

NOTICE OF INTENT TO ADOPT A PROPOSED
RULE TO THE RULES OF THE STATE ELECTION BOARD:
183-1-6-.06 VERIFICATION OF UNITED STATES CITIZENSHIP OF
APPLICANTS FOR VOTER REGISTRATION
NOTICE OF PUBLIC HEARING

TO ALL INTERESTED PARTIES:

Notice is hereby given that pursuant to the authority set forth below, the Georgia State Election Board proposes a new rule to the Rules of the State Election Board, Rule 183-1-6-.06 Verification of United States Citizenship of Applicants for Voter Registration.

This notice, together with an exact copy of the proposed rule and a synopsis of the proposed rule, is being mailed to all persons who have requested, in writing, that they be placed on a mailing list for the approved application. A copy of this notice, an exact copy of the proposed rule, and a synopsis of the proposed rule may be reviewed during normal business hours of 8:30 a.m. to 5:00 p.m. Monday through Friday, except official State holidays, at the Office of Secretary of State, Elections Division, 2 Martin Luther King, Jr. Drive, SE, Suite 1104, Atlanta, Georgia 30334. Copies may be requested by calling the Division at 404-656-2871 or may be found at the State Election Board website (http://www.gaseb.org/rules_amend_adopt.htm).

Where: A public hearing will be held at 10:00 a.m. on Thursday, December 10, 2009, 2 Martin Luther King, Jr. Drive, SE, East Tower, Room 1252, Atlanta, Georgia 30334 to provide the public an opportunity to comment upon and provide input into the proposed rule.

At the public hearing anyone may present data, make a statement, comment, or offer a viewpoint or argument whether orally or in writing. Lengthy statements or

statements of a considerable technical or economic nature, as well as previously recorded messages, must be submitted for official record. Oral statements should be concise and will be limited to five (5) minutes per person. Written comments are welcome. Such written comments must be legible and signed, should contain contact information from the maker (address, telephone and/or facsimile number, etc.) and be received in the office of the Secretary of State no later than close of business (5:00 p.m.) on Friday, December 4, 2009. Written comments should be addressed to Wesley Tailor, Division Director, Secretary of State, Elections Division, 2 Martin Luther King Jr. Dr. SE, Suite 1104 Atlanta, GA 30334; telephone: 404-656-2871 or facsimile: 404-651-9531.

The State Election Board will consider the proposed rule for adoption at a meeting scheduled to begin at 10:00 a.m. on Thursday, December 10, 2009, 2 Martin Luther King, Jr. Drive, SE, East Tower, Room 1252, Atlanta, Georgia 30334.

This notice is given in compliance with O.C.G.A. § 50-13-4.

This 3rd day of November, 2009.

A handwritten signature in black ink that reads "Karen C. Handel". The signature is written in a cursive, flowing style.

Karen C. Handel, Chairperson Georgia State Election Board

Posted: November 3, 2009

SYNOPSIS OF PROPOSED RULE TO THE RULES OF THE STATE ELECTION BOARD:

183-1-6-.06 VERIFICATION OF UNITED STATES CITIZENSHIP OF APPLICANTS FOR VOTER REGISTRATION

PURPOSE: The purpose of the proposed rule is to provide uniformity with respect to how proof of citizenship may be provided upon registering to vote so as to be conducive to the fair, legal, and orderly conduct of primaries and elections in this State. This rule additionally provides for documents or methods of proof other than those specifically identified in O.C.G.A. § 21-2-216(g) for establishing evidence of United States citizenship in connection with an application to register to vote.

MAIN FEATURES: The main features of the proposed rule are to identify additional documents, consistent with documents identified by federal agencies, which shall be accepted as satisfactory evidence of United States citizenship. The rule also establishes a hearing process for any individual who is not in possession of any of the documents identified by statute or rule to provide satisfactory evidence of United States citizenship.

PROPOSED RULE TO THE RULES OF THE STATE ELECTION BOARD:

183-1-6-.06 Verification of United States Citizenship of Applicants for Voter Registration

(1) On and after January 1, 2010, an application for registration to vote shall be accompanied by satisfactory evidence of United States citizenship.

(2) Satisfactory evidence of citizenship shall include any of the following:

(a) Verified Georgia Driver's License Number or Identification Card Number or Out of State Driver's License or Identification Card.

1. An applicant may provide as satisfactory evidence of citizenship, the number of the applicant's driver's license or identification card issued by the Georgia Department of Driver Services, upon verification by the Secretary of State that the applicant has provided satisfactory evidence of United States citizenship to the Georgia Department of Driver Services.

2. An applicant may provide as satisfactory evidence of citizenship, the applicant's driver's license or identification card, or legible photocopy thereof, issued by a state driver's license agency of another state equivalent to the Georgia Department of Driver Services, or a legible photocopy thereof, if such agency indicates on the driver's license or identification card that the applicant has provided satisfactory evidence of United States citizenship to such agency.

(b) Birth Certificate.

1. An applicant's birth certificate, or a legible photocopy thereof, is satisfactory evidence of citizenship so long as the birth certificate shows that the applicant was born within the United

States. In the event that the birth certificate contains a different first, middle, or last name from the name contained on the application for registration, the board of registrars shall require additional supporting legal documentation to establish that the applicant is the same individual as the individual identified on the birth certificate, including but not limited to a marriage certificate or court order confirming change of name.

2. A Certificate of Birth Abroad, or legible photocopy thereof, obtained by a United States citizen when such individual registers with the Department of State in the event such individual is born abroad in a non-military installation, shall be accepted and treated as a birth certificate.

(c) United States Passport.

1. An applicant's United States passport, or a legible photocopy of pages of the applicant's United States passport which contain the passport number, name, nationality, date of birth, place of birth, and signature, shall serve as satisfactory evidence of citizenship.

(d) United States Naturalization Documents or Verified Alien Registration Number.

1. An applicant may provide the board of registrars with the applicant's United States Certificate of Naturalization issued by the United States Citizenship and Immigration Services.

(i) Registrars and deputy registrars who attend naturalization ceremonies may assist new citizens in registering to vote. In such event, the registrar or deputy registrar shall examine the applicant's United State Certificate of Naturalization and initial and date the application for registration. If applicants from outside the county apply at the ceremony, the registrar or deputy registrar conducting the voter registration activities shall bundle the registrations by county and send them to the appropriate county board of registrars with an official cover letter stating that all naturalization documents were verified by the registrar or deputy registrar. A county that receives applications in this manner shall accept the applications without requiring further evidence of citizenship from the applicant.

2. If only the alien registration number from naturalization documents is provided for citizenship purposes, the applicant shall not be found eligible to vote until the applicant's alien registration number is verified with the United States Citizenship and Immigration Services by the Secretary of State utilizing the Systematic Alien Verification for Entitlements program.

(e) Documents or methods of proof that are established pursuant to the federal Immigration Reform and Control Act of 1986 (P. L. 99-603).

(f) Bureau of Indian Affairs Card Number, Tribal Treaty Card Number, or Tribal Enrollment Number.

(g) Other Documents and Methods of Proof.

1. Applicants who do not have any of the documents enumerated in subparagraphs (g)(2)(A) through (F) of O.C.G.A. Section 21-2-216 and who are residents of this State and United States citizens may provide any of the following as satisfactory evidence of United States citizenship:

- (i) Certificate of Citizenship issued by the United States Immigration and Naturalization Service;
- (ii) Consular Report of Birth Abroad of a Citizen of the United States of America;
- (iii) Certification of Report of Birth issued by the United States Department of State;
- (iv) United States Citizen Identification card;
- (v) American Indian Card issued by the United States Department of Homeland Security with the classification code "KIC";
- (vi) Final adoption decree showing the applicant's name and United States birthplace;
- (vii) Evidence of the applicant's civil service employment by the United States government before June 1976;
- (viii) An official United States military record of service showing a United States place of birth;
- (ix) A Northern Mariana Identification Card issued by the United States Immigration and Naturalization Service; or
- (x) Extract of United States hospital record of birth created at the time of the person's birth indicating a United States place of birth.

2. If the applicant cannot obtain any of the documents described in subparagraphs (g)(2)(A) through (F) of O.C.G.A. Section 21-2-216 and (g)1. above, the applicant may request a hearing for the board of registrars to review other evidence of the applicant's United States citizenship. The board of registrars shall schedule a hearing to review such evidence provided by applicants at least once per month and on the last day to verify provisional ballots for any election pursuant to O.C.G.A. Section 21-2-419. The hearing shall be conducted as follows:

- (i) The board of registrars shall give the applicant at least three days' written notice of the date, time, and place of the hearing. Where a person casts a provisional ballot in a primary or election because the applicant had not supplied satisfactory evidence of United States citizenship but the application had not been rejected by the board of registrars, notice of the date, time, and place of the hearing must be provided at the polling place, which hearing shall be held on the last day to verify provisional ballots for any primary or election pursuant to O.C.G.A. Section 21-2-419.
- (ii) The applicant may, but need not, be present during the hearing.

(iii) The board of registrars shall determine whether the evidence provided by the applicant is satisfactory evidence of the applicant's United States citizenship. In making such a determination, the board of registrars shall consider the totality of the evidence presented.

(iv) If created at least 5 years before the application for registration and showing a United States place of birth, the following documents may be considered by the board of registrars in determining whether an applicant has provided satisfactory evidence of United States citizenship:

(I) Life or health or other insurance record;

(II) Federal or state census record;

(III) Institutional admission papers from a nursing home, skilled nursing care facility or other institution;

(IV) Medical (clinical, doctor, or hospital) record;

(V) Seneca Indian tribal census record;

(VI) Bureau of Indian Affairs tribal census records of the Navajo Indians;

(VII) United States State Vital Statistics official notification of birth registration;

(VIII) Amended or delayed United States public birth record amended more than 5 years after the person's birth;

(IX) Statement signed by the birth physician or midwife who was in attendance at the time of birth; or

(X) If other forms of documentation cannot be obtained, documentation may be provided at the hearing by written affidavit, signed under penalty of perjury, from two citizens, one of whom cannot be related to the person in question, who have specific knowledge of event(s) establishing the applicant's United States citizenship status. The applicant or another knowledgeable individual must also submit an affidavit stating why the documents are not available. Such affidavits are only expected to be used in rare circumstances.

3. The board of registrars may accept legible copies of documents bearing on United States citizenship received via United States Mail, facsimile, electronic mail, personal delivery, or other means.

4. Having a Social Security card or being a member of the United States military is not, in and of itself, sufficient evidence that an individual is a United States citizen.

(3) If an application for registration is completed in person at the board of registrars' office or other registration place and the applicant provides satisfactory evidence of citizenship at that time, the registrar or deputy registrar shall indicate on the voter registration application:

(a) That the person provided satisfactory evidence of citizenship,

(b) The type of evidence of citizenship provided, and

(c) The initials of the registrar or deputy registrar who made the verification.

(4) If an applicant fails to supply satisfactory evidence of citizenship with the application for registration, the board of registrars shall, within 10 days of receipt of the application, notify the applicant of the failure to present satisfactory evidence of United States citizenship as follows:

(a) The board of registrars shall send the notice by nonforwardable, first-class mail to the mailing address listed on the application and shall inform the applicant of the missing information and that the application will be rejected if satisfactory evidence of United States citizenship is not provided to the board of registrars within 30 days following the sending of the notice.

(b) If the applicant does not provide satisfactory evidence of United States citizenship to the board of registrars within 30 days of the sending of the notice, the board of registrars shall reject the application and shall immediately notify the applicant of the rejection in writing by nonforwardable, first-class mail at the mailing address listed on the application.

(c) If the initial application is received prior to the close of voter registration prior to a primary or election and the primary or election occurs within 30 days following the sending of the notice, the applicant may supply satisfactory evidence of United States citizenship on or prior to the date of the election. If the applicant supplies satisfactory evidence of United States citizenship and is found eligible to vote, the applicant shall be added to the list of electors and shall be permitted to vote in the election and any run-off elections resulting therefrom and subsequent elections.

(5) The board of registrars shall not determine the eligibility of an applicant unless and until satisfactory evidence of United States citizenship is supplied by the applicant.

(6) United States citizenship question on application for registration.

(a) Regardless of whether an applicant provides satisfactory evidence of United States citizenship, if such applicant fails to answer the question on the application for registration asking, "Are you a citizen of the United States of America?", the registration shall be considered incomplete until the board of registrars obtains a completed application. The registrar shall return a copy of the application by letter sent by nonforwardable, first-class mail and request that the applicant complete the question by answering "Yes" or "No" to the question regarding United States citizenship. For the purpose of voter registration, an appropriate indicator includes marking a check mark in the box, placing "X" in the box, circling the box, shading the box, or

any other method involving the "Yes" box that indicates the applicant is a citizen of the United States.

(b) If the citizenship box is marked "No", the board of registrars shall reject the application and shall immediately notify the applicant of the rejection in writing by nonforwardable, first-class mail at the mailing address listed on the application.

Authority: O.C.G.A. §§ 21-2-31; 21-2-216; 21-2-226.