

Obsolete. Please consult current Florida law.

DE 076-07-July 22, 1976

**CHAPTERS 97 AND 98;
SECTION 98.051(4),
FLORIDA STATUTES -
CLOSING REGISTRATION
BOOKS**

To: Honorable Jacqueline Winchester, Supervisor of Elections, Palm Beach County Courthouse, West Palm Beach, Florida

To: Honorable Joyce Diffenderfer, Supervisor of Elections, Dade County Courthouse, Post Office Box 012241, Miami, Florida

To: Honorable Joe Oldmixon, Supervisor of Elections, Escambia County Courthouse, Pensacola, Florida Prepared by: Division of Elections

You have requested clarification of advisory opinion DE 076-01 in several particulars.

DE 076-01 treated specifically of Section 98.051(4), Florida Statutes, concluding that persons registering before the close of registration books on the forty-fifth day prior to the immediately upcoming elections are entitled to cast general ballots, but that those persons registering thereafter — in the fifteen-day hiatus between the forty-fifth day and thirtieth day prior to the general election — are entitled to vote only in the immediately upcoming national election, and need not reregister for a subsequent federal, state or local election.

The "national" election referred to is, and is exclusively, the election for presidential and vice-presidential electors. Section 97.031, Florida Statutes.

We are asked whether one registering during the fifteen-day hiatus and entitled to vote in the upcoming national election must execute a special affidavit of residency? No, the normal registration procedure will suffice. In DE 076-01 it was noted that supervisors may or can require an affidavit, but such an observation was not intended to signify a legal requirement. Supervisors should register applicants who are resident and intend to be resident.

Reference in DE 076-01 to Section 97.031, Florida Statutes, appears to have engendered a certain confusion in light of that section's explicit reference to and implicit incorporation of durational residency requirements. Residency, for our purposes, is actual residency and intent so to be resident.

Where voting machines do not allow for lock-out of non-national races, in order to accommodate electors qualified to vote only a national ballot per Section 98.051, Florida Statutes, it is the opinion of the Division of Elections that paper ballots should be utilized at polling places. This does not preclude the use of absentee ballots where the subject electors qualify for same under Florida law or the Overseas Citizens Voting Rights Act, PL 94-203 (as treated in DE 076-02). But where the elector does not so qualify, such elector should vote regularly on the voting machine (appropriately locking out federal, state and local positions) or

by paper ballot at the polls.

We are asked in this regard whether such paper ballots should be counted at the polls or removed to the supervisors' offices to be counted with absentee ballots. The better procedure, from the standpoint of rationalizing and admittedly difficult program, would be to count the paper ballots at the polls together with the other non-absentee ballots, for such paper ballots are not absentee ballots.

Your inquiries are answered accordingly.