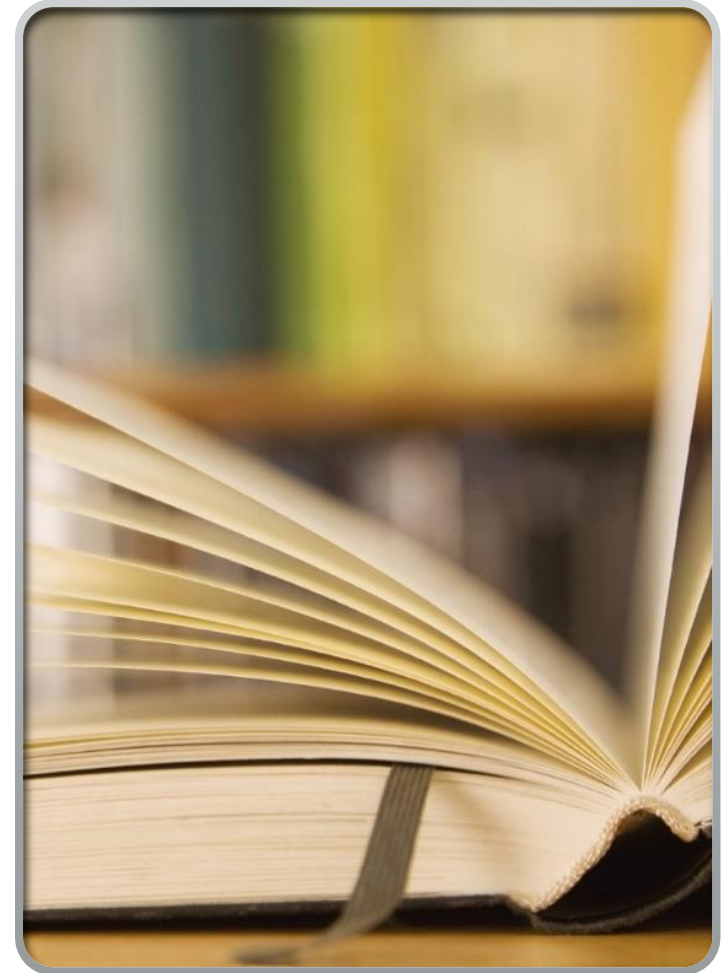


WPSBA Winter District Clerk Workshop Budget Vote Basics “Plus”

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Revised March 16, 2026

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Dr. John L. Flateau Voting & Election Database of New York Act (Effective April 1, 2026)

Requires each New York State “election authority” to transmit certain election data to the New York State Board of Elections after each election.

Dr. John L. Flateau Voting & Election Database of New York Act (Effective April 1, 2026)

Who? Each “election authority”. Defined as any local government entity primarily responsible for maintaining certain election data, including, but not limited to any...school district that administers their own elections or maintain their own voting and election records.

- The Education Law is also amended to refer to Election Law §3-112

Dr. John L. Flateau Voting & Election Database of New York Act (Effective April 1, 2026)

What? Certain election records, if the election authority is able to maintain the record

- Election results;
- Contemporaneous voter registration lists;
- Voter history files;
- Maps, or other documentation of the configuration of districts in any format or formats as specified by the NYS Board of Elections
- Tabulations of the number of valid and invalid affidavit and absentee ballots, the reasons for which the absentee/affidavit ballots were invalid, the quantity of ballots invalid for each reason, and the quantity and disposition of the affidavit/absentee ballots subject to cure;
- Lists of election day poll sites and early voting sites and maps or other documentation of the configuration of districts in any format or formats as specified by the NYS Board of Elections of the election districts assigned to each election day poll site or early voting site;
- Adopted districting or redistricting plans for every election in every political subdivision; and
- Any other publicly available data as requested by the NYS Board of Elections.

Nothing in the act requires an election authority to create or otherwise provide a record it is not capable of collecting.

Dr. John L. Flateau Voting & Election Database of New York Act (Effective April 1, 2026)

Where? “...to the New York State Board of Elections”

- Election Law §3-112 establishes the New York voting and elections database.
- The New York State Board of Elections must collect, host and maintain, in an electronic format, records provided to the Board of Elections pursuant to Election Law §3-112.
 - The NYS Board of Elections must promulgate regulations within 180 days of the effective date of this section (September 28, 2026) “on data standards for the method of processing and transmitting records required to be provided pursuant to this section.”

Dr. John L. Flateau Voting & Election Database of New York Act (Effective April 1, 2026)

When? “Upon the certification of election results and the completion of the voter history file after every election, each election authority shall, by January first after such election, or within ten business days, whichever is later, transmit...”

- My reading of the statute sets school districts’ deadline to transmit the required data by January 1, 2027, which is “later” than ten (10) business days after the election (early June 2026).



Dr. John L. Flateau Voting & Election Database of New York Act (Effective April 1, 2026)

Why? Transparency and access (not to make our lives more difficult...at least I don't think so)

Dr. John L. Flateau Voting & Election Database of New York Act (Effective April 1, 2026)

Let's not, and say we did

- Every six (6) months after the effective date, the New York State Board of Elections must determine which election authorities have failed to transmit the required records and publish a list of such non-compliant election authorities.
- Upon publication of the list, an election authority that failed to transmit records must have a cure period of ten (10) business days to come into compliance or provide an adequate reason the authority is not capable of transmitting such records.
- The Dr. John L. Flateau Voting & Elections Database of New York Act authorizes enforcement actions (including by the Office of the Attorney General and private parties who use the data) against non-compliant election authorities.

Dr. John L. Flateau Voting & Election Database of New York Act (Effective April 1, 2026)

Which reports should be submitted?

Put another way, what reports do you have?

- Election results;
- Contemporaneous voter registration lists;
- Voter history files;
- Maps, or other documentation of the configuration of election districts
- Tabulations of the number of valid and invalid affidavit and absentee ballots, the reasons for which the absentee/affidavit ballots were invalid, the quantity of ballots invalid for each reason, and the quantity and disposition of the affidavit/absentee ballots subject to cure;
- Any other publicly available data as requested by the NYS Board of Elections

Dr. John L. Flateau Voting & Election Database of New York Act (Effective April 1, 2026)

How though?

Unknown.

As of this writing, there is no information available on the format or the system by which the requested information is to be transmitted. No regulations have been developed.

Other Recent Legislation

Ch. 515, Laws of 2024 (effective November 21, 2025)

- Revises the required timing for the Board Reorganization meeting, from a fixed date (the first Tuesday in July) to a date in July, on or before the Monday after the 20th day of July in each year.
 - For 2026-27, accordingly, reorg may be held on or before July 27, 2026

Ch. 571, Laws of 2024 (effective March 13, 2025)

- Amends Education Law §2002 to permit the annual meeting and election to be held in any building owned or leased by the district (previously only allowed the annual meeting to be held in a “schoolhouse”).
 - If the school board uses a building other than a schoolhouse which is owned or leased by the district, the building must meet ADA accessibility requirements

Other Recent Legislation

Ch. 541, Laws of 2024 (effective November 21, 2025)—Modifies Education Law §§ 2018-a & 2018-b

- N.Y. Educ. §2018-a (**Personal Registration**)
 - “A qualified voter may vote as an absentee voter under this section if ~~during all the hours of voting on the day~~ occurrence of an election ~~he or she will~~ such voter expects to be...”
 - (1) absent from ~~the~~ their county of ~~his or her~~ residence; or
 - (2) unable to appear personally at the polling place because of illness or physical disability, or duties related to the primary care of one or more individuals who are ill or physically disabled, or because ~~he or she~~ such voter will be or is a patient in a hospital; or
 - (3) ~~an inmate~~ a resident or patient of a veteran's administration hospital; or
 - (4) absent from ~~his or her~~ such voter's voting residence because ~~he or she~~ such voter is detained in jail awaiting action by a grand jury or awaiting trial, or confined in jail or prison after a conviction for an offense other than a felony, provided that ~~he or she~~ such voter is qualified to vote in the election district of ~~his or her~~ such voter's residence.

Other Recent Legislation, cont'd

Ch. 541, Laws of 2024 (effective November 21, 2025)—Modifies Education Law §§ 2018-a & 2018-b

- N.Y. Educ. §2018-a (**Personal Registration**)—Contents of “Application”

- (1) Applicant's full name, date of birth, and residence address, including the street and number, if any, rural delivery route, if any, mailing address if different from the residence address and an address to which the ballot shall be mailed.
- (2) A statement that the applicant is a qualified and registered voter.
- (3) A statement, as appropriate, that on the day of such election the applicant expects in good faith to be in one of the following categories:
 - (a) absent from ~~the~~ their county of ~~his or her~~ residence; provided, however, if the applicant expects to be absent from such county for a duration covering more than one election and seeks an absentee ballot for each election, ~~he or she~~ such applicant shall state the dates when ~~he or she expects~~ they expect to begin and end such absence; or
 - (b) unable to appear at a polling place because of illness or physical disability or duties related to the primary care of one or more individuals who are ill or physically disabled; or
 - (c) ~~an inmate a~~ resident or patient of a veteran's administration hospital; or
 - (d) detained in jail awaiting action by a grand jury or awaiting trial or confined in jail or prison after a conviction for an offense other than a felony and stating the place where ~~he or she~~ such applicant is so detained or confined.

Other Recent Legislation, cont'd

Ch. 541, Laws of 2024 (effective November 21, 2025)—Modifies Education Law §§ 2018-a & 2018-b

- N.Y. Educ. §2018-a (Personal Registration)—Contents of Absentee Ballot Application

Although the applicable law has been modified, at this time, school districts with personal registration should continue using the New York State Board of Elections School District Absentee Ballot Application, which is available at:

<https://www.counsel.nysed.gov/sites/counsel/files/absentee-ballot-application-and-instructions-english.pdf>

Other Recent Legislation, cont'd

Ch. 541, Laws of 2024 (effective November 21, 2025)—Modifies Education Law §§ 2018-a & 2018-b

- N.Y. Educ. §2018-b (Poll Registration)—Contents of Absentee Ballot Application

An application for such an absentee ballot shall submit an application setting forth:

- (1) His such applicant's full name, date of birth and residence address, including the street and number, if any, or town and rural delivery route, if any, mailing address if different from the residence address and an address to which the ballot shall be mailed;
- (2) ~~that he such applicant is or will be, on the day of the school district election, a qualified voter of the school district in which he resides in that he is or will be, on such date, over eighteen years of age, a citizen of the United States and has or will have resided in the district for the thirty days next preceding such date;~~
- (3) ~~that he will be unable to appear to vote in person on the day of the school district election for which the absentee ballot is requested because he is, or will be on such day, a statement, as appropriate, that on the day of such election the applicant expects in good faith to be in one of the following categories:~~
 - (a) a resident or patient in a hospital, including a veteran's administration hospital, or unable to appear personally at the polling place on such day because of illness or physical disability, or, duties related to the primary care of one or more individuals who are ill or physically disabled; or
 - (b) ~~because his duties, occupation, business, or studies will require him to be outside of the county or city of his residence on such day~~ absent from the county of such applicant's residence; provided, however, if the applicant expects to be absent from such county for a duration covering more than one election and seeks an absentee ballot for each election, such applicant shall state the dates when they expect to begin and end such absence; or
 - (c) ~~because he will be on vacation outside the county or city of his residence on such day; or~~
 - (d) ~~absent from his voting residence because he is detained in jail awaiting action by a grand jury or awaiting trial or is confined in jail or prison after a conviction for an offense other than a felony and stating the place where such applicant is so detained or confined.~~

Other Recent Legislation, cont'd

Ch. 541, Laws of 2024 (effective November 21, 2025)—Modifies Education Law §§ 2018-a & 2018-b

- Does not require changes to the wording on the backs for absentee ballot/early mail ballot envelopes

Absentee/Early Mail Ballots—“Hot” Topics

- Can a district accept absentee/early mail ballot applications *via* email or fax?
- The absentee/early mail voting application must be received by the district clerk or designee at least seven (7) days before the election, if the ballot is to be mailed to the voter (May 12, 2026), or the day before the election, if the ballot is to be issued to the voter, or his/her designated agent, in person (May 18, 2026).
- There is no limit on the amount of times a particular individual can be designated as an agent for the purposes of receiving absentee ballots. This practice is known as “ballot collection” or “ballot harvesting”.

Early “In Person” Voting

“NYSSBA supports legislation that would allow, but not require, New York school districts to offer early voting in the annual school budget vote and Board of Education election, consistent with early voting allowed in non-school-district elections in New York.”

--NYSBBA 2024 Position Statement

- School districts propose resolutions for annual business meeting, which are voted upon
- Albany City School District submitted this resolution
- Specifically optional
- Nothing introduced as yet. But because it was passed, it is a part of legislative agenda and part of annual published position statements.
- Once passed it's on the books for five years, unless renewed, or achieved.

Electioneering/Improper Advocacy

- **Electioneering**

- The distribution of materials in support of or in opposition to any particular position within a 100-foot zone measured from the entrance to a polling place would constitute impermissible electioneering.
- District election inspectors must post distance markers delineating the 100-foot zone at least ½ hour before the polls open, and the markers must remain until the polls close.
- On the day when a school budget vote or revote occurs, a school board may display within any polling place a copy or copies of any budget or proposition to be voted upon.
- The distribution of purely factual information at polling places is permissible.
 - The District may hold certain activities on the day of the election, but such activities must not exhort the electorate to vote in any particular way or otherwise convey favoritism.

- **Improper Advocacy**

- School districts are prohibited from spending public money to encourage voters to vote in favor of the school budget or any proposition.
 - Districts *may* provide purely factual and strictly objective materials on the school budget or other ballot proposition, through means aimed at reaching the electorate as a whole in order to help them make an informed decision.
 - Districts should avoid even the “appearance of impropriety” when engaging in activities that technically do not constitute partisan/improper advocacy
 - This inquiry is specific and fact-based.

Budget Notice

- What are the required contents of the budget notice?
 - The budget notice must:
 - Compare the percentage increase or decrease in total spending under the proposed budget with total spending under the district budget adopted for the current school year.
 - Compare the percentage increase or decrease in total spending under the proposed budget with the percentage increase or decrease in the consumer price index from January 1 of the prior school year to January of the current school year.
 - Describe how total spending and the tax levy resulting from the proposed budget would compare with a projected contingency budget, if a contingency budget were adopted on the same day as the vote on the proposed budget.
 - This comparison must:
 - Be in total and also broken down by budget components.
 - Include a statement explaining the assumptions made in estimating the projected contingency budget.
 - Include in a format and manner prescribed by the commissioner of education an estimate of the tax savings that would be available to an eligible homeowner under the basic School Tax Relief (STAR) exemption if the proposed budget was adopted.
 - Include the date, time and place of the budget vote, in the same manner as in the notice of annual meeting.
 - The district's tax levy limit determined pursuant to Education Law §2023-a, and the estimated school tax levy excluding any levy necessary to support expenditures for:
 - Expenditures resulting from court orders or judgments arising from tort actions that exceed 5% of the total tax levied in the prior year.
 - Increases in employer contribution rates to state retirement systems in excess of two percentage points.
 - Capital expenditures.
 - By when must it be mailed?
 - **May 13, 2026** (6 days before the vote).
 - The District is only required to mail by May 13, 2026; the District need not guarantee receipt by a particular day.

Election Inspectors

- **Requirement for Election Inspectors**

- In non-city districts, there must be at least two (2) election inspectors for each ballot box or voting machine in use.
- In union free and central school districts, the school board appoints the election inspectors (at least two [2] per machine or ballot box), and also appoints assistant election inspectors, as needed, in connection with the conduct of a district meeting and election. The board also designates a chief election inspector. Where the district is divided into election districts, the board must appoint a chief election inspector for each election district.
- In small city school districts, the school board is required to appoint three election inspectors for each election district, and may appoint additional election inspectors if necessary. The inspectors themselves elect one of their number as chairperson. The chairperson may appoint one of the inspectors as assistant poll clerk.

- **Who can serve as election inspectors?**

- In small city school districts, the Education Law requires that election inspectors be qualified voters of the school district; there are no such requirements in other types of school districts.
- Seventeen (17)-year-old students enrolled in a school district may serve as an election inspector or poll clerk with parental consent.
 - Students serving as an election inspector or poll clerk while school is in session are to be recorded as in attendance.
- Nothing prohibits district employees, school board members, relatives of board members or candidates from serving as election inspectors.
- Election inspectors need not be “certified” by the County (they can be, of course).

Election Inspectors—Troubleshooting

- Can a District decline to assign certain certified election inspectors?
- How should clerks navigate situations where inspectors believe certification guarantees assignment?

Poll Watchers, Exit Polls & Poll Lists

- **Poll Watchers**

- Poll watchers may only be appointed in school districts that have adopted a system of personal registration.
 - There is no authority for a candidate to appoint poll watchers in districts without personal registration.
 - However, even in districts without personal registration, there is nothing to prevent a qualified voter who supports a particular candidate from being present at a polling place and exercising his or her right to challenge the qualifications of other voters under the Education Law.
 - Such an individual, whether appointed/designated or not, may not interfere with the election or engage in electioneering. Poll watchers' presence on school grounds during a school election is not in and of itself improper, provided no electioneering takes place.

- **Exit Polls**

- There is nothing improper about conducting an "exit poll" at a polling place so long as voter access to the polls is not hampered.

Poll Lists

- The district clerk or assistant clerk(s) maintain a poll list that contains the names and addresses of the people who actually vote in a district meeting or election.
- Poll lists are public documents that must be made available for inspection and copying by interested persons, including on the day of the election.
 - On the day of the election, districts must take special care to provide access to the poll list(s) in an evenhanded manner and with minimal disruption to the electoral process.

FOIL & Records Management

- There are 10+ categories of records/information which may be withheld under the Freedom of Information Law (“FOIL”), N.Y. Pub. Off. L. §§ 87(2)(a)–(v).
- Subject to certain exceptions, FOIL does not **require** that certain information be withheld.

FOIL & Records Management

N.Y. Pub. Off. L. § 87(2)(g)—Inter/Intra-Agency Exception

- Under N.Y. Pub. Off. L. § 87(2)(g), an agency may refuse to disclose records that are inter-agency or intra-agency materials.
- However, records that include:
 - statistical or factual tabulations or data;
 - instructions to staff that affect the public;
 - final agency policy or determinations;
 - external audits, including but not limited to audits performed by the comptroller and the federal government must be disclosed.
- Thus, opinions, ideas, advice, questions, drafts, recommendations, and other **pre-decisional material** that forms a part of the **deliberative** process are exempt from disclosure.
- **Note:** Exempt inter/intra agency materials can contain non-exempt materials.

FOIL & Records Management

What's the Difference?

- “Inter” means between or among different agencies (*international*) while “intra” means within or inside a single agency (*intravenous*)
- Key Question—if asking whether something is inter-agency, the other party must be an agency
 - What is an “agency” under FOIL?

“Any state or municipal department, board, bureau, division, commission, committee, public authority, public corporation, council, office or other governmental entity performing a governmental or proprietary function for the state or any one or more municipalities thereof, except the judiciary or the state legislature.”

N.Y. Pub. Off. L. §86(3)

FOIL & Records Management

Examples of inter/intra agency records

- **Records that may be redacted:**
 - An email about staffing/scheduling that does not necessarily affect the public (e.g., who can cover a shift, reminders such as not to be late, etc.).
 - Back and forth discussions about policy or projects.
 - Responses to merely acknowledge receipt of an email are not subject to FOIL.
 - Emails about pending or possible policy changes are not final and therefore are not subject to FOIL.
 - Questions about policies/instructions are also unlikely to be subject to FOIL.
 - Draft promotional materials or reports.
- **Records that cannot be redacted (under this exemption):**
 - A final determination on a policy or project.
 - Instructing staff to stay home or to close facilities due to being short staffed or bad weather could be subject to disclosure since the instruction affects the public.
 - Emails of final policies/instructions could also be subject to FOIL if those policies/instructions affect the public.
 - Instructions on implementing new policies might be subject to FOIL if that instruction actually affects the public or represents a final policy/determination.
 - Final promotional materials or reports.

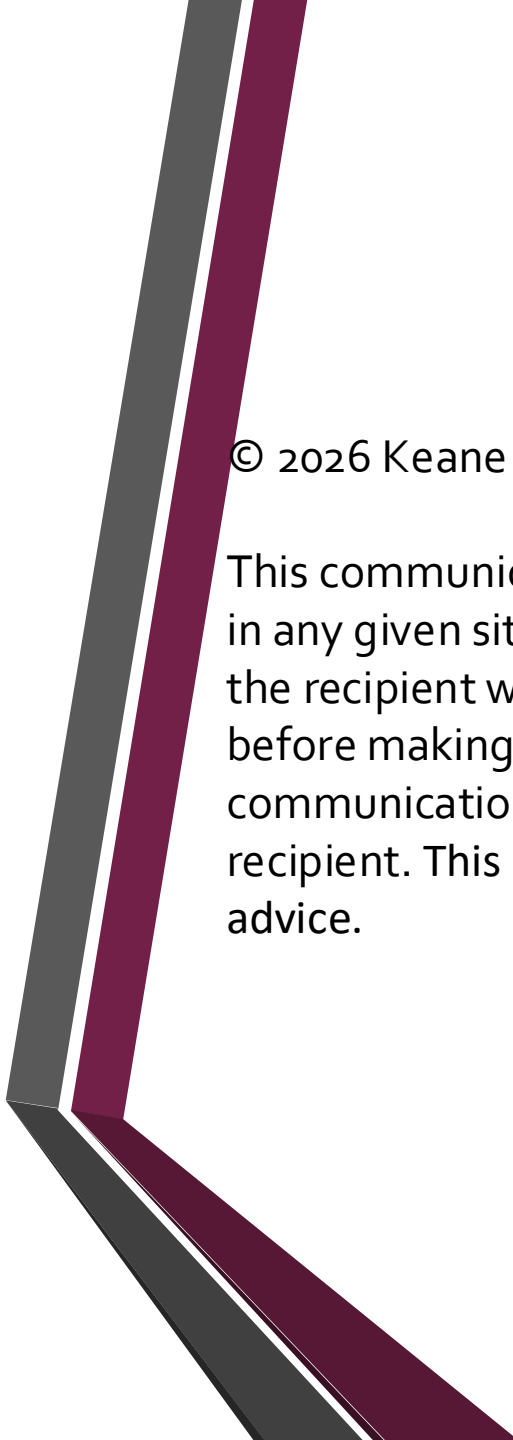
FOIL & Records Management

- What are the other categories of records/information which may be withheld under FOIL?
 - N.Y. Pub. Off. L. §87(2)(a) — Exempted Records under Law
 - N.Y. Pub. Off. L. §87(2)(b) — Unwarranted Invasion of Personal Privacy
 - N.Y. Pub. Off. L. §87(2)(c) — Impair Bargaining or Contract Awards
 - N.Y. Pub. Off. L. §87(2)(d) — Trade Secrets
 - N.Y. Pub. Off. L. §87(2)(e) — Records Compiled for Law Enforcement Purposes
 - N.Y. Pub. Off. L. §87(2)(f) — Life/safety exception
 - N.Y. Pub. Off. L. §87(2)(h) — Examination Questions or Test Answers
 - N.Y. Pub. Off. L. §87(2)(i) — IT Assets

Records Management

HIPAA Authorizations and Records Requests

- Is a standard HIPAA “Authorization for Release of Health Information” sufficient when requesting a client’s full academic and employment history, or are additional authorizations required?
- The attorney’s favorite answer: “It depends”.



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