

Where Can College Students Vote? A Legal and Empirical Perspective

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DESPITE CONSIDERABLE federal authority over elections as a result of constitutional amendments and civil rights and other laws, cross-state variations still exist with respect to when citizens can register (election day to at least 30 days before the election),¹ where they can register (aside from motor vehicle offices, where registration is available in nearly all states),² when they can vote (early or only on election day),³ how they vote (mail or in-person, type of equipment, type of ballot),⁴ and increasingly, what identification they need to show at the polls.⁵ Differences in *who* can vote have largely, though not entirely, been eradicated.⁶ The most visible remaining differences in who can vote involve participation in party primaries,⁷ though there are also differences in when, whether, and under what conditions felons and ex-felons can cast ballots.⁸

Questions of where people can vote have also been largely settled. For most people, of course, there is no ambiguity: they register and vote in the voting district in which they live, which means the

location of their one and only residence. Yet for one important group—college students who go away to school—uncertainty remains.⁹ Unlike most citizens, students who go away to college might claim to re-

² All but a few states are subject to the “motor-voter” law. North Dakota does not require voter registration; see the National Voter Registration Act of 1993 (42 U.S.C. § 1973gg) and MICHAEL J. HANMER, *DISCOUNT VOTING: VOTER REGISTRATION REFORMS AND THEIR EFFECTS* (New York: Cambridge University Press, 2009).

³ See <<http://earlyvoting.net/states/abslaws.php>>.

⁴ On voting by mail, see Patricia L. Southwell, *Five Years Later: A Re-Assessment of Oregon’s Vote by Mail Electoral Process*, 37 PS: POL. SCI. & POLITICS 89 (2004). On voting equipment, see Kimball W. Brace, “Almost 55 Million, or One-Third of the Nation’s Voters, Will Face new Voting Equipment in 2006 Election,” Election Data Services, Inc, 2006. On different types of ballots, see Richard G. Niemi and Paul S. Herrnson, *Beyond the Butterfly: The Complexity of U.S. Ballots*, 1 PERSPECTIVES ON POLITICS 317 (2003).

⁵ Roughly two dozen states require some form of identification. In *Crawford v. Marion County Election Bd.*, 128 S.Ct. 1610 (2008), the Supreme Court rejected a challenge to Indiana’s strict voter ID law.

⁶ See ALEXANDER KEYSSAR, *THE RIGHT TO VOTE: THE UNTESTED HISTORY OF DEMOCRACY IN THE UNITED STATES* 256 (New York: Basic Books, 2000).

⁷ Most of these differences relate to party affiliation; see MARJORIE RANDON HERSHEY, *PARTY POLITICS IN AMERICA* 159–61 (New York: Pearson Longman, 12th ed. 2007). However, there are also differences in whether 17 year-olds who will be 18 by the time of the general election can participate. See <http://journalism.nyu.edu/pubzone/livewire/politics_society/on_the_cusp/>.

⁸ See JEFF MANZA AND CHRISTOPHER UGGEN, *LOCKED OUT: FELON DISENFRANCHISEMENT AND AMERICAN DEMOCRACY* (New York: Oxford University Press, 2006), and <http://www.sentencingproject.org/Admin/Documents/publications/fd_bs_fdlawsinus.pdf>.

⁹ Other ambiguous cases include homeless people without residential addresses and people who are constantly on the move. Military personnel on temporary assignments once faced problems similar to those faced today by college students, but few such issues seem to have arisen since the decision in *Carrington v. Rash*, 380 U.S. 93 (1965).

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¹ State registration deadlines are shown on the U.S. Election Assistance Commission web site: <http://www.eac.gov/voter/docs/state-reg-deadlines.xls/attachment_download/file> (last accessed 3/4/09).

side in either of two places, often in two different states. Potentially, then, they are presented with the opportunity to choose in which of two jurisdictions to register and vote. But do they have a choice? Nearly four decades after 18–20 year olds were given the vote and nearly two decades after youth voter organizations began major operations,¹⁰ there remains substantial ambiguity regarding federal and state laws as they apply to the registration of college students in their college towns. As a result of this ambiguity, communities vary enormously in their approaches to voting by college students.¹¹ Laws and administrative interpretations range from a nearly complete absence of restrictions (other than attending a college in the state), as in Iowa and Missouri, to not-very-subtle efforts to discourage all such registrations, as in New Hampshire and Idaho.

In addition to its intrinsic interest as one of the last remaining barriers put in the way of straightforward registration,¹² understanding state laws and their implementation for college students is particularly important given continued concern over traditionally low rates of turnout in the U.S.,¹³ the importance of the first vote,¹⁴ the difficulty of turning occasional voters into habitual voters,¹⁵ and the apparent rising tide of youth turnout.¹⁶ Clarification of the law should contribute to a better understanding of the practices of election officials, increased uniformity in the treatment of students, and an end to hostility toward students that is apparent in some states and localities.

Our goal in this article is to clarify two simple but crucial questions faced by college students: Under what conditions can they register to vote in their college towns? What are the implications for students of doing so? In the first section we interpret current federal (including constitutional) regulations pertaining to college students. We begin by describing how changes specific to young people as well as the wider citizenry gave rise to the question of where college students can register to vote. We then turn our attention to the meaning of residency as it applies to college students and voting. We note that durational residency requirements for voting are upheld only to the extent necessary for preparing the voting rolls and ballots, so that only a brief period of residency may be required. Yet voting is tied to location, meaning that residency itself, as opposed to durational residency, is still an applicable concept. Failure to discriminate clearly between residency and durational

residency has led to confusion, particularly surrounding a commonly articulated “intent to stay” concept for residency that, in the context of voting, is at odds with the constitutional principles that have all but eliminated duration as an appropriate requirement for voting. In the first section we conclude that it is permissible for states to impose “full residency” requirements on students, but not “intent to stay” standards. Having determined insofar as possible what the law is, we go on, in the second section, to note ways in which some states and localities wrongly articulate or apply their laws in a thinly-disguised effort to prevent students from voting in their college towns.

LEGAL MATTERS: THE CHANGING LANDSCAPE AND AMBIGUITIES THAT FOLLOWED

Three major developments, all with origins in the early 1970s, moved the issue of college student

¹⁰ Rock the Vote was formed in 1990. See <<http://www.rockthevote.org>>.

¹¹ Logically, the issues for graduate students, students in post-degree professional programs (e.g., law and medicine), and even medical interns and residents are identical. Practically, we suspect these cases are less contentious because these individuals are: (a) fewer in number; (b) (usually) older; and (c) more likely to be married or have other things that look like “roots.” The same concerns would also apply to non-military personnel on temporary assignment from their employer, but the issue has far less salience in such cases because the voters in question are not concentrated in certain locations.

¹² There are situations where a rule prohibiting students from voting in their college town would be tantamount to disenfranchising them altogether, such as when the student goes away to school and the parents die or emigrate from the United States, leaving no home to which the student might ever return. Those situations would presumably be unconstitutional under the reasoning of *Carrington v. Rash*, 380 U.S. 93 (1965), which struck down a state rule that “no serviceman may ever acquire a voting residence in the State so long as he remains in service.”

¹³ MARTIN P. WATTENBERG, *IS VOTING FOR YOUNG PEOPLE? WITH A POSTSCRIPT OF CITIZEN ENGAGEMENT* (New York: Pearson Longman, 2008).

¹⁴ Eric Plutzer, *Becoming a Habitual Voter: Inertia, Resources, and Growth in Young Adulthood*, 96 AM. POL. SCI. REV. 41 (2002); MARK N. FRANKLIN, *VOTER TURNOUT AND THE DYNAMICS OF ELECTORAL COMPETITION IN ESTABLISHED DEMOCRACIES SINCE 1945* (Cambridge: Cambridge University Press, 2004).

¹⁵ MARTIN P. WATTENBERG, *supra* note 13, at 115–19.

¹⁶ Circle Staff, “Young Voters in the 2008 Presidential Election,” Tufts University: Center for Information and Research on Civic Learning and Engagement, 2008, at <http://www.civicyouth.org/PopUps/FactSheets/FS_08_exit_polls.pdf>.

voting—and particularly, *where* college students vote—from a minor issue to one with significant ramifications.

The emergence of the issue

Prior to 1970, all but Kentucky, Georgia, Alaska, Hawaii, and New Hampshire limited the voting franchise to citizens 21 years of age or older. This meant that the issue of college student voting, period—and not just *where*—would only arise for those students who turned 21 on or before November of their senior year. However, the 1970 amendments to the Voting Rights Act gave eighteen year olds the right to vote in elections for president and vice-president.¹⁷ In 1971, the 26th Amendment extended that right to state and local elections. The sudden enfranchisement of the majority of college students brought to the fore other issues on the exercise of the franchise by this population, including residency.

The second development can also be traced to the 1970 amendments to the Voting Rights Act, which declared that citizens could not be denied the right to vote for president and vice-president because of any durational residency requirement.¹⁸ This change was premised on the idea that individuals do not have to know about the state or local area in which they live to vote knowledgeably for president.

Having eliminated the concept of durational residency requirements in presidential elections, Congress continued by requiring that each state set registration procedures in such elections for “all duly qualified residents of such State” who apply no later than thirty days prior to a presidential election. While the act did not specify what constitutes a “duly qualified resident” of a state, it is clear that duration in the state prior to an election, or in a particular part of the state, no longer could be a factor in presidential elections beyond that 30-day application period.¹⁹

The third development occurred in 1972 when the Supreme Court, in *Dunn v. Blumstein*,²⁰ struck down a Tennessee law requiring that a would-be voter in *state and local* elections needed to have been a resident for a year in Tennessee and for three months in the county in which he voted. The Court identified two fundamental interests involved—voting and travel—and subjected the durational residency requirements to strict scrutiny. Using that test and relying in part (but only in part) on what Congress had done in presidential elections in 1970, the

Court effectively undermined arguments for a durational residency requirement, including arguments based on the “purity of the ballot box” and ensuring “knowledgeable voters,” although acknowledging that a state could demonstrate a “compelling” need for a period prior to the election in which it closed the registration books “to give officials an opportunity to prepare for the election.” The Court set that period presumptively at 30 days.²¹

Thus, by 1972, the old order had been upended. Perhaps no group was more affected by the conflux of these three developments than college students. This was so even though young people—and not just students even then—were the focus of only the first of these changes. But exactly *how* were they affected? The age change—from 21 to 18—was clear and unambiguous: Most students could now vote in several elections during their time in college. Less clear, however, is what it meant to eliminate “durational” residency requirements while continuing to validate the notion that states could restrict the voting franchise to “bona fide residents”

¹⁷ Congress’s intent had been to apply the age provisions to all elections, but the Supreme Court ruled that congressional power to do so extended only to federal elections. *Oregon v. Mitchell*, 400 U.S. 112 (1970).

¹⁸ The statute (1) eliminated durational residency requirements as a reason to deny someone the right to vote for president or vice-president, (2) required the registration of residents who applied to vote not later than 30 days before the election, and (3) and required that an otherwise qualified voter who did not satisfy the 30-day test of (2) could vote where he previously met the requirements for voting. Sec. 202, 42 U.S.C. § 1973aa-1(c), (d), (e).

¹⁹ Given the administrative difficulty that would have arisen from permitting some people to vote for president but not for other offices, as a practical matter, this congressional mandate would almost certainly have effectively changed the voting rules for *all* offices and issues, or at least those arising in presidential-election years. That process, however, got caught up in the constitutional changes we describe next.

²⁰ 405 U.S. 330 (1972).

²¹ *Id.*, at 347. The following year the Court upheld 50-day registration requirements in Arizona, *Marston v. Lewis*, 410 U.S. 679 (1973), and Georgia, *Burns v. Fortson*, 410 U.S. 686 (1973), for voting in state and local elections. But the justification was still administrative necessity, not any affirmative merit in a durational residency requirement. True to the idea that it did not make long-term sense to have a 50-day rule for local elections and a 30-day rule for presidential elections—much less any long-term ability to justify being able to be “prepared” for a presidential election in 30 days but not a state or local election—both Arizona and Georgia now have registration requirements of 29 days (more for runoff elections in Georgia); see <<http://www.azleg.state.az.us/FormatDocument.asp?inDoc=/ars/16/00120.htm&Title=16&DocType=ARS>> and <http://sos.georgia.gov/elections/elections_events.htm>.

(the language of the Supreme Court in *Dunn*) or “duly qualified residents” (the language of Congress in the 1970 Voting Rights Act amendments). As long as voting is done by geographical area—by states (as, indeed, mandated by the Constitution) and by local areas within a state—one needs an ability to determine which citizens get to vote in which geographical area—which remains a test of “residency.”

The task, at least since 1972, has been for states to define the residency of citizens for purposes of voting. While some aspects of that question have not been fully and explicitly addressed by the legal system, the analysis is reasonably straightforward in light of the “compelling government interest” standard articulated by *Dunn*.²²

Defining residency of college students for the purpose of voting

“Bona fide residence”²³ is usually expressed (with minor variation) as requiring “both physical presence and an intention to remain.”²⁴ More fully, physical presence is the “taking up [an] abode in a given place,” while the “intention to remain” is defined as “an intention to remain permanently, or for an indefinite period of time; or, to speak more accurately . . . , without any present intention to remove therefrom”²⁵

This definition has difficulties, even in the best of circumstances.²⁶ Thus, in *Martinez v. Bynum*, the Court, attempting to unpack these “traditional, basic residence criteria” in a case involving tuition-free public schools, stated, first, that residence means “to live in the district with a bona fide intention of remaining there,” second, “the ‘intention to remain’ component . . . does not imply an intention never to leave,” pointing to the mobility of “people and families in this country,” and third, that “[t]he standard [test] accommodates that possibility as long as there is a bona fide present intention to remain.”²⁷ The Court’s discussion ends up being perfectly circular—given mobility, an “intention to remain” cannot mean “an intention never to leave,” but must mean, instead, “a bona fide present intention to remain.”

However, the ambiguity resulting from circularity is not the major problem with the standard definition for our present purposes. When fundamental rights such as voting²⁸ and travel are at stake,²⁹ it is clear that “permanence” and “intention to re-

main” cannot be applied anything like literally. For purposes of voting,³⁰ residence cannot include a durational requirement, either reaching backwards in time (that is, durational residency requirements *before* voting) or going forward in time (that is, requiring an intent to remain indefinitely or permanently). Residency continues to have meaning in the context of voting, but not the meaning that one might casually extract from the wording of the “standard” residency test.

While the Supreme Court has noted that states can require voters to be “bona fide residents of the relevant political subdivision,”³¹ the Court rarely explains what makes a person a bona fide resident

²² The confusion—or inattention—inflicts voter qualifications other than those particularly applicable to college students, which are our subject in this article. Consider, for example, the current requirement in Utah of a 15-day registration requirement but a 30-day residency requirement; <<http://elections.utah.gov/voterregistrationnewwhat.html>>. While Utah *could* impose a 30-day registration requirement under *Dunn*’s safe-harbor, given its choice of a 15-day requirement, nothing in *Dunn*, with its rejection of reasons for duration for its own sake, justifies an additional residency requirement beyond those 15 days. Similarly, Minnesota permits election day registration but requires “residence in Minnesota for 20 days immediately preceding the election.” Minnesota Election Statutes, Chapter 201.014 Subdivision 1(c) at <<http://www.sos.state.mn.us/home/index.asp?page=224>>. North Dakota does not require registration at all, but requires residence in the precinct “at least thirty days next preceding any election.” North Dakota Election Laws, Title 16.1-01-04 #1 at <<http://www.nd.gov/sos/electvote/law.html>>. Under the reasoning of *Dunn*, all of those residency requirements, albeit brief, are unconstitutional.

²³ The 14th Amendment bases “citizenship” on “residence” but does not tell us how to determine either. Although in other contexts individuals are sometimes thought to have more than one “residence,” the phrase “bona fide residence” seems to be used in lieu of domicile as the equivalent of state citizenship for constitutional purposes.

²⁴ *Martinez v. Bynum*, 461 U.S. 321, 330 (1983).

²⁵ *Inhabitants of Warren v. Inhabitants of Thomaston*, 43 Me. 406, 418 (1857), which is one of the few authorities cited as authority by the Supreme Court in *Martinez v. Bynum* for its own definition of “intention to remain.” *Martinez* called *Inhabitants of Warren* a “classic two-part definition of residence.”

²⁶ See generally Note, *Evidentiary Factors in Determination of Domicil*, 61 HARV. L. REV. 1232, 1234 (1948).

²⁷ 461 U.S. at 332 n.13.

²⁸ *Burdick v. Takushi*, 504 U.S. 428 (1992); *Dunn v. Blumstein*.

²⁹ *Saenz v. Roe*, 526 U.S. 489 (1999).

³⁰ Because context matters, our focus is on residency for purposes of voting only. It is possible, indeed plausible, that it might be given a more stringent interpretation in cases of government largess or redistributive programs. See Roderick Hills, Jr., *Poverty, Residency, and Federalism: States’ Duty of Impartiality toward Newcomers*, 1999 SUPREME COURT REV. 277.

³¹ *Dunn*, 405 U.S. at 343.

of one state rather than another.³² Moreover, context matters when one is discussing residency. For example, in *Vlandis v. Kline*, considering a state's limiting of beneficial in-state tuition fees at its higher educational institutions to those who were residents of the state prior to commencing college, the Supreme Court, one year after *Dunn*, commented that a "state can establish such reasonable criteria as to make it virtually certain that students who are not, in fact, bona fide residents of the State, but who have come there solely for educational purposes, cannot take advantage of the in-state rates."³³ Plainly it would be erroneous to read this out of context as suggesting that being in a state "solely for educational purposes" does not make one a "bona fide resident" of that state for any purpose—and apply it to voting. *Vlandis* is a part of a series of non-voting cases concerned with "bad motive." The focus in *Vlandis* was not simply being in the state for educational purposes, but being in the state solely with an intent to gain in-state tuition, which the Court acknowledged would be an "abuse of the lower, in-state rates."³⁴ In that context, it is clear that the Court is looking not to education per se, but to one's *reasons* for being in the state—and if they are exclusively to gain a state benefit, the state is permitted to regard them with heightened suspicion for purposes of its definition of residency.³⁵

But these cases of opportunistic movement for purposes of financial gain have little or no applicability to cases of students and voting. In the student cases we are concerned with, there is no hint of a bad faith motive for being in the state. The students are in the state for purposes of education, not for purposes of voting.³⁶

Given that residency is used in different ways based on context and the reason for which residency is claimed, and given the misleading wording of a "standard" residency test, it is perhaps not a surprise that the legal requirements for college student voting are widely misunderstood.³⁷ Some individuals and organizations conclude that students have an absolute right to vote in their college town. Rock the Vote, for example, makes no mention of any limitations on students' right to vote where they go to college:

If you are a college student, you have the right to vote where you go to college OR in the town where you grew up. It's ultimately your choice, but don't let anyone tell you that you

can't vote in the place where you attend college. It makes sense: If you are a law abiding resident in a college town for four, five, maybe six years, pay taxes, and contribute to the local economy, then you have every right to vote in that town.³⁸

Others, however, suggest that students need to demonstrate permanence (in the sense of an intent to remain) in order to claim residency. Thus, Hawaii notes "a resident must . . . intend to make Hawaii their [*sic*] permanent residence."³⁹ Kentucky answers the question "I live in Kentucky during the school year. Doesn't that make me a resident?" with the answer "No. Although your physical location is a large factor in determining your residency, your intention of remaining in the area is a large factor as well."⁴⁰

We think neither position is correct. When the subject is voting, efforts to use "permanence" or "intent to remain" founder, for two reasons. First, in the context of voting (as distinct from other contexts in which residency is relevant), states can impose restrictions only to protect "the integrity and reliability of the electoral process,"⁴¹ and then only if the test employed meets a "compelling government interest" standard. We will show that residency tests that focus on duration (beyond an administrative

³² See Hills, *supra* note 30, at 288–89.

³³ *Vlandis v. Kline*, 412 U.S. 441, 453–54 (1973).

³⁴ *Id.*, at 452.

³⁵ *Martinez v. Bynum*, dealing with presence in a state for purposes of taking advantage of tuition-free admission to public schools, is an example.

³⁶ Since the overwhelming number of students who seek to vote in a state are in the state for "legitimate" educational reasons, a blunderbuss state rule seeking to capture a few "bad apples" by making it difficult for all students to establish residency, could not possibly meet a "compelling state interest" test that is "narrowly tailored."

³⁷ See David Canupp, *College Student Voting: A New Prescription for an Old Ailment*, 56 SYRACUSE L. REV. 145 (2005).

³⁸ See <<http://www.rockthevote.com/voting-is-easy/voting-rights/student-rights/>>. See also John K. Wilson, "The Attack on Student Voting Rights," at <<http://www.insidehighered.com/views/2007/12/31/wilson>>, and advice by the group FairVote at <<http://www.fairvote.org/?page=163>>.

³⁹ <<http://www.hawaii.gov/elections/factsheets/fsvs517.pdf>>.

⁴⁰ <<http://vote.ky.gov/about/college.htm>>. See also Elizabeth Aloii, *Thirty-Five Years after the 26th Amendment and Still Disenfranchised: Current Controversies in Student Voting*, 18 NAT'L BLACK L.J. 283, at 293–96 (2004–05).

⁴¹ *Crawford v Marion County Election Bd.*, 128 S.Ct. 1610 (2008).

convenience period) neither are encompassed within the notion of “evenhanded restrictions that protect the integrity and reliability of the electoral process,”⁴² nor can they meet the “compelling government interest” test. Second, these tests are *never* consistently applied to groups other than students—nor (as we will show) could they be—and a bedrock principle is that states *cannot* make it more difficult for students than for others to vote (or ask them questions that they would not ask others who are similarly situated).⁴³ At the same time, however, the concept of residency still has meaning and states *may* require those who wish to vote in that jurisdiction to demonstrate other, reasonable, circumstances generally associated with residence, such as availability for jury duty, paying taxes (where applicable), and possession of a local (rather than out-of-state) driver’s license. States also have the right to adopt rules and ask questions designed to avoid abuses such as dual voting or presence in a state solely for purposes of strategic voting.

The inapplicability of “permanence” or “indefinite intent to stay” requirements

We reach these conclusions based on several simple steps. First, one’s *future* location is *never* sufficient to give one the right to vote in that future jurisdiction. “I am retiring next year and will move to Florida at that time,” does not establish physical presence for voting in Florida today. Second, every citizen 18 and over, not a felon (or, in some states, an ex-felon) or mentally incompetent, must be allowed to vote in public elections *somewhere*. From these two propositions, it is clear that the choices for voting must come down to either the jurisdiction in which one currently resides, or the “prior” jurisdiction (or jurisdictions), in which one previously resided.

As a result, jurisdictions cannot apply a rigorous “permanence” test. To see this, suppose Jones is in Ohio, having come there from Pennsylvania. Jones declares that he has no intention of going back to Pennsylvania, but also has no intention of remaining in Ohio after finishing college, military duty, a temporary job assignment, or another such activity in Ohio. If both Ohio and Pennsylvania require Jones to intend to remain or return, then Jones has no place where he can vote, which violates one of our two starting premises. This could be cured by *requiring* every jurisdiction to allow voters who

have once gained the right to vote in that jurisdiction to continue to do so until they have gained the right to vote in another jurisdiction. This is probably the (unarticulated) operating premise held by those who believe it should be difficult for students to register to vote in their college town: The students should continue to vote in the jurisdiction where they lived before attending college.

This “solution,” however, is both practically unworkable and constitutionally unsound. As a practical matter, it makes little sense in a number of situations, as it creates an enormous “stickiness” problem, as well as a necessary assumption that an individual will always have a “permanent” residence upon turning 18. Consider, as just one example, a career military officer who, under this solution, might be required to vote, throughout his career, in the state where his parents lived when he turned 18, despite having lived for almost all of his adult life in other locations in the U.S. Whatever the reasons for physical presence as a precondition of voting, it makes no sense to say that this officer’s life has such a relevant connection, for voting purposes, with that original jurisdiction as to require the individual to vote there throughout his or her life. To be sure, there should be sufficient uniformity in the definition of residency that individuals will not lose the right to vote in one state without at the same time becoming eligible in another state. But it is simply too inflexible, and the results too perverse, to accomplish this by uniformly requiring an intent to remain in or return to the jurisdiction where one is physically present.

Moreover, the requirement of “intent to remain” in the jurisdiction as a means of disfranchising students fails to account for the legal revolution effected by *Dunn v. Blumstein*.⁴⁴ It is true that *Dunn* struck down durational residency requirements that looked to presence in the state in the period prior to voting, while we are presently considering the intent to remain in the state for a period after voting. But it is also true that *Dunn* applied strict scrutiny analysis to restrictions on voting, treating voting as a fundamental constitutional right.⁴⁵ That strict scrutiny analysis, with its accompanying compelling government interest test, applies to *all* restrictions

⁴² *Id.*; *Burdick v. Takushi*, 504 U.S. 428 (1992).

⁴³ *Symm v. United States*, 439 U.S. 1105 (1979).

⁴⁴ 405 U.S. 330 (1972).

⁴⁵ *Id.*, at 336, 337, 342.

on the voting franchise that are not “evenhanded restrictions that protect the integrity and reliability of the electoral process.”⁴⁶

We believe that certain requirements can pass constitutional muster, because they serve the state’s fundamental interest in ensuring that individuals are not “in” a jurisdiction simply for voting purposes. It follows that a state could make a statement like this to a would-be voter: “Registering to vote is a declaration of residency that carries with it certain other consequences, such as a obtaining a driver’s license from this state (if you drive), registering your car here, serving on jury duty, and the like”—provided the statement was made to all first-time registrants who have moved into the state from elsewhere, not only students. Similarly, a question—again, directed at *all* first-time registrants who have moved into the state from elsewhere—asking whether they are in the state primarily for purposes other than voting seems likewise permissible as an effort to limit the voting franchise to bona fide residents. In addition, a trace of the “intent to remain” concept would be both permissible and desirable, so long as it is limited to vacationers and others who are simply passing through the state.

Such criteria, because they address unobjectionable features of residency on which voting is still properly based, survive the analysis of *Dunn*. That means that a state (or locality) *may* ask questions addressed to these criteria, not that it must. Just as *Dunn* never required a state to take advantage of a 30-day “administrative” period, so too are jurisdictions free to be more generous towards newcomers. It is not unconstitutional to allow a student to vote *without* establishing other incidents of residency, if a state so chooses.⁴⁷

Is a state justified in asking whether a registrant intends to stay, either “indefinitely” or “permanently”? Under *Dunn*, we know that reasons such as “familiarity” and “common interest”⁴⁸ do not satisfy the compelling government interest test. Are there other reasons that could justify an “intent to stay” test?

One possibility is that the jurisdiction might want assurance that new voters will endure the consequences (often local) of their votes. Assuming that this suggestion is different from the “common interest” justification that has already been rejected by the Supreme Court, it is still unlikely to succeed. One reason is that in many situations, including the one we are addressing in this article, the result would

be that otherwise eligible voters would have no particular place in which they could vote, a violation of the basic principle that all eligible people must be able to vote somewhere. Furthermore, a peripatetic voter who left a jurisdiction years, even decades, ago, with no intent to return but without settling anywhere else subsequently, does not endure the consequences of voting in the original jurisdiction. Applying the “justification” at one end requires that it be ignored more flagrantly at the other end. Finally, we doubt that states enforce a rigorous “intent to stay” requirement on all first-time registrants.⁴⁹ Even if, contrary to our belief, an “intent to stay” test uniformly applied were constitutional, one selectively applied against groups such as students and the military cannot be.

The Court’s recent opinion in *Crawford v. Marion County Election Board*⁵⁰ does not change the analysis. *Crawford* itself drew a distinction between rules “unrelated to voter qualifications” and “evenhanded restrictions that protect the integrity and reliability of the electoral process.”⁵¹ The two opinions that formed the majority in *Crawford* neither cited *Dunn* nor cast any doubt on *Dunn*’s sharp restriction on using durational residency as an anti-fraud provision for voting purposes.

In sum, our analysis is simple. While *Dunn* struck down durational residency, its constitutional rationale—as valid in the residency area today as when it was decided—goes much further and radically restricts the freedom of states to impose other temporal restrictions on the voting franchise, including “indefinite” or “permanent” intent-to-stay requirements.

⁴⁶ *Crawford v. Marion County Election Bd.*, 128 S.Ct. 1610 (2008).

⁴⁷ If State A permitted students (and others) to vote without establishing other indicators of residency, it would be appropriate for State B, whether or not it also required other indicators of residency, to inquire whether someone voting in State B also was registering to vote in State A. National or shared state databases, rather than restrictive residency requirements, would probably be the best way to prevent dual voting.

⁴⁸ The impermissibility of a “common interest” requirement actually precedes the analysis in *Dunn*. See *Carrington v. Rash*, 380 U.S. 89, 93–94 (1965).

⁴⁹ We do not have systematic evidence on this point, but it is contrary to our own experience as older adults and to experiences of others we have asked. Moreover, no registrar we talked to (see second section) volunteered that there are standard questions aimed at intent to stay asked of all new registrants.

⁵⁰ 128 S.Ct. 1610 (2008).

⁵¹ *Id.* at 1616.

Thus, the Hawaii Office of Elections acts unconstitutionally when it says in a factsheet, that “For voter registration and election purposes, a resident must . . . intend to make Hawaii their [*sic*] permanent residence at the time of registration.”⁵² Hawaii may properly require of voters that it be the *current* place of *bona fide* residence, but it may not require that it be their “permanent” residence. Also questionable—even though it does not use the word “permanent”—is a portion of Kentucky’s web site: “Although your physical location is a large factor in determining your residency, your intention of remaining in the area is a large factor as well. Before you register to vote in Kentucky, you might want to consider things like: how long you will be a student in Kentucky, your intention to remain in Kentucky. . . .”⁵³ Consider how many people, other than students, if asked these questions, might have to say “not much longer.” As we noted earlier, these people would not and could not be deprived of the right to vote in Kentucky on that basis.⁵⁴

We acknowledge that there may be brief periods in which a citizen can vote nowhere, such as when he clearly moves out of State A and into State B within 30 days before an election and State B has a 30-day “administrative convenience” period. Those brief, finite, interregnums—assuming they are constitutional—are vastly different from what would result from any effort to take “permanence” seriously. And even in the case of such a 30-day interregnum, Congress requires that the old state continue to allow the citizen to vote for president,⁵⁵ so that in the election most important to most citizens there is, indeed, no gap at all.

What does it mean to be a “resident”?

To this point, our analysis shows that with *de minimis* exceptions, a concept of “duration,” either backward or forward is not a legitimate standard for a jurisdiction to use to determine voting eligibility. The *de minimis* exceptions accommodate brief backward duration for administrative necessity and brief forward duration for cases of genuine transiency. The elimination of any substantial concept of duration still leaves us with the problem that the geographical nature of voting almost requires us to have ways of determining who is and who is not a *bona fide* resident of a state or locality. Without relying on duration, proper criteria must distinguish between true transients, such as vacationers, and oth-

ers without sufficient ties to the state from those who qualify as residents.

This problem can be addressed by imagining that we are posing this question—of which state do you consider yourself a resident?—to hypothetical individuals in a variety of circumstances, and assuming that the question is answered honestly. We believe an alternative question—are you in this state so that you can vote here, or primarily for other purposes?—is equally legitimate but less helpful for purposes of exposition than the more general “consider yourself” question we propose to use.

The “consider yourself” question, which is neutral and not targeted at any particular population, will exclude, for example, the person on vacation as well as the person owning a vacation home. Unlike Hawaii’s statement about an “intent to make Hawaii” a permanent residence, it does not highlight durational intent. When coupled with the commonly used 30-day pre-election period, most people who, though present in the state, are truly transient, will be excluded. Without further guidance or interpretation, however, our “consider yourself” question often is likely to be ambiguous for college students. For many college students, the honest answer to a question such as “which state do you consider yourself a resident of,” might be “well, I don’t really know. I used to live with my parents in State A. But I’m now attending college and living for most of the year in State B. And I really don’t know where I’ll end up after I graduate.”

Although that uncertainty does not justify the automatic exclusion of such a student from voting in State B, neither does the Constitution require that all out-of-state students be deemed residents of State B for voting purposes. Given that “*bona fide* residence” must mean something, it is constitutional for states to impose neutral, non-durational criteria that are germane to the nature of residency. Therefore, a state can require those wishing to vote in the state to show that they are satisfying other incidents of primary residency, such as treating themselves as

⁵² <<http://hawaii.gov/elections/factsheets/fsvs517.pdf>>.

⁵³ <<http://vote.ky.gov/about/college.htm>>.

⁵⁴ An error similar to Kentucky’s appears in a Virginia decision denying a student’s registration because the court “was not convinced that she intended to remain in Williamsburg indefinitely.” See Patrick Troy, *No Place to Call Home: A Current Perspective on the Troubling Disenfranchisement of College Voters*, 22 J. OF LAW & POLICY 591, 605–07 (2006).

⁵⁵ See note 18, *supra*.

residents of the state for tax purposes, driver's license, car registration, jury duty, and the like.⁵⁶ Though these criteria may "burden" someone's "right to vote" relative to a world of unfettered free choice, there is no ground for objection, because they are neutral and have a strong and genuine relation to residency.⁵⁷

The residence of many students who attend a college away from their old home town is not at all obvious, either as a matter of fact or as a matter of intent. Some will go back to their old home town upon graduation, continuing to think of it as "home." Others will stay in their new college town and think of it as "home" while they are students. And still others will move to other communities following graduation—to continue schooling or start careers. Some of these even anticipate doing just that while they are students.

Whichever category they fall in and whether or not they fall clearly into one category, they have a right to vote—somewhere. The difficulty arises in large part because the typical college student is in a transitional stage between youth and adulthood, between completing formal education and beginning a career, and most relevantly for our purposes, between living with parents or other guardians and living where career or other circumstances dictate. Though duration and permanence must be largely removed from consideration, state of mind (usually referred to in the law as intent) is inherently and inevitably an element of the concept of residence. It follows that students—and others similarly situated, such as members of the armed services—have an element of choice in determining their place of residence.

The student whose home has been State A and who goes to college in State B is therefore free to choose to vote in either of these two jurisdictions by having the necessary intent. But that is not the end of the matter. While a state cannot impugn a student's intent by simply relying on the fact (or its close variations) that he came to the state to attend college, and while it may not place special obstacles in the way of a student exercising this choice, a state can, in a neutral fashion, require the student to satisfy non-intent-based indicia of "bona fide residence." In practical terms, the state must acknowledge that students are generally free to choose their place of residence, but it can require them to do so consistently. Because State B can thus require an indivisible "intent"—if students choose to regard State B as their residence for voting they must regard it as

their residence for other core purposes—it may properly inquire whether students treat themselves as residents of State B for "resident-based" tax purposes, for driver's license and car registration purposes, for jury duty purposes, and the like. The test is subjective in the sense that the individual has control over each aspect of it, but it is objective in the sense that the state can require the outcomes—the external manifestations of residence—be consistent.

To say that states can tie voting to other normal incidents of bona fide residency does not mean that there are no limits to what states can do. First, there is the general principle that requires the neutrality of any bona fide residency test. A state cannot set up rules that disfavor students, as a group. Thus, if upon learning—or even surmising—that you are a college student, a voting registrar probes further into various attributes of residency than otherwise would be the case—into issues such as a "home address," property ownership, employment status, and the like—this discriminatory treatment of students would be unconstitutional.⁵⁸ The same questions would be unobjectionable if the state asks them of everyone in a nondiscriminatory fashion and if the questions otherwise have a bona fide purpose. Nor can a state conclude that a dorm room can never be a "residence" for voting purposes⁵⁹ or place special burdens on students in dorm rooms to prove residency.⁶⁰

Another form of discrimination, at least as objectionable, consists of asking questions or listing

⁵⁶ Such criteria are applied to voting by members of the armed services by Lisa Spilinek, "Exercise Right to Vote When Living Outside of Legal Residence," <<http://www.hanscom.af.mil/news/story.asp?id=123077219>> November 27, 2007. Other sources, while applying similar criteria, unnecessarily and erroneously entangle them with notions of duration or permanence. See Rod Powers, "Military Legal Residence and Home of Record," <<http://usmilitary.about.com/cs/militarylaw1/a/homeofrecord.htm>>.

⁵⁷ At least one state, Massachusetts, holds citizens "18 years or older and who reside in Massachusetts for 50 percent or more of the calendar" to be subject to jury duty. See <<http://www.williams.edu/home/parents/faq>>. If, as seems likely, "reside" is intended to mean "be physically present," then the language presumably covers most full-time college students, some of whom would not be Massachusetts residents, either by their own estimation or by objective criteria. On the other hand, Massachusetts, having made physical presence for half a year or more conclusive of residency for purposes of jury duty, would be in a weak position to deny that the same physical presence is sufficient for voting.

⁵⁸ See *Symm v. United States*, 439 U.S. 1105 (1979).

⁵⁹ *Williams v. Salerno*, 792 F.2d 323 (2d Cir. 1986).

⁶⁰ *Whatley v. Clark*, 482 F.2d 1230 (5th Cir. 1973).

as criteria matters that are likely to implicate students but are irrelevant to residency. Examples that are unfortunately typical are questions—reprinted in the Appendix—on Virginia’s web site, such as “[a]re you claimed as a dependent on your parents’ income tax return?”⁶¹ Dependency, for Internal Revenue Code purposes, has nothing to do with residency of adults,⁶² nor does the issue of who pays for insurance. The “bona fide residence” of a person over the age of 18 is determined by what that person says and does, not by what his parents do or where they live. Nondiscriminatory inquiries into the former are usually permissible; inquiries into the latter are, on their face, improper.

STATE LAWS AND THE GAP BETWEEN LAW AND PRACTICE

Though we believe the conclusions of the first section follow in a straightforward manner from the constitutional requirements set forth in *Dunn v. Blumstein*, we shall see in this section that state laws and their implementation are ambiguous and variable.⁶³ This, along with the fluidity of state laws and

local practice, lead us to eschew a state-by-state listing in favor of illustrating information requirements and administrative practices typically faced by college students across the country.⁶⁴ Our goals in this section are: 1) to demonstrate that there are substantial variations in applicable law across the states; 2) to document variation in practice within states; and 3) to highlight some of the practices that are incompatible with constitutional requirements.⁶⁵

We began our investigation by searching for state-specific, publicly available information on registration by college students. Guided by what we gleaned from the laws as well as our awareness, gained from previous research,⁶⁶ that certain jurisdictions were thought to be resistant to college-student registrations, we selected a number of states for in-depth investigation. We then selected localities within those states that contain colleges and universities, with attention to obtaining variation on the type of college, the size of the state, and the size of the local jurisdiction. In all cases, however, we chose localities in which there was a significant concentration of college students relative to the size of the county. We conducted phone interviews with registrars in the selected communities using a fixed protocol.⁶⁷

⁶¹ The Appendix reprints pertinent portions of the web sites or statutes of the states of Iowa, Missouri, Idaho, Virginia, and South Carolina, as well as one city, Greenwood, South Carolina. Our analysis of Virginia took place prior to work taken up by a task force, which has resulted in registrations much closer to our proposal, see http://www.sbe.virginia.gov/cms/Misc/Residency_Task_Force.html.

⁶² The program director of the Student Public Interest Research Group’s New Voters Project recently noted, “We have been registering young voters for 25 years. We registered 500,000 young voters in 2004, the majority on college campuses, and we’ve never heard of a single one who lost health insurance, scholarship or tax status because of where they registered to vote.” See Tamar Lewin, “Voter Registration by Students Raises Cloud of Consequences,” *New York Times*, September 7, 2008, at http://www.nytimes.com/2008/09/08/education/08students.html?_r=1&oref=login. See also Phil Boyum, “Voter Registration Rumors Clarified,” *Statesboro (GA) Herald*, at <http://www.statesboroherald.com/news/archive/6330/> (“Mark Green, a media relations specialist for the Internal Revenue Service in Georgia, said state rules have no bearing on federal tax guidelines. The IRS requirements for a person to be counted as a dependent on a taxpayer’s return and the notion of a dependent for voting registration status are not the same.”).

⁶³ See Elizabeth Aloi, *supra* note 40, at 289; Michael O’Loughlin and Corey Unangst, “Democracy and College Student Voting,” 3rd ed., Institute for Public Affairs and Civic Engagement, Salisbury University, 2006, 13–14.

⁶⁴ The first systematic work on college student voting categorized states largely on the basis of their laws. See KENNETH L. ESHLEMAN, *WHERE SHOULD STUDENTS VOTE? THE COURTS, THE STATES AND LOCAL OFFICIALS* (Lanham, MD: University Press

of America, 1989). O’Loughlin and Unangst, *supra* note 63, take greater account of how the laws are applied.

⁶⁵ We do not try to discover the reasons for state-to-state or within-state variation. If such an effort were made, hypotheses worthy of investigation would include the size of the student population relative to the non-student population; the partisan composition of the non-student population; the urbanicity of the local area; the percentage of students from out of state; the degree of authority granted to local officials; the partisanship of the local officials; the method by which local officials are selected; and the degree to which the college or interest groups serve as advocates. We note that states with questionable laws or practices are not exclusively Republican or Democratic (consider Hawaii and Idaho) or located in a single region (consider New Hampshire and Virginia, in addition to Hawaii and Idaho).

⁶⁶ Richard G. Niemi and Michael J. Hanmer, “Voter Turnout among College Students,” *Social Sciences Quarterly*, forthcoming; O’Loughlin and Unangst, *supra* note 63.

⁶⁷ We asked whether a student who went to high school in another town or city within the registrar’s state and who now goes to college in the registrar’s municipality could register there. After questions about what was needed to register (“Is an in-state drivers’ license with an address from outside your area acceptable?” “What if this student gets a drivers’ license with an address in [name of county/ municipality]?”), we asked about “a student who comes to your county/municipality from another state,” and asked additionally about whether an out-of-state driver’s license and a college ID were acceptable for identification purposes. Insofar as possible, we used the standard script, though at times the registrars sped up the interview—for example, by telling us that students were treated the same, regardless of whether they were from inside or outside their state.

To describe practices relating to registration by college students, we begin with the state law. We highlight information obtained from the Internet, since this is where many students would probably begin their search for information. If they begin their search on the site of a national interest group, they will be told that laws vary by state.⁶⁸ Armed with this knowledge, they may look for information specific to their location, which may include the web site of the state's chief electoral officer, usually the Secretary of State. What they will find will vary, but may be discouraging and sometimes misleading or wrong.

Laws facilitating student registration

We first describe the most straightforward cases—states in which students are told simply and directly that they may register either in their home town or in their college town. Iowa and Missouri represent such cases. The language of the state law in Iowa is unambiguous in its allowance of student choice; among the principles used to determine residency is one that deals directly with students:

5. A student who resides at or near the school the student attends, but who is also able to claim a residence at another location under the provisions of this section, may choose either location as the student's residence for voter registration and voting purposes.⁶⁹

Thus, a registrar who attempted to prevent a student from registering (assuming the student met the non-residency eligibility requirements) would be in violation of the law.

We characterize Missouri as a choice state as well, because of the clarity the Secretary of State brings to the issue through her web site, though, unlike Iowa, Missouri law itself leaves room for interpretation. The statutory qualifications set forth in § 115.133 of the Missouri Revised Statutes seem straightforward—any U.S. citizen who is a resident of Missouri, meets the age requirements, and is not barred from voting as a result of a criminal conviction can register to vote.⁷⁰ However, the Missouri code does not define residency and a 1969 Attorney General interpretation that bases a restrictive definition on an “informed” citizenry argument is rendered obsolete by subsequent constitutional developments, especially *Dunn*.⁷¹

Though statutory law in Iowa is expressly favorable to students while Missouri statutory law is am-

biguous, we classify both states as giving students freedom to choose where to register because students are much more likely to be guided by the Secretary of State's web sites than by the statutes themselves. The Iowa and Missouri web sites, shown in the Appendix in Displays 1 and 2, respectively, are clear. Both web sites are neatly divided into three sections to deal with students who are from the state but go to a school in a different county, students who are from the state but go to school in another state, and students at colleges in the state who are from out of state. The web sites advise students that they can choose to register in either their home town or college town and they make no mention of extra questions, additional factors, or special considerations. There are no threats of fines or other penalties, such as those we shall soon see on the web sites of other states. The only restriction mentioned is the obvious one—that students cannot vote in both their college and home towns. The Iowa web page, beyond what is shown in Display 1, even contains a special tip for out-of-state students. In describing the information that needs to be provided on the voter registration form, it suggests: “If your driver's license is from another state, use the last 4 digits of your SS.” In Missouri, the mail-in registration form, reachable from the Secretary of State's site, is relatively simple and does not contain any questions that might be used to identify, let alone discriminate against, students.⁷²

Potentially restrictive laws on registration

Idaho offers a good example of a different approach than that found in Iowa and Missouri. The student voting section of the Idaho Secretary of

⁶⁸ See, for example, the New Voters Project web site, <<http://www.newvotersproject.org>>, where one enters a state before being given rules about eligibility; readers are also told that states have different laws about voter identification. Or see <<http://www.declareyourself.com>>, which begins its questions and answers about registration by noting that each state has a different deadline for voter registration.

⁶⁹ Election Laws of Iowa, October 2008, §48A.5A at http://www.legis.state.ia.us/ElectionLaws/ElectionLaws.pdf#B_M_CHAPTER_48.

⁷⁰ Missouri Revised Statutes, §115.133 (2008).

⁷¹ For the Attorney General's opinion, see <http://ago.mo.gov/opinions/1969/168-69.htm>.

⁷² Though the Missouri Secretary of State web site is quite clear in allowing student choice, because of the ambiguity of Missouri's definition of residency, we investigated local web sites and conducted several interviews with local registrars. In each case we found that the registrar's interpretation matched that of the Secretary of State web site.

State's web site, the top-most result returned from googling "college student vote idaho," has the virtue of including quotations taken directly from the Idaho Code and cites authoritative sources such as the state constitution, and courts (see Display 3 in the Appendix). Though it uses some jargon, it is fairly readable. It is, usefully, addressed directly to college students, and it goes right to the heart of the matter—the question of residency.

Substantively, however, the message this site conveys is one of discouraging students from registering where they live at school. That message may faithfully reflect the Idaho statutes, but as we have seen, to the extent the statutes support the message they are questionable as a matter of constitutional law. The web page accurately characterizes Idaho Code Section 34-405, which says no one gains or loses a residence by reason of absence "while a student of any institution of learning." It also quotes paragraph (2) from Idaho Code Section 34-107, which in its definition of residence notes that parents' residence may be taken into account. This factor would not be considered for any group other than college students and it carries the obvious implication that if you have not completely moved out of your parents' house and ended their financial support, your parents' house should be regarded as your principal home.

Later on the web page, there is an interpretive list of "relevant factors," which *could* indicate, in neutral and non-threatening language, that if you register to vote in your college town, you need to cancel your registration (if any) at your previous residence. Instead, the first factor implies that if you registered previously, it counts against you in establishing a new residence. Consider also factor 10, which asks where one spends most of the year. Perhaps recognizing that college students usually live on their college campuses more than in their parents' homes, the question goes on to ask *why* one spends time elsewhere. Answers to such a query are subject to interpretation and call to mind how, in the pre-Civil-Rights-era South, responses to literacy questions were taken to mean whatever the registrar wanted. The screen ends by warning students that violations of registration laws "can subject you to criminal penalties."⁷³ And in apparent response to contentions that students have a right to vote "anywhere"—presumably a reference to the *Symm* case⁷⁴—the document proclaims that state law, not federal law, controls registration. While correct to some extent, this ignores the fact that the 14th and

15th amendments and the Voting Rights Act have, in fact, significantly curtailed state discretion when it comes to the fundamental right to vote.

Consistent with the tone of the Idaho Code and Idaho Secretary of State web site, the registrars we spoke to in Idaho did not think that registering at a student's college residence was a good idea and said they "recommended" that students register in their home towns. For example one registrar said that students could register in their college town, "but the Elections Office recommends that students vote at home and vote by absentee ballot when at school. . . . Residence is defined as a person's primary home. If a person is away temporarily, they should register and vote at home." As to students from out of state, "Such students should be registering at home and voting by absentee ballot when at school. But, they would be allowed to register according to the same provisions as students from other places in Idaho."

Virginia law leaves registrars with a great deal of leeway when it comes to determining whether or not college students can register in their jurisdiction. The authority granted to registrars follows from the ambiguities found in the definition of residence in Virginia law:

"Residence" or "resident," for all purposes of qualification to register and vote, means and requires both domicile and a place of abode. In determining domicile, consideration may be given to a person's expressed intent, conduct, and all attendant circumstances including, but not limited to, financial independence, business pursuits, employment, income sources, residence for income tax purposes, marital status, residence of parents, spouse and children, if any, leasehold, sites of personal and real property owned by the person, motor vehicle and other personal property registration, and other factors reasonably necessary to determine the qualification of a person to register or vote.⁷⁵

⁷³ The reference to criminal penalties has been removed from the web site. In the relevant paragraph, the current web site refers to registering as a serious matter that "should only be done after proper reflection." <http://www.idahovotes.gov/VoterReg/Students_Voting%20Residency.htm> (as of March 18, 2009).

⁷⁴ *Symm v. United States*, 439 U.S. 1105 (1979).

⁷⁵ Code of Virginia, Title 24.2 Elections, §24.2-101 at <<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+TOC2402000>>(since changed, see *supra*, note 61).

That registrars *may* consider a variety of factors, including “expressed intent,” “residence of parents,” and even “other factors reasonably necessary,” permits a wide range of interpretations from the least restrictive, in which students need only declare themselves residents, to the most restrictive, in which students must report where their parents live, their employment status, and so on. But if our analysis in this article is correct, interpretation of the Virginia statute should be constrained by the prohibition of a substantial durational residency requirement and by the affirmative requirement that any tests imposed on students must be applied to all. We doubt that registrars who ask students about their parents’ residence would ask the same of a 28-year old intern assigned to the local hospital or a 32-year old assistant professor seeking to register in a college town in Virginia, much less a 48-year old dean upon seeking to register to vote in the jurisdiction for the first time.

The Virginia State Board of Elections (SBE) site, like Idaho’s, is part of an official state site, is addressed directly to students, and is readily accessible through Google. Display 4 in the Appendix reprints the site as it appeared in May 2008. As of early September 2008, the site had been revised and the length roughly doubled, making it less easily interpreted. We comment on the revised site as appropriate.⁷⁶

The web site as it existed in May in its introduction appeared more inclined to student choice than the Idaho site, saying the students themselves are to determine where they vote:

You are the one to determine and declare the city, county and state in which you claim your legal residence. This may be the residence where your family lives, or the city or county and state where your school is located.

However, under the heading “What is my legal residence?” several items either guide many students toward registering at their prior home towns or contain thinly veiled threats that students might get into varying forms of trouble for registering at college residences. The first bulleted item wrongly states that students who are claimed as dependents by their parents for tax purposes must “probably” vote at their parents’ residence. The second item suggests that a student who votes at his college residence could possibly lose a scholarship, and the third sug-

gests that doing so might cause problems with car insurance. The fourth bulleted item suggests to the student that “you may want to use your college address” if the student is close to graduating and “intend[s] to live and work in the same community as your college after you graduate.” That suggestion is based on the incorrect idea that future intention is a factor in determining present residence, an idea that is stated more explicitly on the later version of the web page. Though the revised web site removes the statement regarding students’ status as dependents for tax purposes, other problems remain.⁷⁷

A closer examination of registration practices in several Virginia jurisdictions indicates that Virginia students are likely to encounter inconsistent results depending on the jurisdiction in which they seek to vote. Intrastate variation is even more significant than variation across states, but is not surprising in light of the ambiguity in Virginia state law.

The registrar from Williamsburg, Virginia, home to the College of William and Mary, said that students are treated just like anyone else. She was enthusiastic about college student voting, using words to the effect of “I am pro-college student registration” and that she wants to make sure that voting at college, which is often first-time voting, is not an “ordeal.” Nonetheless, she expressed concern about how registration might affect students’ other affairs, such as car insurance and scholarships. She said she encourages students to talk with their parents about these issues before registering to vote in Williamsburg and added that, while she is not required or bound by the duties of her job to inform students of these possible consequences, she intended to do so

⁷⁶ See <[http://www.sbe.virginia.gov/cms/Voter_Information/ Registering_to_Vote/College_Student.html](http://www.sbe.virginia.gov/cms/Voter_Information/Registering_to_Vote/College_Student.html)>. The May web site, which used the same url, can no longer be reached.

⁷⁷ For example, the September web site says that “in order to establish ‘residency,’ a prospective voter must . . . intend to stay for an unlimited time.” As a legal authority, it cites *Sachs v. Horan*, 475 S.E.2d 276 (Va. 1996). Moreover, the issue of dependency status on tax returns remains on a “self-guided questionnaire” intended to “assist applicants as they determine where their legal residence is.” The questionnaire also asks explicitly whether you are a college student and where you intend to live upon graduation. Interestingly, the questionnaire does not provide any actual guidance with respect to its stated goal, determining the place of legal residence. However, the last question leaves space for the applicant *or the registrar* to include any other relevant information (emphasis added). It is hard to interpret the questionnaire as a whole and this last suggestion in particular as neutral, let alone being inclined toward student choice.

in 2008 by distributing fliers to students. Williamsburg also represents an example of variation over time within the same area. Prior to our study, Williamsburg had been cited, under a previous registrar, for being resistant to student registrants.⁷⁸

In Fairfax County, Virginia, the location of the second largest college in the state, George Mason University, the registrar used the least restrictive interpretation of state law. He stated that college students, regardless of whether they were from in-state or out-of-state, can register there “if they declare Fairfax to be home. All they have to do to prove this is sign the registration form because there is a declaration at the bottom that all information provided is correct.”

Virginia registrars found on the opposite side of the spectrum established practices hostile to college students, though they recognized that some students would be registered. In Hampton City (Hampton University), the registrar observed that “self-supporting students are allowed to register to vote in Hampton City; students not dependent on their parents are allowed to register in Hampton City,” but she went on to say:

To determine student independence, the office uses guidelines from the state Board of Elections, including:

- Does the student file her own income taxes?
- Do the student’s parents claim her?
- Intent: is the student’s car registered here?
- Working is not a requirement to prove independence (lots of students are there on grants, etc.)
- Look at things a “regular resident” would do and see if the student does them.

Overall, if a student’s parents claim her, she is not a resident in Hampton City.

Although some of these criteria are legitimate, others plainly aren’t; overall, this registrar seems to be looking for a way not to allow students to register in Hampton City.

The response was similar in Lynchburg (Lynchburg College), where the issue of dependence on

one’s parents and durational residency came up. There the registrar said: “If your parents are still carrying you on their taxes, you are not a resident, you are not independent.” She went on to provide the following “general principle: you need to reside here. This is decided on an individual basis. If the residence question is unclear, the office will ask other questions on an individual basis to determine if the person is eligible.” When asked if a student living in a dorm could register, she declared that a dorm “is not a residence. This is not allowed. They are not a resident. They are not here all year.”

A registrar in Lexington City (Washington and Lee University) seemed to put a slight onus on the students, saying that she “asks the student[s] to decide if they have left their home and established residency where they attend school, or if they still consider home their residence and regard their residence at school as temporary.” She added that she “does not require students to prove intent [to remain], because that would mean that she would be asking more of students than any other voter attempting to register in [Lexington], and that would be discriminatory.” This registrar’s approach appears to be more or less consistent with our view of the substantive standards that should be applied to college students’ residency, but despite the registrar’s comment, it is unlikely she has succeeded in avoiding discrimination. Not unless all new registrants who have moved into Lexington, such as a visiting professor or the hypothetical dean we earlier mentioned, are asked about their former residence.

South Carolina represents an interesting case of vague law resulting in inconsistency, sometimes even within a single election office. The definition of domicile in the state code, as shown in Display 5 of the Appendix, relies on the commonly used notion that residency requires the “present intention”

⁷⁸ See, for example, Andrew Petkofsky, “Students’ Voting Suit Is Dropped/But Lawyer Says System Could Still Deny Others Right to Register to Vote,” *Richmond Times Dispatch*, October 15, 2005, B7. We also found that registrars in two locales in New York (Oneida County and Onondaga County) that have been cited for their resistance to student registrants are now open to it. See, for example, “Hamilton Student Battles to Register to Vote Locally,” *The Post Standard*, Syracuse, NY, April 30, 2004, Madison edition, B1. See also RONALD HAYDUK, *GATEKEEPERS TO THE FRANCHISE: SHAPING ELECTION ADMINISTRATION IN NEW YORK* 60–62, 67–68 (DeKalb: Northern Illinois University Press, 2005).

not to leave one's declared home. That language is ambiguous on whether durational residency is required.

Concise and seemingly clear information on student registration is easy to find on the South Carolina Election Commission web site. Under the heading "Students," it says: "Students may register to vote where they reside while attending college."⁷⁹ As was the case with Virginia, however, our investigation of local practice revealed a variety of interpretations.

Although local web sites with information for college students seem to be rare, we discovered one such web site for Greenwood, South Carolina (shown in Display 6 of the Appendix). The message for students is clear, if contrary to law as interpreted by the State Election Commission: future intention is crucial, and "**only**" (boldface in original) students who intend to remain "permanently" in Greenwood can register there. This firm injunction appears on the same site as the declaration that the office is "dedicated to the principle and the importance of each citizen's right to register. . . ."

At the other end of the spectrum, a number of registrars provided interpretations consistent with the one found on the State Election Commission web site. For example, in Charleston (Citadel, College of Charleston) the registrar explained that students simply decide for themselves where their legal residence is. Once decided, students follow the same procedures everyone else does. "Nothing else is needed to prove legal residence." Similar information was provided by registrars in Orangeburg County (South Carolina State University), and Pickens County (Clemson University).

An extreme case of within-state variation was uncovered in Richland County. The first person we spoke to in Richland County (University of South Carolina) said somewhat hesitantly that students could register there. As the interview progressed, he realized that he was uncertain of the answers to some questions about identification needed, and asked us to speak to another person in the office. That person gave a decidedly more restrictive picture of whether students could register there. This suggests a fundamental problem with vague rules and the resulting subjectivity: The "rules" laid out to inquiring students may very well depend on whom in the registrar's office they speak to.

CONCLUSION

While there are relatively few reported instances of college students being barred from registering in their college towns, the variation across states, across local jurisdictions, and even across officials in the same place (presently and across time) suggests the need for greater clarity in the applicable laws. This is particularly so where ambiguity in terms (such as intent to stay) can be shaded depending on circumstance, leading to official discretion in an area where there should be little local right to make voting more difficult for some than for others.

Our assessment of the legal landscape and implementation of federal (including constitutional) and state laws leads us to the following conclusions. Current federal law, we contend, establishes a number of important ground rules that apply to students nationwide: 1) students cannot be stopped from voting in their college towns simply because of their status as students or because they may live in dormitories; 2) students cannot be asked to meet residency requirements that are greater than those imposed on other adult citizens; and 3) residency periods (for all persons) cannot typically be more than 30-days and are for "administrative convenience," not to ensure the voter's familiarity with the local area. At the same time, we also contend that states, if they wish, may ask students to meet "full residency" requirements. These are requirements imposed on all who seek to establish themselves as state residents. They include such things as obtaining an in-state driver's license, registering one's car in the state, paying state income taxes (where applicable), and responding to calls to jury duty.

But this list is limited. As a result, state (and local) discretion is likewise limited. To avoid official dissemination of imprecise or incorrect information, we favor the development of a standardized list of information, and questions, that should be asked of *all* first-time newly-moved registrants, including (but not limited to) students. This needs to be done in a way that is sensitive to legitimate concerns—do you have a "residence-specific" scholarship—without creating concern where none should exist (as the vast majority of scholarships do not have res-

⁷⁹ <http://www.scvotes.org/south_carolina_voter_registration_information>.

idency restrictions that would be lost upon declaring a new residency in order to vote). Since the legitimate field of inquiry is narrow, and the issue of discriminatory application large, we would favor the development of uniform standards for information and questions to be given to first-time registrants that would get at legitimate “residency” issues and concerns without tilting the scale in the direction of discouraging registration. Although we recognize that issues of enforcement could open up a new set of concerns, enforcement is beyond the scope of the present endeavor. One way that these concerns could be addressed is through collaboration between the interested parties aimed at drafting model programs and guidelines for implementation.

A complication on the road ahead?

While the revolution that began in the early 1970s leads, we believe, to the notion that, *as a matter of residency*, college students have a choice (subject to fulfilling other bona fide residency requirements a state might neutrally impose)—and thus to our questioning of the obvious obstacles, misinformation, and confusion surrounding the ability of college students to vote in their college town—a new issue has emerged that has, ironically, some potential to roll the ball back down the hill, at least somewhat.

We speak here of the recent “anti-voting-fraud” requirements, started by the “Help America Vote Act” (HAVA) of 2002 and further implemented by states, that impose ID requirements on voting. Among the provisions of HAVA are requirements that applications for voter registration for an election for federal office may not be accepted unless the application includes “(I) in the case of an applicant who has been issued a current and valid driver’s license, the applicant’s driver’s license number; or (II) in the case of any other applicant . . . the last 4 digits of the applicant’s social security number.”⁸⁰ For voters who register by mail, a state must, “in a uniform and nondiscriminatory manner,” require the individual to present either “a current and valid photo identification” or “a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter.”⁸¹ HAVA goes on to describe these requirements as “minimum requirements,” and adds that nothing in HAVA “shall be construed to prevent a State from establishing

election technology and administration requirements that are more strict than the requirements established” in HAVA.⁸²

States have, in fact, gone further than this, by requiring either government-issued photo IDs, or by requiring IDs (or utility bills, bank statements, and the like) with a current address. The constitutionality of at least some of these requirements was addressed by the 2008 decision of the Supreme Court in *Crawford v. Marion County Election Board*, with the Court upholding the Indiana photo-ID law.⁸³ These requirements, while directed at voter fraud, may—without flexibility in the system or creative work by colleges and universities⁸⁴—create new burdens for college students.

Although these requirements are “neutral,” as they are not focused on college students, and are not tied to any notion of durational residency *per se*, they create challenges and barriers that affect college students as a class more than most, especially newly-arrived college freshmen. College students arrive at various times between August and October. In many cases they might have a little over a month to first decide that they want to vote in the college town and then figure out when and where to register. Given the short window, it is unlikely that they will have received a government-issued photo ID, utility bill, bank statement or the like—especially those who live in dorms (which may not have a street address), receive mail at the student union or a post-office box, live in groups, and so on.⁸⁵

These voter ID rules will disfranchise students—or, at a minimum, prevent students from choosing where they vote—unless they accommodate the realities of student life, among which are the facts

⁸⁰ 42 U.S.C. § 15483(a)(5)(A)(i).

⁸¹ 42 U.S.C. § 15483(b)(2)(A).

⁸² 42 U.S.C. § 15484.

⁸³ 128 S.Ct. 1610 (2008).

⁸⁴ Oberlin College has, for example, worked with the Ohio Secretary of State so that colleges “can issue utility bills to their students, enabling them to fulfill the state’s voter residency requirements.” Marvin Krislov, “Laying a Foundation for Voting,” *Washington Post*, April 12, 2008, A15, at <<http://www.washingtonpost.com/wp-dyn/content/article/2008/04/11/AR2008041102822.html>>.

⁸⁵ One estimate—from a poll conducted by Rock the Vote—is that 19 percent of 18–29-year olds do not have a government-issued photo ID with their current address. See “Supremely Wrong,” April 28, 2008, at <http://www.blog.rockthevote.com/2008_04_01_archive.html>.

that semesters often don't start until after Labor Day and that dorm rooms often don't have "street addresses." Colleges may often be able to avoid problems by designating street addresses for their dorms and, in the case of public institutions,⁸⁶ issuing photo IDs with addresses at the time of student registration.

Since these appear to be unintended consequences of HAVA and more restrictive state rules given license by HAVA, we hope that states will recognize this and create a sensible system that implements student choice and voting. However, given the continuing and sometimes flagrant resistance to students voting in their college towns—as not "really" local and "tied" to the community—despite the more than 35 years since the revolution of the early 1970s, there is no particular reason for optimism that such remedies will be widespread. In our view, and unless Congress re-enters the fray, this is likely to provoke yet another round of constitutionally-based litigation to reestablish for students the choice they theoretically won in the 1970s, but which has been painfully slow to be implemented and which is now further threatened, not by foot-dragging by state officials, but by unintended, though well-meaning, consequences of a solution to another problem—that of voting fraud.

APPENDIX

Display 1: Iowa Secretary of State Web Site "College Student Vote."

Iowa Resident Attending College in Iowa

If you are an Iowa resident attending college at an Iowa school (i.e. University of Iowa-Johnson County) that is in a different county than your hometown (Des Moines-Polk County), you may register to vote in:

- your hometown or
- your college town

(You cannot register to vote in both locations)

Absentee Voting

Whether you decide to register in your Iowa hometown or your Iowa college town, you may request

an absentee ballot. You must request an absentee ballot by completing an Official Absentee Ballot Request form and returning it the county auditor in the county where you are registered to vote.

Iowa Resident Attending College Outside Iowa

If you are an Iowa resident (i.e. Council Bluffs) attending college in another state (i.e. University of Nebraska), you may register to vote in:

- your Iowa hometown or
- your college town - subject to the laws of the state you go to college in

(You cannot register to vote in both locations)

Absentee Voting

If you are registered to vote in Iowa and attending school in another state, you may request an absentee ballot for an election taking place while you are away at school. You must request an absentee ballot by completing an Official Absentee Ballot Request form and returning it the county auditor for your hometown.

(You cannot register to vote in both locations)

Non-Iowa Resident Attending College in Iowa

If you are from another state (i.e. Missouri) and are attending college in Iowa (i.e. Iowa State University), you may register to vote in:

- your Iowa college town or
- your home state (hometown) and vote absentee - subject to the laws of your home state

(You cannot register to vote in both locations)

Your decision of where to register to vote will determine which candidates and what issues appear on your ballot.

For more information about registering to vote and elections, contact your county auditor or the Iowa Secretary of State's Office.

⁸⁶ Private institutions cannot issue "government" photo IDs.

Note: Text was taken directly from the web site in 2008. It has since changed the exact wording. Not shown are headings indicating where to get further information.

Source: <<http://www.sos.state.ia.us/elections/VoterInformation/CollegeStudents.html>>.

Display 2: Missouri Secretary of State Web Site “Voting in College.”

Voting In College

Any citizen of the United States who is a resident of the state of Missouri and seventeen years and six months of age or older is entitled to register for and vote in any election held after their eighteenth birthday.

Residency in the state of Missouri is a requirement to register to vote as a Missouri voter. College students have the option of declaring their residency from their home residence, their parents home for example, or from their college residence.

Different registration and voting options may be available to you depending on where you register to vote and where you are attending college. Please select one of the options below for information on registration and voting.

- **Missouri resident attending college in Missouri**
- **Missouri resident attending college in another state**
- **Non-Missouri resident attending college in Missouri**

Note: Text is taken directly from the web site. Not shown are other clickable headings that are part of the web site.

Source: <<http://www.sos.mo.gov/firstvote/college/>>.

Display 3: Web site with Information on Registration and Voting for College Students in Idaho

Students and Voting Residency

The advent of election day registration in Idaho and how it interacts with the concept of “voting resi-

dence” has been a source of controversy in various college towns throughout Idaho.

The crux of the student registration and voting controversy is the question of whether you, as a student, can establish a residence for voting purposes, and if so, how can this be determined by registration officials.

In Idaho Constitutional (Article VI, Sec. 5) and statutory provisions (34-405, I.C.) provide that no person is deemed to have gained or lost a residence for voting purposes by reason of his presence or absence while a student at any institution of learning. These provisions have the effect of treating physical presence as a neutral factor in determining voting residence and therefore other factors must be looked at.

Section 34-107, Idaho Code, defines residence for voting purposes:

(1) “Residence,” for voting purposes, shall be the principal or primary home or place of abode of a person. Principal or primary home or place of abode is that home or place in which his habitation is fixed and to which a person, whenever he is absent, has the present intention of returning after a departure or absence therefrom, regardless of the duration of absence.

(2) In determining what is a principal or primary place of abode of a person the following circumstances relating to such person may be taken into account business pursuits, employment, income sources, residence for income or other tax pursuits, residence of parents, spouse, and children, if any, leaseholds, situs of personal and real property, situs of residence for which the exemption in section 63-602G, Idaho Code, is filed, and motor vehicle registration.

(3) A qualified elector who has left his home and gone into another state or territory or county of this state for a temporary purpose only shall not be considered to have lost his residence.

(4) A qualified elector shall not be considered to have gained a residence in any county or city of this state into which he comes for temporary purposes only, without the intention of making it his

home but with the intention of leaving it when he has accomplished the purpose that brought him there.

(5) If a qualified elector moves to another state, or to any of the other territories, with the intention of making it his permanent home, he shall be considered to have lost his residence in this state.

This section in essence sets forth the concept of domicile ie. principal or primary home or place of abode of a person.

Idaho courts have held that “for a change of domicile to occur, the fact of physical presence at a dwelling place and the intention to make it a home must concur and when such domicile is established, it persists until another is legally acquired. Kirkpatrick v. Transtector Systems 114 Id. 559.

The rules of the State Board of Education (IDAVA 08.01.04.005.08) define domicile as follows:

“Domicile” means an individual’s true, fixed, and permanent home and place of habitation; the place where the individual intends to remain and to which the individual expects to return when he leaves without intending to establish a new domicile elsewhere. The establishment of domicile in Idaho occurs when a person is physically present in Idaho primarily for purposes other than educational and can show satisfactory proof that such person is without a present intention to return to another state or acquire a domicile at some other place outside the state and the person has met any other applicable requirements of this chapter.

The above mentioned materials require that college students must establish, as with all other voter registration applicants, that the locale within which they seek to register and vote is their domicile i.e. that they are living in the college community with the intention of abandoning their former domicile and with the intention of remaining permanently, or for an indefinite length of time, in the new location.

Some of the factors which may be relevant in determining whether domicile has been established for voting purposes by a student as well as any other applicant, are as follows:

- (1) Has the applicant registered to vote elsewhere?
- (2) If married, where does his or her spouse reside?
- (3) Where does the applicant keep his personal property?
- (4) Does the applicant have any community ties to the locale he claims as his domicile – membership in church, social or service clubs, etc?
- (5) Where does the applicant maintain his checking and saving accounts, if any?
- (6) Where does the applicant pay taxes, and what address did he list as his residence on his last income tax return?
- (7) What is the residence listed on the applicant’s driver’s license?
- (8) If the applicant owns an automobile, where is it registered?
- (9) If the applicant is employed, where is his job located?
- (10) Does the applicant live year round at his claimed domicile, or does he divide it elsewhere? If it is divided, how much time is spent elsewhere and for what reason?
- (11) What residence does the applicant list on his selective service registration, hunting or fishing licenses, insurance policies, or other official papers and documents which required a statement of residence or address.

As a student, you should not be registering and voting in your college locale simply because you failed to register and vote at your true domicile. Registering to vote is a serious matter which, if abused, can subject you to criminal penalties. It should be noted that there is no federal right to vote anywhere in the United States for the office of President. State laws control registration and voting and State residency requirements must be met.

We need and want all students to vote at their legal domicile.

Note: Text is taken directly from the web site. Not shown are other headings that are part of the overall “IdahoVotes” web site.

Source: <http://www.idahovotes.gov/VoterReg/Students_Voting%20Residency.htm>.

Display 4: Web Site with Information on Registration and Voting for College Students in Virginia (as of May, 2008)

Registration & Voting Information for College Students

Where should I register to vote?

Register to vote in the city or county in which you are a legal resident.

What is my legal residence?

You are the one to determine and declare the city, county and state in which you claim your legal residence. This may be the residence where your family lives, or the city or county and state where your school is located. Consider the following questions to determine which to declare:

- Are you claimed as a dependent on your parents’ income tax return? If you are, then their address is probably your legal residence.
- Do you have a scholarship that would be affected if you changed your legal residence? Some scholarships require that the student be a resident of a particular town, city or state. Contact the provider of your scholarship to determine if a change in your legal residence will affect your scholarship.
- Would your health, automobile or other insurance coverage be affected by a change in your legal residence? If you are covered under your parents’ insurance policy, your protection could be affected by a change in your legal residence.
- Are you close to graduation and intend to live and work in the same community as your college after you graduate? If you do, then you may want to use your college address as your

legal residence if you will not be affected by the issues listed above.

- Also consider that many students move frequently while in college and after graduation. You must update your address with the registrar each time you move to keep your voter registration valid, regardless of the address you use as your legal residence.

How do I register to vote?

If you declare your legal residence in Virginia, you may obtain a Voter Registration Application online or request an application from your local Voter Registrar or obtain an application at any Virginia Department of Motor Vehicles. Several other agencies in Virginia can supply voter registration applications, such as transportation providers for the disabled and social services agencies.

- Fill out the application completely.
- Do not leave any questions blank.
- Be sure to sign the application.

Return your completed and signed application to the DMV, transportation provider or other agency where you obtained the application, or mail it to your Voter Registrar in the city or county of your legal Virginia residence. You will receive your Voter Registration Card by return mail to the address you listed on the application.

If you declare your legal residence in another state, do not register to vote in Virginia! Contact the voter registrar in the county or city of your home state for information on how to register and vote, or check the home page of your state government’s web site.

Most states also accept the National Mail Voter Registration Form available online at www.fec.gov/votregis/vr.htm. Print, complete and mail this form to your home state.

How do I vote in Virginia if I go to college away from home?

If you have declared Virginia as your legal residence, are registered to vote in Virginia and attend school away from the city or county of your legal residence, you are entitled to vote by absentee ballot if you can-

not return home to vote. Click here to read about and request an Absentee Ballot Application.

Note: You must vote either in person at the precinct shown on your voter registration card, or by absentee ballot. Online voting is not available in Virginia.

How do I vote in Virginia if I go to college and live at home?

Vote at the polling place printed on your Voter Registration Card.

Virginia State Board of Elections

Suite 101, 200 North 9th Street, Richmond,
Virginia 23219-3485
Telephone: 804 864-8901
Toll Free: 800 552-9745 FAX: 804 371-0194

Note: Text is taken directly from the web site. Not shown are other headings that are part of the overall “Virginia State Board of Elections” web site.

Source: <http://www.sbe.state.va.us/cms/Voter_Information/Registering_to_Vote/College_Student.html>.

Display 5: Definition of Domicile in the South Carolina Code of Laws

SECTION 7-1-25. “Domicile” defined.

(A) A person’s residence is his domicile. “Domicile” means a person’s fixed home where he has an intention of returning when he is absent. A person has only one domicile.

(B) For voting purposes, a person has changed his domicile if he (1) has abandoned his prior home and (2) has established a new home, has a present intention to make that place his home, and has no present intention to leave that place.

Source: South Carolina Code of Laws, at <<http://www.scstatehouse.net/code/t07c001.htm>>.

Display 6: Web site with Information on Registration and Voting for College Students in Greenwood SC

Voter Registration & Elections

Voter Registration & Election Office

**600 Monument Street, Suite 113
Park Plaza, Box P-117
Greenwood, South Carolina 29646**

Telephone: 864-942-8585

The Greenwood County Voter Registration and Elections Office processes and updates all information related for our voters. The County’s files are part of an internal interactive statewide computerized voter registration database. This database serves as one source for selection of jurors in the city and county; it further provides the information used for all elections.

The department trains all election personnel, provides election materials, and performs all technical functions on the electronic voting machines for Greenwood County elections. These elections include federal, state, county-wide offices, school district trustees, municipal and special elections. The department educates the public about the election process and encourages the public to participate in all elections.

We also coordinate the activities of the County Board of Voter Registration and Election Commission members. Our office is dedicated to the principle and the importance of each citizen’s right to register, and once registered, their right to vote in a fair and unbiased process.

VOTER REGISTRATION INFORMATION

You are qualified to vote in Greenwood County if you meet the following requirements:

- You are a US citizen.
 - You are eighteen (18) years old.
 - You are a legal resident of Greenwood County.
 - You have not been declared mentally incompetent by a court of law.
 - You are not currently serving a sentence for a felony conviction.
 - You have not been convicted of a felony or offense against the election laws, or if previously convicted, have served the entire sentence, including probation or parole, or have received a pardon for the conviction.
-

YOU MAY REGISTER TO VOTE AT THE FOLLOWING LOCATIONS:

- The Greenwood Voter Registration Office, Suite 113, Park Plaza, 600 Monument Street.
- Department of Motor Vehicles
- Department of Social Services
- Department of Public Health
- A mail form can be obtained at the following link : [Click here.](#)
- You may also call the Voter Registration Office at 864-942-8585 and we will mail you the proper form.

You can register at any time. You must be registered at least thirty (30) days prior to any election in order to vote in that election. Mail applications must be postmarked at least thirty (30) days prior to an election to qualify to vote in that election.

Once a person has registered to vote, they do not have to re-register. However, if you fail to vote in two (2) general election cycles, the state may make your registration inactive.

Should you lose, misplace, or accidentally destroy your voter registration card, a duplicate card is available upon request at no charge.

STUDENT REGISTRATION

Students should register to vote in their home county - county of origin. Students may register to vote where they attend college *only*, if they intend to remain in the community permanently after graduation.

[Screen continues.]

Note: Text is taken directly from the web site. Not shown are links to additional information.

Source: <<http://www.co.greenwood.sc.us/voter.aspx>>.

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