

INDEPENDENT NOMINATIONS

Many village officials are elected as independent candidates, meaning that they do not as a candidate of one of the five recognized political parties. To be nominated by an independent body, an independent nominating petition must be filed by the filing deadline.³² Sample Independent Nominating Petitions are available online at the New York State Board of Elections website at www.elections.state.ny.us.

Qualification of Signers of Independent Nominating Petitions

Any registered voter that has not participated in a caucus or primary or signed a designating petition for a particular office, and who is qualified to vote, may sign an independent nominating petition for a particular office. A signer of an independent nominating petition must be:

1. A village resident; and
2. (a) Registered with the appropriate county board of elections, or
(b) On the village register from the last village election.³³

For example, assume that the mayor and two trustees are up for election. If a registered voter participated in the caucus or primary, they may not sign any independent nominating petitions. If the registered voter did not participate in such caucus or primary, they may sign one independent nominating petition for mayor and two independent nominating petitions for trustee (since two seats are up for election). If a registered voter signs more independent nominating petitions than they are allowed (for instance, the voter signed three independent nominating petitions for trustee for the two open seats), those petitions

that are signed first are the ones that would count; the later signatures are invalid, should the petitions be challenged.

Number of Signatures Required for Independent Nominating Petitions

In villages with populations of 5,000 or more, at least 100 registered voters must sign the petition. In villages of at least 3,000 but less than 5,000 residents, at least 75 registered voters must sign the petition. In villages with populations of at least 1,000 but less than 3,000, at least 50 registered voters must sign the petition. In villages with populations of less than 1,000, at least 5% of the number of registered voters at the last regular village election must sign the petition.³⁴

	Population			
	0 - 999	1,000 - 2,999	3,000 - 4,999	5,000 +
Minimum number of required signers	5% of registered voters	50	75	100

Many questions arise concerning villages with populations under 1,000. Although the language seems to imply that 5% of those who actually voted in the last village election must sign the petition, the New York State Board of Elections has stated that 5% of the **registered voters** in the village at the time of last election must sign the nominating petition. For example, if at the last regular village election, 500 of the village's 900 residents were registered to vote but only 100 residents actually voted, the petition would have to be signed by 25 registered voters ($500 \times 0.05 = 25$).

Independent Name and Emblem

An individual running for political office as an independent body must choose a name and emblem to identify themselves on both the independent nominating petition and on the ballot. The name must be in English, and must not include the name, part of the name, or abbreviation of any existing political party.³⁵ The new changes to the law set forth that the emblem is no longer adhered to the candidates name on the ballot, in order to better accommodate those candidates with longer names.³⁶ Instead, the emblem either appears at the head of the column on the ballot or at the beginning of the row, depending upon the orientation of the ballot.³⁷

The Independent Name

The name and emblem on the petition must conform to the requirements of the Election Law relating to party names and party emblems.³⁸ A candidate's independent body name **may not** include the words:

- American;
- United States;
- National;
- New York State;
- Empire State; or
- Any abbreviation thereof.

The Independent Emblem

The emblem may be:

- An animal;
- An anchor; or
- Any other proper symbol.

However, the emblem may not be the same as or similar to:

- The emblem, insignia, symbol, or flag of any political or governmental body, agency, or entity;
- Any religious emblem, insignia, symbol, or flag;
- The portrait of any person; or
- The representation of a coin or the currency of the United States.³⁹

In addition, the name and emblem may not be similar to, or likely to create confusion with, the name or emblem of an existing political party or independent body.

If a petition filed with the village clerk violates these requirements, the clerk should still accept the petition for filing. However, the petition will be subject to a challenge. If a petition filed with the village clerk does not show an emblem, or if the petitioner fails to select an independent body name, the village clerk must notify the candidate that he or she must select such and, if the candidate fails to, select a name and/or emblem for the candidate.

If two or more independent nominating petitions nominating candidates for the same office are filed and each has selected the same or similar name and emblem, the petition that is filed first may use the selected name and emblem, while the other candidates must select other names or emblems.

Filing Deadlines

Independent nominating petitions must be filed with the clerk not earlier than 42 days and not later than 35 days preceding the election.⁴⁰ Once these forms are received, the village clerk must notify by mail each person nominated or designated of their nomination or

designation. The notice must state the last day that the nomination or designation may be declined. In addition, the notice must also state that the candidate's name will appear on the ballot as it appears in the notice.⁴¹

Cover Sheet

Both Election Law § 6-134 and Title 9, Part 6215 of the New York State Compilation of Codes, Rules, and Regulations govern the format of petitions and cover sheets. Petitions consisting of two or more sheets must be securely bound and numbered sequentially at the foot of each page.⁴² Petitions consisting of 10 or more pages must have a cover sheet.⁴³

If, within two days of the filing of a petition, the clerk finds that it does not satisfy the cover sheet or binding requirements, the clerk must notify the candidate of the defect.⁴⁴ The clerk must either send notice of the defect by overnight delivery on the day the clerk makes the determination, or arrange for the notice to be personally delivered not later than one day after the determination is made. If authorized on the petition's cover sheet, the clerk may notify the candidate by facsimile transmission at the time that the determination is made and also by mail. The candidate then has three days from the date of the clerk's determination to cure the defect.

Timely Filing of Petitions

Petitions must be rejected if not timely filed. Pursuant to Election Law § 1-106, any paper that must be filed pursuant to the Election Law must be filed between 9:00 a.m. and 5:00 p.m., unless otherwise specifically provided by law. If the last day for filing falls on a Saturday, Sunday, or legal holiday, then individuals have until the next business day to file the petition. For example, if the last day for filing papers would fall on a Saturday, the last day for filing becomes the following Monday, unless that Monday is legal holiday, in which case the last day to file the papers is the following Tuesday.

All papers sent by mail in an envelope postmarked prior to midnight of the last day of filing are deemed timely filed and should be accepted for filing when received.

Papers that are not filed within the time prescribed by the Election Law are **NOT** valid.⁴⁵ **Clerks MUST provide for acceptance of filings until 5:00 P.M. on the last day of a filing, even if normal business hours of the office end earlier than 5:00 P.M.**

Accepting or Declining a Nomination

Party Nominations

Candidates nominated by a party designating petition must file a certificate of acceptance or declination within three days of the petition being filed. However, if a candidate is an enrolled member of the party nominating them, they do not have to file a certificate of acceptance. Accordingly, any candidate that is non-member of the political party must file a certificate of acceptance. If a candidate declines a party's nomination, the clerk must notify within one day the committee to fill vacancies of the declination. The committee to fill vacancies must then file a certificate to fill the vacancy with the village clerk within three days of the last day to file a declination.⁴⁶

Independent Nominations

Independent body candidates must file a certificate of acceptance or declination in the village clerk's office within three days of the last day to file the independent nominating petition.⁴⁷ If an independent body candidate declines the nomination, the committee to fill vacancies must make an appointment and file such appointment with the village clerk within three days of the last day to file a declination. The candidate nominated by the committee must attach his or her written consent to the appointment.⁴⁸

Challenging Petitions

Individuals wishing to object to the legal sufficiency of an independent nominating petition, designating petition, or certificate of nomination must file a written objection in the village clerk's office no later than one day after the last date to file the petition or certificate, or no later than one day after the clerk receives the petition or certificate if the papers were timely mailed as permitted by law. Within two days of filing the written objection, the challenger must also file in the clerk's office written specifications that form the basis of the objection. Failure to file the written specifications renders the original objection null and void.⁴⁹

When a village clerk receives the written specifications of the objection, he or she must immediately notify both the candidate(s) named in the petition or certificate and the county board of elections. The clerk must then forward on the materials to the county board of elections. The county board of elections must render a determination as to the merits of the challenge, including issuing a finding as to whether the petition is sufficient or insufficient. Once the county board renders its determination, it must immediately notify the village clerk, each candidate named in the petition or certificate, and, if the determination was made on an objection, the objector.