

# MAINE STATE LEGISLATURE

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# STATE OF MAINE

Inter-Departmental Memorandum Date December 29, 1975

To Mark L. Gartley, Secretary of State Dept. State

From Joseph E. Brennan Dept. Attorney General

Subject Residency Requirements

## Facts:

An enlistee in the armed services stationed in Maine wishes to vote in all Maine elections (governed by Titles 21 and 30). He lives off the military base, in Town A. He tells the municipal registrar of voters that he plans to live in Town A until he is transferred elsewhere or is discharged at the end of his present term of service.

In the interest of clarifying the confusion surrounding the residency requirements for voting in Maine, you have asked the opinion of this office with regard to several questions posed to you by municipal registrar and by members of the Armed Forces stationed in Maine.

Before answering these questions, we call attention to the fact that Title 21 of the Maine Revised Statutes (Election Laws) places on the Registrar of Voters or Boards of Voter Registration in each community the responsibility for determining whether an applicant for registration as a voter meets constitutional requirements and the statutory requirements for registration under 21 M.R.S.A. § 101, using the procedures prescribed in §§ 101, 102 and 102-A.

For the sake of brevity a "Guidelines for Voter Registration," previously promulgated by the office of Secretary of State, is attached hereto, as being applicable to your questions. See also the criteria listed in 21 M.R.S.A. §§ 241 and 242.

Question 1. Is the registrar of voters required to place the person mentioned in the first paragraph above on the voting list?

Answer. Yes. An applicant is not required to declare an intention to permanently remain a resident of the community.

Question 1-A. Is the registrar required to place the person on the voting list if he lives on the military base and not in Town A?

Answer. If your question be taken literally, the answer is no, as the military base is stated not to be in Town A. If the base is within the limits of Town A, then the answer is yes, since in the case of members of the Armed Forces, there should be no distinction between those living on the base or off the base to which he may be stationed.

Question 2. Is the registrar required to place this individual on the voting list if the person states that he intends to live in Town A after he is discharged?

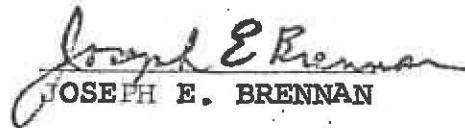
Answer. If by your question you mean that he is not presently residing within the limits of Town A, as in Questions 1 and 1-A, the answer is no. The individual must be residing within the Town in order to be eligible to vote in the Town. An intention to live there at some future time does not avail him. If, on the other hand, the base is within the limits of the town, and the person is residing within the limits of the base, the answer to 1-A is applicable, and his statement of intent adds nothing to the answer thereto - that he is eligible and should be placed on the voting list.

Question 2-A. Is the registrar required to place this individual on the voting list if he lives on the military base but intends to live in Town A after he is discharged?

Answer. The answer to this question is negative under the assumption that the military base is not within the limits of Town A.

Question 3. If the answer to any of the above questions is "yes," is Town A the legal residence of the individual who registered to vote?

Answer. Yes. Under 21 M.R.S.A. § 242, sub-§1, the residence of a person is defined as "that place in which his habitation is fixed, and to which, whenever he is absent, he has the intention to return. He can have only one voting residence, and if for the purpose of being a voting resident he registers in Town A, even though he may live on the military base, which is within the territory of Town A, he may not be a resident of any other municipality whether in or out of this state. Dual registration is subject to the penalty provided by 21 M.R.S.A. § 1579, sub-§ 4.

  
JOSEPH E. BRENNAN

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