§ 17-210. Preclearance. 1. Preclearance. To ensure that the right to vote is not denied or abridged on account of race, color, or language-minority group, the enactment or implementation of a covered policy by a covered entity, as defined in subdivisions two and three of this section respectively, shall be subject to preclearance by the civil rights bureau or by a designated court as set forth in this section.

2. Covered policies. A "covered policy" shall include any new or modified voting qualification, prerequisite to voting, law, ordinance, standard, practice, procedure, regulation, or policy concerning any of the following topics:

(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;

(i) Registration of voters;

(j) Assignment of election districts to election day or early voting poll sites;

(k) Assistance offered to members of a language-minority group; and

(l) Any additional topics designated by the civil rights bureau pursuant to a rule promulgated under the state administrative procedure act, upon a determination by the civil rights bureau that a new or modified voting qualification, prerequisite to voting, law, ordinance, standard, practice, procedure, regulation, or policy concerning such topics may have the effect of denying or abridging the right to vote on account of race, color, or language-minority group.

3. Covered entity. 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 voting age 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 percentage points at any point within the previous ten years; (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 individuals within the political subdivision at any point within the previous ten years; (e) any political subdivision in which a board of elections has been established, if such political subdivision contains a covered entity fully within its borders; or (f) any board of elections that has been established in a political subdivision that is a covered entity pursuant to paragraph (a), (b), (c), (d) or (e) of this subdivision.

4. Preclearance by the attorney general. A covered entity may obtain preclearance for a covered policy from the civil rights bureau pursuant to the following process:

(a) The covered entity shall submit the covered policy in writing to the civil rights bureau. If the covered entity is a county or city board of elections, it shall contemporaneously provide a copy of the covered policy to the state board of elections.

(b) Upon submission of a covered policy for preclearance, as soon as

practicable but no later than within ten days, the civil rights bureau shall publish the submission on its website.

(c) After publication of a submission, there shall be an opportunity for members of the public to comment on the submission to the civil rights bureau within the time periods set forth below. To facilitate public comment, the civil rights bureau shall provide an opportunity for members of the public to sign up to receive notifications or alerts regarding submission of a covered policy for preclearance.

(d) Upon submission of a covered policy for preclearance, the civil rights bureau shall review the covered policy, and any public comment, and shall, within the time periods set forth below, provide a report and determination as to whether, under this title, preclearance should be granted or denied to the covered policy. Such time period shall run concurrent with the time periods for public comment. The civil rights bureau shall not make such determination until the period for public comment is closed. The civil rights bureau may request additional information from a covered entity at any time during its review to aid in developing its report and recommendation. The failure to timely comply with reasonable requests for more information may be grounds for the denial of preclearance. The civil rights bureau's reports and determination shall be posted publicly on its website.

(e) In any determination as to preclearance, the civil rights bureau shall identify in writing whether it is approving or rejecting the covered policy; provided, however, that the civil rights bureau may, in its discretion, designate preclearance as "preliminary" in which case the civil rights bureau may deny preclearance within sixty days following the receipt of submission of the covered policy.

(i) The civil rights bureau shall grant preclearance only if it determines that the covered policy will not diminish the ability of protected class members to participate in the political process and to elect their preferred candidates to office. If the civil rights bureau grants preclearance, the covered entity may enact or implement the covered policy immediately.

(ii) If the civil rights bureau denies preclearance, the civil rights bureau shall interpose objections explaining its basis and the covered policy shall not be enacted or implemented.

(iii) If the civil rights bureau fails to respond within the required

time frame as established in this section, the covered policy shall be deemed precleared and the covered entity may enact or implement such covered policy.

(f) The time periods for public comment, civil rights bureau review, and the determination of the civil rights bureau to grant or deny preclearance on submission shall be as follows:

(i) For any covered policy concerning the designation or selection of poll sites or the assignment of election districts to poll sites, whether for election day or early voting, the period for public comment shall be five business days. The civil rights bureau shall review the covered policy, including any public comment, and make a determination to deny or grant preclearance for such covered policy within fifteen days following the receipt of such covered policy.

(ii) The civil rights bureau may invoke an extension of up to twenty days to make a determination pursuant to this paragraph, if the civil rights bureau determines that good cause exists for such extension.

(iii) For any other covered policy, the period for public comment shall be ten business days. The civil rights bureau shall review the covered policy, including any public comment, within fifty-five days following the receipt of such covered policy and make a determination to deny or grant preclearance for such covered policy. The civil rights bureau may invoke up to two extensions of ninety days each.

(iv) The civil rights bureau is hereby authorized 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. Any preclearance granted under this provision shall be designated "preliminary" and the civil rights bureau may deny preclearance within sixty days following receipt of the covered policy.

(g) Appeal of any denial by the civil rights bureau may be heard in the supreme court for the county of New York or the county of Albany in a proceeding commenced against the civil rights bureau, pursuant to article seventy-eight of the civil practice law and rules, from which appeal may be taken according to the ordinary rules of appellate procedure. Due to the frequency and urgency of elections, actions brought pursuant to this section shall be subject to expedited pretrial

and trial proceedings and receive an automatic calendar preference on appeal.

5. Preclearance by a designated court. A covered entity may obtain preclearance for a covered policy from a court pursuant to the following process:

(a) The covered entity shall submit the covered policy in writing to the following designated court in the judicial department within which the covered entity is located: (i) first judicial department: New York county; (ii) second judicial department: Westchester county; (iii) third judicial department: Albany county; and (iv) fourth judicial department: Erie county. If the covered entity is a county or city board of elections, it shall contemporaneously provide a copy of the covered policy to the state board of elections.

(b) The covered entity shall contemporaneously provide a copy of the covered policy to the civil rights bureau. The failure of the covered entity to provide a copy of the covered policy to the civil rights bureau will result in an automatic denial of preclearance.

(c) The court shall grant or deny preclearance within sixty days following the receipt of submission of the covered policy.

(d) The court shall grant preclearance only if it determines that the covered policy will not diminish the ability of protected class members to participate in the political process and to elect their preferred candidates to office. If the court grants preclearance, the covered entity may enact or implement the covered policy immediately.

(e) If the court denies preclearance, or fails to respond within sixty days, the covered policy shall not be enacted or implemented.

(f) Appeal of any denial may be taken according to the ordinary rules of appellate procedure. Due to the frequency and urgency of elections, actions brought pursuant to this section shall be subject to expedited pretrial and trial proceedings and receive an automatic calendar preference on appeal.

6. Failure to seek or obtain preclearance. If any covered entity enacts or implements a covered policy without seeking preclearance pursuant to this section, or enacts or implements a covered policy notwithstanding the denial of preclearance, either the civil rights

bureau or any other party with standing to bring an action under this title may bring an action to enjoin the covered policy and to seek sanctions against the political subdivision and officials in violation.

7. Notification. (a) Any political subdivision that becomes subject to a court order or government enforcement action as provided in paragraph (a) or (b) of subdivision three of this section shall notify the civil rights bureau within thirty days of the issuance of such order or enforcement action.

(b) Any political subdivision that becomes involved in litigation concerning voting shall notify the civil rights bureau within thirty days of the commencement of such litigation.

(c) No more than thirty days after publication of a list of covered entities by the civil rights bureau, each covered entity included in such list shall notify the civil rights bureau of the name, email address, and telephone number of an individual with the authority to submit covered policies for preclearance on behalf of the covered entity. Each such covered entity shall notify the civil rights bureau within thirty days of any material change to the information required pursuant to this paragraph.