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STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

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Honorable Paul W. Oliver, Sr.
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Post Office Box 442
Selma, Alabama 36702

**Elections – Absentee Voting – Absentee
Ballots – Residence Requirements**

Absentee ballots must be mailed to a voter's residence address as shown on the voters' list or, if requested by the voter, to an address where the voter regularly receives mail.

Dear Mr. Oliver:

This opinion of the Attorney General is issued in response to your request.

QUESTION

What procedure should the absentee election manager follow when the residence address given by an absentee ballot applicant is different from the address shown on the official list of voters?

FACTS AND ANALYSIS

Absentee voting is available to any qualified elector who meets the requirements for absentee voting set forth in section 17-10-3 of the Code of Alabama. ALA. CODE § 17-10-3 (Supp. 1999). An application for an absentee ballot must contain certain information that allows the absentee election manager to verify that the applicant is a registered voter and is entitled to vote by absentee ballot. Section 17-10-4 states in pertinent part:

The application shall contain sufficient information to identify the applicant and shall

include the applicant's' name, *residence address*, or such other information necessary to verify that the applicant is a registered voter.

ALA. CODE § 17-10-4 (Supp. 1999) (emphasis added). Pursuant to section 17-4-127, a voter is not entitled to vote in a precinct or district where his name does not appear on the official voters' list. This section states in pertinent part:

It shall be unlawful for any elector to cast his or her ballot during any general election, primary election, municipal election or special election in any precinct, any district, any ward or any other subdivision where his or her name does not duly appear upon the official list of such precinct, district, ward or subdivision.

ALA. CODE § 17-4-127 (1995).

Section 17-10-5 specifies how delivery of an absentee ballot is to be made upon receipt of an application for an absentee ballot, in pertinent part, as follows:

(a) Upon receipt of an application for an absentee ballot as provided in Section 17-10-3(a) if the applicant's name appears on the list of qualified voters in the election to be held or if the voter makes an affidavit for a challenged vote, the absentee election manager shall furnish the absentee ballot to the applicant by: (1) forwarding it by United States *mail to the applicant's or voter's residence address* or upon written request of the voter, to the address where the voter regularly receives mail or (2) by handing the absentee ballot to the voter in person or in the case of emergency voting, his or her designee in person.

ALA. CODE § 17-10-5 (Supp. 1999) (emphasis added).

Only the county board of registrars has the authority to transfer a voter's name to a new precinct to which the voter has moved. ALA. CODE § 17-4-132 (1995). If the absentee election manager receives an application for an absentee ballot in which the applicant provides a residence address that is not the same residence address as that on the official voters' list, the absentee election manager is, thus, unable to verify that the

applicant is a duly registered voter entitled to vote by absentee ballot, and no ballot should be sent to that voter. The absentee election manager may not transfer that voter to a new precinct based upon the residence address given.

Although not required to do so, the absentee election manager may make a copy of the application and forward it to the county board of registrars so that the board may use that information to determine whether the voter has moved to a new residence and, thus, a new voting precinct. The absentee election manager may also notify the applicant that a ballot cannot be sent to him based upon the address provided and that the applicant should notify the county board of registrars of any changes in his or her residence so that the board can assign the voter to the proper precinct. If the board of registrars reassigns the voter based upon the new address, the board should provide this information to the absentee election manager so that he may provide the proper absentee ballot to the applicant. The ballot should be provided only if the deadline for requesting an absentee ballot has not passed. *See ALA. CODE § 17-10-3(a) (Supp. 1999).*

CONCLUSION

Absentee ballots must be mailed to a voter's residence address as shown on the voters' list or, if requested by the voter, to an address where the voter regularly receives mail.

I hope this opinion answers your question. If this Office can be of further assistance, please contact Brenda F. Smith of my staff.

Sincerely,

BILL PRYOR

Attorney General

By:



CAROL JEAN SMITH

Chief, Opinions Division