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Guidance on the Freedom of Information and Open Meetings Laws, Public Officers Law §§ 84-90 and 100-111

Background

The State Board previously provided guidance on access to voter registration records. The past several years have seen heightened interest and scrutiny on records, policies, procedures, and election security. Media, individual, and Freedom of Information Law requests have increased exponentially, along with questions related to the Open Meetings Law and board responsibilities.

This guidance provides a brief overview of the Freedom of Information Law (Public Officers Law Sections 84-90)¹ and the Open Meetings Law (Public Officers Law Sections 100-111)². It also includes specific examples and frequently asked questions. Finally, it incorporates the voter registration guidance we issued in 2016. It is not exhaustive, and we welcome additional inquiries. Please continue to forward Freedom of Information Law requests and press inquiries so that we may offer assistance and guidance. Forwarding the information also allows us to reach out statewide, as often other boards are receiving similar requests.

The Freedom of Information Law (FOIL)

The Freedom of Information Law was first enacted in 1974 and was repealed and replaced with the current law in 1978. It is important to understand the law has a presumption of access. The Freedom of Information and Open Meetings Laws are based on the relationship between the government and the public. The Freedom of Information Law “provides rights of access to records reflective of governmental decisions and policies that

¹ [FOIL Law Text | Open Government \(ny.gov\)](#)

² [OML Text | NY State Senate \(nysenate.gov\)](#)

affect the lives of every New Yorker.”³ Generally, grounds for withholding records and conducting closed meetings are based on the possibility of harm to an individual, a commercial entity, or the ability of the government to carry out its duties and specific statutorily defined exemptions.

Open Meetings Law

The Open Meetings Law also relates to the public’s access to its government. The underlying principle is that the public has a right to witness and observe decision making. It applies to public bodies and the definition of “meeting” is construed broadly.

The term public bodies is defined to include entities consisting of two or more people who conduct public business and perform a governmental function for New York State, for an agency of the state, or for public corporations such as cities, towns, villages, and school districts including committee and subcommittees of these entities.⁴

Access to government is not limited to the release of documents. County Boards meet annually to reorganize and may conduct meetings and hearings that determine ballot access and the validity of ballots. As interest in elections grows, it is prudent to take a proactive approach and allow access wherever possible.

Freedom of Information Law: The Basics

1. All records are subject to the Freedom of Information Law. A record is defined as any information kept, held, filed, produced or reproduced by, with or for an agency or the state legislature, in any physical form whatsoever including, but not limited to, reports, statements, examinations, memoranda, opinions, folders, files, books, manuals, pamphlets, forms, papers, designs, drawings, maps, photos, letters, microfilms, computer tapes or discs, rules, regulations or codes.⁵ Records include audio or visual recordings, data maintained electronically, and paper records.

³ [Freedom of Information Law | Open Government \(ny.gov\)](#)

⁴ [Open Meetings Law | Open Government \(ny.gov\)](#)

⁵ Freedom of Information Law § 86(4)

2. While all records are subject to the Freedom of Information Law, some records fall under specific exemptions. There are eleven categories of exemptions.⁶ Exemptions most relevant to elections include records that:
 - a. are specifically exempted from disclosure by state or federal statute;
 - b. if disclosed would constitute an unwarranted invasion of personal privacy under the provisions of subdivision two of section eighty-nine of this article;
 - c. if disclosed, would jeopardize the capacity of an agency or an entity that has shared information with an agency to guarantee the security of its information technology assets, such assets encompassing both electronic information systems and infrastructures.
 - d. Are compiled for law enforcement purposes (Investigations)
 - e. Are inter-agency (between you and another county department or the SBOE) or intra-agency (between you and your own employees, including poll workers) materials (including communications such as email) that are not general statistical data; instructions to staff that affect the public; final agency policy or determinations; or external audits, including but not limited to audits performed by the comptroller and the federal government;
3. Boards do **not** have to create records to comply with a request.
4. Boards should have a subject matter list.⁷ A subject matter list is not an exhaustive accounting of every paper or record of the board. Instead, it is a list of subjects or categories of records available. The State Board subject matter list is on the website under FOIL.⁸
5. Boards should adopt regulations. Regulations are standards that help the public understand how to request, inspect, and copy records. The SBOE has regulations under Part 6202 that can be easily adapted for a CBOE. The Committee on Open Government has regulations on their website, along with model rules for agencies to follow.⁹
6. Boards must designate a records access officer. The records access officer coordinates the response, directs personnel to identify records, and certifies copies

⁶ Freedom of Information Law § 87(2)

⁷ Freedom of Information Law § 87(3)(c)

⁸ [Foil Requests | New York State Board of Elections \(ny.gov\)](#)

⁹ [Freedom of Information Law | Open Government \(ny.gov\).](#)

if required. The records access officer does not have to be in the Board, they can be a county attorney or part of another county department. But they should consult the Commissioners whenever processing a FOIL request involving BOE records.

Freedom of Information Law: Request Logistics

1. Requesters must “reasonably describe” the record. You do not have to find the needle in the haystack. Take the request at face value. Don’t read too much into it or make assumptions about what the requestor is seeking.
2. Five Days. Within five (5) business days, you must a) make the record available, b) deny access in writing giving the reasons for denial, or c) furnish a written acknowledgement of the receipt and an approximate date when it will be granted or denied. The approximate time must be reasonable. Usually, it cannot exceed twenty (20) business days from the written acknowledgement. If more than twenty (20) business days are needed, the acknowledgement must give a reason and provide a specific date for granting or denying (in whole or in part) the request.
3. Fees. Most agencies and county boards provide records electronically. However, copies must be provided if requested. Fees are established by statute.¹⁰ An agency may charge 25 cents per photocopy if photocopies up to 9x14 inches are requested. For photocopies larger than 9x14 inches, or records in any other format, the law permits an agency to charge the “actual cost of reproduction” and specifies what that may include. Fees may increase if the preparation time exceeds two (2) hours. More information on fees can be found in the Regulations of the Committee on Open Government, part 1401.8.
4. Denial of access and the appeal process. Denials must be in writing and must provide the name and address of the appeals officer and note appeals are due within thirty (30) calendar days of the denial. The appeals officer cannot be the same person as the records access officer. The appeals officer must respond to the appeal within ten (10) business days. If the appeal is denied, the requestor may file a judicial proceeding under Article 78 of the Civil Practice Law and Rules. **Remember:** If your denial is based on an exemption, the burden will be on you to prove the record falls under the exemption.

¹⁰ Freedom of Information Law § 87(1)(b) and (1)(c).

Freedom of Information Law and Elections

1. Voter registration records, with few exceptions, are to be made available for public inspection¹¹ and copies must be provided in accordance with the Freedom of Information Law.¹²
2. Confidential Registration Records. Victims of domestic violence may seek to have their voter registration records made confidential.¹³ The Board provided guidance on confidential records, along with the required statement form on November 23, 2021. Confidential records are not subject to public inspection or copying and are fully protected from disclosure as required by law.
3. All voter registration records made available for inspection must be redacted as required by law¹⁴. Similarly, copies provided must be redacted. Four elements must be redacted from voter registrations records before they are made available for inspection or copying:
 - a. driver's license number;
 - b. department of motor vehicle non-driver photo identification number;
 - c. social security number; and
 - d. facsimile number
4. Computer generated facsimile signatures shall not be disseminated. The exception is for use in official election activities by a board of elections or another municipality. Any record created by a board of elections containing computer generated facsimile signatures shall not be sold or disseminated except for use by the board of elections or other municipality in the conduct of an election or upon the order of a court.¹⁵ Municipalities include towns, cities, villages, fire districts, school districts and other special districts with municipal powers. Types of records that could contain computer generated facsimile signatures and therefore cannot be sold or disseminated unless such signatures are removed, include, but are not limited to computer tapes, computer discs, and other records which can be used to reproduce such computer-generated facsimile signatures including lists with such computer-generated signatures appended¹⁶

¹¹ New York State Election Law § 3-220

¹² New York State Public Officers Law § 87 [2]

¹³ New York State Election Law § 5-508

¹⁴ New York State Election Law § 3-220

¹⁵ New York State Election Law § 5-506 [8]

¹⁶ New York State Election Law § 5-506 [8]; 9 NYCRR 62.12.5 [f]

5. Voter signatures that are not computer-generated facsimiles are not required to be redacted from documents that are otherwise subject to inspection and copying (e.g., it is not necessary to redact a voter's signature from a photocopy of a voter registration form). **Note:** Nothing in this policy shall prevent the dissemination of electronic comparison exemplars which are sufficiently changed by watermark or otherwise by a board of elections so that the resulting image is not capable of producing a facsimile voter signature.
6. Local boards of elections should expeditiously provide access to public records and make requested copies available. Particularly when a request for information is related to bringing or responding to objections or court proceedings under the Election Law, boards of elections should seek to provide requested documents as soon as practicable. This guidance does not change the mandatory timeframes applicable to responding to and providing documents under the Freedom of Information Law.
7. Freedom of information requests for "information contained in the statewide voter registration list" should be denied if the intended use is for "non-election purposes."¹⁷ The statewide list (NYSVoter) is the official list of the combined county lists. Under the Public Officer's Law, "[a]n agency may require a person requesting lists of names and addresses to provide a written certification that such person will not use such list of names and addresses for solicitation or fund-raising purposes and will not sell, give, or otherwise make available such lists of names and addresses to any other person for the purpose of allowing that person to use such lists of names and addresses for solicitation or fund-raising purposes."¹⁸

Open Meeting Basics

The Open Meetings Law, sometimes called the Sunshine Law, was enacted in 1977 and amended in 1979 to define the public's right to observe deliberations and the decision-making process by public bodies.

1. The term "meeting" is defined as "the official convening of a public body for the purpose of conducting public business." Basically, anytime a quorum of a public body gathers to discuss public business.

¹⁷ New York State Election Law §§ 3-103 [5]; 5-614 [2]

¹⁸ New York State Public Officer's Law § 89 [3] [a]

2. County Boards are public bodies as defined by the Open Meetings Law. The Committee on Open Meetings issued an advisory opinion¹⁹.
3. Public notice of the time and place is required to be given at least 72 hours in advance of any regularly scheduled meeting. However, for meetings scheduled less than a week in advance, notice is "to the extent practicable" at a reasonable time prior to the meeting. You must provide notice to at least one media outlet (a simple press release should satisfy this requirement), post the meeting notice conspicuously in a public location and advertise the meeting on your website. There is no newspaper requirement.
4. Public participation is not required. Public bodies can decide whether the public can speak, usually through the adoption of rules on a fair speaking policy.
5. Recordings are permitted. The public can photograph, record, webcast, and/or transmit by audio or video. You do have the right to limit recording devices, cameras, etc. if they become intrusive and impact the board's ability to conduct their business.
6. Minutes are required. Minutes of the open meeting must include a record or summary of motions, proposals, resolutions, and the outcome of any formal vote taken.
7. Chapter 481 of the Laws of 2021 amended the Public Officer's Law and requires certain documents be made available twenty-four (24) hours prior to open meetings. Supporting documents such as resolutions, proposals, regulations, or policies to be considered by the public body should be posted on the board's website.
8. Remote meetings are allowed. Chapter 1 of the Laws of 2022 extended the ability of public bodies to meet without in person access as long as the public has the ability to view or listen to the meeting and the meeting is recorded and later transcribed. This law will sunset upon the expiration of the current COVID-19 State of Emergency.
9. Executive sessions are permitted provided the subject matter concerns one of the following:
 - a. matters which will imperil the public safety if disclosed;

¹⁹ [Welcome to the Committee on Open Government \(ny.gov\)](https://www.ny.gov/newsroom/welcome-to-the-committee-on-open-government)

- b. any matter which may disclose the identity of a law enforcement agent or informer;
 - c. information relating to current or future investigation or prosecution of a criminal offense which would imperil effective law enforcement if disclosed;
 - d. discussions regarding proposed, pending, or current litigation.
 - e. collective negotiations pursuant to article fourteen of the civil service law;
 - f. the medical, financial, credit or employment history of a particular person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person or corporation;
 - g. the preparation, grading or administration of examinations; and
 - h. the proposed acquisition, sale or lease of real property or the proposed acquisition of securities, or sale or exchange of securities held by such public body, but only when publicity would substantially affect the value thereof.
10. Public bodies must make a motion to enter into executive session and the motion must be sufficiently detailed to reflect to the public that the body is entering executive session for a proper purpose. **Remember:** If a motion involves an appropriation of public monies, a public body is prohibited from taking formal action in an executive session.
11. Any gathering of a quorum of a public body, for the purpose of conducting public business, is a meeting subject to the Open Meetings Law, regardless of intent, or lack thereof, to take action.
12. Public bodies who fail to comply may be subject to a proceeding for attorneys' fees initiated under Article 78 of the Civil Practice Law and Rules.
- 13.**The Committee on Open Government provides advisory opinions, which are available on their website.²⁰ There is also an expansive case law summary available.

FOIL and Open Meetings Trends

The examples below are provided to assist counties as they respond to FOIL requests, public inquiries, and the press.

1. Form Letters. Many boards have received FOIL requests that are obviously form letters, often with wording that indicates the requestor is not completely familiar with New York Election Law and/or procedures. Many are also overly broad. Please

²⁰ [Open Meetings Law \(OML\) Advisory Opinions | Open Government \(ny.gov\)](#).

continue to share form letters you receive. From time to time, we have provided guidance related to a specific letter. Sharing those letters and guidance helps your colleagues.

2. Increased interest in voting machines and security. Many requests are asking for highly technical information. Many of the items requested fall under an exemption as the release of the information “if disclosed, would jeopardize the security of its information technology assets, such assets encompassing both electronic information systems and infrastructures.”²¹
3. Some boards report requests for cybersecurity information and assessments recently completed with the State Board. Counties should not release cybersecurity remediation plans or risk assessments. Release would jeopardize the security of information technology assets, such assets encompassing both electronic information systems and infrastructures.

Please see Appendix A for a more comprehensive list of recent requests, along with the advice we provided. This is not all inclusive; if a new request comes up and you are unsure, please request guidance via email or phone.

The questions below represent actual requests received by counties along with the suggested responses we previously provided. These should be helpful as you navigate requests going forward.

Request:

All records from 1/1/19 to 11/1/21 including any written report or document or portion concerning the following: All communications between election officials including the Secretary of State, Election, County Clerks, printing companies, machine companies, all the assistants of the State and County employees that run the elections; all records, starting 1/1/19 until 11/1/21 of the County of X County Attorney pertaining to the county elections including: a) correspondences, emails, logs of telephone calls between County of X County Attorney and election officials including Secretary of State, Election Administrators, County Clerks, printing companies, machine companies, all the assistants of the State and County Employees that run the elections. b) all worksheets, reports, employee time records and associated relevant information gathered pursuant to the

²¹ Public Officers Law § 87(2) (i).

communications between election officials including the SOS, Election Administrators, County Clerks, printing companies, machine companies, all the assistants of the State and County Employees that run the elections.

Response:

The request is overly broad. The Freedom of Information Law requires a reasonable description of the records sought. Provide ability to narrow down request within x number of days and include appeals officer and address. **Note:** Your County Attorney may have language about narrowing the request down within a certain number of days and may want to indicate a failure to do so will be deemed a withdrawal. Include the name and address for the appeals officer.

Request:

All records, starting 1 /1/15 until today, including any written report, document or portion concerning: a. Event Logs from the central count computers; b. The Windows Event Viewer shows a log of application and system messages, including errors, information messages and warnings;

Response:

Deny. The release of this information "if disclosed, would jeopardize the security of its information technology assets, such assets encompassing both electronic information systems and infrastructures."²²

Request:

Electronic copies of ballot images or cast vote record starting on October 13, 2020, through November 8, 2020.

Response:

Deny. The request should be denied as pursuant to the court case Kosmider v Whitney²³, ballot images and cast vote records are not available absent a court order and the law states that you cannot give them out until two years have passed.

²² Public Officers Law § 87(2) (i).

²³ [Matter of Kosmider v Whitney \(2019 NY Slip Op 04757\) \(nycourts.gov\)](https://www.nycourts.gov/record/2019/04/757)

The language from the case reads: The plain text of Election Law § 3-222 (2)—providing that "voted ballots" may be "examined" only pursuant to a court order or legislative committee direction for two years—bars disclosure of the electronic copies of ballots sought by petitioner in this case. By this language in subdivision (2), the legislature expressed a clear intent to restrict access to the ballots voted in an election; in order to see them, one must follow a specific procedure—i.e., obtain a court order or direction from a legislative committee investigating the election. Subdivision (3) applies a similar two-year rule of restricted access to other types of ballots, including those not counted because they were void or blank and mail-in ballots like absentee and military ballots, with a sole exception for "[s]ealed packages of unused ballots" that are subject to this limitation only for four months.

Request:

All records of the X County Attorney regarding the following: a. Correspondence, email and logs of telephone calls relating to the central count computer event logs; b. All worksheets, reports, employee time records and associated relevant information gathered pursuant to central count computer event logs.

Response:

No records are responsive to your request. Note: The Board does not control or possess the County Attorney's records.

Request:

All records, starting 1/1 /1 5 until today, including any written report, document or portion concerning the following: a. Electronic voting machine systems security audit log of all usernames and their activities, from October 1, 2019 thru December 31, 2020;

Response:

Deny. The release of this information "if disclosed, would jeopardize the security of its information technology assets, such assets encompassing both electronic information systems and infrastructures." Public Officers Law § 87(2) (i).

Open Meetings Law and County Boards

County Boards are clearly public bodies as defined by the Open Meetings Law. The Committee on Open Government issued an advisory opinion affirming this in 1996²⁴.

Subdivision two of Section 3-212 clearly states that “all actions of the board shall require a majority vote of the commissioners...” As a result, there are specific actions taken by County Boards that invoke the Open Meetings Law, beginning with Election Law Section 3-212:

1. Annual reorganization meeting with election of President and Secretary.²⁵
2. Each board shall make an annual report of its affairs and proceedings to its local legislative body which should require a vote of approval of the report by the board.²⁶

In addition, the following actions may also invoke the need for an open meeting:

1. The creation and alteration of election districts
2. The designation of polling sites for each election district
3. The designation of early voting poll sites for primaries, specials, and general elections
4. The adoption of an early voting communication plan
5. The calculation and adoption of contribution limits for local offices
6. The canvassing of absentee and affidavit ballots

Ballot access determinations deserve special consideration. The Committee on Open Government has opined that hearings and oral arguments during a ballot access matter must be conducted in public. Nonetheless, the weighing of that evidence, the application of the law and the reaching of a conclusion is judicial in nature and, as a result, those deliberations may be conducted away from public view. However, though the board may deliberate in private, “the act of voting or taking action must occur during an open meeting” and therefore the board must vote on its determinations during a public meeting. Despite this, there is a line of case law that states ballot access determinations do not require an open meeting as they are quasi-judicial actions by the board.

²⁴ [Welcome to the Committee on Open Government \(ny.gov\).](http://www.opengov.org/)

²⁵ New York State Election Law §3-212(1)

²⁶ New York State Election Law §3-212(4)

Frequently Asked Questions

Question:

Are boards meetings really public?

Response:

Yes. Meetings conducting public business should be public and noticed. Annual reorganization meetings and petition hearings are clearly subject to the Open Meeting Law. Think in terms of meetings that result in votes or determinations. Those meetings are almost certainly subject to the Open Meetings Law.

Question:

Are members of the public allowed to participate in my board meeting?

Response:

The Open Meetings Law is silent with respect to public participation. You do not have to allow the public to speak at a board meeting. However, it may be beneficial to adopt uniform rules that establish a fair and consistent policy on speaking during meetings. The Open Meetings Law is also not meant as a means by which the public may interrogate the board. A petition hearing does not mean members of the public can go back and forth and argue for a specific ruling, but they can be present to observe as the objector and the candidate make their arguments. Often, members of the public are not familiar with board procedures, policies, and relevant election law. Answer simple questions and provide as much information as you can. That cooperation will go a long way.

Question:

Do I have to acknowledge all Freedom of Information Law requests?

Response:

Yes! Freedom of Information requests must be acknowledged. There are consequences for ignoring requests or missing deadlines. Agencies and counties have been forced to pay for petitioners' attorney fees.

Question:

This request is vague and confusing. Should I just deny it?

Response: It depends. Remember, the requestor must reasonably describe what he or she is seeking. Boards can call or email and ask for clarification. Just be reasonable. If the request seems overly broad, fine, deny it as overly broad. You may want to write to the requestor and see if he or she can narrow down the request. If it is a simple request and a phone call could easily identify what the requestor is looking for, make the call.

Question:

This request is asking for technical information and documents related to our voting machines. What should I do?

Response:

See the examples provided above. The Department of Homeland Security designated elections as critical infrastructure. You can deny requests that might impact security. In doubt? Forward the request to the State Board. We are here to guide you.

Question:

A request came in asking for all other Freedom of Information Law requests. I don't have to provide that, do I?

Response:

Yes, Freedom of Information Law requests are available under the law. Many boards coordinate Freedom of Information Law requests through their host county. Some use an electronic system and can easily produce a log. If you do not track requests electronically, you will need to keep a paper log.

Question:

We received a request asking for minutes. Minutes are not public, are they?

Response:

Minutes are public and according to the Open Meetings Law must be made available within two weeks. Minutes must include a record or summary of motions, proposals, resolutions, and any other formal vote. Minutes do not have to memorialize discussions in detail. Minutes of executive session must be prepared within one (1) week of the session and any vote taken in executive session must be disclosed in the public minutes of the meeting.

Question:

I requested minutes of a meeting and was told that I could not have them until they were approved. Is this right?

Response:

No. The Law states that minutes of open meetings must be made available within two weeks of the meeting; minutes of executive sessions must be made available within one week of the executive session. It has been suggested that if the minutes have not been approved, they may be marked "draft," "unapproved," or "non-final" when they are disclosed.

Question:

How do I know if a meeting is going to be held?

Response:

The Law requires that notice of the time and place of all meetings be given prior to every meeting. If a meeting is scheduled at least a week in advance, notice must be given to the public and the news media not less than 72 hours prior to the meeting. When a meeting is scheduled less than a week in advance, notice must be given to the public and the news media "to the extent practicable" at a reasonable time prior to the meeting. Notice to the public must be accomplished by posting in one or more designated public locations and posting online. Notice must be given to the news media; there is no requirement that notice be published in the newspaper.

Question:

What is an "executive session"?

Response:

The Law provides for closed or "executive" sessions under certain circumstances prescribed in the Law. It is noted that an executive session is not separate from an open meeting but rather is a portion of an open meeting during which the public may be excluded. The Law requires that a public body take several steps to close the meeting. First, a motion must be made during an open meeting to enter into executive session; second, the motion must identify the general area or areas of the subject or subjects to

be considered; and third, the motion must be carried by a majority vote of the total membership of a public body.

Question:

Can a public body close a public meeting for "personnel matters"?

Response:

Citing "personnel matters" is not a sufficient ground for going into an executive session. The motion to go into executive session should be more specific. For example, a motion could be made to enter into executive session to discuss "the employment history of a particular person." The person would not have to be identified. See advisory opinions under "P" for "Personnel" in the OML Advisory Opinion Index.

Question:

What can a public body discuss in executive session?

Response:

Pursuant to the proper motion, a public body may discuss only issues listed in §105(2) of the Open Meetings Law. A public body cannot vote to appropriate public monies during a closed session. Although most public bodies (except school boards) may vote during a properly convened executive session, any vote to expend public monies must be taken in public.

Question:

Who can attend an executive session?

Response:

An executive session can be attended by members of the public body and any other persons authorized by the public body. OML §105(1)

Resources

1. The State Board of Elections. We are here to offer guidance. We are always available via phone or email. We are also happy to review individual requests with you.

2. The Committee on Open Government. <https://opengovernment.ny.gov/> The website contains advisory opinions, case law, publications, frequently asked questions, and model rules.
3. County Attorney. Many boards work closely with the local county attorney's office and may have a deputy assigned to the board. The County Attorney represents you. If you have legal questions or need assistance, reach out directly.

Guidance as of July 15, 2022

Appendix A: Quick Guide

Sample Request	Subject to FOIL	Guidance and Notes
Voter Registration		
Voter registration record	Yes, with redactions if necessary.	Redact <ol style="list-style-type: none"> Driver license number Non-driver photo identification number Social Security number Facsimile number
Confidential voter registration record	No	See our Guidance on Confidential Records dated November 23, 2021.
Computer generated facsimile signatures	No	
Non-computer-generated signatures	Yes	Voter dumps contain signatures that are not computer-generated facsimile signatures. They can be provided.
Copy of all county voters with signatures	No	This type of request essentially asks you to provide an all-county poll book and is not permissible. Note: there is an exception for governments to use as poll books. This response deals with requests from individuals, campaigns, and the like.
Statewide voter registration list for election purposes	Yes	NYSVoter is the official statewide voter list.
Statewide voter registration list if the use is intended for non-election purposes	No	The NYSVoter list is the statewide list. The Public Officer's Law allows an agency to require a written certification that the list will not be used for solicitations or fundraising and that the individual will not sell or give to another person for those purposes.
Voter records based on State ID	Yes	To the extent the data exists within the voter registration system it should be extracted and shared with the requester. If there is no voter associated with the State ID given by the requester, the record does not exist and does not need to be created.
Records Related to County Board Operations		
Minutes	Yes	Minutes of Board Meetings, including the Board's Annual Meeting are subject to FOIL.
Petition Rulings	Yes	Minutes related to formal petition hearings, worksheets, and determinations.

All staff emails, all communications, etc.	All – No Some - Yes	<p>Boards have received several requests asking for all communications. These requests are overly broad, and you can ask the requestor to narrow the search.</p> <p>Internal communications may be withheld unless it falls within these categories:</p> <ol style="list-style-type: none"> 1. statistical or factual tabulations or data 2. instructions to staff that affect the public 3. final agency policy or determinations 4. external audits, including but not limited to audits performed by the state comptroller or the federal government <p>External communications with other agencies such as other departments within your county or the SBOE you can withhold it unless it is:</p> <ol style="list-style-type: none"> 1. statistical or factual tabulations or data 2. instructions to staff that affect the public 3. final agency policy or determinations 4. external audits, including but not limited to audits performed by the state comptroller or the federal government.
Records Related to Votes Cast		
Ballot Images within two years of the election	No	<p>Your request is denied as pursuant to the court case Kosmider V Whitney, 34 NY 3d 48. Ballot images are not available absent a court order and the law states that they cannot be released until two years have passed.</p> <p>The language from the case reads: The plain text of Election Law § 3-222 (2)—providing that "voted ballots" may be "examined" only pursuant to a court order or legislative committee direction for two years—bars disclosure of the electronic copies of ballots sought by petitioner in this case. By this language in subdivision (2), the legislature expressed a clear intent to restrict access to the ballots voted in an election; in order to see them, one must follow a specific procedure—i.e., obtain a court order or direction from a legislative committee investigating the election. Subdivision (3) applies a similar two-year rule of restricted access to other types of ballots, including those not counted because they were void or blank and mail-in ballots like absentee and military ballots,</p>

		with a sole exception for "[s]ealed packages of unused ballots" that are subject to this limitation only for four months.
CVR (cast vote record) data	No.	CVR data is a compilation of voting data, broken down by each individual ballot scanned. Each CVR represents the data, as interpreted by the scanner, contained on each individual ballot. There are voter privacy concerns since there is timestamp information likely contained in the machine logs and/or each CVR. If an individual had that, along with data from E-Poll Books, which also have a timestamp, there is a good chance that individual could tie specific ballots and votes back to a voter. <i>Kosmider V Whitney</i> , 34 NY 3d 48.
Voter would like to see record of how they voted in past election	No	Per the New York State Constitution Article II §7. "All elections by the citizens, except for such town officers as may by law be directed to be otherwise chosen, shall be by ballot, or by such other method as may be prescribed by law, provided that secrecy in voting be preserved." All ballots are anonymous and there is no way to produce a voter's cast ballot.
Records Related to Voting Systems and Electronic Poll Books		
Electronic voting machine systems security audit log of all usernames and activities	No	The release of this information if disclosed, would jeopardize the security of information technology assets, such assets encompassing both electronic information systems and infrastructures. Public Officers Law § 87(2) (i)
Event logs from all central count computers	No	The release of this information if disclosed, would jeopardize the security of information technology assets, such assets encompassing both electronic information systems and infrastructures. Public Officers Law § 87(2) (i)
Disk image of every SD flash card used to gather votes from the tabulation machines, detailing the exact data contained therein, as they were returned for certification to the County Board of Elections ("BOE"), provided in ".iso" file format.	No	Ballot images and certain information on the cards are not available at this time absent a court order. <i>Kosmider V Whitney</i> , 34 NY 3d 48.

Manufacturer serial numbers for SD flash cards	No	The release of this information if disclosed, would jeopardize the security of information technology assets, such assets encompassing both electronic information systems and infrastructures. Public Officers Law § 87(2) (i)
Purchase records for SD flash cards	Yes	If available, it can be released. Otherwise, no records responsive to your request.
Chain of custody documents for SD flash cards	Yes	To the extent these records exist, they should be released. It would be reasonable to indicate you need twenty days to respond.
Physical access to SD flash cards	No	Physical access is not a record and not subject to FOIL.
Records of anti-virus security checks run against SD flash cards	No	The release of this information if disclosed, would jeopardize the security of information technology assets, such assets encompassing both electronic information systems and infrastructures. Public Officers Law § 87(2) (i)
Copies of machine tapes from scanners	Yes	Watchers have access to view the tapes at the polls and there is nothing to prevent release of copies.
IP addresses of cellular/wireless modems	No	The release of this information if disclosed, would jeopardize the security of information technology assets, such assets encompassing both electronic information systems and infrastructures. Public Officers Law § 87(2) (i)
Records Related to Districts		
GIS Shape Files	Yes	