

**State Board of Elections Policy 2009-005**

A meeting of the Virginia State Board of Elections was held on August 29, 2009 whereby a policy was proposed and approved by the Board:

**Voter Residency**

Pursuant to the requirements of § 24.2-404(D), the following shall apply only in determining a person's residence under Article II, Sec. 1 of the Constitution of Virginia and Title 24.2 of the Code of Virginia:

## 1) Definitions:

- a) "Residence," "residency" or "resident," for all purposes of qualification to register and vote means and requires both domicile and a place of abode.
- b) Place of abode means a physical place where a person dwells. One may have multiple places of abode, such as a second home.
- c) Domicile is a person's primary home, the place where a person dwells and which he considers to be the center of his domestic, social and civil life.
  - i) Domicile is primarily a matter of intention, supported by an individual's factual circumstances.
  - ii) Once a person has established domicile, establishing a new domicile requires that he intentionally abandon his old domicile.
  - iii) For any applicant, the registrar shall presume that domicile is at the address of residence given by the person on the application. The registrar shall not solicit evidence to rebut this presumption if the application appears to be legitimate, except as provided in §§ 12 and 13.

## 2) Required Intent:

- a) A person who intends to remain in a location for an unlimited time has established the intent required to establish domicile.
- b) A person who intends to remain in his current location for an unlimited time has established the intent required to establish domicile even if he may leave, upon the happening of a future contingency. Examples of such future contingencies include, but are not limited to: a change in job status or location, graduation from school, military transfer deployments or other relocations, and medical emergencies.
- c) A person who presently intends to leave his current location at a fixed and certain date may not have established the intent required to establish domicile depending on the facts and circumstances of each case, as determined by the registrar, with all due consideration given to persons in the circumstances contained in § 5 below.
- d) A person who applies to register to vote in a precinct for the primary purpose of registering to vote or voting in that precinct has not established the intent to establish domicile there.

- e) The duration or expiration date of an individual's lease to occupy a specific place of abode shall not be a factor in the determination of his intent to remain in his current location. For example, a college student does not need specific intent to stay in the college jurisdiction beyond graduation, and a member of the military (or spouse or dependent of such person) does not need specific intent to stay in the jurisdiction beyond the end of the current tour of duty, in order to establish domicile there.
- 3) Nothing in this regulation shall be construed to confer upon any person any privileges or benefits other than the right to register to vote and to be qualified to vote in an election.
- 4) Residency shall be broadly construed to provide the greatest opportunity to register and to vote. A residence can be established in a commercial, industrial or other building that is not normally used for residential purposes if the building serves as the applicant's primary nighttime residence. A homeless person will be considered resident in the location where the homeless person usually sleeps at night. In cases involving non-traditional habitations, the location of the person's usual sleeping area shall be controlling as to the residency of that person.
- 5) No presumption in favor of or against residence may arise merely on the basis of a person's presence or absence in the following circumstances:
  - a) while employed in the service of the Commonwealth or United States, whether military or civilian;
  - b) while engaged in the navigation of the waters of the United States or of the high seas;
  - c) while employed by, or enrolled as a student in, any educational institution, or residing in any housing commonly occupied by students or faculty;
  - d) while confined in any jail or other correctional facility as a non-felon;
  - e) while receiving treatment, or being confined for any reason, in a nursing home, hospital, rehabilitation, or short term care facility, retirement or veterans' home, or like institution or private facility;
  - f) while remaining in a location only during the workweek in order to conduct business; or
  - g) while residing in an area within the boundaries of Virginia which has been ceded to, or acquired by, the federal government.
- 6) If a person resides in an area lacking a specific mailing address, the general registrar shall ask him to provide a mailing address along with a description indicating where the person resides. However, no person shall be denied registration for failure to submit a mailing address. The description must identify the location with sufficient specificity to allow the general registrar to place the location in a defined precinct. The general registrar shall assign the person to the precinct containing the location where he resides.
- 7) A person whose home is destroyed or rendered uninhabitable does not lose residence at that home if he intends to return to the home when it is reconstructed or made habitable, unless he has either established a new domicile or has changed his voter registration.
- 8) A person whose residence is divided by a jurisdictional boundary line or election district boundary line shall be deemed to reside in the location of his bedroom or usual sleeping area.

- 9) The general registrar shall not automatically presume the residence of one spouse to be that of the other spouse, but shall determine the other spouse's residence in accordance with the applicable statutes and regulations.
- 10) A person loses voting residence in any county or city in Virginia by registering to vote or voting in any other county, city, or state. An otherwise qualified voter shall not lose their residence at an address until they have established their residence at another address.
- 11) Except as provided in Va. Code § 24.2-411.1, if an application to register to vote is not signed, or is missing information required by law, or if the general registrar cannot determine from the information provided on the application the location at which the applicant intended to register, the general registrar shall deny the application and process it in accordance with Va. Code § 24.2-422.
- 12) If an application to register to vote contains all information required by law, but contains other apparent discrepancies, the general registrar may promptly resolve the discrepancies through informal means. Informal means include ascertainment of information through the statewide, voter registration system, the Division of Motor Vehicles, and any form of communication with the applicant.
- 13) If an application to register to vote contains all information required by law, and if any of the situations in (a) – (e) below apply, the general registrar shall not deny the application, but shall ask the applicant to provide additional information in support of the application. The general registrar shall request the information in writing on a form prescribed by the Board, and the applicant shall respond in writing. The application shall not be accepted or denied while the registrar is awaiting the applicant's response. The general registrar shall act promptly to resolve the question of residency as soon as possible. In the event the applicant does not provide the requested information by the last day to register, as established in Va. Code § 24.2-416, and the general registrar is unable to determine the applicant's residency through any other means, the general registrar shall deny the application in accordance with Va. Code § 24.2-422(B).
  - a) The applicant provides a mailing address in a different county, city, or state from his residential address. In this situation, the general registrar shall reconfirm the residential address and mailing address by asking the supplemental questions provided in § 14 and mailing the questions to both the residential and mailing addresses;
  - b) The applicant provides a residential address that cannot receive mail, or from which mail sent by the registrar's office is returned. In this situation, the general registrar shall ask for an alternate mailing address;
  - c) The applicant provides an address that is temporary in nature. Temporary addresses shall include, but not be limited to, hotels, motels, motor homes, hospitals and other short term medical care facilities, houseboats, campgrounds or other facilities that have durational restrictions, such as a 30 day limitation, or any other transient address that would not be considered as a typical permanent residence address. Temporary addresses shall not include apartments or other facilities, such as dormitories, that provide for leases or other rental agreements of at least six months duration. The general registrar shall treat these addresses as permanent ones. In the event the applicant provides an address that is

temporary in nature, the general registrar shall ask the supplemental questions provided in § 14.

- d) The applicant provides a residential address that is a commercial, industrial or other building that is not normally used for residential purposes, or other non-traditional residential address; or
- e) The application causes a conflict with another existing voter in the statewide, voter registration system, such as a duplication of the social security number with an existing voter.

14) Supplemental Questions: When warranted by the situations described in § 13 above and where any other information on the voter registration application is unclear, the general registrar shall ask the following questions on a form prescribed by the Board, after notifying the applicant that any response he makes is subject to the same oath he took to sign the application:

- a) Are you currently registered to vote at another address? The general registrar shall not ask this question unless the applicant failed to provide the information on the voter registration application.
  - i) If yes to § 14(a), what is that address, and in what county, city, or state is that address located?
  - ii) If yes to § 14(a) or as indicated on the voter registration application, do you wish to cancel your registration in that county, city, or state and register and establish residence in this county or city in Virginia?
- b) Do you have a specific plan to move away from this county or city at a fixed date in the future?

15) Review of Supplemental Questions:

- a) If the applicant answers the questions with information sufficient to assign him a polling place within the precinct and to cancel his current registration elsewhere (if any), the applicant shall be registered and added to the voting rolls of the locality and the jurisdiction where the voter was previously registered shall be notified to remove the registrant from their rolls.
- b) If the applicant does not provide information sufficient to assign him a polling place within the precinct, the application shall be denied.
- c) If the applicant indicates that the application was in error or filed incorrectly the registrar shall provide him voting information that could allow the applicant to register or vote absentee in the Commonwealth.
- d) No new or changed voter registration application is effective until an applicant provides answers to the supplemental questions. Any such answers must be in writing and must be returned before the last day to register, as established in Va. Code § 24.2-416. Any supplemental information based upon an application made prior to the close of books shall be accepted and the applicant registered if the response is received before the last day to register, as established in Va. Code § 24.2-416.

- e) The general registrar shall not accept any new application filed after the closing of registration in Va. Code § 24.2-422 (C).

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