

State Board of Elections Policy 2008-011

A meeting of the Virginia State Board of Elections was held on October 28, 2008 whereby a policy was proposed and approved by the Board:

Definition of Unavailable Equipment

WHEREAS, the Code of Virginia, § 24.2-646.1 states, in part:

The official paper ballot shall be used by a voter to cast his vote only in one of the following circumstances: [...]

4. The voter is provided an official paper ballot or copy thereof pursuant to § 24.2-642 when voting equipment is inoperable or otherwise unavailable.
[Emphasis added.]

WHEREAS, in the absence of a contrary definition, the words in a statute are presumed to have their usual and ordinary meaning. See, e.g., 2008 Op. Va. Att’y Gen 028;

WHEREAS, Merriam-Webster’s dictionary defines unavailable as “not available, accessible, or at hand,” and

WHEREAS, the Virginia State Board of Elections held a public meeting on September 8, 2008 policy and approved State Board Policy 2008-004, “Definition of Inoperable or Unavailable Equipment” which stated:

“At any time a polling place does not have access to any voting equipment, the voting equipment will be deemed unavailable for the purposes of Title 24.2 of the Code of Virginia.”

WHEREAS, the Code of Virginia, § 24.2-627 states, in part:

A. The governing body of any county or city which adopts for use at elections mechanical or direct electronic voting systems shall provide for each precinct at least the following number of voting devices:
In each precinct having not more than 750 registered voters, 1;
In each precinct having more than 750 but not more than 1,500 registered voters, 2;
In each precinct having more than 1,500 but not more than 2,250 registered voters, 3;
In each precinct having more than 2,250 but not more than 3,000 registered voters, 4;
In each precinct having more than 3,000 but not more than 3,750 registered voters, 5;
In each precinct having more than 3,750 but not more than 4,500 registered voters, 6;
In each precinct having more than 4,500 but not more than 5,000 registered voters, 7.

now therefore, be it

RESOLVED, by the State Board of Elections under its authority to issue rules and regulations to promote the proper administration of election laws and obtain uniformity in the administration of elections pursuant to § 24.2-103, that

Voting equipment shall be deemed “otherwise unavailable” for the purposes of Va. Code § 24.2-646.1 when the level of voting equipment in a polling place falls below the minimum required by Va. Code § 24.2-627.

Nothing in this Policy shall prohibit further applications of “otherwise unavailable” for the purposes of Va. Code § 24.2-646.1.

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