

# *BOARD OF ELECTIONS IN THE CITY OF NEW YORK*

## **PERSONAL PRIVACY PROTECTION POLICY**

*Adopted: May 14, 2002*

### **PREAMBLE**

In accordance with the provisions Article 6-A of the New York State Public Officers Law, known as the Personal Privacy Protection Law, the Board of Elections in the City of New York, pursuant to the provisions of Section 94 of the Public Officers Law does hereby adopt and promulgate the following procedures by which members of the public may assert rights granted by the Personal Privacy Protection Law, subject to the provisions of Section 1 of this Policy:

### **Section 1: PRIMACY OF THE NEW YORK STATE ELECTION LAW**

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

### **Section 2. ACCESS TO PERSONAL INFORMATION**

- (a) Applications shall be made on printed forms prescribed by the Board and submitted either personally or by mail to the Board of Elections in the City of New York, 32 Broadway, 7<sup>th</sup> Floor New York, NY 10004, Attention: Privacy Compliance Officer.

- (b) The person to whom such requests shall be made, and from whom such records or copies thereof may be obtained and certified, shall be the Board's Director of Personnel/Records Management Officer who shall be the Board's Privacy Compliance Officer.

The duties of the Privacy Compliance Officer shall be:

- (1) assisting data subject in identifying and requesting personal information, if necessary;
  - (2) describing the contents of systems records orally or in writing in order to enable a data subject to learn if a system of records includes a record or personal information identifiable to a data subject requesting such record or personal information;
  - (3) taking one of the following actions upon locating the record sought:
    - (i) make the record available for inspection, in a printed form without codes or symbols, unless an accompanying document explaining such codes or symbols is also provided;
    - (ii) deny access to the record in whole or in part and explain in writing the reasons therefor;
    - (iii) make a copy available, upon request, upon payment of established fees, if any, or permitting the data subject to copy the records; and
  - (4)
    - (i) upon request, certifying that copy of the record is a true copy; or
    - (ii) certifying, upon request, that:
      - (a) the agency does not have possession of the record sought;
      - (b) the agency cannot locate the record sought after having made a diligent search; or
      - (c) the information sought cannot be retrieved by use of the description thereof, or by use of the name or other identifier of the data subject without extraordinary search methods being employed by the Board.
- (c) Records shall be made available at the main office of the Board, which is located at 32 Broadway, 7<sup>th</sup> Floor, New York, NY 10004.
- (d) The agency shall accept requests for records and produce records during the hours of 10 a.m. to 4 p.m. on each business day.

(e) Proof of identity:

- (1) When a request is made in person, or when records are made available in person following a request made by mail, the Board may require appropriate identification, such as a driver's license, an identifier assigned to the data subject by the Board, a photograph or similar information that confirms that the record sought pertains to the data subject.
- (2) When a request is made by mail, the agency may require verification of a signature or inclusion of an identifier generally known only by a data subject, or similar appropriate identification.
- (3) Proof of identity shall not be required regarding a request for a record accessible to the public pursuant to Article 6 of the Public Officers Law (Freedom of Information Law), or the New York State Election Law.

**Section 3. REQUEST FOR RECORDS**

- (a) All requests shall be made in writing, except that the Board may make records available upon an oral request made in person after the applicant has demonstrated proof of identity.
- (b) A request shall reasonably describe the record sought. Whenever possible, the data subject should supply identifying information that assists the Board in locating the records sought.
- (c) Within five business days of the receipt of a request, the Board shall provide access to the record, deny access in writing, explaining the reasons therefor, or acknowledge the receipt of the request in writing, stating the approximate date when the request will be granted or denied, which date shall not exceed 30 days from the date of the acknowledgment.

**Section 4. AMENDMENT OF RECORDS**

- (a) Within 30 business days of a request from a data subject for correction or amendment of a record or personal information that is reasonably described and that pertains to the data subject, the agency shall:

- (1) make the amendment or correction in whole or in part and inform the data subject that, on request, such correction or amendment will be provided to any person or governmental unit to which the record or personal information has been or is disclosed pursuant to paragraph (d), (i) or (ii) of subdivision 1 of Section 96 of the Public Officers Law; or
  - (2) inform the data subject in writing of its refusal to correct or amend the record, including the reasons therefor.
- (b) Denial of a request for records or amendment or correction of a record or personal information:
- (1) shall be in writing, explaining the reasons therefor; and
  - (2) identifying the person to whom an appeal may be directed.
- (c) A failure to grant or deny access to records within five business days of the receipt of a request, or within 30 days of an acknowledgment of the receipt of a request, or a failure to respond to a request for amendment or correction of a record within 30 business days of receipt of such a request, shall be construed as a denial that may be appealed.
- (d) Any such denial may be appealed to the Commissioners of the Board of Elections in the City of New York who shall constitute the Privacy Compliance Law Appeals Officer, at the Board of Elections, 32 Broadway, 7<sup>th</sup> Floor, New York, NY 10004.

## **Section 5. APPEALS**

- (a) Any person denied access to a record or denied a request to amend or correct a record or personal information pursuant to Section 3 of this Policy may, within 30 days of such denial, appeal to the Commissioners of the Board of Elections in the City of New York who shall constitute the Privacy Compliance Law Appeals Officer.
- (c) The time for deciding an appeal shall commence upon receipt of an appeal that identifies:
- (1) the date and location of a request for a record or amendment or correction of a record or personal information;
  - (2) the record that is the subject of the appeal; and
  - (3) the name and return address of the appellant.

- (d) Within seven business days of an appeal of a denial of access, or within 30 days of an appeal concerning a denial of a request for correction or amendment, the person determining such appeals shall:
  - (1) provide access to or correct or amend the records or personal information; or
  - (2) fully explain in writing the factual and statutory reasons for further denial, and inform the data subject of the right to seek judicial review of such determination.
- (e) If, on appeal, a record of personal information is corrected or amended, the data subject shall be informed that, on request, the correction or amendment will be provided to any person or governmental unit to which the record or personal information has been or is disclosed pursuant to paragraph (d), (i) or (ii) of subdivision 1 of Section 96 of the Public Officers Law.
- (f) The Board shall forward to the New York State Committee on Open Government a copy of any appeal made pursuant to this Policy upon receipt, the determination thereof and the reasons therefor at the time of such determination.

**Section 6. STATEMENT OF DISAGREEMENT BY DATA SUBJECT**

- (a) If correction or amendment of a record or personal information is denied in whole or in part upon appeal, the determination rendered pursuant to the appeal shall inform the data subject of the right to:
  - (1) file with the agency a statement of reasonable length setting forth the data subject's reasons for disagreement with the determination;
  - (2) request that such a statement of disagreement be provided to any person or governmental unit to which the record has been or is disclosed pursuant to paragraph (d), (i) or (ii) of subdivision 1 of Section 96 of the Public Officers Law.
- (b) Upon receipt of a statement of disagreement by a data subject, the agency shall:
  - (1) clearly note any portions of the record that are disputed; and
  - (2) attach the data subject's statement as part of the record.
- (c) When providing a data subject's statement of disagreement to a person or governmental unit in conjunction with a disclosure made pursuant to paragraph (d), (i) or (ii) of subdivision 1 of Section 96 of the Public Officers Law, the agency may also include a concise

statement of its reasons for not making the requested amendment or correction.

## **Section 7. FEES**

- (a) Unless otherwise prescribed by statute, there shall be no fee charged for:
  - (1) inspection of records;
  - (2) search for records; or
  - (3) any certification pursuant to this Policy Statement.
- (b) Unless otherwise prescribed by statute, copies of records shall be provided:
  - (1) at a rate of 25 cents per photocopy up to 9 by 14 inches; or
  - (2) upon payment of the actual cost of reproduction, if the record or personal information cannot be photocopied.
- (c) The actual cost of reproduction shall be based upon the average unit cost for copying a record, excluding fixed costs of the Board, such as operator salaries and overhead.

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