



Election Commissioners and the Law: Commissioners' Responses to Questions about Identification Requirements

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Miriam Grill-Abramowitz wrote her Political Science Seniors Honors Thesis on the problems college students encounter with voting. This article is an excerpted chapter from her thesis, focusing on problems with identification requirements as they pertain to college students that have arisen from the 2002 Help America Vote Act.

In 2002, Congress passed the Help America Vote Act (HAVA) requiring potential voters to provide identification when they register to vote; if a potential voter registers by mail, poll workers are instructed to ask that individual for identification on Election Day. HAVA could pose problems for college students because many students have out-of-state addresses on their licenses. The question, then, is whether or not students can vote as members of their college communities, even if they do not have state-issued identification that includes their college addresses. The law is unclear on this point; as a result, many commissioners do not fully understand the identification requirements. Additionally, commissioners within the same state offered contradictory information about identification requirements prior to the implementation of HAVA. My interviews demonstrate that the commissioners must be educated about this confusing body of law in order to ensure that they are able to provide students with accurate information about identification requirements.

Implications and Interpretations of HAVA

Title III (Sec. 303) of HAVA states, in part:

(5) Verification of voter registration information.—

(A) Requiring provision of certain information by applicants.—

(i) In general.—... notwithstanding any other provision of law, an application for voter registration for an election for Federal office may not be accepted or processed by a State 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.

As the above excerpt from HAVA indicates, an individual must present either a driver's license or the last four digits of his or her social security number in order to register to vote. However, the law does not specifically indicate that the driver's license must be from the same state in which the person is applying to register to vote. Also, it is unclear whether or not an individual is allowed to provide his or her social security number instead of his or her driver's license number, especially if the license is issued by another state.

Alternatively, if a person registers by mail, he or she will be asked for one of a variety of forms of identification at the polling place (Sec. 303):

(2) Requirements.—

(A) In general.—An individual meets the requirements of this paragraph if the individual—

(i) in the case of an individual who votes in person—

(I) presents to the appropriate State or local election official a current and valid photo identification; or

(II) presents to the appropriate State or local election official a copy of a current bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter.

The law then explains that if an individual both registers and votes by mail, he or she will have to submit with the ballot a photocopy of any of the forms of identification listed above. Finally, if an individual registers to vote through the mail, and with the registration includes "a copy of a current and valid photo identification; or a copy of a current utility bill, bank statement, government check,

paycheck, or government document that shows the name and address of the voter,” he or she will not have to provide identification at the polls (HAVA, Title III, 2002).

According to HAVA, an individual registering to vote in person should present a driver’s license or a social security number. However, an individual registering through the mail can include one of several forms of identification, either with the mail-in registration form or at the polling place on Election Day. This means that if college students try to register in person, they may be denied the ability to do so if their driver’s licenses are from out-of-state. If they register through the mail and present an alternative form of identification, either with the registration application or at the polls, then they will most likely be allowed to vote. This alternative form of identification, which according to HAVA must be “current and valid,” may even be a student identification card, which is something that every student has.

This is one of many possible interpretations of the law and, whether or not it is correct, commissioners from within the same state are still offering contradictory interpretations of identification requirements even after the implementation of HAVA. The clear implication is that identification requirements are confusing and this is undoubtedly an obstacle for students who wish to vote as members of their college communities.

Commissioners’ Interpretation of the Law

One person I interviewed was Thomas Ferrarese, the Democratic Election Commissioner of Monroe County, New York. When I asked Commissioner Ferrarese about HAVA, he told me that people voting in New York will have to show photo identification at the polls after HAVA comes into effect. According to Ferrarese, after January 1st 2004, I would still be allowed to vote in local and state elections if I were to register in New York with an out-of-state license, but I would be turned away from the polls at federal elections. I would be left with three choices, according to Ferrarese: (a) vote locally in local and state elections; (b) vote as a member of my home community via absentee ballot in local, state, or federal elections; or (c) obtain a New York State driver’s license or some other state-issued ID and vote locally in all elections. However, Ferrarese acknowledged that he was not certain that his interpretation was correct; he conceded that the “future is cloudy,” and that there could be other interpretations of the law.

Other such interpretations came from the commissioners from Genesee County, New York. They all said that HAVA will not interfere with college students’ ability to vote as members of their college communities, indicating that the future of HAVA is “still up in the air.” When I asked them about what identification HAVA requires in order to register to vote, they informed me that various forms of identification are acceptable – for example, a utility bill is sufficient evidence of residency. Clearly, the Genesee commissioners’ interpretation of HAVA’s identification requirements was much more lenient than that of Ferrarese. The Genesee commissioners also said that while an individual who registers to vote in

person will be asked for identification, it will be a different scenario for groups. If a group brings in a bundle of voter registration forms, people will be able to register without any identification, meaning that a group such as the League of Women Voters, or College Democrats could hold voter registration drives on college campuses without requiring students to provide identification. The commissioners continued to explain that most poll workers probably will not ask for identification from people voting in groups, even though they legally can. Richard Siebert, one of the two commissioners from Genesee County, said that he “highly doubts” that poll workers will begin to ask for identification as a result of HAVA’s implementation. Neither Commissioner Siebert nor Commissioner Dawn Cassidy, the other Genesee County commissioner, believe that HAVA will reduce anyone’s ability to vote. However, this clearly contrasts with Commissioner Ferrarese’s interpretation of HAVA, despite the fact that Ferrarese, Siebert, and Cassidy are all commissioners within New York State.

The commissioners from Livingston County, New York agree with the Genesee commissioners that HAVA will not affect college students’ ability to vote. Moreover, these commissioners cited aspects of the law that would continue to make it possible for college students from out-of-state to vote in local elections. In the view of the Livingston commissioners, a social security number is sufficient identification to both register to vote and vote at the polls. Furthermore, according to the Livingston commissioners, if one registers by mail and does not provide any identification, the election board will automatically contact the Registry of Motor Vehicles and ask them to provide verification of residency for the voter in question. If the person is not a registered driver, he or she will be asked for ID at the polls. Again, however, the Livingston commissioners state that a social security number is sufficient, even though this is not made explicit in the law. But, if a person provides identification or a social security number when registering, he or she will not be asked for identification at the polls at all.

The commissioners from Monroe, Genesee, and Livingston counties all provided different explanations about the impact of HAVA on college students’ abilities to vote as members of their college communities. The question that remains to be answered is whether the ambiguity surrounding HAVA is sufficient to deter students from attempting to vote locally.

Interpretations of Election Law Prior to HAVA

The election commissioners I spoke with from Minnesota also conveyed the fact that there is not yet one standard interpretation of identification requirements, even before the implementation of HAVA. Jeffrey Cox, city clerk from Duluth, gave me a list of acceptable forms of identification that college students can use at the polls, including a driver’s license, a state identification card showing an address, or a current fee statement showing an address in Duluth accompanied by any photo identification. I then asked him if an individual could bring a fee statement that shows an address in Duluth along

with a driver's license from another state. He replied, "The State usually requires a Minnesota ID." The word "usually" implies that poll workers may have the ability to decide whether or not to accept any specific form of identification; consequently, a college student's ability to vote in his or her college town may be decided on a case-by-case basis.

Gerald Amiot, the Polk County, Minnesota auditor and treasurer, contradicted Mr. Cox about identification requirements prior to HAVA. According to Mr. Amiot, nothing in Minnesota law says that state-issued identification is necessary in order to be able to vote. Mr. Amiot said that when students arrive at the polls, they simply need to show photo identification and the poll workers will then look for the student's name on the dorm lists provided by the university. This serves as sufficient proof of residency, making it very easy for a student who lives on campus to meet the identification requirements at the polls. Even if universities in Duluth, where Mr. Cox works, do not provide lists of students who live on campus to the election officials, they could begin to do so. Then, students in Duluth, like students in Polk County, could provide any form of photo identification, from any state. Judy Scherr from Rochester, Minnesota stated that a student identification card along with an out-of-state driver's license is sufficient identification. It appears, then, that students who attend college in Minnesota can vote locally, despite identification requirements. However, the fact that Mr. Cox believes that state-issued identification is necessary means that many students may not receive this information clearly.

The official I spoke with at the New Hampshire State House similarly conveyed that the issue of identification is confusing, both before and after the implementation of HAVA. She said that while you can register to vote with a dorm address, you have to prove residency when you register. In the case of a college student with an out-of-state driver's license, she said that certain pieces of mail or a student identification card are acceptable, but only if they

contain the student's address, which many student identification cards do not include. When I asked her about HAVA, she said that the law will not affect the ways in which college students could prove their residency. Leo Bernier, city clerk of Manchester, New Hampshire, gave a list of other ways in which a student could prove his or her residency. He said that the student could provide a driver's license, utility bill, or a rent receipt. While many students who live off campus pay rent and utility bills, these bills may not actually be in their names; students often live in groups and bills only come to one person. Fortunately, students probably have paychecks or bank statements that include their names and addresses, and the law does allow these as acceptable pieces of proof of an individual's residency. Clearly, commissioners tend to provide incomplete information about identification requirements, or information that contradicts statements from other registrars even within the same state. This is a reflection of the fact that identification requirements, as they pertain to college students, are confusing.

Joseph Hanlon from the Boston Office of Voter Registration explained how students will continue to be able to vote locally, despite the fact that their driver's licenses may be from out of state. He said that according to Massachusetts law, an individual does not need to show identification in order to register to vote – this will, of course, no longer be true after the implementation of HAVA, unless a person registers by mail, in which case that person will be asked for identification at the polls. He further explained that poll workers ask to see identification from approximately one out of every fifteen or twenty people who come to the polls to vote, and if a poll worker had a problem with accepting a driver's license from out of state, the person would still vote and the poll worker could then challenge the vote. At that point, the voter would ask his or her university to confirm residency, and if confirmed, the vote would be counted.

As is quite clear by this point, commissioners gave me a wide

variety of responses about how college students could prove their residency, both before and after the implementation of HAVA. It is quite possible, then, that if college students ask about what forms of identification are acceptable, they will receive different answers from different commissioners, even within the same state. Due to confusion about HAVA's implications, commissioners may even tell college students that they are not permitted to vote in federal elections as members of their college communities. This reflects Commissioner's Ferrarese's interpretation of the law, and it is unlikely that he is the only commissioner in the country who interpreted the law as such. Clearly, work needs to be done to educate the commissioners so they have a clear understanding of the law and how it affects college students. The law has the potential to deter college students from trying to vote in their college communities due to the fact that students might assume that their driver's licenses from out of state are unacceptable, and they also might assume that they have no acceptable alternative forms of identification. While we already know that commissioners are unlikely to engage in information drives on college campuses, they should at least be able to provide clear information to the students who call their offices with questions.

Miriam Grill-Abramowitz graduated from the University of Rochester in May 2004, with degrees in political science and history. This article is an excerpt from her political science honors thesis, which identified obstacles to voting for college students. She is moving to New York City to teach special education, and ultimately wants to pursue a career in public policy.

State	Registration Deadline (relative to election day)	Corresponding Date for 2004
Alabama	11 days prior	22-Oct
Alaska	30 days prior	4-Oct
Arizona	29 days prior	5-Oct
Arkansas	30 days prior	4-Oct
California	15 days prior	19-Oct
Colorado	29 days prior	5-Oct
Connecticut	14 days prior	20-Oct
Delaware	20 days prior	14-Oct
D.C.	30 days prior	4-Oct
Florida	29 days prior	5-Oct
Georgia	5th Monday prior	4-Oct
Hawaii	30 days prior	4-Oct
Idaho	25 days prior	8-Oct
Illinois	28 days prior	6-Oct
Indiana	29 days prior	5-Oct
Iowa	11 days prior	22-Oct
Kansas	15 days prior	19-Oct
Kentucky	29 days prior	5-Oct
Louisiana	30 days prior	4-Oct
Maine	10 business days prior, or day of if in-person	19-Oct
Maryland	21 days prior	13-Oct
Massachusetts	30 days prior	4-Oct
Michigan	30 days prior	4-Oct
Minnesota	21 days prior, or day of if in-person	13-Oct
Mississippi	30 days prior	4-Oct
Missouri	28 days prior	6-Oct
Montana	30 days prior	4-Oct
Nebraska	3rd Friday prior	15-Oct
Nevada	5th Saturday prior	1-Oct
New Hampshire	10 days prior	22-Oct
New Jersey	29 days prior	5-Oct
New Mexico	28 days prior	6-Oct
New York	25 days prior	8-Oct
North Carolina	25 days prior	8-Oct
North Dakota	Does not have voter registration	
Ohio	30 days prior	4-Oct
Oklahoma	25 days prior	8-Oct
Oregon	21 days prior	13-Oct
Pennsylvania	30 days prior	4-Oct
Rhode Island	30 days prior	4-Oct
South Carolina	30 days prior	4-Oct
South Dakota	15 days prior	19-Oct
Tennessee	30 days prior	4-Oct
Texas	30 days prior	4-Oct
Utah	20 days prior	14-Oct
Vermont	2nd Saturday prior	22-Oct
Virginia	29 days prior	5-Oct
Washington	30 days prior, or 15 days prior if in-person	4-Oct
West Virginia	20 days prior	14-Oct
Wisconsin	13 days prior, or day of if in-person	21-Oct
Wyoming	30 days prior	4-Oct

State-specific voter registration information including 2004 registration dates. The chart was compiled by the *jur* staff. See www.fec.gov or individual state websites for more information.