) An applicant shall complete all required portions of the voter registration application. If an applicant is unable to personally complete the form, another individual may complete the form for the applicant. The individual who completed the form for the applicant shall enter his or her name in the appropriate section of the voter registration application. If possible, the applicant shall sign or make his or her mark on the signature line of the application. If applicant cannot sign or make his or her mark, the assisting individual shall write "unable to mark" on the signature line.

(b) The county commissioner of registration may reject an application if the applicant has failed to sign the voter registration application and/or if applicant's name and street address are not properly completed or are unintelligible. Failure to properly complete other portions of the application may cause the county commissioner of registration to return the form for proper completion. Prior to rejection, a commissioner of registration shall take all steps necessary to

provide the voter with the opportunity to complete his or her voter registration application.

(c) The absence of an optional telephone number of the applicant or the absence of the applicant's last voter registration information shall not cause the application to be rejected.

Repeal and New Rule, R.1996 d.211, effective May 6, 1996.

See: 28 N.J.R. 1344(b), 28 N.J.R. 2393(b).

Section was "Notification to registrant".

Case Notes

Female who had been injured by ex-husband was entitled to register to vote without making her address matter of public record. *D.C. v. Superintendent of Elections*, 261 N.J.Super. 366, 618 A.2d 931 (L.1992).

15:10-1.7 Acceptance and transmittal of applications

(a) Employees of a voter registration agency, charged with the responsibility to provide voter registration opportunity forms and assistance to the applicant, shall accept the application from the applicant when the applicant has determined it is complete. Those applicants who have agreed to the offer of assistance shall be advised if the application is not complete or is unintelligible. Employees of a public agency are required to provide the application, assistance if requested and acceptance of the completed application. Acceptance is for transmittal purposes only. The employee does not determine if the information is acceptable. An applicant may also choose to complete the application and personally mail the form.

(b) Applications completed at a voter registration agency or public agency and given to an employee thereof shall be batched at each office on a weekly basis and sent to the Secretary of State or county commissioner of registration, except that batching shall be done on a daily basis during registration deadline dates.

(c) Upon acceptance of an application, the employee shall mark or stamp the date of receipt on the application.

(d) Any application returned to an employee of a voter registration agency or public agency up to the close of business 29 days prior to an election covered under N.J.S.A. Title 19 shall be deemed timely received for the purpose of qualifying an eligible applicant as registered to vote for an ensuing election.

(e) Any application dated by the applicant and post-marked on or before the 29th day prior to any election covered under N.J.S.A. Title 19 shall be deemed timely if received by the county commissioner of registration or Secretary of State in the mail not later than the 25th day prior to the election. If the U.S. Post Office is not open on the 29th day prior to the election, and/or the offices of the county commissioner of registration or Secretary of State are not open on the 25th day prior to the election, the deadline is extended to the first business day thereafter.

Repeal and New Rule, R.1996 d.211, effective May 6, 1996.
See: 28 N.J.R. 1344(b), 28 N.J.R. 2393(b).
Section was "Signatures".

15:10-1.8 Federal voter registration application forms

(a) The Secretary of State and the county commissioners of registration shall accept the National Voter Registration Application form for registration purposes. Name, address and date of birth information must be legibly completed and the form signed or marked in order to be accepted. ID number and race or ethnic group information, which appear on the form, shall not be recorded in this State.

(b) The Division of Motor Vehicles (DMV) shall administer a voter registration solicitation upon receipt of each in-person application for a driver's license, including new application, renewal, change of address, and identification card. Applicants who respond affirmatively shall be provided an abbreviated New Jersey voter registration application signature card, which lists the declaration statement in accordance with N.J.S.A. 19:31-6.4 and information item lines for: county of residence, telephone number (optional), date, signature and printed name. All information must be legible for acceptance.

(c) The Division of Motor Vehicles shall electronically transmit name and address information to the Secretary of State on a weekly basis. Completed voter registration application cards shall be forwarded from each DMV office to the Secretary of State within five days of receipt.

Repeal and New Rule, R.1996 d.211, effective May 6, 1996.
See: 28 N.J.R. 1344(b), 28 N.J.R. 2393(b).
Section was "Sample and instruction ballots".

15:10-1.9 Voter registration complaint procedure

(a) Any person who believes that he or she has been denied the opportunity to register to vote or remain a registered voter by a voter registration agency, or that someone has interfered with their rights to register or decline to register to vote, or to choose a political party preference may file a written complaint with the Secretary of State as provided for in N.J.S.A. 19:31-6.11b(5) and 19:31-29.

(b) A notice of violation must be in writing, signed and dated by the person reporting a violation and/or seeking relief and certified by the complainant's signature. The notice must include as many of the particulars relative to the violation as the person can recount, the date of the occurrence, and what relief, if any, the person is seeking. The person shall also include his or her name and address, legibly written, in order that an acknowledgment of receipt be properly directed.

(c) The Secretary of State shall prepare a written acknowledgment of complainant's notice within five days of receipt.

(d) If a notice of violation is filed with the Secretary of State within 30 days of the occurrence, the Secretary of State shall forward the notice of violation to the appropriate office and require a written response, from such office within seven days of receipt.

(e) The voter registration agency office manager or coordinator shall determine if the statements of violation are correct, inaccurate or false and provide a written description of the occurrence to the Secretary of State within seven days of receipt of notice. If the agency agrees that the outcome of the occurrence resulted in a failure to offer a voter registration opportunity or the right to privacy, it shall recommend a correction of the violation and a practice to avoid reoccurrence and submit same to the Secretary of State within seven days of receipt of the notice.

(f) Where relief is required in the specific case and/or corrective action necessary, the Secretary of State shall act on the agency's recommendation or develop an alternative resolution to be effective within 20 days of receipt of the notice of violation.

(g) The Secretary of State shall prepare a response to the individual, within 20 days of receipt of notice of violation, denoting comment or method of relief or correction which ever is applicable and what activity the individual must perform, or rejecting the claim of violation.

(h) If a notice of violation is filed with the Secretary of State at a time greater than 30 days from the date of occurrence and the voter registration agency or office is unable to complete the violation review within seven days, the Secretary of State may respond to the individual within 20 days that the claim of violation is under review and shall be resolved when pertinent information becomes available. If the violation is not corrected within 90 days after receipt of notice or within 20 days if the violation occurred within 120 days before a Federal election, an individual may go to Federal district court. If the violation occurs within 30 days of a Federal election, an individual may file suit without first providing notice.

Repeal and New Rule, R.1996 d.211, effective May 6, 1996.
See: 28 N.J.R. 1344(b), 28 N.J.R. 2393(b).
Repealed section was "Out-of-office registration".

15:10-1.10 (Reserved)

Repealed by R.1996 d.211, effective May 6, 1996.
See: 28 N.J.R. 1344(b), 28 N.J.R. 2393(b).

Section was "Secretary of State as agent for purposes of mail registration".

SUBCHAPTER 2. VOTER DECLARATION OF POLITICAL PARTY

Law Review and Journal Commentaries

Elections—Primaries—Secretary of State. P.R. Chenoweth, 134 N.J.L.J. No. 4, 57 (1993).

15:10-2.1 General provisions

(a) A voter becomes a member of a political party by either:

1. Having voted in a previous primary of that party; or

2. By filing a political party affiliation declaration form. The declaration must be signed and filed with the municipal clerk or appropriate county election officer no later than the 50th day preceding the primary. However, a voter who has not previously voted in a party primary may vote in any primary without filing any declaration form. However, such voter shall declare a political party affiliation at the polling place on primary election day.

i. In the event such day falls on a Saturday, Sunday, or legal holiday, the county voter registration official shall accept as timely filed those political party affiliation declaration forms which he receives on the first regular business day following the 50th day before the primary election.

(b) A member of a political party county committee and/or a public official or public "employee" who was elected or appointed to such office or employment as a member of a political party shall be deemed a member of such political party.

Amended by R.1996 d.211, effective May 6, 1996.
See: 28 N.J.R. 1344(b), 28 N.J.R. 2393(b).

Case Notes

Signatures of unregistered voters on nominating petitions for state office were invalid. *Lesniak v. Budzash*, 133 N.J. 1, 626 A.2d 1073 (1993).

Unaffiliated voters may declare party membership by signing nomination petition. *Lesniak v. Budzash*, 133 N.J. 1, 626 A.2d 1073 (1993).

Unaffiliated voter could sign nominating petition prior to signing declaration form. *Mayer v. Addison*, 265 N.J.Super. 171, 625 A.2d 1143 (A.D.1993), reversed 93 N.J.A.R.2d(STE) 1, certification denied 133 N.J. 442, 627 A.2d 1147.

To be valid, signatures of registered Republicans on Democratic primary nominating petition were required to have been preceded by filing of declaration. *Lesniak v. Budzash*, 265 N.J.Super. 165, 625 A.2d 1139 (A.D.1993), certification granted, judgment affirmed 133 N.J. 425, 627 A.2d 1133, affirmed as modified 133 N.J. 1, 626 A.2d 1073.

Nominating signature of individual identified as registered in another party was not invalid. *Garcia v. DuVal*, 95 N.J.A.R.2d (STE) 10.

Candidates with insufficient signatures on nominating petition were disqualified. *Republican Assembly Majority v. Cromar*, 95 N.J.A.R.2d (STE) 8.

Candidate with nominating petitions containing insufficient ballot signatures were disqualified. *Republican Assembly Majority v. Cortes*, 95 N.J.A.R.2d (STE) 7.

Insufficient qualified signatures on nominating petitions precluded appearance on ballot. *Republican Assembly Majority v. Bhalla*, 95 N.J.A.R.2d (STE) 5.

Nominating petitions with less than required number of registered signatories were invalid. *Assembly Republican Majority v. Albano Jr.*, 95 N.J.A.R.2d (STE) 1.

Invalid signatures did not invalidate nominating petition when required number of qualifying signatures remained. Challenge by *Fitzgibbons*, 93 N.J.A.R.2d (STE) 25.

Nominating petitions were invalid when qualifying signatures were below necessary minimum. *Barry v. Fricchione*, 93 N.J.A.R.2d (STE) 21.

Nominating petitions for primary election were invalid when they disqualified individual as candidate for general election. *Mollica v. Division of Elections*, 93 N.J.A.R.2d (STE) 18.

Lack of minimum number of valid signatures on nominating petition disqualified individual from appearing on ballot. *Jones v. Davis*, 93 N.J.A.R.2d (STE) 17.

Nominating petitions without minimum number of qualified signatories were invalid. *Anderson v. Wise*, 93 N.J.A.R.2d (STE) 15.

Lack of necessary number of legitimate qualifying signatures prohibited nominee from appearing on ballot. *Singer and Cottrell v. Fuller*, 93 N.J.A.R.2d (STE) 13.

Late submission of curative forms could not remedy failure to submit sufficient qualifying signatures before nomination period. Challenge by *Kamin*, 93 N.J.A.R.2d (STE) 11.

After-the-fact registration of one candidate did not operate to invalidate nominating petition. *Kenny v. Hughes*, 92 N.J.A.R.2d (STE) 5.

Candidate whose nominating petition lacked necessary signatures was disqualified from ballot. *Zimmer v. Desmond*, 92 N.J.A.R.2d (STE) 5.

Inadvertent misdescription of district number nominating petition was amendable. *Katz v. Moscinski*, 92 N.J.A.R.2d (STE) 1.

15:10-2.2 Who must file declarations

(a) To determine whether a voter must file a political party declaration affiliation form, three steps shall be followed:

1. It must be determined whether the voter has ever voted in a primary election under the voter's current registration;

2. If so, it must be determined in which political party primary the voter participated when the voter cast the most recent primary ballot;

3. If the voter now wishes to participate in the primary election of a different political party, the voter must file a declaration.

(b) A voter who has never previously participated in a primary election under the voter's current registration need not file a declaration of party preference.

(c) If a voter cast a ballot in a primary several years ago, that voter must file a declaration in order to vote in the primary of another party. The passage of time has no effect on the status of the voter as a member of a political party.

Amended by R.1996 d.211, effective May 6, 1996.
See: 28 N.J.R. 1344(b), 28 N.J.R. 2393(b).

Law Review and Journal Commentaries

Elections. Steven P. Bann, 134 N.J.L.J. No. 11, 45 (1993).

Case Notes

Voters must be registered to be considered "qualified" to sign party nomination petition. *Lesniak v. Budzash*, 133 N.J. 1, 626 A.2d 1073 (1993).

Unaffiliated voters may declare party membership by signing nomination petition. *Lesniak v. Budzash*, 133 N.J. 1, 626 A.2d 1073 (1993).

15:10-2.3 Responsibilities of municipal clerks

(a) Municipal clerks should obtain and have available for distribution voter declaration forms.

(b) Upon receipt of a signed declaration or a written statement declaring political party membership, the municipal clerk should mark on the form or statement the date on which it was filed with him or her.

(c) The municipal clerk should accurately maintain a registry of declarations received showing the name and address of the voter the political party declared and the date received.

(d) Once it has been dated and recorded, the municipal clerk should submit the form or statement to the county voter registration official.

(e) Appropriate measures should be taken to insure that the forms are properly delivered in the condition in which they were received. Immediately after the expiration of the deadline for the receipt of forms (that is, 50 days before the primary election), the municipal clerk should deliver those forms in his possession to the county voter registration official.

(f) In the event that declaration forms or statements are lost or damaged in transit, the municipal clerk may rely upon the records maintained by him or her to advise the county voter registration official of the declarations received, but this measure should only be used after all reasonable means of locating or repairing the original forms or statements have been exhausted.

15:10-2.4 Responsibilities of county election officers

(a) The superintendent of elections in all counties having a superintendent of elections and the county board of elections in all other counties, shall serve as the county commissioner of registration. The commissioner has complete responsibility for the permanent registration of all eligible voters within their respective counties and for the enforcement of the provisions of N.J.S.A. 19:23-45 et seq.

(b) The appropriate county commissioner of registration must distribute the declaration forms prepared by the Department of State to all municipal clerks and to other sources where, in the judgment of the officer, there is a substantial likelihood that such forms will be distributed to the voting public.

(c) Upon receipt of a signed declaration form or statement, the election officer shall immediately mail an acknowledgment to the voter indicating the political party the voter declared. The acknowledgment must also indicate that, if the voter believes that he or she has not filed a declaration, or that an error has occurred, the voter must so advise the officer by either personally appearing, writing or telephoning within two weeks. The voter must be informed that, in the absence of any response, the voter will be deemed to be a member of the political party declared. In the event a voter submits a written, signed statement to the effect that he or she has not filed a declaration or that an error occurred, whatever the case may be, the records of the commissioner of registration shall reflect this action.

Amended by R.1996 d.211, effective May 6, 1996.
See: 28 N.J.R. 1344(b), 28 N.J.R. 2393(b).

Case Notes

To be valid, signatures of registered Republicans on Democratic primary nominating petition were required to have been preceded by filing of declaration. *Lesniak v. Budzash*, 265 N.J.Super. 165, 625 A.2d 1139 (A.D.1993), certification granted, judgment affirmed 133 N.J. 425, 627 A.2d 1133, affirmed as modified 133 N.J. 1, 626 A.2d 1073.

15:10-2.5 Appearance at polls; declaration not required from excused voters

Voters who are not required to file a declaration card under N.J.S.A. 19:23-45 do not have to make a written declaration when appearing at the polls to participate in the primary election. It is sufficient that the voter proceeds to vote in the primary of one party and is thereby deemed to be a member of that party.

15:10-2.6 Method of filing declaration of political party membership

(a) The Department of State has prepared party declaration forms which may be obtained from the appropriate county voter registration official or municipal clerk. Upon filling out the form the voter shall file the completed form with the county commissioner of registration in the county in which he or she resides. The voter may also file the party declaration form with the municipal clerk of the municipality wherein he or she resides.

(b) Any voter wishing to file a declaration of political party membership is not required to use those forms provided by the Secretary of State. However, the voter should prepare a written statement indicating that he or she is a member of a political party. The statement should be signed by the voter. The name and full address should appear and the statement should be dated by the voter.

Amended by R.1996 d.211, effective May 6, 1996.
See: 28 N.J.R. 1344(b), 28 N.J.R. 2393(b).

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Elections. Steven P. Bann, 134 N.J.L.J. No. 11, 45 (1993).

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15:10-2.7 Effect of prior registration and voting

(a) Any voter who has voted in a primary election under a current registration shall vote in the same party as he or she has previously voted, unless the voter has filed a party declaration form in accordance with these rules.

(b) If a voter has registered to vote in a previous year, but has failed to vote in any primary election, then at the first primary election which the voter wishes to vote, he shall declare the party in whose primary he wishes to vote. The

voter shall then be allowed to vote in the primary of the political party of his declared choice.

15:10-2.8 Availability of declaration forms

(a) A bona fide organization or individual candidate for public office may request a reasonable number of declaration forms from the county voter registration official in each county in which the organization functions or where the candidate is seeking public office. The number requested may be limited to two percent of the total number of declaration forms which the appropriate election official has available at the time of such request. There shall be no limit as to the number of requests that such a candidate or organization may make. The appropriate election official shall maintain a record of all organizations and individual candidates requesting 100 or more forms.

(b) Any individual who is not a candidate for public office, may request from the appropriate election official of each county up to 25 declaration forms and shall be entitled to those forms. There shall be no limit as to the number of requests such an individual may make. An individual making such a request by telephone shall be entitled to at least two such forms.

(c) The term "organization" shall be defined as broadly as possible for the purposes of these rules.

(d) Declaration forms shall be prepared in the Spanish language for use by individuals or organizations requesting them.

Case Notes

To be valid, signatures of registered Republicans on Democratic primary nominating petition were required to have been preceded by filing of declaration. *Lesniak v. Budzash*, 265 N.J.Super. 165, 625 A.2d 1139 (A.D.1993), certification granted, judgment affirmed 133 N.J. 425, 627 A.2d 1133, affirmed as modified 133 N.J. 1, 626 A.2d 1073.

SUBCHAPTER 3. ELECTION DISTRICT MAPS

15:10-3.1 General provisions

(a) The county board of elections shall cause to have prepared an up-to-date map of the county and of each constituent municipality clearly delineating the boundary of each election district (established in conformance with N.J.S.A. 19:4-10 et seq.), contained therein and of each ward contained therein. Maps shall also be maintained showing all legislative districts, freeholder districts, and congressional districts, or part thereof which are within the county. A word description of said boundaries shall be attached to each such map.

(b) The county board of elections shall file three copies of such maps and descriptions with the Secretary of State. One copy of each such map and description shall also be filed with the county clerk. A copy of the municipal map shall also be filed with the clerk of the appropriate municipality. Within 30 days of any changes in the boundaries of any of the aforementioned districts, the county board of elections shall file revised maps and descriptions in the same manner.

(c) Election district boundaries shall follow visible, easily recognized features (for example, streets, railroad tracks, drainage features such as streams, creeks and lakes, and topographical features such as ridges) which are to be indicated on the various maps.

(d) Election district boundaries shall be drawn in red. Where the boundary of an election district and the boundary of a constituent municipality or a county line are the same, the common boundary shall be shown as a single

green line. The boundaries of wards shall be drawn as an orange line drawn adjacent to the election district boundary.

(e) Where the election district boundary coincides with a county or municipal boundary which does not follow a physical feature, the first address number (in rural areas, the first rural route box number) on either side of the boundary shall be listed on the map next to the boundary. If there are no address numbers or box numbers near the respective sides, both sides shall be marked with a zero.

(f) The number of each election district shall be clearly shown in red within its boundaries.

(g) The accuracy of the election district boundaries shall be certified on each map sheet by the county board of elections, or by its designated agent, as follows: "I certify that, to the best of my knowledge, the election district boundaries shown on this map are those legally in effect and are accurate of this date." This statement shall be signed and dated, and the title of the signer shall be indicated.

(h) No election district shall be divided during the period commencing 75 days before the primary or the general election. No election districts shall, except with the prior approval of the Secretary of State, be created, abolished, divided or consolidated between January 1 of a year whose last digit is seven, and December 1 of any year whose last digit is zero.

(i) Computer drawn maps shall be accepted by the Secretary of State provided they are in full compliance with the provisions of this subchapter and N.J.S.A. 19:4-10 et seq.

(j) Failure to follow the color requirements for these maps shall cause rejection of them by the Secretary of State.

Amended by R.1996 d.211, effective May 6, 1996.
See: 28 N.J.R. 1344(b), 28 N.J.R. 2393(b).

15:10-3.2 Maps of counties; specifications

(a) The county map shall clearly delineate the boundaries of the constituent municipalities.

(b) The size of the map shall conform to the provisions of N.J.S.A. 46:23-9.11(b). These maps shall be one of four standard sizes; namely:

1. Eight and one-half inches by 13 inches; or
2. Thirty inches by 42 inches; or
3. Twenty-four inches by 36 inches; or
4. Fifteen inches by 21 inches.

(c) These dimensions shall be measured from cutting edges. The scale of the map shall be clearly indicated on the map. The date (month/year) of the map shall be indicated. If the map has been updated, the date (month/year) shall be shown.

15:10-3.3 Maps of municipalities; specifications

(a) The municipal map shall not exceed 30 inches by 42 inches. The scale shall not be so small that the information on the map is difficult to read. The scale should generally range between one inch = 800 feet and one inch = 1,600 feet. The scale should be clearly indicated on the map. Each municipal map shall, wherever practicable, be composed of one sheet and, where not practicable, of a series of sheets, in which event all maps of a series shall be of the same scale.

(b) Maps shall include all existing roads and streets. "Paper" or undeveloped streets or roads (that is, those for which no scraping or road bed has been taken) shall not be shown. Railroad tracks and major drainage features (for example, rivers, lakes, creeks, streams, etc.) shall be shown and the names of such features shall be indicated.

(c) Other features or symbols (for example, churches, schools, factories, underground utility lines, land use and zoning symbols or shadings, symbols for vegetation cover, topographic contour lines, and similar items that obscure the basic street and road pattern and names) shall be excluded. All features, names, titles and symbols shall be clearly shown and legible.

(d) The effective date (date/month/year) of the current municipal boundary, if different from that in effect on January 1, 1980, shall be specified on the map.

15:10-3.4 Maps of congressional, legislative and freeholder districts

(a) The boundaries of congressional districts shall be shown by a thin broken line (— — —) or yellow line drawn adjacent to the election district boundary line. The boundaries of legislative districts shall be shown by a thin dotted line (. . .) or blue line drawn adjacent to the election district boundary line. The boundaries of county freeholder districts, where such freeholder districts are established, shall be shown by a thin broken and dotted line (— . — . — .) or brown line drawn adjacent to the election district boundary.

SUBCHAPTER 4. ABSENTEE BALLOTS**15:10-4.1 Printing absentee ballot applications**

(a) The reproduction of absentee ballot applications, under the statute (N.J.S.A. 19:57-8), is the responsibility of the county clerks at the cost and expense of the individual counties.

(b) The requirements of the Secretary of State are that:

1. The applications be printed in post card style;
2. The size be four inches wide by 9¼ inches long (to be mailed in a number 10 envelope);
3. Applications be printed on sufficient quality cardboard stock to withstand printing and mailing;

4. There be no additions, deletions or changes from the prescribed form and text, except as incidental to printing;

5. Each county clerk shall print, type or stamp the clerk's name and address on the mailing panel and insert the name of the county on the military form in the space provided for the home address of the applicant.

Amended by R.1996 d.211, effective May 6, 1996.
See: 28 N.J.R. 1344(b), 28 N.J.R. 2393(b).

15:10-4.2 Completion requirements; civilian absentee ballot application; generally; authorized messenger

(a) The completed civilian absentee ballot application must be received by the appropriate county clerk not later than seven days prior to the election unless the applicant applies in person or is sick or confined.

(b) If the applicant is sick or confined, an authorized messenger may deliver the application to the appropriate county clerk's office before 3:00 P.M. on the day prior to the election. Both the applicant and the authorized messenger must complete the application if the applicant is sick or confined.

(c) The text of the civilian absentee ballot application is hereby made a part of these rules. Copies of such text may be obtained from the Office of the Secretary of State.

Case Notes

Unsuccessful school district candidate failed to prove irregularities and illegal voting affected outcome. I/M/O The Inquiry into the 1991 Annual School Election Held in the Pennsauken Twp. School Dist., 92 N.J.A.R.2d (EDU) 396.

SUBCHAPTER 5. DEFINITIONS**15:10-5.1 County voter registration official; defined**

The county voter registration official is the county commissioner of registration, which is the superintendent of elections in a county where there is a superintendent or a county board of elections in all other counties.

Amended by R.1996 d.211, effective May 6, 1996.
See: 28 N.J.R. 1344(b), 28 N.J.R. 2393(b).

SUBCHAPTER 6. VOTING ACCESSIBILITY FOR THE ELDERLY AND HANDICAPPED**15:10-6.1 Purpose and scope**

Public Law 98-435, the Voting Accessibility for the Elderly and Handicapped Act, was signed into law on September 28, 1984. The purpose of the Act is to improve access for elderly and handicapped individuals for Federal elections. P.L. 1991, c.429, expanded this accessibility provision for purposes of all elections held in the State and authorized the Secretary of State to promulgate regulations to effectuate this purpose.

Amended by R.1996 d.211, effective May 6, 1996.
See: 28 N.J.R. 1344(b), 28 N.J.R. 2393(b).

15:10-6.2 Responsibility

Pursuant to Federal and State statutes, the political subdivision of each state which is responsible for conducting elections must "assure" that all polling places are accessible to elderly and handicapped voters. In New Jersey, it is the 21 county boards of elections which are responsible for the selection of polling places within their respective jurisdiction.

Amended by R.1996 d.211, effective May 6, 1996.
See: 28 N.J.R. 1344(b), 28 N.J.R. 2393(b).

15:10-6.3 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

"Accessible" means an environment that will permit handicapped and elderly persons to operate independently with comparative ease under normal circumstances and with little or no assistance.

"Accessible route" means a continuous, unobstructed path connecting all accessible elements and spaces in a building or facility that can be negotiated by a handicapped person. Interior accessible routes may include corridors, floors, ramps, elevators, lifts, and clear floor space at fixtures. Exterior accessible routes may include parking access aisles, curb ramps, walks, ramps, and lifts.

"Act" means the Voting Accessibility for the Elderly and Handicapped Act, Public Law 98-435.

"Barrier-free" means the same as and is synonymous with "accessible".

"Curb ramp" means a short ramp cutting through a curb or built up to it.

"Elderly" means 65 years of age or older.

"Election" means the procedures whereby the electors of this State or any political subdivision thereof elects persons to fill public office or pass on public questions.

"Election aids" means telecommunication devices, sample ballots, large print voting instructions, and absentee ballots.

"Handicapped" means having a temporary or permanent physical disability.

"Physically handicapped" means a person with a physical impairment which confines a person to a wheelchair, causes a person to walk with difficulty or insecurity, affects the sight or hearing to the extent that a person functioning in public areas is insecure or reduces mobility, flexibility, coordination and perceptiveness to the extent that facilities are needed to provide for the safety of that person.

"Polling location" means the structure in which a polling place is located.

"Polling place" means the room or space that has been provided for the purpose of voting at a Federal primary, special, or general election.

"Polling Place Accessibility Checklist" means worksheets prepared by the Secretary of State submitted to each county board of elections for the purposes of evaluating the accessibility of polling sites within their jurisdiction.

"Polling Place Accessibility Report" means a worksheet prepared by the Secretary of State and submitted to each county board of elections for the purpose of compiling accessibility results from their Polling Place Accessibility Checklist.

"Polling Place Accessibility Waiver Request" means a worksheet developed by the Secretary of State, to be used by the county board of elections to request exemption(s) pursuant to applicable law, due to the inability to make an inaccessible polling site accessible, or to relocate such a site to an alternative accessible location.

"Polling Place Accessibility Waiver" means a written waiver granted by the Secretary of State to a county board of elections permitting the county to utilize an inaccessible polling site under certain circumstances.

"Ramp" means a structure, either temporary or permanent, which has been constructed to bridge any change in level of five feet or less on an accessible route of travel to a polling place.

"Secretary of State" means the Secretary of State of New Jersey.

"Temporary" means a facility or structure that is not of permanent construction but is extensively used or essential for public use during Federal elections.

"Voting Accessibility Advisory Committee" means a group of individuals that may be established by each county board of elections to assist the board in interpreting and implementing the provisions of the Act.

Amended by R.1996 d.211, effective May 6, 1996.
See: 28 N.J.R. 1344(b), 28 N.J.R. 2393(b).

15:10-6.4 Exceptions

(a) The accessibility requirements of this subchapter do not apply under the following circumstances:

1. In the case of an emergency as determined by the Secretary of State; or

2. If the Secretary of State determines, based on documents supplied by the county, the following:

- i. That all potential polling places in the election district have been surveyed and no accessible locations are available;
- ii. That it is not possible to temporarily convert an inaccessible location to an accessible one; and
- iii. That an alternative means for casting a ballot on the day of election is available upon request.

Amended by R.1996 d.211, effective May 6, 1996.
See: 28 N.J.R. 1344(b), 28 N.J.R. 2393(b).

15:10-6.5 (Reserved)

Repealed by R.1996 d.211, effective May 6, 1996.
See: 28 N.J.R. 1344(b), 28 N.J.R. 2393(b).

Section was "Reporting by the Secretary of State".

15:10-6.6 Enforcement

The United States Attorney General or any individual who is personally aggrieved by any non-compliance with the accessibility requirements of the Federal laws and all other applicable State laws may institute an action for declaratory or injunctive relief in the United States District Court for the District of New Jersey.

Amended by R.1996 d.211, effective May 6, 1996.
See: 28 N.J.R. 1344(b), 28 N.J.R. 2393(b).

15:10-6.7 Implementation

(a) In order to assist and advise county election officers in implementing the provisions of the Act, each county board of elections office may establish a Voting Accessibility Advisory Committee, which could be comprised of the following individuals:

1. The four members of the county board of elections;
2. At least one elderly and handicapped individual or individuals from organizations representing such individuals;
3. Such person(s) trained in the provisions of the Barrier Free Subcode; and
4. Such person(s) the board feels would be of assistance in the implementation of the Act.

(b) In order to accurately evaluate the accessibility of all polling locations, each county board of elections and/or their designated representatives, in conjunction with their Voting Accessibility Advisory Committee, should one have been established, may undertake a "walking tour" of each polling location. Both elderly and handicapped committee members could participate in such tours since these individuals can offer valuable insight into possible difficulties elderly and handicapped voters may experience at polling locations.

Amended by R.1996 d.211, effective May 6, 1996.
See: 28 N.J.R. 1344(b), 28 N.J.R. 2393(b).

15:10-6.8 Polling place accessibility standards

(a) The polling place accessibility standards shall be based upon and be in compliance with the State's Uniform Construction Code, Barrier Free Subcode, N.J.A.C. 5:23-7.

(b) While accessible parking spaces for each polling location are desirable, the absence of such spaces is not a condition of accessibility. Where such spaces are required to be provided, such parking spaces shall conform to the requirements of the Barrier Free Subcode, N.J.A.C. 5:23-7.

1. Parking spaces for the handicapped shall be located as close as possible to elevators, ramps, walkways, and the accessible entrance they serve. Parking spaces shall be as level as possible. Each parking space shall be identified with an above grade sign displaying the International Symbol of Accessibility and appropriate wordage to include "DISABLED PERSONS WITH VALID ID ONLY".

2. In all configurations, to the degree feasible, accessible parking spaces shall be located so that handicapped persons are not compelled to wheel or walk behind parked cars. Additionally, in all configurations, ramps or curb ramps shall be provided to permit handicapped persons access from the parking lot level to the servicing walkway. A curb ramp shall never be located where it would be blocked by a parked vehicle. In all configurations, provisions such as curb or bumpers should be included to prevent parked vehicles from blocking accessible walkways.

3. In the event that a polling location does not have permanent accessible parking spaces, temporary spaces can be designated for use by the handicapped. All such temporary accessible spaces shall be clearly marked for use only by the handicapped and all such spaces shall be located near an accessible polling place entrance.

4. In the event that off street metered parking is provided, such accessible parking spaces shall be reserved for the handicapped by installing a meter cap over the meter. Such spaces should also be clearly marked for handicapped use only.

(c) Accessible routes of travel are continuous, unobstructed paths connecting all accessible elements and spaces that can be negotiated by a handicapped person. Exterior accessible routes may include parking access aisles, curb ramps, walks, ramps, and lifts. Interior accessible routes may include corridors, floors, ramps, elevators, lifts and clear floor space at fixtures. The standards for accessible routes shall conform to the requirements of the Barrier Free Subcode, N.J.A.C. 5:23-7.

(d) All ramps and curb ramps on accessible routes shall comply with the Barrier Free Subcode of the State Uniform Construction Code, except those curb cuts or curb ramps constructed within a public street. These structures shall meet the requirements of the respective public, city, county, or State agency having jurisdiction.

(e) Accessible entrances shall conform to the requirements of the Barrier Free Subcode, N.J.A.C. 5:23-7.

1. All accessible entrances shall be identified by the "International Symbol of Accessibility".

2. Doors should be easily opened by elderly and handicapped individuals. Handles, pulls, latch sets, and other operating hardware that are easy to grasp with one hand and do not require twisting of the wrist, tight grasping, or tight pinching to operate shall be provided. If possible, exterior doors and nonfire doors which are difficult to open should be propped or tied open during voting hours.

3. In the event that an elevator is to be used, its doors, interior and controls shall conform to the requirements of the Barrier Free Subcode, N.J.A.C. 5:23-7.

4. Should the main entrance to a polling place be inaccessible, an accessible alternative entrance may be used. All such alternative entrances, however, shall conform to the requirements of the Barrier Free Subcode, N.J.A.C. 5:23-7. Signs informing voters of an alternative accessible entrance shall be clearly posted and shall display the "International Symbol of Accessibility" as well as appropriate wordage to include "ACCESSIBLE ENTRANCE". To be effective, either arrows or hands shall be used to direct voters to accessible entrances.

(f) Accessible interior routes may include corridors, floors, ramps, elevators, lifts and clear floor space at fixtures. All such accessible routes shall conform to the requirements of the Barrier Free Subcode, N.J.A.C. 5:23-7.

(g) Interior routes to voting machines that are in excess of 50 feet shall provide a chair(s) in order to provide elderly and disabled voters a resting stop. Such chairs, however, shall not project into the minimum required clear widths.

Amended by R.1996 d.211, effective May 6, 1996.
See: 28 N.J.R. 1344(b), 28 N.J.R. 2393(b).

15:10-6.9 Voting aids

(a) The following voting aids shall be provided:

1. Signs shall meet the following standards:

i. Signs directing voters to the location(s) of voting machines shall be posted in interior passageways. Such signs shall include appropriate wordage to include "VOTING MACHINES" as well as "WARD-DISTRICT OR DISTRICT". Lettering should be in large type of at least 18 point type for easy reading.

ii. To be effective, signs should also use either arrows or hands to point to the direction of the voting machines. Signs using these symbols are easier to understand than ones that only use written directions.

2. Sample ballots shall identify the accessibility of each polling place. The notice of accessibility shall be prominently identified on the sample ballot with a sign displaying the "International Symbol of Accessibility" and appropriate wordage to include "ACCESSIBLE POLLING LOCATION". Notice of nonaccessible polling locations shall be prominently identified on the sample ballot with appropriate wordage to include "NONACCESSIBLE POLLING LOCATION-ABSENTEE BALLOT AVAILABLE; CONTACT COUNTY CLERK".

3. Voting instructions which shall be printed in at least 14 point type for easy reading and shall be conspicuously displayed at each polling place. Lettering shall be dark, preferably black, with a light background, preferably white. Such instructions shall include, but shall not be limited to:

i. How to properly identify oneself at the polls;

ii. Materials that one must sign in order to vote;

iii. Procedures to follow in order to correctly use the voting machine or voting equipment to cast votes;

iv. Procedures to follow should mechanical difficulties be experienced while voting; and

v. How to correctly exit the voting machine in order to properly record votes.

4. Registration, voting, and election information by telecommunication device, or TDD, are required under the Act. County boards of elections will be required to advertise the availability of TDD equipment and telephone numbers in a newspaper or newspapers which, singly or in combination, are of general circulation throughout the county. Such advertisement shall be published once during the 30 days next preceding the day fixed for the closing of the registration books for the primary election, once during the calendar week preceding the week in which the primary election is held, once during the 30 days next preceding the day fixed for the close of the registration books for the general election, and once during the calendar week next preceding the week in which the general election is held. Boards not maintaining and operating TDD equipment are required to advertise the State's "toll-free" TDD telephone number in the manner prescribed above.

5. The availability and use of absentee ballots are subject to the following requirements:

i. Handicapped and elderly voters may apply to the county clerk for absentee ballots. Should disability be permanent, affected voters may request that absentee ballot applications for each election be sent to their residence on a regular basis. In the event that the date for requesting an absentee ballot by mail should pass, a sick or confined voter may request in writing that an absentee ballot be picked up from the county clerk and delivered to him or her by a messenger authorized by such voter. Disabled voters are not required to medically document their disability. Absentee ballots shall be completed and returned in accordance with the requirements of N.J.S.A. 19:57-23.

ii. In the event that a polling location has been reported inaccessible by the county board of elections and such board has not been able to correct any instances of inaccessibility, or has been unable to relocate such polling location to an accessible site, affected elderly and handicapped voters may apply for an absentee ballot.

Amended by R.1996 d.211, effective May 6, 1996.
See: 28 N.J.R. 1344(b), 28 N.J.R. 2393(b).

15:10-6.10 Reporting by county boards of elections; accessibility waivers

(a) Each county board of elections office is legally responsible, under Public Law 98-435, for not only implementing the applicable Federal and State statutes for accessibility but for documenting compliance. Each county board of elections office shall report to the Secretary of State, no later than May 15 each year, the accessibility status of each polling place located within their jurisdiction. All such reports are to be prepared on the following forms provided by the Secretary of State.

1. Each county board of elections office is required to complete a "Polling Place Accessibility Checklist" for each polling place located within their jurisdiction. This checklist requires the members of the county boards of elections, or individuals designated by the board, and/or members of their Voting Accessibility Advisory Committee, where such committees exist, to physically evaluate the accessibility status of parking facilities, exterior and interior routes of travel, ramps and curb ramps, and entrances of each polling place. Evaluations are required to note the accessibility status of each area and to provide comments where needed. Based upon Polling Place Accessibility Checklist evaluations, each county board of elections is required to determine and to note the accessibility of each polling place.

2. In instances where a polling place is determined to be inaccessible and is reported as such, a "Polling Place Accessibility Waiver Request" shall be completed and attached to the inaccessible polling place's accessibility checklist. The Secretary of State is provided authority to grant a waiver, in certain cases, to polling places which have been evaluated as inaccessible. In order for the Secretary of State to consider granting any waivers for

inaccessible polling places, affected county boards of elections shall not only complete the required waiver form, they shall also document on this form the measures that their office has undertaken to either make this polling location accessible or to relocate such an inaccessible polling location to an alternative accessible location. While the completion of a Polling Place Accessibility Waiver Form is required for each inaccessible polling place, such a form does not guarantee that inaccessible locations will be granted waivers. Waivers will be granted by the Secretary only in those instances when an inaccessible polling place and its affected facilities cannot be made accessible and alternative accessible locations are not available.

3. A Polling Place Accessibility Report shall be completed by each county board of elections. Such reports shall include:

- i. The total number of polling places within each county;
- ii. The total number of polling places that have been evaluated using the Secretary of State's "Polling Place Accessibility Checklist" and have been found to be either accessible or inaccessible; and
- iii. A listing of the reason(s) for any instance(s) of inaccessibility.

Amended by R.1996 d.211, effective May 6, 1996.
See: 28 N.J.R. 1344(b), 28 N.J.R. 2393(b).

SUBCHAPTER 7. (RESERVED)