

COUNTY OF SUFFOLK



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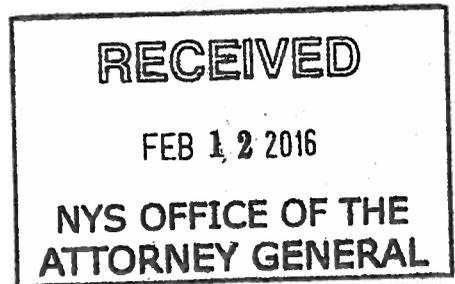
DEPARTMENT OF LAW

February 8, 2016

Via Email

Kathryn.Sheingold@ag.ny.gov
and First Class Mail

Kathryn Sheingold, Esq.
Office of the Attorney General
Division of Appeals & Opinions
Assistant Solicitor General
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The Capitol
Albany, New York 12224-0341



Dear Ms. Sheingold:

We write to request the Attorney General's opinion as to whether State law permits Suffolk County to implement online voter registration for first time registrants or whether there are any proscriptions to online voter registration, particularly with regard to whether the signature component must be handwritten.

Currently, twenty nine states offer online voter registration. Online voter registration is already available in New York through the secured website of the State Department of Motor Vehicles (DMV) as per the initiative launched by Governor Cuomo in 2012. Any individual who has been issued a DMV driver's license, a non-driver identification card, or a learner's permit and for whom the DMV has a digital signature on file can use the online registration method. According to the DMV website, an individual has to agree to the DMV's attestation, which "is the legal equivalent of a handwritten signature."

The DMV online registration process is consistent with the New York Electronic Signatures and Records Act (ESRA). ESRA states that "unless specifically provided otherwise by law, an electronic signature may be used by a person in lieu of a signature affixed by hand. The use of an electronic signature shall have the same validity and effect as the use of a signature affixed by hand." N.Y. State Tech. Law § 304(2). Section 305(3) similarly provides that an "electronic record shall have the same force and effect as those records not produced by electronic means."

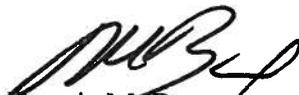
New York Election Law § 5-210, which provides for voter registration and enrollment, does not address online registration or specific signature requirements. While the section states that a “qualified person may apply personally for registration and enrollment, change of enrollment by mail or by appearing at the board of elections,” it does not preclude other forms of registration. Notwithstanding the requirements set forth in Election Law § 8-304 for comparison of a voter’s signature with the signature provided at the time of registration, § 5-210 does not mention a specific type of signature requirement (i.e. that it be a handwritten signature), but provides for “a place for the applicant to execute the form on a line which is clearly labeled ‘signature of applicant.’” N.Y. Elect. Law § 5-210(5)(D)(xi).

Based on the foregoing, we seek your opinion as to whether State law permits Suffolk County to implement online voter registration through the use of an electronic signature or whether the signature requirements of N.Y. Election Law § 5-210(5)(D)(xi) requires signatures to be handwritten or “affixed by hand.”

Your earliest attention to this request would be greatly appreciated. If you require any further information or if you wish to discuss this in greater detail, please feel free to call us at (631) 853-5675.

Thank you.

Very truly yours,


Dennis M. Brown
County Attorney