



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

LETITIA JAMES
ATTORNEY GENERAL

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THE NEW YORK VOTING RIGHTS ACT: PRELIMINARY IDENTIFICATION OF COVERED ENTITIES AND COVERED POLICIES SUBJECT TO PRECLEARANCE (TO TAKE EFFECT ON SEPTEMBER 22, 2024)

Last year, our state passed the New York Voting Rights Act (the “NYVRA”),¹ a landmark state law that protects voting rights. The NYVRA includes prohibitions on voter suppression, vote dilution, and voter intimidation, among other things. This Office of the New York Attorney General (“OAG”) guidance is focused on a specific section of the NYVRA, its “preclearance” requirement, which takes effect on September 22, 2024.² Preclearance requires certain local jurisdictions (for example, a county, city, town, village or school district)³ and local boards of elections (“BOEs”) covered under the NYVRA’s preclearance coverage formula to submit election- and voting-related changes for review before they can take effect.⁴ A local jurisdiction or BOE that is covered under the NYVRA’s preclearance coverage formula is referred to as a “covered entity.”⁵

While the preclearance coverage formula determines which local jurisdictions and BOEs are subject to preclearance and the NYVRA does not require OAG’s Civil Rights Bureau (the “CRB”)⁶ to separately identify those jurisdictions and BOEs, greater clarity as to which

¹ N.Y. Elec. Law § 17-200, *et seq.*

² The NYVRA provides that the preclearance requirement takes effect one year after OAG certifies that it is prepared to enforce the requirement. The John R. Lewis Voting Rights Act of New York, L.2022, c. 226, § 5, amended L.2023, c. 169, § 1, eff. June 30, 2023. OAG certified on September 22, 2023.

³ While this guidance uses the term “jurisdiction” for ease of reference, the NYVRA uses the term “political subdivision,” defined as “a geographic area of representation created for the provision of government services, including, but not limited to, a county, city, town, village, school district, or any other district organized pursuant to state or local law.” N.Y. Elec. Law § 17-204(4).

⁴ N.Y. Elec. Law § 17-210.

⁵ N.Y. Elec. Law § 17-210(3).

⁶ The NYVRA requires the CRB to administer the preclearance requirement.

jurisdictions and BOEs fall within the coverage formula supports the law’s implementation. OAG therefore writes to provide public notice that it has preliminarily identified the local jurisdictions and BOEs that will be subject to the NYVRA’s preclearance requirement beginning on September 22, 2024.

Covered entities are subject to preclearance and only need to submit for review a voting- or election-related change that qualifies as a “covered policy.” For preclearance to apply, the local jurisdiction or BOE must be a “covered entity” and the change must be a “covered policy.” In addition to its preliminary identification of covered entities, the CRB has preliminarily identified a non-exhaustive list of changes that constitute covered policies and are therefore subject to preclearance. A change to a covered policy made by a covered entity on or after September 22, 2024 must therefore be submitted to either the CRB or a designated court for review before that change can be made.

The CRB’s identification of covered entities and covered policies is preliminary and, along with the supporting analysis reflected in this guidance, is being provided with an invitation for jurisdictions, voters, and other stakeholders to ask questions and provide direct feedback. Anyone who wishes to submit written questions or comments may do so by emailing preclearancefeedback@ag.ny.gov. **The CRB will accept written submissions until February 20, 2024.** The CRB will then publish all applicable comments, respond to relevant issues and, where necessary, reconsider its analysis.

Because this guidance is preliminary, it is subject to change prior to September 22, 2024. The CRB may adjust its analysis and/or remove or identify additional covered entities and covered policies at a later date.

We will continue to provide information regarding the NYVRA and its preclearance requirement. Please visit OAG’s Voting Rights pages for [individuals](https://ag.ny.gov/resources/individuals/civil-rights/voting-rights) (<https://ag.ny.gov/resources/individuals/civil-rights/voting-rights>) and [local jurisdictions](https://ag.ny.gov/resources/organizations/elections) (<https://ag.ny.gov/resources/organizations/elections>) on our website, where we will provide updates about the NYVRA and the voting rights of New Yorkers.

I. The Preclearance Requirement

Pursuant to the NYVRA’s preclearance requirement, “the enactment or implementation of a covered policy by a covered entity” is subject to review, by either the CRB or a designated court, before the change can take place.⁷

Not all local jurisdictions and BOEs within New York are subject to the preclearance requirement. The requirement applies **only** to a “covered entity” seeking to enact or implement a

⁷ N.Y. Elec. Law § 17-210(1).

“covered policy.” A “covered entity” is a local jurisdiction or BOE that falls within the NYVRA’s preclearance coverage formula.⁸ A “covered policy” is a change concerning any of the topic areas listed in the NYVRA’s preclearance section.⁹ These terms are further defined and explained below in Sections II and III.

If any covered entity enacts or implements a change in a covered policy without first seeking preclearance, the CRB or any party with standing may commence a lawsuit to prevent the change from taking place.¹⁰

a. Preclearance by the CRB

Covered entities may preclear their changes by submitting those proposed changes to the CRB for review. We refer to the submission of a covered policy for CRB review (rather than judicial review) as “administrative preclearance.” Below is a step-by-step breakdown of the administrative preclearance process:

- **Step 1: the local jurisdiction submits the proposed change in writing to the CRB.**¹¹ The CRB will provide additional information regarding the proper submission format and other operational requirements of the administrative preclearance process.
- **Step 2: within ten days of receipt, the CRB publishes the proposed change on its website.**¹²
- **Step 3: a period for public comment takes place.**¹³ All proposed changes submitted for administrative preclearance must go through a public comment process.
 - During the public comment process, members of the public and other interested parties may provide feedback to the CRB on whether preclearance should be granted or denied.
 - The length of the public comment period depends on the type of proposed change. For changes concerning the selection of poll sites or the assignment of election districts to poll sites, the period for public comment is five business days, running from the date the proposed change is published on the CRB’s

⁸ N.Y. Elec. Law § 17-210(3)(a)-(d).

⁹ N.Y. Elec. Law § 17-210(2)(a)-(l).

¹⁰ N.Y. Elec. Law § 17-210(6).

¹¹ N.Y. Elec. Law § 17-210(4)(a).

¹² N.Y. Elec. Law § 17-210(4)(b).

¹³ N.Y. Elec. Law § 17-210(4)(c).

website.¹⁴ For any other change, the period for public comment is ten business days, running from the date the proposed change is published on the CRB’s website.¹⁵

- To facilitate public comment, the CRB will provide opportunities for members of the public and other interested parties to sign up to receive email notifications whenever a preclearance request is made by a local jurisdiction.¹⁶
- **If you would like to receive notifications of preclearance submissions and other important preclearance updates, please visit [this link](https://forms.office.com/g/p2VbvGgca2) (<https://forms.office.com/g/p2VbvGgca2>). OAG will continue to provide ways for interested parties to sign up for notifications regarding preclearance.**
- **Step 4: the CRB reviews the proposed change and issues a public determination within the time frame set forth in the NYVRA.¹⁷**
 - Like the public comment period, the length of time for the CRB’s review depends on the type of change. If the change involves the selection of poll sites or the assignment of election districts to poll sites, the CRB will review the change and issue a public determination on its website within 15 days of receipt.¹⁸ For all other changes, the CRB will review the change and issue a public determination on its website within 55 days of receipt.¹⁹ The period for public comment runs concurrently with the time provided for the CRB’s review.²⁰
 - The CRB may approve the change only if it determines that it “will not diminish the ability of protected class members to participate in the political process and to elect their preferred candidates to office.”²¹ The CRB will provide additional information on how it will apply this legal standard.

¹⁴ N.Y. Elec. Law § 17-210(4)(f)(i).

¹⁵ N.Y. Elec. Law § 17-210(4)(f)(iii).

¹⁶ N.Y. Elec. Law § 17-210(4)(c).

¹⁷ N.Y. Elec. Law § 17-210(4)(d).

¹⁸ The CRB may extend the time of its review by up to 20 days. N.Y. Elec. Law § 17-210(4)(f)(ii).

¹⁹ The CRB may extend the time of its review by up to 180 days. N.Y. Elec. Law § 17-210(4)(f)(iii).

²⁰ The CRB may request additional information from a covered entity at any time during its review. The failure to timely comply with requests for more information may be grounds for the denial of preclearance. N.Y. Elec. Law § 17-210(4)(d). In some instances, if additional information is requested, the time period for review will run from the date on which the new information is provided. The CRB will provide more information regarding the relationship between requests for additional information and the time period for review.

²¹ N.Y. Elec. Law § 17-210(4)(e)(i).

- If the CRB grants preclearance, the local jurisdiction may put the proposed change into effect immediately.²²
 - If the CRB denies preclearance, the change cannot take effect.²³ The CRB will publicly explain the basis for its denial.²⁴
 - In some instances, the CRB may grant “preliminary” preclearance.²⁵ This is a temporary determination, and the CRB has 60 days from the date the submission is received to finalize its approval or denial of the proposal.²⁶
 - If the CRB “fails to respond within the required time frame,” the change is deemed precleared.²⁷
- **Step 5: if the CRB denies preclearance, the covered entity may appeal.**²⁸ Appeals may be heard in the Supreme Court for the county of New York or the county of Albany in a proceeding commenced against the CRB, pursuant to Article 78 of the New York Civil Practice Law and Rules.²⁹

In some instances, local jurisdictions may have a legitimate emergency or exigent circumstance warranting expedited administrative preclearance review. The CRB will provide further information regarding the process for administrative preclearance requests submitted on an emergency basis.³⁰

b. Preclearance by a Designated Court

Covered entities may preclear their changes by submitting those proposed changes to a “designated court”³¹ for preclearance review rather than to the CRB. We refer to the submission

²² N.Y. Elec. Law § 17-210(4)(e)(i).

²³ N.Y. Elec. Law § 17-210(4)(e)(ii).

²⁴ N.Y. Elec. Law § 17-210(4)(e)(ii).

²⁵ N.Y. Elec. Law § 17-210(4)(e).

²⁶ N.Y. Elec. Law § 17-210(4)(e).

²⁷ N.Y. Elec. Law § 17-210(4)(e)(iii).

²⁸ N.Y. Elec. Law § 17-210(4)(g).

²⁹ Appeals of administrative preclearance denials are subject to expedited pretrial and trial proceedings and receive an automatic calendar preference on appeal. N.Y. Elec. Law § 17-210(4)(g).

³⁰ N.Y. Elec. Law § 17-210(4)(f)(iv) (authorizing the CRB to “promulgate rules for an expedited, emergency preclearance process in the event of a covered policy occurring during or imminently preceding an election as a result of any disaster within the meaning of section 3-108 of this chapter or other exigent circumstances”); *see also* N.Y. Elec. Law § 3-108 (making reference to “fire, earthquake, tornado, explosion, power failure, act of sabotage, enemy attack or other disaster”).

³¹ The term “designated court” refers to a designated state Supreme Court.

of a covered policy for judicial review (rather than CRB review) as “judicial preclearance.” Below is a step-by-step breakdown of the judicial preclearance process:

- **Step 1: the covered entity submits the proposed change in writing to the below designated Court.**³² The covered entity must simultaneously provide a copy of the submission to the CRB; failure to do so will result in a denial of preclearance.³³
 - For local jurisdictions located within the First Judicial Department: New York County.
 - For local jurisdictions located within the Second Judicial Department: Westchester County.
 - For local jurisdictions located within the Third Judicial Department: Albany County.
 - For local jurisdictions located within the Fourth Judicial Department: Erie County.
- **Step 2: the Court grants or denies preclearance within 60 days following receipt of the proposed change.**
 - The NYVRA provides that the Court will apply the same legal standard used in the administrative preclearance process: it may grant preclearance only if it determines that the proposed change “will not diminish the ability of protected class members to participate in the political process and to elect their preferred candidates to office.”³⁴
 - The change cannot take effect if the Court denies the request or does not rule on the submission within 60 days.
- **Step 3: if the Court denies the preclearance request, the covered entity may appeal.** Appeal of any denial may be taken according to the ordinary rules of appellate procedure.³⁵

³² N.Y. Elec. Law § 17-210(5)(a).

³³ N.Y. Elec. Law § 17-210(5)(b).

³⁴ N.Y. Elec. Law § 17-210(5)(d).

³⁵ Appeals of judicial preclearance denials are subject to expedited proceedings and will receive an automatic calendar preference on appeal. N.Y. Elec. Law § 17-210(5)(f).

II. Preliminary Identification of Covered Entities

The NYVRA’s preclearance coverage formula defines which local jurisdictions and BOEs are “covered entities,” and therefore subject to the NYVRA’s preclearance requirement.

The preclearance coverage formula contains four key components, paragraphs (a) through (d), each of which can independently trigger a local jurisdiction’s obligation to preclear a change. In addition to these four components, the NYVRA’s preclearance coverage formula contains two other provisions that may bring local jurisdictions and BOEs within preclearance coverage.

The next section explains the NYVRA’s coverage formula and sets forth the CRB’s process and analysis in preliminarily identifying the local jurisdictions and BOEs covered under each portion of the formula.

a. Paragraphs (a) and (b)

Paragraphs (a) and (b) of the NYVRA’s preclearance coverage formula cover local jurisdictions with voting or civil rights violations within the past 25 years.

Paragraph (a) of the NYVRA’s preclearance coverage formula states that the following is a “covered entity”:

any political subdivision which, within the previous twenty-five years, has become subject to a court order or government enforcement action based upon a finding of any violation of this title, the federal voting rights act, the fifteenth amendment to the United States constitution, or a voting-related violation of the fourteenth amendment to the United States constitution.³⁶

Paragraph (b) of the NYVRA’s preclearance coverage formula states that the following is a “covered entity”:

any political subdivision which, within the previous twenty-five years, has become subject to at least three court orders or government enforcement actions based upon a finding of any violation of any state or federal civil rights law or the fourteenth amendment to the United States constitution concerning discrimination against members of a protected class.³⁷

³⁶ N.Y. Elec. Law § 17-210(3)(a).

³⁷ N.Y. Elec. Law § 17-210(3)(b).

A “government enforcement action” is further defined as “a denial of administrative or judicial preclearance by the state or federal government, pending litigation filed by a federal or state entity, a final judgment or adjudication, a consent decree, or similar formal action.”³⁸

There are two key distinctions between paragraphs (a) and (b). The first relates to the number of violations necessary for coverage. Paragraph (a) requires only one court order or government enforcement action within the past 25 years for a local jurisdiction to be subject to preclearance, whereas paragraph (b) requires three within 25 years.

The second distinction relates to the types of violations relevant for coverage. Local jurisdictions are covered under paragraph (a) if the violation arises from the NYVRA, the federal Voting Rights Act, the 15th Amendment, or a voting-related violation of the 14th Amendment. By contrast, local jurisdictions are covered under paragraph (b) if the violation arises from a civil rights law involving discrimination against a “protected class.” “Protected class” is defined in the NYVRA as “a class of eligible voters who are members of a race, color, or language-minority group.”³⁹ We therefore included within the scope of our paragraph (b) analysis court orders and government enforcement actions concerning discrimination against individuals on the basis of race, color, or language-minority status.

The CRB has conducted an extensive review of litigation and resolutions involving local jurisdictions within New York for the past 25 years, reviewing matters identified through legal database searches, available filings on public litigation dockets, and other records.

Based on this review, we have preliminarily identified the local jurisdictions set out in the Appendix to this guidance as covered entities under paragraph (a) and paragraph (b) of the preclearance coverage formula.

b. Paragraph (c)

Paragraph (c) of the NYVRA’s preclearance coverage formula states that the following is a “covered entity”:

any county⁴⁰ in which, based on data provided by the division of criminal justice services, the combined misdemeanor and felony arrest rate of members of any protected class consisting of at least ten thousand citizens of voting age or whose members comprise at least ten percent of the citizen voting age population of the

³⁸ N.Y. Elec. Law § 17-204(9).

³⁹ “Language minorities” or “language-minority group” is further defined in the NYVRA as “persons who are American Indian, Asian American, Alaskan Natives or of Spanish heritage.” N.Y. Elec. Law § 17-204(5-a).

⁴⁰ While paragraphs (a), (b), and (d) of the preclearance coverage formula all apply to any type of local jurisdiction, including counties, cities, towns, villages, and school districts, paragraph (c) applies only to counties. *See* N.Y. Elec. Law §§ 17-210(3)(a)-(d).

county, exceeds the proportion that the protected class constitutes of the citizen voting age population of the county as a whole by at least twenty percent at any point within the previous ten years.⁴¹

To identify the covered entities under paragraph (c), the CRB must use data from the New York Division of Criminal Justice Services (“DCJS”) to compare a county’s arrest rate for a protected class with that protected class’s proportion of the citizen voting age population of the county.

Based on the NYVRA’s definition of “protected class,” and the data available from DCJS, the CRB is unable to identify covered entities under paragraph (c) at this time. The NYVRA defines “protected class” as “a class of *eligible voters* who are members of a race, color, or language-minority group.”⁴² However, DCJS data contains arrest counts for all adult members of various groups, with no identification of who among these individuals is an “eligible voter.” Accordingly, the CRB cannot identify counties covered for preclearance under paragraph (c) at this time.

c. Paragraph (d)

Paragraph (d) of the NYVRA’s preclearance coverage formula states that the following is a “covered entity”:

any political subdivision in which, based on data made available by the United States census, the dissimilarity index of any protected class consisting of at least twenty-five thousand citizens of voting age or whose members comprise at least ten percent of the citizen voting age population of the political subdivision, is in excess of fifty with respect to non-Hispanic White citizens of voting age within the political subdivision at any point within the previous ten years.⁴³

This analysis requires two steps:

- (1) Using a “population prerequisite” to identify the local jurisdiction, year, and protected class combinations that should be analyzed for high segregation rates.
- (2) Calculating a “dissimilarity index” score for each local jurisdiction/year/protected class combination that meets the population prerequisite.

⁴¹ N.Y. Elec. Law § 17-210(3)(c).

⁴² N.Y. Elec. Law § 17-204(5) (emphasis added).

⁴³ N.Y. Elec. Law § 17-210(3)(d).

1. Using the Population Prerequisite to Identify the Relevant Local Jurisdictions

Paragraph (d) of the NYVRA preclearance coverage formula does not require an analysis for every local jurisdiction in the state; the NYVRA only requires that this analysis be done for jurisdictions where, in the last ten years, members of a protected class meet a certain population size or percentage within a local jurisdiction. We refer to this as the “population prerequisite.” A protected class meets the population prerequisite whenever the protected class within the local jurisdiction “consist[s] of at least twenty-five thousand citizens of voting age or . . . at least ten percent of the citizen voting age population” of the local jurisdiction.⁴⁴ In other words, to proceed to the second step of the analysis under paragraph (d), the dissimilarity index analysis, for a particular protected class in a particular year for that local jurisdiction, that protected class must first:

- have a population of at least 25,000 citizens who are 18 years or older in the jurisdiction in that year, or
- make up at least 10% of the total citizen voting age population of the jurisdiction in that year.

To illustrate this population prerequisite, take the hypothetical “Doe County” as an example. Assume that in the year 2020, Doe County’s total citizen voting age population (citizens who are 18 years and older) was 100,000 people. Assume further that in the year 2020, 50,000 people in Doe County identify as Black, and that of these 50,000 Black people, 10,000 people are citizens aged 18 and older. In this example, Black individuals do not “consist[] of at least twenty-five thousand citizens of voting age,” because there are only 10,000 Black citizens of voting age in Doe County. However, Black individuals *do* make up “at least ten percent of the citizen voting age population” of Doe County (10,000 out of 100,000 total citizens of voting age). Therefore, the population prerequisite is met as to Black residents.⁴⁵ We can therefore proceed to the second step of the analysis and calculate the dissimilarity index score for Doe County specifically for Black residents when compared to non-Hispanic White residents in 2020.

2. Calculating the Local Jurisdiction’s Dissimilarity Index Score

The next step of the analysis is to calculate a dissimilarity index score for each local jurisdiction that meets the population prerequisite for the protected class and year in question, to

⁴⁴ N.Y. Elec. Law § 17-210(3)(d).

⁴⁵ If a local jurisdiction does not have a protected class that meets the population prerequisite, that jurisdiction is not a covered entity under this part of the preclearance coverage formula. N.Y. Elec. Law § 17-210(3)(d).

determine whether any jurisdiction’s score is greater than 50 as required by the preclearance coverage formula. The dissimilarity index measures racial segregation by looking at “how evenly members of groups are distributed across neighborhoods.”⁴⁶ Specifically, a dissimilarity index score measures how much the racial composition of census tracts⁴⁷ deviates from the racial composition of the larger jurisdiction within which they are located.⁴⁸ We conducted this analysis only for a protected class that meets the population prerequisite, and only for the particular year and local jurisdiction in which the prerequisite is met.

To use a simplified example of how a dissimilarity index score is calculated, take the hypothetical town of “Doetown.” Doetown has a total population of 10,000, with 8,000 total White residents and 2,000 total Black residents. Doetown therefore contains four-fifths White residents and one-fifth Black residents. Doetown has two neighborhoods within its borders, each comprised of one census tract. Neighborhood 1 has a total population of 6,000, with 4,000 White residents and 2,000 Black residents. Neighborhood 2 has a total population of 4,000 and is made up entirely of White residents.

In this example, if the White residents of Neighborhood 2 (half of the total White residents of Doetown) resided in Neighborhood 1 instead, or if half of the total Black residents of Doetown resided in Neighborhood 2 instead of the entire Black population residing in Neighborhood 1, the racial composition of both neighborhoods would be proportional to Doetown as a whole. Doetown therefore has a dissimilarity index score of 50 out of a possible 100, because the difference between the current distribution of White and Black residents and a proportional distribution of these groups within each census tract amounts to 50% of either the White or Black populations.

To calculate the dissimilarity index score for local jurisdictions across the state, the CRB adopted the following methodology:

i. Use of ACS 5-year Estimates to Calculate Dissimilarity Index Scores

First, the CRB had to identify a dataset from which to obtain information about where people of various groups live within New York state. For this analysis, the CRB used “5-year estimates” provided by the American Community Survey (“ACS”).⁴⁹ The ACS is a demographic

⁴⁶ John Iceland, Kimberly A. Goyette, Kyle Anne Nelson, & Chaowen Chan, *Racial and ethnic residential segregation and household structure: A research note*, 39 SOC. SCI. RES. 39, 41 (2010).

⁴⁷ As described below, the CRB has adopted census tracts as the spatial unit for its dissimilarity index calculations.

⁴⁸ See also U.S. Census Bureau, *Housing Patterns: Appendix B: Measures of Racial Segregation*, (last updated Nov. 21, 2021) <https://www.census.gov/topics/housing/housing-patterns/guidance/appendix-b.html#:~:text=The%20most%20widely%20used%20measure,as%20the%20metropolitan%20area%20overall.>

⁴⁹ See U.S. Census Bureau, *American Community Survey 5-Year Data (2009-2022)*, (Dec. 7, 2023), <https://www.census.gov/data/developers/data-sets/acs-5year.html>.

household survey program administered by the United States Census Bureau. The program collects survey data on a variety of topics and is frequently used by a wide range of government agencies, private sector businesses, and academics to estimate and analyze demographic trends.⁵⁰ ACS publishes various datasets based on the number of years surveyed.⁵¹ ACS 5-year estimates reflect household survey data collected over the course of five years. ACS 5-year estimates are published annually,⁵² and for purposes of calculating dissimilarity index scores, the CRB has assigned each ACS 5-year dataset to the final year of that survey. For example, to analyze dissimilarity index scores for the year 2021, the CRB used the ACS 5-year dataset with a final survey year of 2021, which contains survey data collected from 2017 through 2021.⁵³ In addition, paragraph (d) contains a 10-year look back period, meaning that a local jurisdiction is deemed a covered entity if, “at any point within the previous ten years,”⁵⁴ it meets the population prerequisite and had a dissimilarity index score above 50 for any protected class. Because preclearance takes effect on September 22, 2024, the CRB used ACS 5-year surveys beginning with the dataset assigned to 2014 and ending with the dataset assigned to 2021, the most recent dataset available at the time the CRB conducted this analysis.⁵⁵

The CRB selected ACS 5-year estimates to conduct this analysis rather than other datasets because ACS 5-year estimates provide reliable estimates about residential patterns, and contain additional information necessary to conduct this analysis.⁵⁶ Because ACS 5-year

⁵⁰ See U.S. Census Bureau, *American Community Survey 5-Year Data (2009-2022)*, (Dec. 7, 2023), <https://www.census.gov/data/developers/data-sets/acs-5year.html>.

⁵¹ See U.S. Census Bureau, *The Importance of the American Community Survey and the Decennial Census*, (last updated June 27, 2023) <https://www.census.gov/programs-surveys/acs/about/acs-and-census.html>.

⁵² See U.S. Census Bureau, *American Community Survey 5-Year Data (2009-2022)*, (Dec. 7, 2023), <https://www.census.gov/data/developers/data-sets/acs-5year.html>.

⁵³ See U.S. Census Bureau, *American Community Survey 5-Year Data (2009-2022)*, (Dec. 7, 2023), <https://www.census.gov/data/developers/data-sets/acs-5year.html>.

⁵⁴ N.Y. Elec. Law § 17-210(3)(d).

⁵⁵ The U.S. Census Bureau published certain 2022 ACS 5-year data this month that may be relevant to the CRB’s analysis. The CRB is analyzing this information and, as noted above, will determine whether additional jurisdictions fall within the coverage formula based on this newly available data. See U.S. Census Bureau, *American Community Survey 5-Year Data (2009-2022)*, (Dec. 7, 2023), <https://www.census.gov/data/developers/data-sets/acs-5year.html>.

⁵⁶ The CRB based its analysis on the Citizen Voting Age Population by Race and Ethnicity special tabulation from the ACS 5-year estimates for census tracts and all jurisdiction types except school districts. See U.S. Census Bureau, *Citizen Voting Age Population (CVAP) by Race and Ethnicity - A Special Tabulation from the ACS 5-Year Estimates*, (Feb. 1, 2023) <https://www.census.gov/programs-surveys/decennial-census/about/voting-rights/cvap.html>. This tabulation reports population data by individual race (for example, “Black Alone” or “American Indian and Alaskan Native Alone”), but does not report mixed race individuals outside of the “Hispanic or Latino” table. All individuals who identify as “Hispanic-Latino” are assigned as “Hispanic-Latino,” regardless of racial identity. This is consistent with both the Census Bureau’s categorization of “Hispanic-Latino” as an ethnic

estimates are collected over a five-year period, they have “increased statistical reliability”⁵⁷ compared with other surveys conducted by the Census Bureau, such as ACS “1-year estimates,” which reflect survey data collected over a twelve-month period.⁵⁸ In addition, ACS 1-year estimates do not summarize data for jurisdictions smaller than 65,000 residents.⁵⁹

Moreover, unlike other datasets such as the decennial Census, ACS 5-year estimates contain citizenship data, allowing the CRB to identify the citizen voting age populations for various groups within a local jurisdiction.⁶⁰ This is necessary to identify the jurisdictions containing a group that meets the population prerequisite, which, as explained above, is a jurisdiction with a protected class that comprises “at least twenty-five thousand *citizens of voting age* or . . . at least ten percent of the *citizen voting age population*” in a jurisdiction.⁶¹ In addition, citizenship data is necessary to calculate the dissimilarity index score itself, which involves a comparison between a protected class and “non-Hispanic white *citizens of voting age*”⁶²

ii. Use of the Census Tract as the Unit of Measurement

Second, within the ACS 5-year estimate dataset, the CRB had to determine the appropriate “spatial unit” to conduct this analysis, and selected census tracts. The ACS 5-year estimate dataset contains different units that can be used to conduct this analysis, most notably

rather than racial category, and with academic norms. *See, e.g.,* Angelica Menchaca, Bev Pratt, Eric Jensen & Nicholas Jones, *Examining the Racial and Ethnic Diversity of Adults and Children*, (May 22, 2023) (indicating that the decennial Census specifically distinguishes between “Hispanic or Latino or any race . . . White alone, non-Hispanic [and] . . . Black or African American Alone, non-Hispanic”), [https://www.census.gov/newsroom/blogs/random-samplings/2023/05/racial-ethnic-diversity-adults-children.html#:~:text=Looking%20closer%20at%20the%202020,diverse%20than%20the%20adult%20population](https://www.census.gov/newsroom/blogs/random-samplings/2023/05/racial-ethnic-diversity-adults-children.html#:~:text=Looking%20closer%20at%20the%202020,diverse%20than%20the%20adult%20population;); John Iceland, Gregory Sharp & Jeffrey M. Timberlake, *Sun Belt Rising: Regional Population Change and the Decline in Black Residential Segregation 1970-2009*, 50 DEMOGRAPHY 97, 101 (2013) (conducting dissimilarity index analysis using “non-Hispanic black and non-Hispanic white populations who report that race alone”), and Andrew L. Spivak & Shannon M. Monnat, *The Influence of Race, Class, and Metropolitan Area Characteristics on African -American Residential Segregation*, 94 SOC. SCI. Q. 1414, 1421 (2013) (noting that “[p]ast research has indicated segregation scores are similar when using black-alone and black-alone-and-in-combination” and using “black-alone and white-alone categories that include Hispanics” in calculating dissimilarity). The CRB has analyzed “Asian” and “Hawaiian or Other Pacific Islander” as one category. To determine the prerequisite for school districts, we use the “Sex by Age by Nativity and Citizenship Status” tables within the ACS 5-year data because the special tabulation data does not break down by school district.

⁵⁷ See U.S. Census Bureau, *American Community Survey 5-Year Data (2009-2022)*, (Dec. 7, 2023), <https://www.census.gov/data/developers/data-sets/acs-5year.html>.

⁵⁸ See U.S. Census Bureau, *American Community Survey 1-Year Data (2005-2022)*, (Sept. 14, 2023), <https://www.census.gov/data/developers/data-sets/acs-1year.html>.

⁵⁹ See U.S. Census Bureau, *American Community Survey 1-Year Data (2005-2022)*, (Sept. 14, 2023), <https://www.census.gov/data/developers/data-sets/acs-1year.html>.

⁶⁰ The ACS 5-year dataset contains citizenship information, while the decennial Census does not. *See, e.g., Dep’t of Commerce v. New York*, 139 S.Ct. 2551 (2019).

⁶¹ N.Y. Elec. Law § 17-210(3)(d) (emphasis added).

⁶² N.Y. Elec. Law § 17-210(3)(d) (emphasis added).

census tracts and block groups.⁶³ A census tract is a spatial area which ranges from 1,200 residents to 8,000 residents.⁶⁴ Block groups are smaller units within census tracts, generally defined to contain between 600 and 3,000 residents.⁶⁵

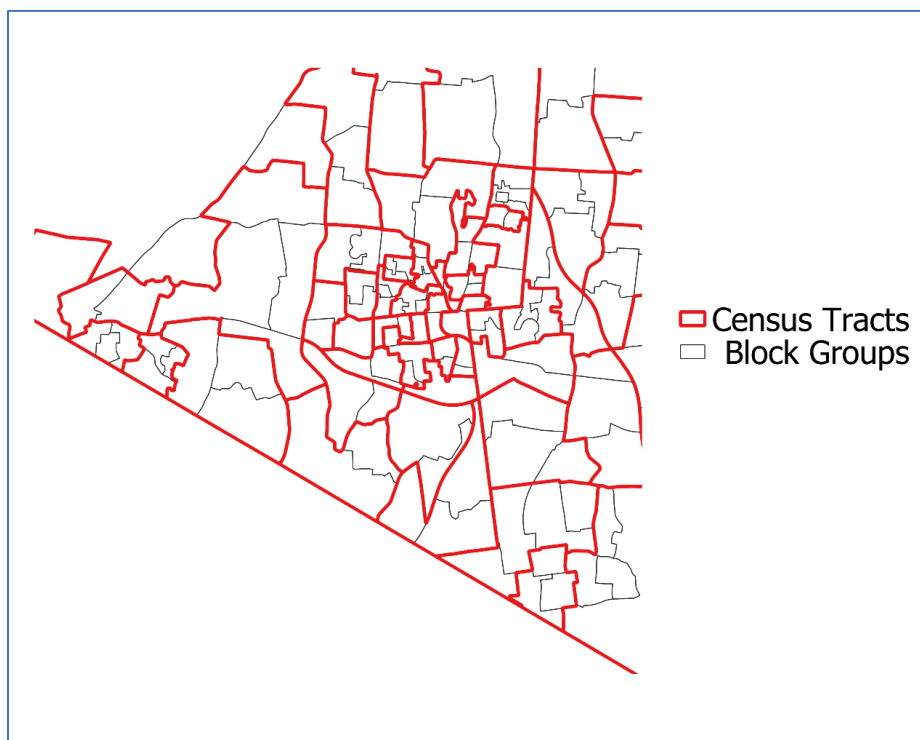


Figure 1: As shown above, block groups represent smaller subdivisions of census tracts.

The CRB selected the census tract to conduct this analysis because of its reliability and well-established use in scholarship on residential segregation and the dissimilarity index.⁶⁶ Census tracts, because of their larger sample size, allow the CRB to reduce the potential sampling error in ACS survey data and more precisely estimate a jurisdiction’s demographic and residential patterns.⁶⁷

⁶³ ACS 5-year estimates produce data tables for the following geographies: “nation, all states (including DC and Puerto Rico), all metropolitan areas, all congressional districts . . . , all counties, all places, all tracts and block groups.” See U.S. Census Bureau, *American Community Survey 5-Year Data (2009-2022)*, (Dec. 7, 2023), <https://www.census.gov/data/developers/data-sets/acs-5year.html>.

⁶⁴ See U.S. Census Bureau, *Glossary*, (last updated Apr. 11, 2022) <https://www.census.gov/programs-surveys/geography/about/glossary.html>.

⁶⁵ See U.S. Census Bureau, *Glossary*, (last updated Apr. 11, 2022) <https://www.census.gov/programs-surveys/geography/about/glossary.html>.

⁶⁶ See Iceland, *supra* note 56, at 102 (“Census tracts . . . are by far the unit most used in research on residential segregation.”).

⁶⁷ See, e.g., Iceland, *supra* note 46, at 41 (“[S]egregation indexes for small populations are less reliable than those with larger ones.”).

iii. Setting a Population Threshold of 50,000 Residents and Two Whole Census Tracts

Third, the CRB has calculated a dissimilarity index score only for local jurisdictions with a population of at least 50,000 residents⁶⁸ and that are large enough to contain at least two whole census tracts for any given year within the relevant lookback period. This means that if a jurisdiction does not have at least 50,000 residents or is not large enough to contain two whole census tracts for any year during the relevant timeframe, it has been excluded from our analysis.

This threshold is in line with standard practice for dissimilarity index calculations. Social science and demography experts have noted the challenges of running dissimilarity index calculations for jurisdictions with small populations or geographic areas.⁶⁹ When using survey data such as ACS 5-year estimates, calculating a dissimilarity score for small jurisdictions introduces potential error into the calculation. Setting a 50,000-resident, two-census tract threshold mitigates these issues by analyzing sub-populations large enough that the surveyors' decisions about which households are surveyed do not misrepresent the data for the jurisdiction as a whole. The threshold selected still allows the CRB to analyze a significant volume of jurisdictions in New York state for potential coverage under paragraph (d). In addition, the 50,000-resident threshold is consistent with the minimum population size that constitutes the core of a "metropolitan statistical area,"⁷⁰ the geographic area commonly analyzed by social scientists and demographers.⁷¹

iv. Excluding Institutionalized Populations from the CRB's Analysis

Fourth, the CRB made additional adjustments to address other potential biases in the calculation. Specifically, the CRB removed from its dissimilarity index calculations any census tracts where more than 50% of the population is classified as "institutionalized." Institutionalized

⁶⁸ The CRB used total population as the metric for calculating the 50,000-resident threshold.

⁶⁹ See, e.g., William J. Carrington & Kenneth R. Troske, *On Measuring Segregation in Samples with Small Units*, 15 J. OF BUS. & ECON. STAT. 402, 404 (1997) ("When units or minority shares are small, however, such conclusions [as to the extent of residential segregation] are not always warranted because random allocation implies substantial unevenness.").

⁷⁰ U.S. Census Bureau, *About: Delineating Metropolitan and Micropolitan Statistical Areas*, (last updated July 25, 2023) <https://www.census.gov/programs-surveys/metro-micro/about.html#:~:text=Delineating%20Metropolitan%20and%20Micropolitan%20Statistical%20Areas&text=Each%20metropolitan%20statistical%20area%20must,but%20less%20than%2050%2C000%20population.>

⁷¹ See, e.g., Iceland, *supra* note 56, at 101 (noting that "[r]esidential segregation usually refers to the distribution of groups across neighborhoods within metropolitan areas" and adopting the Census Bureau's definition of a metropolitan area as having "at least 50,000 people").

populations include residents living in group quarters, with certain exceptions.⁷² Institutionalized population data includes individuals residing in institutions such as correctional facilities and certain medical facilities such as psychiatric hospitals, in-patient hospice facilities, and skilled-nursing facilities.⁷³

The CRB's decision to exclude any census tract where a majority of individuals are from institutionalized populations is in line with academic norms⁷⁴ and the statutory mandate to calculate dissimilarity index scores using "eligible voters."⁷⁵ This choice reflects the consensus among segregation scholars that where individuals who are institutionalized live does not reflect true residential patterns, but instead the choices of institutional decisionmakers such as local legislators and law enforcement administrators. In addition, because individuals currently incarcerated for a felony are denied the right to vote in New York,⁷⁶ some members of institutionalized populations would not be considered "eligible voters" as specified in the NYVRA's definition of "protected class."

v. Including Partial Census Tracts on a Proportional Basis

Finally, for situations where a census tract does not fully align with the boundaries of a local jurisdiction, the CRB attributed a proportion of that census tract's demographic information to the local jurisdiction based on the proportion of overlap between the areas of the census tract and local jurisdiction.⁷⁷ Specifically, the share of residents within a census tract assigned to the jurisdiction is determined by the percentage of the tract's area that overlaps with the jurisdiction's area. As explained above, the dissimilarity index calculations require the CRB to

⁷² Populations living in group quarters that are not considered "institutionalized" by the United States Census Bureau include people living in college dormitories, military barracks, group homes, missions, or shelters. *See* U.S. Census Bureau, *Group Quarters and Residence Rules for Poverty*, (last updated June 23, 2023). <https://www.census.gov/topics/income-poverty/poverty/guidance/group-quarters.html>.

⁷³ Because ACS 5-year data does not record population information for institutionalized individuals, we have used the applicable decennial Census data and removed those tracts for all applicable years. For instance, a tract that contains 52% institutionalized population according to the 2020 Census has been removed from our analysis for subsequent years. For datasets reflecting residential patterns prior to 2020 (i.e., datasets published 2014 through 2019), we have used the 2010 Census as a reference point. We have used the following tables published by the Census Bureau to define "institutionalized populations": 101-106, 201-203, 301, and 401-405.

⁷⁴ *See, e.g.,* Iceland, *supra* note 46, at 41 (excluding group quarters "such as prisons" from their dissimilarity index analysis to focus on households) and Joe Darden, Ron Malega & Rebecca Stallings, *Social and economic consequences of black residential segregation by neighbourhood socioeconomic characteristics*, 56 URBAN STUDIES 115, 117-18 (2019) (excluding census tracts with 40% or higher institutionalized populations).

⁷⁵ N.Y. Elec. Law § 17-204(5) (defining "protected class" in part as "a class of eligible voters").

⁷⁶ N.Y. Elec. Law § 5-106(3).

⁷⁷ Assigning a proportion of a tract to a particular jurisdiction based on overlap was done only to calculate a local jurisdiction's dissimilarity index score. For determining which jurisdictions meet the population prerequisite, the CRB used ACS 5-year estimates, which provides direct data on the number of individuals of various groups that live within the jurisdiction overall.

use demographic information organized by census tracts to analyze residential segregation rates for local jurisdictions (including counties, cities, towns, villages, and school districts). However, in some instances, the boundaries of a census tract do not align with the boundaries of the local jurisdiction, raising questions of how to use the demographic data to draw conclusions about segregation rates within the local jurisdiction. The CRB’s proportional approach addresses this issue.

Take as an example of the CRB’s approach a census tract that contains a total population of 4,000, 50% of whom are White residents and 50% of whom are Black residents. Assume further that 75% of the census tract’s area falls within the boundaries of Doetown, and 25% falls within the boundaries of Johnstown. We therefore assign 75% of that census tract’s population, or 3,000 residents, to Doetown. We assign 25% of the census tract’s population, or 1,000 residents, to Johnstown. The racial composition of the residents we assign to each jurisdiction mirrors the overall composition of the census tract. Therefore, because the census tract contains 50% Black residents and 50% White residents, the populations assigned to the respective parts of Doetown and Johnstown contain that same composition: of the 3,000 residents assigned to Doetown, 1,500 are Black residents and 1,500 are White residents; of the 1,000 residents assigned to Johnstown, 500 are Black residents and 500 are White residents.

Based on this review, we have preliminarily identified the local jurisdictions set out in the Appendix to this guidance as covered entities under paragraph (d) of the preclearance coverage formula.

d. Additional Portions of the NYVRA’s Preclearance Coverage Formula

The NYVRA’s coverage formula also contains two additional statements that bear on the coverage analysis. These statements are addressed below.

- 1. “If any covered entity is a political subdivision in which a board of elections has been established, that board of elections shall also be deemed a covered entity.”**

The NYVRA states that “[i]f any covered entity is a political subdivision in which a board of elections has been established, that board of elections shall also be deemed a covered entity.”⁷⁸

⁷⁸ N.Y. Elec. Law § 17-210(3)(d).

Each county identified in the Appendix as a covered entity, as well as New York City,⁷⁹ qualifies as a local jurisdiction “in which a board of elections has been established”⁸⁰ Accordingly, under the NYVRA, the BOE of each such county, and the New York City BOE, “shall also be deemed a covered entity.”⁸¹ Because the NYVRA explicitly designates BOEs for coverage separately from their associated counties or cities, any changes in a covered policy concerning elections administered by those covered BOEs are also subject to the preclearance requirement.

Based on this analysis, we have preliminarily identified the BOEs set out in the Appendix to this guidance as covered entities under this provision. The CRB will be contacting these BOEs to obtain further information regarding any other (i.e., non-county) elections they administer.

2. “If any political subdivision in which a board of elections has been established contains a covered entity fully within its borders, that political subdivision and that board of elections shall both be deemed a covered entity.”

The NYVRA states that “[i]f any political subdivision in which a board of elections has been established contains a covered entity fully within its borders, that political subdivision and that board of elections shall both be deemed a covered entity.”⁸²

We have preliminarily identified several counties that are local jurisdictions “in which a board of elections has been established,” and which also “contain[] a covered entity fully within [their] borders”⁸³ Accordingly, those counties that fully contain covered entities, and the BOEs of those counties, along with New York City and its BOE, are subject to preclearance under this provision. However, for any county that is covered only under this provision and no other provisions of the preclearance formula, only election changes that affect the covered entity within its borders will be subject to preclearance.

As an example, assume that Doe Village is a covered entity. Jones County contains Doe Village fully within its borders, along with four other villages that are not covered entities, and Jones County itself is not a covered entity under any of the other provisions of the coverage formula. Elections in all five villages are administered by the Jones County BOE. Changes made by the Jones County BOE that constitute covered policies (see Section III below) are subject to preclearance only to the extent that they affect elections in Doe Village. For example, if the BOE

⁷⁹ New York City is composed of five counties, Bronx, Kings, New York, Richmond, and Queens, but is a “political subdivision in which a board of elections has been established.” N.Y. Elec. Law § 17-210(3). As a result, the New York City Board of Elections is a covered entity under this provision.

⁸⁰ N.Y. Elec. Law § 17-210(3)(d).

⁸¹ N.Y. Elec. Law § 17-210(3)(d).

⁸² N.Y. Elec. Law § 17-210(3)(d).

⁸³ N.Y. Elec. Law § 17-210(3)(d).

relocates polling places throughout Jones County, the relocations within Doe Village must first be precleared. However, relocations in any other villages are not subject to preclearance and may proceed without administrative or judicial review.

We have preliminarily identified the counties and BOEs set out in the Appendix to this guidance as covered entities under this provision, along with New York City and the New York City BOE. As shown in the Appendix, each county currently covered under this provision is also covered under at least one other provision of the formula. Accordingly, changes concerning covered policies enacted or implemented by these counties will be subject to preclearance regardless of whether that change affects a covered entity within their borders.

III. Preliminary Identification of Covered Policies

As noted above, covered entities need not submit every election change for preclearance review, only those changes that constitute “covered policies.” Below, the CRB lists the topics of covered policies set forth in the NYVRA and provides a non-exhaustive list of examples of changes that constitute covered policies.

a. Statutory Topics for Covered Policies

Under the NYVRA, a covered policy “shall include any new or modified voting qualification, prerequisite to voting, law, ordinance, standard, practice, procedure, regulation, or policy concerning” any topic referenced in the statute.⁸⁴ The topics set forth in the NYVRA are:

- (a) Method of election;
- (b) Form of government;
- (c) Annexation of a political subdivision;
- (d) Incorporation of a political subdivision;
- (e) Consolidation or division of political subdivisions;
- (f) Removal of voters from enrollment lists or other list maintenance activities;
- (g) Number, location, or hours of any election day or early voting poll site;
- (h) Dates of elections and the election calendar, except with respect to special elections;

⁸⁴ N.Y. Elec. Law § 17-210(2).

- (i) Registration of voters;
- (j) Assignment of election districts to election day or early voting poll sites; and
- (k) Assistance offered to members of a language-minority group.

As provided in the NYVRA, the CRB may designate additional topics for covered policies by rule.⁸⁵

b. Examples of Certain Covered Policies

The below is a non-exhaustive list of changes that constitute “covered policies” under the NYVRA.

1. Method of Election

Covered policies concerning a method of election include, but may not be limited to:

- Changes concerning balloting or the counting of votes
- Changes in the method of determining the outcome of an election (for example, by implementing a majority vote requirement⁸⁶ or a designated post or place system⁸⁷)

Example: Doe County has a “first past the post” election system, in which voters cast a single vote for a single candidate for each office, and the candidate with the most votes for each office wins. Doe County seeks to switch to a “ranked choice voting” system.⁸⁸ If Doe County is a covered entity, the change to ranked choice voting must be precleared.

⁸⁵ See N.Y. Elec. Law § 17-210(2)(1). The CRB has not designated additional topics for covered policies at this time, but may do so in the future.

⁸⁶ In a traditional majority vote system, a candidate must receive more than 50% of the vote to be elected. If no candidate receives a majority, a runoff election is held among the candidates who received the most votes.

⁸⁷ In a post or place system, candidates run for a specific seat, usually in a designated geographic area.

⁸⁸ In a ranked choice voting system, voters rank candidates in order of preference and votes are tabulated according to those rankings. The calculation may be performed differently depending on the type of ranked choice system. For example, in one type of system, if a candidate is the first choice of a majority of voters, that candidate is elected. If no candidate receives a majority of first-choice votes, the candidate with the fewest first-choice votes is eliminated, and for any voter who ranked that eliminated candidate first, that first-choice vote is redistributed to the candidate ranked second by that voter. Following that redistribution, another tally is conducted to determine whether a candidate has a majority of the first-place votes. If no candidate has a majority of first-place votes, the process repeats itself until a candidate has a majority of first-place votes. See, e.g., Campaign Legal Center, *Ranked Choice Voting*, (last visited Dec. 18, 2023) <https://campaignlegal.org/democracyu/accountability/ranked-choice-voting>.

2. Form of Government

Covered policies related to a form of government include, but may not be limited to:

- Changes in the term (number of years) of an elected office, or changes in the offices that are elected
 - Examples include: a shortening or extending of a term (number of years) of an office, changing from a position that is elected to one that is appointed, transferring authority from an elected to an appointed official that eliminates the elected official's office, or staggering or unstaggering the terms of elected offices.
- Changes that transfer or alter the authority of any official or governmental entity in relation to election administration

Example: Doe County seeks to extend term limits for members of its legislature, from two-year terms to four-year terms. If Doe County is a covered entity, this change must first be precleared.

3. Annexation, Incorporation, Consolidation, or Division of a Political Subdivision

Example: Two small neighboring villages, Doe Village and Jones Village, are both contained within James County's borders, and both of the villages and the county are covered entities. Following the most recent decennial Census, Doe Village and Jones Village are to be consolidated to form a single village. This consolidation must be precleared.

4. Number, Location, or Hours of Any Election Day or Early Voting Poll Site

Covered policies related to the number, location, or hours of a poll site include, but may not be limited to:

- Changes in the number of Election Day or early voting poll sites
- Changes in the location of Election Day or early voting poll sites
- Changes in the specific hours or the number of hours a poll site will be open

Example: In the most recent election, Doe County's early voting sites stayed open from 9am-5pm on weekends. Doe County plans to change its weekend hours for early voting to 11am-7pm for the next election. If Doe County is a covered entity, this change must be precleared.

5. Assistance Offered to Members of a Language-Minority Group

Covered policies related to assistance offered to members of a language-minority group include, but may not be limited to:

- Changes concerning publicity for or assistance in registration or voting among members of a language-minority group
- Changes with respect to the use of a language other than English in any aspect of the electoral process

Example: In prior elections, the Doe County Board of Elections translated ballots and voter education materials into two additional languages aside from those required by law. The Doe County BOE has decided that it will not translate its materials into those two languages for the upcoming election. If Doe County is a covered entity, this change must be precleared.

Please share this message with others in your local community.

I also invite you to visit OAG's Voting Rights pages for [individuals](https://ag.ny.gov/resources/individuals/civil-rights/voting-rights) (<https://ag.ny.gov/resources/individuals/civil-rights/voting-rights>) and [local jurisdictions](https://ag.ny.gov/resources/organizations/elections) (<https://ag.ny.gov/resources/organizations/elections>) on our website, where we will provide updates about the NYVRA and the voting rights of New Yorkers.

I look forward to partnering with you as we work together to realize the promise of the NYVRA and set an example as a leader in voting rights across the country.



LETITIA JAMES

New York Attorney General

THE NEW YORK VOTING RIGHTS ACT: PRELIMINARY IDENTIFICATION OF COVERED ENTITIES AND COVERED POLICIES SUBJECT TO PRECLEARANCE

APPENDIX

N.Y. ELEC. LAW § 17-210(3)

A “covered entity” shall include:

(a) any political subdivision which, within the previous twenty-five years, has become subject to a court order or government enforcement action based upon a finding of any violation of this title, the federal voting rights act, the fifteenth amendment to the United States constitution, or a voting-related violation of the fourteenth amendment to the United States constitution;

(b) any political subdivision which, within the previous twenty-five years, has become subject to at least three court orders or government enforcement actions based upon a finding of any violation of any state or federal civil rights law or the fourteenth amendment to the United States constitution concerning discrimination against members of a protected class;

(c) any county in which, based on data provided by the division of criminal justice services, the combined misdemeanor and felony arrest rate of members of any protected class consisting of at least ten thousand citizens of voting age or whose members comprise at least ten percent of the citizen voting age population of the county, exceeds the proportion that the protected class constitutes of the citizen voting age population of the county as a whole by at least twenty percent at any point within the previous ten years; or

(d) any political subdivision in which, based on data made available by the United States census, the dissimilarity index of any protected class consisting of at least twenty-five thousand citizens of voting age or whose members comprise at least ten percent of the citizen voting age population of the political subdivision, is in excess of fifty with respect to non-Hispanic white citizens of voting age within the political subdivision at any point within the previous ten years.

If any covered entity is a political subdivision in which a board of elections has been established, that board of elections shall also be deemed a covered entity.

If any political subdivision in which a board of elections has been established contains a covered entity fully within its borders, that political subdivision and that board of elections shall both be deemed a covered entity.

PRELIMINARY IDENTIFICATION OF COVERED ENTITIES UNDER THE NEW YORK VOTING RIGHTS ACT

COVERED ENTITY	DETAIL
<i>COUNTIES</i> [^]	
ALBANY ^{A, D, *}	<p><u>Paragraph (a)</u> <i>Pope v. Cnty. of Albany</i>, Case No. 11-CV-0736, 94 F. Supp. 3d 302 (N.D.N.Y. 2015).</p> <p><u>Paragraph (d)</u> Covered most recently as of 2021</p>
BRONX ^D	<p><u>Paragraph (d)</u> Covered most recently as of 2021</p>
ERIE ^{A, D, *}	<p><u>Paragraph (a)</u> <i>Mohr v. Erie Cnty. Legis.</i>, Case No. 11-CV-559, 2011 WL 3421326 (W.D.N.Y. 2011).</p>
KINGS ^D	<p><u>Paragraph (d)</u> Covered most recently as of 2021</p>
MONROE ^{A, D, *}	<p><u>Paragraph (a)</u> <i>Molinari v. Powers</i>, Case No. 99-CV-8447, 82 F. Supp. 2d 57 (E.D.N.Y. 2000).</p> <p><u>Paragraph (d)</u> Covered most recently as of 2021</p>
NASSAU ^{A, D, *}	<p><u>Paragraph (a)</u> <i>Molinari v. Powers</i>, Case No. 99-CV-8447, 82 F. Supp. 2d 57 (E.D.N.Y. 2000).</p>

[^] Except for New York City’s five boroughs, each county listed here is also “a political subdivision in which a board of elections has been established,” and therefore each such county’s Board of Elections is likewise a covered entity for purposes of preclearance. *See* N.Y. Elec. Law § 17-210(3) (“If any covered entity is a political subdivision in which a board of elections has been established, that board of elections shall also be deemed a covered entity.”). Therefore, any elections administered by those covered Boards of Elections are also subject to the preclearance requirement. New York City and its Board of Elections are also covered under this provision.

^{*} Denotes a county that is a “political subdivision in which a board of elections has been established [that] contains a covered entity fully within its borders.” N.Y. Elec. Law §17-210(3). Any changes made by that county or its board of elections are therefore also subject to preclearance, but only if those changes affect voting or elections pertaining to the covered entity within the county’s borders. *See* N.Y. Elec. Law §17-210(3). New York City and its Board of Elections are also covered under this provision.

	<u>Paragraph (d)</u> Covered most recently as of 2021
NEW YORK ^D	<u>Paragraph (d)</u> Covered most recently as of 2021
ONONDAGA ^D	<u>Paragraph (d)</u> Covered most recently as of 2021
ORANGE ^A	<u>Paragraph (a)</u> <i>Molina v. Cnty. of Orange</i> , Case No. 13-CV-3018, 2013 WL 3009716 (S.D.N.Y. 2013).
QUEENS ^D	<u>Paragraph (d)</u> Covered most recently as of 2021
RICHMOND ^D	<u>Paragraph (d)</u> Covered most recently as of 2021
ROCKLAND ^{D,*}	<u>Paragraph (d)</u> Covered most recently as of 2021
SUFFOLK ^{A, D,*}	<u>Paragraph (a)</u> <i>Flores v. Town of Islip</i> , Case No. 18-CV-3549, 2020 WL 6060982 (E.D.N.Y. 2020). <u>Paragraph (d)</u> Covered most recently as of 2021
WESTCHESTER ^{A, D,*}	<u>Paragraph (a)</u> <i>United States v. Westchester Cnty.</i> , Case No. 05-CV-0650 (S.D.N.Y. filed Jan. 19, 2005), ECF No. 31 (filed Jan. 3, 2008). <u>Paragraph (d)</u> Covered most recently as of 2021
<i>CITIES</i>	
ALBANY ^D	<u>Paragraph (d)</u> Covered most recently as of 2018
BUFFALO ^D	<u>Paragraph (d)</u> Covered most recently as of 2021
MOUNT VERNON ^D	<u>Paragraph (d)</u> Covered most recently as of 2021
NEW ROCHELLE ^A	<i>New Rochelle Voter Defense Fund v. City of New Rochelle</i> , Case No. 03-CV-3965, 308 F. Supp. 2d 152 (S.D.N.Y. 2003).
NEW YORK CITY ^{A, B, D,*}	<u>Paragraph (a)</u> <i>Lerman v. Bd. of Elec. in the City of New York</i> , Case No. 99-CV-9015, 232 F.3d 135 (2d Cir. 2000). <u>Paragraph (b)</u> <i>Davis v. New York City Hous. Auth.</i> , Case Nos. 90-CV-0628, 92-CV-4873, 60 F. Supp. 2d 220 (S.D.N.Y. 1999). <i>United States v. City of New York</i> , Case No. 07-CV-2067, 637 F. Supp. 2d 77 (E.D.N.Y. 2009).

	<p><i>Floyd v. City of New York</i>, Case No. 08-CV-1034, 959 F. Supp. 2d 540 (S.D.N.Y. 2013).</p> <p><u>Paragraph (d)</u> Covered most recently as of 2021</p>
ROCHESTER ^{A, D}	<p><u>Paragraph (a)</u> <i>Mains v. City of Rochester</i>, Case No. 03-CV-6363, 2004 WL 1663997 (W.D.N.Y. 2004).</p> <p><u>Paragraph (d)</u> Covered most recently as of 2021</p>
YONKERS ^D	<p><u>Paragraph (d)</u> Covered most recently as of 2021</p>
TOWNS	
BABYLON ^D	<p><u>Paragraph (d)</u> Covered most recently as of 2021</p>
CHEEKTOWAGA ^D	<p><u>Paragraph (d)</u> Covered most recently as of 2019</p>
GREENBURGH ^D	<p><u>Paragraph (d)</u> Covered most recently as of 2021</p>
HEMPSTEAD ^D	<p><u>Paragraph (d)</u> Covered most recently as of 2021</p>
ISLIP ^{A, D}	<p><u>Paragraph (a)</u> <i>Flores v. Town of Islip</i>, Case No. 18-CV-3549, 2020 WL 6060982 (E.D.N.Y. 2020).</p> <p><u>Paragraph (d)</u> Covered most recently as of 2021</p>
RAMAPO ^D	<p><u>Paragraph (d)</u> Covered most recently as of 2021</p>
VILLAGES	
PORT CHESTER ^A	<p><u>Paragraph (a)</u> <i>United States v. Village of Port Chester</i>, Case No. 06-CV-15173, 704 F. Supp. 2d 411 (S.D.N.Y. 2010).</p>
SCHOOL DISTRICTS	
ALBANY CITY SCHOOL DISTRICT ^D	<p><u>Paragraph (d)</u> Covered most recently as of 2018</p>
BRENTWOOD UNION FREE SCHOOL DISTRICT ^A	<p><u>Paragraph (a)</u> <i>United States v. The Brentwood Union Free School Dist.</i>, Case No. 03-CV-02775 (E.D.N.Y. filed June 4, 2003), ECF No. 4 (filed July 16, 2003).</p>
BUFFALO CITY SCHOOL DISTRICT ^D	<p><u>Paragraph (d)</u> Covered most recently as of 2021</p>
EAST RAMAPO CENTRAL SCHOOL DISTRICT ^{A, D}	<p><u>Paragraph (a)</u> <i>NAACP, Spring Valley Branch et al. v. East Ramapo Central School Dist.</i>, 462 F. Supp. 3d 368 (S.D.N.Y. 2020).</p> <p><u>Paragraph (d)</u> Covered most recently as of 2021</p>

MOUNT VERNON SCHOOL DISTRICT ^D	<u>Paragraph (d)</u> Covered most recently as of 2021
ROCHESTER CITY SCHOOL DISTRICT ^D	<u>Paragraph (d)</u> Covered most recently as of 2021