
Coates' Canons Blog: College Student Voting in Light of 2013 Elections Legislation

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UPDATE February 2017: In July 2016 the federal Fourth Circuit Court of Appeals issued an injunction against elements of the 2013 legislation, prohibiting enforcement of the photo ID requirement described in this post. The matter is before the United States Supreme Court.

Starting in 2016 at North Carolina polling places you will have to present a photo ID to vote. That's the result of one of many elections changes in the Voter Information Verification Act passed by the 2013 General Assembly. How will voter ID affect North Carolina college students who wish to register and vote in their college towns, not back home where their parents live?

Imagine that it's 2016. North Carolina's new photo-ID-to-vote requirement is in place.

The In-State Student

Think of Jennifer Student. She grew up in Nash County and finished high school there. She goes off to UNC-G as a freshman. If she considers her UNC-G dorm as her residence and she has no plan to return to her parents' home when she finishes school, she may register to vote in Guilford County, just as before the new photo-ID law was passed. She uses 202-D Jones Hall, Greensboro, as her voter registration address. Nothing in the new law changes that. If Jennifer has a North Carolina drivers license, she can show that at the polls when she goes to vote and should have no problem. Now, in all likelihood Jennifer will not have changed the address on the drivers license, so the address that she shows to the precinct officials on her drivers license (in Nash County) will not be the same as the address that the pollbook shows as her voter registration address (Jones Hall, Greensboro, Guilford County). That should not matter. If she asserts that in fact Jones Hall is her residence address, she will be allowed to vote. The photo ID must, according to the new law, be unexpired and it must bear a reasonable resemblance to the person, but there is no requirement that the addresses match.

So, in-state students who have a valid, non-expired NC drivers license should be able to vote using that ID, even if the address shows a different town. They should not have substantial trouble.

Even though the law on residency has not changed, the photo ID requirement may prompt more challenges to voters. Any voter of the county may challenge the eligibility of any other voter of the county either at the county board of elections 25 or more days before election day or at the polls when the person presents herself to vote. One basis for a challenge is that the voter does not actually reside in the county. The mere fact that the address on the drivers license does not match the address on the registration record is not, by itself, sufficient grounds to sustain a challenge. Nevertheless, the attention being given to the photo ID requirement may prompt a challenge based on the discrepancy in addresses even if the challenge would not be successful.

North Carolina students enrolled in North Carolina colleges who want to vote in the college town will have a harder time if they do not have a drivers license. I am willing to go with the assumption that the vast majority of enrolled college students do in fact have drivers licenses, but surely some percentage do not. Those folks will have to make other arrangements, most likely a DMV ID card or a passport.

The Out-of-State Student

Now think of Johnny Undergraduate. He grew up in Roanoke, Virginia and finished high school there. He comes to UNC-Charlotte as a freshman. He has the right to consider his college dorm his residence, just as Jennifer Student does, and

he may register to vote there (in Mecklenburg County) just as Jennifer does. He has a Virginia drivers license. Under the new law, his out-of-state drivers license is valid ID to show at the polls for the first 90 days that he is registered. The idea is that people who have moved to North Carolina deserve some slack time to get their ducks in a row and get a North Carolina drivers license. They can continue to use their old (unexpired) out-of-state license for 90 days after they register.

So, Johnny registers to vote in Mecklenburg County. In the May primary (within 90 days after he registers), he goes to vote. All should be well, just as it was for Jennifer. He uses his Virginia drivers license as his photo ID and he votes. As with Jennifer, the fact that the address on the drivers license does not match the address on the registration books will not keep him from voting—even though the license address is in another state.

The problem for Johnny will come when he goes to vote in the November general election. That is more than 90 days after he registered (remember, he voted in the May primary). He may no longer use his Virginia ID to vote. He will have to use some other ID—such as a passport. Whether he can get a North Carolina DMV ID card while still holding a valid Virginia drivers license is unclear. Perhaps he could go all the way and get a North Carolina drivers license.

End of Out-of-Precinct Voting

The Voter Information Verification Act contains a second provision that could have an affect on college student voting: it bans out-of-precinct election day provisional voting.

There are three ways to vote: (a) mail-in absentee ballots; (b) early voting, which is in fact one-stop absentee voting; and (c) regular election day voting.

Mail-in absentee voting is fully available to students. North Carolina students attending North Carolina colleges may continue to consider their parents' homes as their residence and may return there to vote or may vote by mail-in ballot. Jennifer Student, if she does not consider her dorm room at UNC-G to be her residence, may retain her residence at her parents' home and vote in Nash County by mail-in absentee ballot.

Early voting is actually a form of absentee voting. During the early voting period, any voter of the county may go to any early voting site in the county and vote. The photo ID requirement applies at early voting sites just as it does at the precinct on election day. In 2012, 56% of all voters in North Carolina voted by early voting. Jennifer Student, if she has registered to vote using her dorm address, may vote at an early voting site in Guilford County.

The traditional way of voting is at the assigned precinct on election day. Every voter, including, of course, a student registered at a college address, is assigned a precinct based on residence address. On election day, the voter may go to his or her precinct and vote. Before VIVA, a voter on election day had a further choice: go to any precinct in the county and vote. If that precinct was not the voter's assigned precinct, the voter would be allowed to vote a provisional ballot, which would count for all races for which the voter was eligible to vote. (There may be some races—elections by district, for example—on the ballot in the chosen precinct for which the voter would not be eligible to vote.) Such a voter's vote for president or governor and may other offices would count, since everyone is eligible to vote for those offices regardless of place of residence.

Now, with VIVA, if you are to vote on election day you must vote only at your assigned precinct. This change could conceivably have an impact on college students who are not accustomed to the idea of voting in particular precincts and who may be unfamiliar with the local geography.

A Significant Concern Unrelated to 2013 Legislation

An issue that may affect college student voting to a greater extent than the 2013 legislative changes involves the siting of election-day polling places and early voting sites. Will students, as a practical matter, be able to get to the polls with sufficient convenience? This potential problem is not related to new legislation. The authority to set polling places and early voting sites rests with the county boards of elections, as overseen by the State Board of Elections.