

APPENDIX I

Adding Names, Maintaining and Purging the Checklist A Reference for Town Clerks and Boards of Civil Authority

The National Voter Registration Act of 1993 required changes in registration and purging procedures. Towns and cities that operate under governance charters should note that the provisions of this federal law override the provisions of individual charters. You may want to suggest that your charter be amended to conform to these requirements.

Deadline for Voter Registration/Adding Names to the Checklist

Prior to July 1, 1997, voter registration applications had to be received at the town clerk's office by noon on the second Saturday before an election. Now voter registration applications must be accepted as long as they are postmarked on or before the deadline or have been submitted or accepted by the Department of Motor Vehicles or any voter registration agency on or before the deadline. 17 V.S.A. §2144(a). Designated voter registration agencies are the Department of Social Welfare (ANFDC, Medicaid and food stamps), the Department of Health (WIC program), the Department of Aging and Disabilities and the Department of Mental Health. If any other agencies are added, we will notify you.

For example, the Montpelier office of the Department of Motor Vehicles receives 25 voter registration applications on the Friday prior to the registration deadline. DMV delivers the forms to the Office of the Secretary of State. The Secretary of State's Office mails the forms to town clerks on the Monday after the deadline. The town clerk receives them on Wednesday. Those applications are valid for the upcoming election, because they were submitted to a voter registration agency prior to the deadline.

If you receive a voter registration form that is for an address not in your town, please forward it promptly to the correct town clerk. These applications for the upcoming election are valid if they were postmarked on or before the Monday deadline (even though originally sent to the wrong clerk's office).

What happens when a voter arrives at the polling place and finds that her name is not on the checklist? If the voter has a copy of the voter application form submitted to a voter registration agency prior to the deadline for voter applications, or if the voter completes a sworn affidavit, and the BCA determines that she is otherwise eligible to vote, an election official may administer the Voter's Oath, if necessary, add her name to the checklist and allow her to vote. If the voter application was made after the second Monday before the election, the voter is not eligible to vote.

Day of Election--Voters Who Have Moved Within A Municipality

A voter who has moved from one address to another address within an area covered by the same polling place may vote, upon oral or written affirmation by the voter, at the polling place. An affirmation by the voter does not require proof of change of residency. 17 V.S.A. §2149(b)(1).

A voter who has moved from an area covered by one polling place to an area covered by another polling place within the same municipality may vote upon oral or written affirmation at the appropriate polling place. 17 V.S.A. §2149(b)(2).

Boards of Civil Authority assure that election officials at each polling place have access to the entire checklist of the municipality, not just the checklist for that particular polling place. Having a certified copy of the checklist for the municipality allows poll workers to confirm the voter's previous residency in the municipality. The checklist can be done by: 1) a copy at each polling place; 2) computer access to the checklist; or 3) telephone to the clerk's office to verify status.

Removing Names from the Checklist/Purging

Vermont's system of certifying the purging of checklists in odd-numbered years remains, but federal law requires that the biennial purge and any other systematic purges must be completed at least 90 days before any federal, state or local election. 17 V.S.A. §2150(b).

The Board of Civil Authority must review the checklist to find those voters whose residency cannot be determined to be within the town or city. The BCA decides to send first-class notices to voters whose residency status cannot be determined. In order to conform to federal law, the notice must contain the following information (17 V.S.A. §2150(d)(3)(A) and (B):

- 1) a pre-addressed, postage paid return card;
- 2) notification that if the voter has not changed his or her residence or has changed residence within the area covered by the checklist, the voter must return the pre-addressed, postage paid card prior to the next voter registration deadline;
- 3) notice that if the voter does not return the card, oral or written affirmation of residence will be required prior to voting;
- 4) information on how to continue to be eligible to vote if the voter has moved to another municipality.

Each municipality must send its purging notices with the required U.S. Postal Service language for requesting change of address information. 17 V.S.A. §2150(d)(3). According to the U.S. Postal Service, any letter sent first-class with the correct inscription under the return address will be returned to the sender with an address correction if a correction is on file.

If the voter returns the pre-addressed, postage paid card confirming the voter's continued residence in the municipality, the voter's name remains on the checklist. **If the voter returns the pre-addressed, postage paid card confirming that the voter no longer resides in the municipality, the Board of Civil Authority may remove the voter's name from the checklist.** 17 V.S.A. §2150(d)(4). If the voter does not return the pre-addressed, postage paid card, the Board of Civil Authority cannot remove the voter's name from the checklist until the day after the second general election after the date of the notice. 17 V.S.A. §2150(d)(5). For example: the Board of Civil Authority sends a purging notice to Jean Jones on August 20, 1997. Jean never responds to the notice. The Board of Civil Authority may not remove Jean Jones' name from the checklist until Wednesday, November 8, 2000, the day after the second general election after the notice was mailed.

If a voter returns a card stating that she is still a resident of the town, but facts known to the BCA indicate that she is not, the Board of Civil Authority will have to determine whether a challenge to the claim of residency is necessary. If the Board wishes to challenge the voter's assertion of residency, it may hold a hearing to determine if the voter is currently a resident of the town.

Town clerks will also be receiving change of address information from the Department of Motor Vehicles. Unless the DMV applicant states on a change of address form that the change of address is not for voter registration purposes, changes of address will be transmitted electronically to the Office of the Secretary of State. 17 V.S.A. §2145a(c). The Secretary of State's office will transmit that information electronically or by mail to the appropriate town.

If the change of address notice indicates that a voter has changed addresses within the municipality, the clerk changes the voter checklist to reflect the new address and sends the voter a confirmation notice, containing a postage prepaid, pre-addressed return form by which the voter may verify or correct the address information. (See sample confirmation notice.)

If the change of address notice indicates that the voter has moved to another municipality, the clerk employs the process used by the Board of Civil Authority. 17 V.S.A. §2150(d)(3). The notice being sent to the voter is sent first-class mail. The notice must contain the following information

17 V.S.A. §2150(d)(3)(A) and (B):

- 1) a pre-addressed, postage paid return card;
- 2) notification that if the voter has not changed his or her residence or has changed residence within the area covered by the checklist, the voter must return the pre-addressed, postage paid card prior to the next voter registration deadline;
- 3) notice that if the voter does not return the card, oral or written affirmation of residence will be required prior to voting;
- 4) information on how to continue to be eligible to vote if the voter has moved to another municipality.

Local Record-keeping Requirements

The Board of Civil Authority must keep detailed records of its proceedings for at least two years. 17 V.S.A. §2150(d)(7). Due to the federal requirement of waiting until two general elections have passed before you can remove a name, we strongly recommend that you keep all records for 2 years after a name has been removed from the list. These records are public. The records must include:

- (a) in the case of each name removed from the checklist, a clear statement of the reason or reasons for which the name was removed;
- (b) in the case of the updating of the checklist required by the biennial purge, the working copy or copies of the checklist used in the name by name review conducted to ascertain continued eligibility to vote;
- (c) the total number of new registrations occurring during the period between general elections;
- (d) the total number of persons removed from the checklist during the period between the general elections; and
- (e) lists of the names and addresses of all persons to whom notices were sent under this subsection, and information concerning whether or not each person to whom a notice was sent responded to the notice as of the date that inspection of the records is made.