



HAVA Law Impact on Library Elections
Advisory Opinion

The Help America Vote Act (HAVA) which was signed into law in 2002 requires the states to transition to more accessible balloting like optical voting machines for elections by 2006. The state missed the original deadline and put into place the new requirements for state and local elections in 2010. School districts and then more recently villages were given an extension to comply with the HAVA requirement to switch to optical voting machines until December 2012.

In discussions with the NYS Board of Elections, they first reiterated that in general, library elections fall under the purview of the NYS Education Department because libraries are considered educational institutions.

The NYS Board of Elections also clarified that for those libraries that either have their school districts or villages hold their elections, they have until December 2012 to switch to optical voting machines. For special district libraries or libraries that have their towns/cities hold their elections, they must comply with the law this year.

However, according to the NYS Board of Elections libraries can continue to use paper ballots or opt to use paper ballots instead of optical voting machines if they hold their own elections.

In a subsequent meeting with the State Education Department Counsel's Office, they confirmed that libraries can continue to use paper ballots. They also concurred with the NYS Board of Elections, in that libraries that use the school district to hold their elections can continue to use the lever machines until December 2012 and that SED is contemplating whether another extension of the exemption is necessary.

There is still some ambiguity for those libraries that hold their own elections, whether election law or education law applies, and that perhaps this should be clarified in new legislation.

