GORDON J. MACDONALD
ATTORNEY GENERAL

JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

September 18, 2019

The Honorable William M. Gardner
Secretary of State
107 North Main Street
Concord, NH 03301

Re: Election Official Question

Dear Secretary Gardner:

The Secretary of State's Office was contacted by an election official, who wanted to prepare answers to questions she thought may be asked by voters about the need to obtain a New Hampshire's Driver's License. To promote consistency, we offer the following and enclosed information.

If election officials receive questions regarding the laws of New Hampshire, other than election laws, the proper response is to direct the individual to the municipal or state agency that administers or enforces the law in question. This applies equally to motor vehicle laws, education laws, tax laws, and other laws which rely on the individual's residence or status as a "resident" of New Hampshire to determine the applicability of rights, privileges, or responsibilities established in that law. Election officials are neither authorized nor trained to provide legal guidance on laws, other than election laws.

The Division of Motor Vehicles provides a helpful "New Resident of New Hampshire, Welcome to New Hampshire!" informational page.

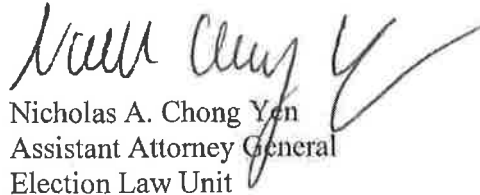https://www.nh.gov/safety/divisions/dmv/new-resident/index.htm.

Election officials may print copies to provide when responding to questions.

Election officials may also provide the following excerpts from the law to anyone seeking to register to vote who asks about his or her obligation to obtain a New Hampshire driver's license or vehicle registration. Please see the enclosed, one-page document. If the individual has follow up or additional questions, he or she should be directed to the New Hampshire Division of Motor Vehicles, (603) 227-4000.

Sincerely,

Nicholas A. Chong Yen
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Election Law Unit
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Enclosure

<u>Information on the legal definition of "resident" for the purposes of determining rights, privileges, and responsibilities associated with being a New Hampshire "resident."</u>

Except for those convicted of certain crimes, the right to register to vote and to vote is a fundamental right that is not conditioned on the voter complying with other laws. The decision to vote here may implicate other obligations and benefits under the law unrelated to voting.

RSA 654:1 states that domicile for voting purposes "is that one place where a person, more than any other place, has established a physical presence and manifests an intent to maintain a single continuous presence for domestic, social, and civil purposes relevant to participating in democratic self-government."

RSA 21:6 (July 1, 2019) defines a "resident" as "a person who is domiciled or has a place of abode or both in this state and in any city, town, or other political subdivision of this state, and who has, through all of his or her actions, demonstrated a current intent to designate that place of abode as his or her principal place of physical presence to the exclusion of all others."

"Domicile" under RSA 654:1 and the definition of "resident" under RSA 21:6 may be equivalent. As such, if an individual identifies himself or herself as being domiciled in New Hampshire for voting purposes, he or she may also be within the definition of "resident" under RSA 21:6. As a general matter, a person who is a resident under RSA 21:6 is subject to the various rights, privileges, and responsibilities of residency contained in State statute. If the person will drive in New Hampshire and currently possesses an out-of-state driver's license, this includes the obligation to obtain a New Hampshire driver's license within 60 days of establishing a bona fide residency in this State. RSA 263:35. However, individual circumstances may vary, and this obligation should be determined on a case-by-case basis.