New York State Department of State

The Citizen's Guide to Petitioning

For Local Government Consolidation or Dissolution

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Andrew M. Cuomo, Governor

New York State Department of State

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EMPOWERING CITIZENS

The recent passage of the "New N.Y. Government Reorganization and Citizen Empowerment Act" provides a new process for citizens to petition for a public vote on dissolving or consolidating local governments. The dissolution or consolidation process may also be initiated by a local governing board.

The consolidation or dissolution of towns, villages, fire districts and other special districts has the potential to reduce costs and increase the efficiency of service delivery through economies of scale, better coordination, a more flexible workforce, and/or elimination of redundant services. Fewer decision-making bodies for businesses to navigate might also provide a region with a competitive advantage. Sometimes consolidation or dissolution is a necessity, such as when there aren't enough volunteers for boards, when it's tough to get candidates for office, or when the unit of government is too small to afford to employ certified personnel required by law.

This guide is written to explain how citizens may petition their governments for action under the new legislation. It explains who may sign and circulate petitions, what the petition must contain, and what happens to the petition once it is filed with the municipal clerk.

The Act will take effect on March 21, 2010. The legislation enacting the new procedures included a savings clause that allows consolidation and dissolution efforts that began before the effective date of the act to continue to be addressed under the old laws. This means, for example, that if your governing board has already scheduled a referendum, or petitions have already been presented, the new law would not apply. This provision may also apply to petitions that include signatures gathered before March 21, 2010. The best way to ensure that a petition will be processed under the new law is to wait until the effective date to begin gathering signatures.

A copy of the new law is available on the Department of State publications page at http://www.dos.state.ny.us/lgss/publications.htm under the category "Shared Services and Consolidation." Additional information about municipal consolidation and dissolution may also be found on the Department of State website.

GETTING STARTED

If your goal is to give the people in your community the opportunity to vote on consolidation or dissolution of your town, village, fire district, or special district, you must first identify what type of action you are requesting, and what local governments it might involve. The petition and referendum will either be to consolidate a local government unit or to dissolve it.

> Consolidation is the combination of two or more local government units. Consolidation can take two different forms: (1) a new local government unit may be formed by combining two or more local government units and eliminating the original units; or (2) one existing local government unit may absorb other local government units, which will then terminate. This requires petitions to be circulated in each local government that would be included in the consolidation.
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> Dissolution is the termination of a local government unit. The services it provides may end, or may be assumed by another local government unit that will provide them at the same or a different level. A petition for dissolution only needs to be circulated in the local government unit for which dissolution is proposed.

Where consolidation is the goal, the petition process will need to be coordinated so the petitions circulated in each local government unit all seek the same result. This effort may be coordinated by one person, or may be a group effort. A contact person will need to be identified and his or her name will appear on the cover sheet of the petition that is submitted.

A successful petition for consolidation or dissolution will lead to a referendum on whether or not to consolidate or dissolve. After the referendum vote is held, and the initiative passes in each involved local government unit, the governing body or bodies must develop a plan for consolidation or dissolution. This is in contrast to a consolidation or dissolution that is initiated by a governing body, where a proposed plan or agreement is presented before voters decide whether to consolidate or dissolve.

PREPARING THE PETITION

The new law provides the language to be used for a petition to consolidate or dissolve a local government, and requires the petition to substantially comply with and be circulated in the form provided by the law. In this section, we explain the form of the petition and the type of information you need to place in the blanks.

Title

The title of the petition should either be "Petition for Local Government Consolidation" or "Petition for Local Government Dissolution." You should not add the name of the municipality or any other words to the title.

Statement of intent

This section explains which local governments would be involved in the consolidation or dissolution that is being proposed. It should state:

> We, the undersigned electors and legal voters of (Insert 1) of (Insert 2), New York, qualified to vote at the next general or special election, respectfully petition that there be submitted to the electors of (Insert 3), for their approval or rejection at a referendum held for that purpose, a proposal to (Insert 4) (Insert 5) with (Insert 6).

You will need to fill in the blanks before the petition is circulated. When preparing a petition for consolidation, you will need a slightly different version for each governmental unit in which it will be circulated. The parts that must be modified are Inserts 1, 2 and 3 in the statement of intent that indicate the district in which the elector is eligible to vote. The electors of Water District Number Three, for example, should not sign a petition that states "We, the undersigned electors and legal voters of Water District Number Seven …." The following text explains what each insert is calling for.

> Insert 1: Insert the type of local government you are seeking to consolidate or dissolve. For example: "the Town", "the Village", "Water District Number Three", or "the Sunnydale Fire District."

Anatomy of a Petition

Title

Statement of Intent

Signatures

Witness Statement

Page Number

Petition for Local Government Consolidation

We, the undersigned electors and legal voters of (Insert 1) of (Insert 2), New York, qualified to vote at the next general or special election, respectfully petition that there be submitted to the electors of (Insert 3), for their approval or rejection at a referendum held for that purpose, a proposal to (Insert 4) (Insert 5) with (Insert 6).

In witness whereof, we have signed our names on the dates indicated next to our signatures.

Date	Name	Home Address
1. _____	Signature: _____	_____
	Print Name: _____	
2. _____	Signature: _____	_____
	Print Name: _____	
3. _____	Signature: _____	_____
	Print Name: _____	

I, (insert name of witness), state that I am a duly qualified voter of the state of New York. Each of the persons that have signed this petition sheet containing (insert number) signatures have signed their names in my presence on the dates indicated above and identified themselves to be the same person who signed the sheet. I understand that this statement will be accepted for all purposes as the equivalent of an affidavit, and if it contains a materially false statement, shall subject me to the penalties of perjury.

_____ _____

Date Signature of Witness

Page # ____

Page # ___

Insert 2: Insert the name of the town or village that local government unit is in, such as "Matson" or "Progress."

Insert 3: Insert type and name of the local governments proposed to be consolidated or dissolved, such as "the Town of Matson and the Town of Owen", "the Town of Matson Fire District No. 7 and the Town of Matson Fire District No. 3", or "the Village of Progress."

Insert 4: Insert either "consolidate" or "dissolve and terminate."

Insert 5: Insert the same information as in Inserts 1 and 2, such as "the Village of Progress" or "Water District Number Three in Matson."

Insert 6: Insert the same information as in Insert 3, such as "Town of Matson Fire District No. 7." For a dissolution petition, there is no need for an Insert 6, so delete the word "with" and the blank space for Insert 6.

Signatures

You must include the following statement, followed by a place for individuals to sign their name, print their name, write their home address, and indicate the date they signed the petition. It might be helpful to include a sticky note on the petition with the correct date so people will not sign it inaccurately.

In witness whereof, we have signed our names on the dates indicated next to our signatures.

Date	Name	Home Address
1. _____	Signature: _____	_____
	Print Name: _____	
2. _____	Signature: _____	_____
	Print Name: _____	
3. _____	Signature: _____	_____
	Print Name: _____	
4. _____	Signature: _____	_____
	Print Name: _____	

If signers make mistakes, scratch out information, and provide corrections, they should place their initials next to each correction. If a date or signature is changed and the alterations are not initialed, the signature may be invalidated.

The number of signatures that can fit on each page will be limited because each page must include a witness or notary statement at the bottom of the page following the signatures. It is not necessary that all the signatures lines be filled on each page.

Witness Statement

Most of the time, the person carrying the petition will be registered to vote in New York State. Where this is the case, you must include on each signature page a witness statement that says the following:

> I, (insert name of witness), state that I am a duly qualified voter of the State of New York. Each of the persons that have signed this petition sheet containing (insert number) signatures have signed their names in my presence on the dates indicated above and identified themselves to be the same person who signed the sheet. I understand that this statement will be accepted for all purposes as the equivalent of an affidavit, and if it contains a materially false statement, shall subject me to the penalties of perjury.
>
> _____ _____
>
> Date Signature of Witness

The person carrying the petition must sign and date the witness statement. It is the equivalent of an affidavit where the witness is indicating, under penalty of perjury, that he or she actually observed people signing the petition on the dates indicated, and that those people signing identified themselves to be the same people whose signatures appear on the petition.

The person or persons collecting signatures for the petition need not be registered to vote in any of the local government units to which the petition applies. It is not necessary that the same person witness all the signatures submitted in a petition packet, but that person must witness all the signatures on a particular page that he or she has signed.

Although the following option may rarely be used, it is allowable to have a notary public or commissioner of deeds acknowledge the signatures on the petition, rather than have a person

registered to vote in New York witness the signatures. In these cases, the following statement should appear at the bottom of the page following the signatures instead of the witness statement:

> On the date indicated above before me personally came each of the electors and legal voters whose signatures appear on this petition sheet containing (insert number) signatures, who signed the petition in my presence and who, being by me duly sworn, each for himself or herself, identified himself or herself as the one and same person who signed the petition and that the foregoing information they provided was true.
>
> _____ _____
>
> Date Notary Public or Commissioner of Deeds

Page Number

Circulate the petition sheets with the page numbers left blank. This will allow several people to gather signatures and witness the signatures on their sheets. Do not fill in the page number until you have assembled all the petition sheets into a single petition packet. You'll have a cover sheet with contact information, followed by the first sheet of signatures and witness statement. The first signature page is page one, followed by consecutive numbers. In summary, wait until the packet is assembled, then number the pages in order.

GATHERING SIGNATURES

Anyone who is registered to vote in one of the local government units to be consolidated or dissolved may sign a petition. That person is known as an "elector" of the local government. A list of electors can be obtained from the town or village clerk or the county board of elections; however, it may not be easy to identify district electors from election records so the tax records of the fire, water, or other special district may also be necessary to identify people eligible to sign the petition.

If people are registered to vote and live, for example, in the Town of Opus in Fire District No. 2, they can sign a petition to consolidate the town with another town, or the town with a village. However, they cannot sign a petition to consolidate Fire District No. 7 with Fire District No. 6 since they are electors of Fire District No. 2.

A petition needs to be signed by at least ten percent of the number of electors or five thousand electors, whichever is less, in <u>each</u> town, village or special district to be consolidated or dissolved. However, if the town, village or special district has five hundred or fewer electors, the petition needs to be signed by at least twenty percent of the number of electors from that local government unit. You will probably want to collect many more signatures than is needed, in order to ensure that you have an adequate number of signatures in the event some of them are invalidated.

As you collect signatures, you may be asked, "If I know my spouse or friend is in favor of consolidation or dissolution, may I sign their name too?" The answer is no, a signature on a petition is not valid unless it is the original signature of an elector. Another question where the answer isn't as clear is, "Can I sign more than one petition if the proposal is to consolidate the town and the village in which I live?" While the new law doesn't address this directly, there does not appear to be any prohibition against a person who is both a village and town resident signing both the petition aimed at village residents and the one aimed at town residents.

As mentioned in the previous section, any elector of the State of New York or any person who is a notary public or commissioner of deeds may gather and witness signatures on a petition.

FILING THE PETITION

Once you have collected the signatures needed to trigger a referendum on the consolidation or dissolution, you need to assemble the signature sheets and submit the petition to the appropriate local government clerk.

A cover sheet must be submitted with the petition. It must contain the name, address and telephone number of a contact person. The contact person must be someone who is eligible to vote in one of the governmental units that is proposed for consolidation or dissolution and who has signed the petition. You may also want to include on the cover sheet a statement indicating the total number of signatures that are attached and the purpose of the petition. If the petition is for consolidation, you may want to indicate how many are from each local government, as well as the total number of signatures. This information will be helpful to both municipal officials and the media.

Cover Sheet

Contact Person For Petition

I have signed the attached petition and wish to serve as a contact person.

Name: _____
Address: _____
_____
Telephone: _____
Number: _____

(Optional) This petition calls for the consolidations/dissolution of _____ and includes the signatures of _____ electors.

Page # 1

The signature pages will follow the cover sheet, and should be numbered consecutively. Where the petition is for consolidation, and contains signatures of electors from more than one local government unit, you may want to group the signature sheets by unit.

Where a town or special district will be consolidated or dissolved, the original petition – not a copy – needs to be filed with the clerk of the town. If a special district lies within more than one town, the petition needs to be filed with the town clerk in which the greater portion of the district's territory is located. A petition for dissolution of a village is filed with the clerk of the village. If one of the entities to be consolidated is a village, an original petition containing the signatures of electors from the village must be filed with the village clerk and a petition containing the other required signatures must be filed with the appropriate town clerk.

The filing of a petition starts a statutory schedule for further actions by governing bodies on the consolidation or dissolution initiative.

Receipt by the Clerk

Upon receiving the petition, the clerk will review the names on the petition and check to see if there were any alterations and if the alterations were initialed. The clerk may also note where a person may have died or moved since signing the petition. The clerk will count the signatures he or she has found to be valid to see if the number meets the threshold established in the law.

Although the statute doesn't specifically require it, the clerk will probably check to see that all the blanks have been filled in the intent section; whether each signature is dated; whether each signature page has been witnessed; and whether each page has been numbered. If a signature is challenged the clerk may conduct additional review, such as comparing the home address of an elector as stated on the petition to the one on the voter roll.

The clerk has up to ten days from the date the petition is filed to make a final determination regarding the sufficiency of the number of signatures on the petition. The clerk must also provide timely written notice of the determination to the contact person named on the cover sheet of the petition.

The clerk may determine that the petition does not have enough valid signatures. If the contact person or another individual who signed the petition believes the clerk is in error, he or she may seek judicial review of the determination in a court proceeding known as an Article 78. However, it is possible that some disagreements concerning the number of valid signatures on the petition may be resolved without going to court, perhaps through discussions with the clerk and by providing supporting information.

The new law requires "substantial compliance" with the sections relating to the petition and liberal application of the rules relating to the form of the petition. These requirements are intended to prevent fraud, but not to provide a means to have petitions invalidated simply for "technicalities."

The Referendum

Once the clerk has determined the petition has the required number of signatures, the governing body of each governmental unit proposed to be consolidated or dissolved has thirty days to enact a resolution setting the date for a referendum on the proposed consolidation or dissolution. The referendum must be held between sixty and ninety days after the enactment of the resolution; the referenda need not be held on the same day in each governmental unit, but they cannot be more than 20 days apart. A referendum will have passed if a majority of the votes cast are in favor of passage in each of the local government units that would be consolidated or dissolved.

AFTER THE REFERENDUM

Within thirty days after the vote is certified, the governing body or bodies of the units to be consolidated or dissolved must meet to discuss a proposed consolidation or dissolution plan, and within 180 days of the meeting the governing bodies must approve a proposed plan. Following approval, they must hold public hearings, possibly amend the plan, and then adopt a final plan. Additional information about the contents of the dissolution or consolidation plan is available in other Department of State publications.

If a governing body is unable or unwilling to prepare and approve a consolidation or dissolution plan, five electors who signed the petition may bring an Article 78 action in Supreme Court. Depending on its findings, the court may refer the matter to mediation or issue an injunction compelling the governing body to act. If the governing body still fails to act, the court may appoint a judicial hearing officer to develop and approve the plan. Where the five electors prevail, the costs of the proceeding, including the work of a judicial hearing officer, shall be borne by the local government unit.

If the referendum fails, the consolidation or dissolution process may not be initiated for the same purpose until four years have passed from the date of the referendum. In other words, the four years are up the same governing boards may not pass a joint resolution endorsing a proposed agreement, nor may a petition be filed calling for a referendum, on the same proposed consolidation or dissolution.

Reconsideration

In many ways, a vote to consolidate or dissolve is a leap in the dark. Since the vote comes

before the plan when using the petition process, and possibly before any study of the potential impacts of consolidation or dissolution, people who vote in favor of the change are trusting that their governing board will develop a sensible and suitable plan for dissolution or consolidation. However, sometimes the financial numbers don't work out in the way that was expected, the proposed cuts in services would go beyond what was anticipated, or people simply change their minds. The law gives the electorate the opportunity, once the final plan is done, to reconsider their support for the consolidation or dissolution as expressed in the plan.

The new law allows the electors of a local government unit that would be consolidated or dissolved to file a petition within forty-five days after the governing board approves the final plan. The question here is whether the plan shall take effect. This time around, the required number of signatures is at least twenty-five percent of the number of electors or fifteen thousand signatures, whichever is less. If the threshold is met in the time frame allowed, a referendum would be held asking whether the consolidation or dissolution plan should take effect. The petition need only be circulated and a referendum held in just one of the local government units that would be consolidated or dissolved; but it could be done in more than one of the affected local government units.

If the result of the referendum vote is a majority of electors voting in favor of the plan taking effect, then the consolidation or dissolution will proceed. If a majority rejects the plan, the consolidation or dissolution plan will not take effect. The governing board or boards may attempt to prepare a new plan at this point; however, having made a good faith effort to forge a workable plan, the governing boards have fulfilled their duty under the statute. It is clear that in this situation the four year waiting period for initiating a new consolidation or dissolution process does not apply; thus, after a plan is rejected in a permissive referendum vote at the end of the process, a new petition to start the consolidation or dissolution process anew may be circulated and filed immediately.

Effective Date

If a referendum to reconsider the adoption of a consolidation or dissolution plan fails, or if no petition to hold a permissive referendum was circulated, the consolidation or dissolution would take effect on the date specified in the plan, which could be as early as forty-five days after the final plan is approved.