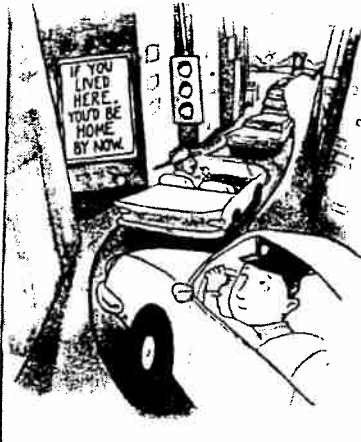

City's Residency Rules Reach Only a Quarter of City Workers

By Olga Koloditskaya

New York City imposes strict residency requirements on many City employees, but more governmental employees are exempt from the residency rules than are actually covered by them. Employees who are covered must be a resident of the City of New York or establish a City residence within 90 days of the date they enter City service, and must maintain their City residence as a condition of employment. Not covered, however, are firefighters, police officers, other members of the uniformed services,



chaplains, teachers, people employed in designated hard-to-recruit titles, most transit workers and hospital workers and many employees hired prior to 1986. When all the exemptions are taken into account, we estimate that approximately 75 percent of the 400,000 City and other local governmental employees are not required to live within New York City. Of course, many of those not required to do so do live in the City anyway.

History

The current version of the City's residency rules dates from July 1978 when Mayor Edward I. Koch issued mayoral directive 78-13 requiring any person newly hired into an exempt, non-competitive or provisional job category to be a City resident. Persons already employed by the City in exempt or non-competitive managerial positions had to become a City resident by January 1, 1979 or face termination. The City Council, also in July 1978, enacted Local Law 20 which required City residence for all persons hired after November 1, 1978. The local law made no exception for uniformed services (police, fire, correction and sanitation). Unions for the uniformed services sued and won a 1980 court of appeals decision overturning the City's local law. The court ruled the local law was pre-empted by state statutes that allowed members of the uniformed services to live outside the City. Six years later, on June 26, 1986, the City Council repealed the 1978 local law and substituted for it a new residency requirement that covered only City employees not protected by state statute. The 1978 mayoral directive, which was not affected by the court decision, remained in effect for those exempt, non-competitive or provisional City employees who were hired by the City prior to 1986. City employees hired since 1986 are covered only by the new local law.

Residence or Domicile?

Residence has a specific meaning under the local law. Section 12-119 of the City's Administrative Code defines "residence" as one's domicile. "Residence" means living in a particular locality, but domicile means living in that locality with the intent to make it a fixed and permanent home. In order to make a determination about an individual's "residence," the Department of Citywide Administrative Services ("DCAS") considers a range of factors which it set forth in Personnel Services Bulletin 100-8 on June 30, 1997. These include such factors as where the employee, spouse or minor child live; the voter registration of the employee and spouse; their motor vehicle registrations; the address used on tax returns; and what schools the employee's children attend. Other items that the City may consider include rent receipts on letterhead stationery, mortgage payments notices, car insurance receipts, drivers license, bank statements, credit card statements, utility and telephone bills, withholding tax statements, and City income tax payments.

The few litigated cases show how the City interprets the requirements. In an early case a Department of Correction employee and his wife bought a house in New Jersey, but later separated. For the next four years the City employee paid the mortgage and taxes on the New Jersey house while he lived with his mother-in-law to whom he paid \$100 a month in her Brooklyn apartment and where he had his personal and departmental mail sent. The employee spent about eighty percent of his time in New York City and twenty percent in New Jersey visiting his children over weekends. The Administrative Law Judge ruled that even though the employee spent more hours in the City, he had not established residence. *DOC v. Duffy*, January 11, 1983, OATH Index No. 125/82.

In another case a Department of Investigation employee was a sole owner of a Long Island house, paid regular mortgage payments on the house and was financially responsible for its maintenance and upkeep. She, however, voted from her mother's address in Brooklyn, registered her car in Brooklyn, and filed her tax returns from the Brooklyn address. All her work-related correspondence and even the charges and notice of hearing were mailed to her Brooklyn address. Nevertheless, she was found in violation of the City residence requirement. *DOI v. Williams*, November 13, 1987, OATH Index No. 338/87. Under somewhat similar circumstances the City's Civil Service Commission reached a contrary result. It found that a DOT employee met the residency requirements by residing with his parents in Queens. He paid no rent or mortgage on his parents' house while paying a mortgage on his house in Long Island. *DOT v. Belziti*, June 6, 1997, OATH Index No. 1007/97, *rev'd* NYC Civ. Serv. Comm'n Item No. CD 98-116-R Report and Recommendation, October 21, 1998.

Exemptions

Uniformed Services. The City's uniformed services account for approximately 69,000 employees. Using their clout in Albany, the uniformed services in the 1960s obtained statutory exemptions from the residency rules. Uniformed employees of the Police Department, Fire Department, Department of Correction, Department of Sanitation, and police officers of the Department of Health may live in any one of the six suburban counties of Nassau, Suffolk, Westchester, Rockland, Orange and Putnam and still keep their jobs.

Firefighters who were in City employ prior to 1986 may continue to reside elsewhere in New York State outside the six counties, but if they choose to move they must move into the six counties or New York City. Firefighters who lived in New Jersey were, however, required to move into the permitted counties.

Department of Probation. Under a state provision that applies only to the City's Department of Probation, employees of that department may live anywhere in New York State. Some 1,600 employees are covered by this statute.

Hard-to-Recruit Titles. The 1986 local law allows the City to exempt certain jobs as hard-to-recruit based upon a lack of applicants from the City or those willing to move into the City. The list of hard-to-recruit titles now totals 160 titles. Technical and inspector titles dominate the list, but not all fit that description. In 2001, the Law Department succeeded in having assistant corporation counsels added to the list. Other lawyer titles like agency counsel are not exempt and incumbents must still reside in the City. The City does not maintain a central list of the number of City employees who have actually taken advantage of the hard-to-recruit exemptions. For a title to be listed, either DCAS or the head of an agency submits proof of the difficulty experienced in filling the title. If DCAS accepts the recommendation, it adds the title to the list. Because the decision to add a title is not considered a rule making, there is no notice given in the City Record. As a practice once a title makes the list, it is not removed unless the title itself disappears.

Workers hired prior to 1986. City workers hired prior to 1986 remain governed by the 1978 mayoral directive and not the 1986 local law with the result that many complicated rules have evolved to cover such situations as promotions, change of status and breaks in service. As an example of the complex rules for these pre-1986 workers, an employee appointed prior to 1986 to a competitive class position keeps his or her status as exempt from the residency requirement even if promoted to a new competitive class position, but will lose it upon accepting a provisional appointment or a non-competitive, exempt or labor class position.

Personal hardship. To make matters more complicated, the 1978 mayoral directive was interpreted to include an important exemption not allowed by the 1986 local law: personal hardship. Workers entitled to the personal hardship exemption may claim it even after 1986. Personal hardship exemptions are granted when, for example, a spouse or child's physical condition requires continued residence in a particular dwelling with special features or continuous medical care at locations outside the City. Also eligible are situations where the City employee must care for an elderly family member or where a working spouse would have difficulty maintaining employment if required to move into the City. If new circumstances required a pre-1986 employee to move outside the City to take care of an elderly family member the City could still grant the exemption. Requests for a personal hardship exemption are decided by the City on a case-by-case basis, and the employee's agency must annually verify that the condition for which the exemption was granted still exists.

Indispensable/key employees. Although not explicitly mentioned in the mayoral directive of 1978, the City may also exempt employees who entered service prior to 1986 if they can be shown to be an indispensable or key employee. To gain this exemption, the agency

most certainly that the employee's knowledge and abilities are not likely to be possessed by any other candidate who is a City resident. Candidates for this exemption are likely to be longtime City employees with highly specialized skills.

Non-mayoral agencies. A huge exception to the residency rules are the non-mayoral agencies and public authorities which collectively employ approximately 260,000 municipal workers. These agencies include the Transit Authority, Housing Authority, Board of Education, City University, Health and Hospitals Corporation, Triborough Bridge and Tunnel Authority, and the five District Attorney's Offices. Of these agencies only the Transit Authority and the HHC have their own residence requirements. The Transit Authority requires its provisional, non-union employees to maintain a City residence. These workers, however, represent only eight percent of the approximately 48,000 transit workforce. The HHC requires all of its 38,000 employees to maintain a City residence, according to Operating Procedure 20-48 of 2001. HHC rules, however, are full of exemptions and waivers. The largest exemption is for hard-to-recruit titles, which include almost all professional staff such as residents, physicians, dentists, psychologists, psychiatrists, podiatrists, physicists, physiatrists, nurses, pharmacists, pathologists, electrocardiograph and electroencephalograph technicians, medical equipment specialists, and social workers.

Preferences, taxes and enforcement. The City has several strategies to achieve some of the benefits of City residence. The City adds five points to the final weighted scores of those taking the firefighters examination who are City residents, a major competitive advantage. Once hired, however, the firefighter is free to move to the surrounding counties. The City also removed one of the financial incentives to relocate outside of the City. City nonresident employees must, as a condition of their employment, pay to the City the difference between the employee's actual tax and the tax that would have been paid had the employee been a City resident. This requirement gained in importance with the repeal of the non-resident income tax.

Each City agency is obligated to ensure that its employees comply with the residence requirement. Even an anonymous letter may trigger an investigation conducted by such methods as surveillance of the employee's car and house; checks of automobile license plates, school records and records of telephone companies; interview of the relatives, neighbors, school principals and even doormen. Failure to maintain the residence is grounds for termination.

Hard-to-Recruit City Titles Pursuant to Section 12-121 of the Administrative Code

- Administrative Actuary
- Administrative Architect
- Administrative Blasting Inspector
- Administrative Borough Superintendent
- Administrative Construction
 - Project Manager
- Administrative Director of Social Services
- Administrative Engineer Administrative Inspector (Buildings, Electrical, & Housing)
- Administrative Job Opportunity Specialist
- Administrative Juvenile Counselor

Administrative Landmarks Preservationist
Administrative Landscape Architect
Administrative Public Health Nurse
(Bureau of School Children and Adolescent Health Services)
Administrative Supervisor of Building Maintenance
Administrative Tax Auditor
Administrative Tests and Measurement Specialist
Agency Deputy Medical Director
Agency Medical Director
Appraiser (Real Estate)
Architect
Architectural Intern
Assistant Architect
Assistant Chemical Engineer
Assistant Civil Engineer
Assistant Corporation Counsel
Assistant Electrical Engineer
Assistant Environmental Engineer
Assistant Landscape Architect
Assistant Mechanical Engineer
Assistant Plan Examiner (Buildings)
Assistant Surveyor
Assistant Surveyor Trainee
Associate Inspector (Boilers, Construction, Electrical, Elevator,
Housing, Plumbing, and Steel Construction)
Associate Job Opportunity Specialist
Associate Juvenile Counselor
Associate Landmarks Preservationist
Associate Projects Manager
Attending Physician
Audiologist (Health)
Bio-Medical Equipment Technician
Caseworker
Chemical Engineer
Chemical Engineering Intern
Chief Marine Engineer (Diesel)
Chief Pharmacist
Chief Psychologist
Child Protective Specialist
Child Protective Specialist Supervisor
Child Welfare Specialist
Child Welfare Specialist Supervisor
City Clinician
City Deputy Medical Director
City Medical Director
City Medical Examiner (OCME)
City Medical Specialist
City Tax Auditor
Civil Engineer (Building Construction, Highway Traffic, Sanitary,
Structural, Water Supply)
Civil Engineering Intern
Climber and Pruner
Computer Associate (Operations, Software)
Computer Operations Manager
Computer Programmer Analyst
Computer Specialist (Operations, Software)
Computer Systems Manager
Construction Management Consultant
Construction Project Manager
Crane Operator (Any Motive Power Except Steam)
Criminalist
Dental Hygienist

Deputy Chief Medical Examiner
Director of Urban Park Rangers
Electrical Engineer
Electrical Engineering Intern
Emergency Medical Specialist (EMT, Paramedic)
Engineer-Assessor (Utility)
Engineering Work Study Trainee
Environmental Engineer
Environmental Engineering Intern
Estimator (General Construction, Mechanical)
Executive Inspector (Fire Department)
First Assistant Marine Engineer (Diesel)
Head Juvenile Counselor (Present Incumbents Only)
Inspector (Boilers, Construction, Electrical, Housing, Plumbing,
Steel Construction)
Job Opportunity Specialist
Junior Public Health Nurse (Bureau of School children and
Adolescent Health Services)
Juvenile Counselor
Landmarks Preservationist
Landscape Architect
Landscape Architectural Intern
Manager of Radio Repair Operations
Mechanical Engineer
Mechanical Engineering Intern
Medical Equipment Specialist
Medical Subspecialist
Medicological Investigator (OCME)
Occupational Therapist
Pharmacist
Physician
Physician's Assistant
Plan Examiner (Buildings)
Principal Appraiser (Real Estate)
Principal Pharmacist
Public Health Nurse (School Health)
Psychiatrist (per hour)
Psychologist
Radio Repair Mechanic
Senior Appraiser (Real Estate)
Senior Bio-Medical Equipment Technician
Senior Estimator (General Construction, Mechanical)
Senior Occupational Therapist
Senior Pharmacist
Senior Psychologist
Senior Stationary Engineer
Special Examiner (Physical Tests) (DOP)
Staff Audiologist
Stationary Engineer
Supervising Appraiser
Supervising Audiologist
Supervising Blasting Inspector
Supervising Emergency Medical Service Specialist
Supervising Pharmacist
Supervising Public Health Nurse
Supervising Therapist
Supervising Crane Operator
Supervisor of Electrical Installations and Maintenance
Supervisor of Mechanical Installations and Maintenance
Supervisor of Radio Repair Operations
Supervisor I, II, III (Welfare)
Surveyor

Tests and Measurements Specialist
Tractor Operator

8 City Law 1 (2002)

Housing Police
Sanitation Workers
Fire alarm Dispatchers } *State Statute*
ALS Attorneys - waiver

NEW YORK CITY LAW DEPARTMENT
OFFICE OF THE CORPORATION COUNSEL

Press Release

Michael A. Cardozo, Corporation Counsel

Web: nyc.gov/html/law/home.html

For Immediate Release

**COURT OF APPEALS UNANIMOUSLY AFFIRMS THE IMPORTANCE
OF RESIDENCY REQUIREMENTS FOR CITY EMPLOYEES**

Contact: Kate O'Brien Ahlers, Communications Director, (212) 788-0400, kahlers@law.nyc.gov

New York, Nov. 29, 2004 – The New York State Court of Appeals, the State's highest court, today unanimously sustained the constitutionality of a New York City law that requires municipal employees to maintain City residency as an ongoing qualification of employment or else forfeit their employment.

"The Court's decision is particularly significant, as it will allow City agencies to efficiently investigate and address their suspicions that an employee is violating the residency requirement. Employees who fail to establish that they are City residents will automatically forfeit their City employment," noted Commissioner Martha Hirst of the New York City Department of Citywide Administrative Services (DCAS). Prior to this decision, employees who did not live in the City were compelling agencies to proceed through lengthy and cumbersome disciplinary proceedings before they could be removed from their positions.

Corporation Counsel Michael A. Cardozo, whose office litigated the case on behalf of DCAS, added: "This case also affects virtually every City department and other governmental subdivisions throughout this State that imposes a residency requirement on its employees. We are pleased that the Court of Appeals recognized the importance of the law's requirement that City employees maintain City residency, which in turn fosters a bond between employees and the City they serve."

The Court, in a 6-0 vote, held that the City's local residency law does not run afoul of the Constitution nor does it conflict with the general laws of the State. The local law was challenged by Francisco Felix, a permanent civil servant with DCAS. When the City learned that Felix might actually be residing in Nassau County, he was directed to attend a meeting with proof of his residency. He appeared for the meeting with his union representative and various documents, including his tax return and W2 form, which listed his residence as an address in Nassau County. The City determined that he violated the residency requirement and thus forfeited his employment. He was subsequently removed from the payroll.

The residency law, codified in Administrative Code §12-120, was enacted to encourage employees to maintain a level of commitment and involvement in the local government and community employing them. It reads: "Failure to establish or maintain city residence... shall constitute a forfeiture of employment; provided, however, that prior to dismissal... an employee shall be given notice of and the opportunity to contest the charge that his or her residence is outside the City."

Felix was supported by an *amicus curiae* or "Friend of the Court" brief submitted by District Counsel 37 / the American Federation of State, County and Municipal Employees / the AFL-CIO at the eleventh hour. (Reporters' Note: These names are all part of one combined group.)

Reversing the order of the Appellate Division, First Department, the Court of Appeals rejected Felix's argument that he was entitled to a pre-termination hearing pursuant to Civil Service Law §75(1). That statute, which was enacted to protect civil servants from arbitrary and capricious penalties for

delinquencies in job performance, provides that a tenured employee "shall not be removed or otherwise subjected to any disciplinary penalty provided in this section except for incompetency or misconduct shown after a hearing upon stated charges pursuant to this section." Here, the Court held that Felix was not entitled to the procedural protections of the Civil Service Law because his dismissal was a result of his failure to maintain City residency – an ongoing qualification of employment wholly unrelated to job performance, misconduct or incompetency.

Sharyn Rootenberg, an Assistant Corporation Counsel in the Law Department's Appeals Division, handled the case at the appellate level. Eric Eichenholtz, an Assistant Corporation Counsel in the Labor & Employment Law Division also worked on the case at the lower court level.

The New York City Law Department is one of the oldest, largest and most dynamic law offices in the world, ranking among the top three largest law offices in New York City and the top three largest public law offices in the country. Tracing its roots back to the 1600's, the Department's 650-plus lawyers handle more than 90,000 cases and transactions each year in 17 separate legal divisions. The Corporation Counsel heads the Law Department and acts as legal counsel for the Mayor, elected officials, the City and all its agencies. The Department's attorneys represent the City on a vast array of civil litigation, legislative and legal issues and in the criminal prosecution of juveniles. Its web site can be accessed through the City government home page at www.nyc.gov or via direct link at www.nyc.gov/html/law/home.html.

###



Gotham Gazette

New York City News and Policy

Published by Citizens Union Foundation

- NEWS & ISSUES
 - CITY GOVT
 - STATE GOVT
 - IMMIGRANTS
 - SUSTAINABILITY
 - MEASURING UP
 - ABOUT
 - SUPPORT US
- Topics Games & Quizzes Features & Commentaries Issue of the Week Wonkster NYC Calendar Classifieds

Get a Job



- THIS SITE
- About Us
 - Archives
 - Corrections
 - Sign Up For A Free E-mail Newsletter
- TOPICS
- Arts
 - Children
 - Civil Rights
 - Community Development
 - Crime
 - Demographics
 - Economy
 - Education
 - Environment
 - Finance
 - Health
 - Housing
 - Immigrants
 - Land Use
 - Law
 - Parks
 - Social Services
 - Tech
 - Transportation
 - Voting
 - Waterfront

LINKS

- ORGS
- NYC Government
 - NYS Government
 - US Government
 - Advocates
 - BIDs
 - Civics
 - Culture
 - Foundations
 - History
 - Labor
 - Public Private
 - Think Tanks
- BOROS
- Bronx
 - Brooklyn
 - Manhattan

Residency Requirements

by Gail Robinson
April 17, 2006

As principal of Brooklyn Tech, one of the city's largest and most prestigious public high schools, Lee McCaskill had been described as a "polarizing figure...ruling by intimidation."

But what eventually cost him his job was not that – but the fact that he lived in New Jersey.

Earlier this year, the Department of Education learned that, while McCaskill and his family lived in Piscataway, he sent his daughter to a highly regarded New York City public elementary school without paying, as the city requires of those who live outside the five boroughs. Under investigation, McCaskill resigned.

And McCaskill is not alone. In March, after McCaskill lost his job, at least 132 school employees told the Department of Education that they too lived outside the city, sent their kids to public schools and did not pay \$5,500 a year tuition. But while some of those educators may gripe about having to pay to send their kids to free city schools, they can take solace in one thing: Unlike most other New York City employees, teachers can live wherever they want. Many city employees are required by law to live in the city itself and thousands more have to live in New York State.

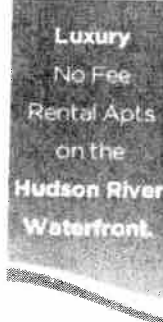
It is apparent why the Department of Education sought to crack down on McCaskill and the other teachers. In essence, they cheated the city out of money as their children occupied seats -- usually in highly regarded schools -- that could go to bona fide New York City residents. But, in general, does it matter where a public employee or elected official lives?



Carpetbagger

- Type Size: A A
- printer-friendly format
- e-mail this article
- most emailed articles
- digg this
- stumble it
- del.icio.us

Advertisement:



Gateway
www.gatewayny.com
702-586-3600
www.GatewayNY.com
Ads by Google

NEW YORK'S POLICY: EXCEPTIONS RULE

Who Must Live Where

Child protection specialist, Administration for Children's Services: In the city

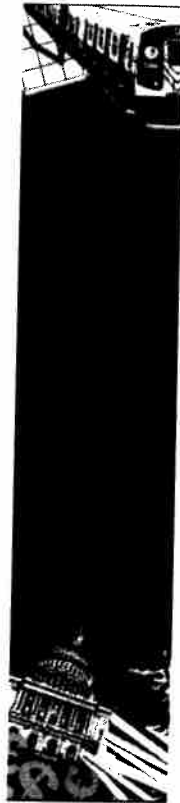
City Chaplains: Anywhere they want

Dentist, health department: In the city

Gardener, parks department: In the city

Lawyer, law department: Must be a member of the New York State

Today, about 80 percent of all people who work for the New York City government live within the five



<p>Queens Staten Island</p> <p>News Sites</p> <p>Daily News NY Times Daily News NY Post Newsday New York Sun</p> <p>NYC Weeklies Amsterdam News City Limits Weekly Crain's New York Business Gay City News New York Magazine New York Observer New Yorker, The Time Out New York Village Voice</p> <p>Dailies, Weeklies, Monthlies, etc. »</p> <p>Other-Language Press</p> <p>NYC Blogs »</p>	<p>bar but does not have to live in the city</p> <p>Legal secretary, law department: In the city</p> <p>Mayor's staff: In the city</p> <p>Members of the City Council: In their district</p> <p>Members of the State Legislature: In their district</p> <p>Members of Congress: In the state but not necessarily the district they represent</p> <p>Police: In New York City or one of six surrounding counties – all in New York State</p> <p>Prison Guards: In New York City or one of six surrounding counties – all in New York State</p> <p>Teacher: Anywhere they want</p> <p>in 2000 for a senator who had lived and voted in Illinois and Arkansas, but never New York, the municipal government requires that a receptionist in the planning department live within the five boroughs. And while a teacher can reside wherever he or she pleases, a firefighter must have his or her home in one of 11 counties in New York State. Police Commissioner Ray Kelly must live in the city, but a beat cop does not have to.</p>	<p>boroughs, but this is far more than are legally required to do so. New York has a patchwork of laws and attitudes on residency requirements. While city residents voted overwhelmingly</p>
--	---	---

The move for residency requirements gained force in New York City and much of the rest of the country in the 1970s. As middle class people fled to the suburbs, city officials struggled to keep as many salary-earning, stable people in the city as they could, and municipal employees fit that profile. Some officials argued that residency requirements would keep taxpayer money in the city rather than giving it to people who would use it to buy groceries and pay property taxes in New Rochelle. This argument still holds sway in poorer, more beleaguered cities, such as Buffalo and Detroit, but others question whether, in increasingly affluent New York City, the requirements have outlived their usefulness.

On a radio call-in program last August, Mayor Michael Bloomberg alluded to this. In the 1970s, he recalled, "there were forces to try to keep people in the city. Today we've got the reverse problem: Too many people trying to live here."

The debate over residency requirements is as old as the country. "Every matter, and thing, that relates to the city ought to be transacted therein and the persons to whose care they are committed [should be] Residents," wrote George Washington in 1796.

And some residency laws date back centuries: In 1829, New York State enacted a law dictating that all firefighters live in New York. In New York City, the Lyons Law, passed in 1937, required city employees to live in the city. Under urging from Mayor Robert Wagner who called the law "inequitable," the Board of Estimate repealed it in 1962.

By the 1970s, New York had a state law that said so-called public officers -- a vague term that includes people who have decision-making authority -- had to live in the jurisdiction that employed them. But the state expressly exempted from the law uniformed workers and those in independent agencies, such as the Metropolitan Transportation Authority or the Board of Education. (Teachers remain exempt even though the mayor has assumed control of the schools.) Over the years, the state has created some 70 exceptions to the rule, ranging from New York City sanitation workers to the dogcatcher of Onondaga County. As a result, city police and firefighters can live in the city, or in one of six surrounding New York State counties.



Mayor Ed Koch wanted all city workers -- even the exempt ones -- to live in the city, and the city passed a law doing just that. But the courts threw it out on the grounds that the city could not override the state law on uniformed employees. In response, in 1986, the city council passed a law that said any city employee hired after September 1 1986 and not exempted by the state laws had to live in the five boroughs. This law remains largely in effect.

DEBATING RESIDENCY REQUIREMENTS

In New York, the debate over residency requirements has involved activists on one side and employee unions on the other.

The Arguments For

Workers will be more available in emergencies: A commission appointed to investigate the violence that broke out during the 1977 New York City blackout cited a slow police response. It blamed this partly on the fact that, when the lights went out, many officers were at home in the suburbs, far from the streets of Bushwick and other hard hit neighborhoods. More recently, Bloomberg said that, if sanitation workers were allowed to live in the suburbs, it would be harder for them to respond promptly to emergencies, such as snowstorms. Ironically in New York City, many of the workers most vital to emergency response -- such as police and prison guards -- can live 90 miles away, while clerks and managers have to stay closer at hand.

City residents are more likely to understand and empathize with city residents: This argument is frequently raised with regard to the police department. "The hidden assumption," the Times said in a 1986 editorial, "is that officers residing outside the city fall too easily into thinking of their patrols as 'occupation duty' over an alien population."

"If a person lives in the city, he can't help but have a greater feel for the city because he is here 24 hours a day," former Police Commissioner Lee Brown once said.



Following several fatal police shootings, as well as the police torture of Abner Louima, the Campaign to Stop Police Brutality, led by the New York Civil Liberties Union among other groups, called for a residency program "tied to an affirmative action plan for police officers to improve police/community relations" and increase the department's effectiveness.

But others have questioned whether it would make a difference. In 2001, Mayor Rudolph Giuliani said the city received fewer complaints against police officers who lived in the suburbs than against those who live in the city. "That doesn't mean that police officers who live in the city are better or worse," he said at the time.

But according to a 2001 poll (in pdf format) done by the City Council, 45 percent of city residents surveyed said requiring police officers to live in the city would be "very beneficial," and 13 percent considered it "moderately beneficial." Twenty-nine percent said it "would make no difference."

Hiring city residents would create a workforce that, to paraphrase Bill Clinton, looks like New York: A study done in 1991 found that city residents applying for the police department were three times as likely to be Hispanic and four times as likely to be black as people applying from outside the city. If the city had to choose its employees from a pool of candidates where blacks and Latinos predominate, some argue, the workforce would reflect that.

Taxpayers' money should stay in the city: People who work in the city do not live here do not have to pay city income tax or a commuter tax – it was eliminated in 1999.

The Arguments Against

People have a right to live where they want: This position sounds powerful, but the courts have not accepted it. In 2004, for example, the state's highest court rejected the claims of a city maintenance worker who challenged the city's residency law. And in 1989, the U.S. Supreme Court upheld the state courts and ruled against firefighters challenging the law that required them to live in New York State.

The courts seem to agree with a former mayor of Madison, Wisconsin, Paul Soglin who told *Governing* magazine, "People have a constitutional right to live anywhere they want. They do not have a constitutional right to public employment."

The city is too expensive: Unions raised this objection when the city first moved to enact stricter residency requirements in the 1970s, and it has gained force today as middle class people find it increasingly hard to rent or own a home anywhere in the city, which represents many maintenance workers, clerks, technicians and other municipal employees who must live in the city, has said it is unfair that some of the lowest paid city workers are the ones who must live in the most expensive part of the metropolitan area.

Residency rules keep the city from getting the best employees: Hiring only people who live (or are willing to live) in the city narrows the pool of applicants from which the city can choose. When city school districts found it increasingly difficult to find qualified, certified teachers, many districts that had residency requirements for educators abandoned them. "With such a teacher shortage throughout the country, most districts are trying everything they can to attract teachers rather than create barriers," a spokesperson for the American Federation of Teachers has said.

The rules are difficult to enforce: Some cities have resorted to spying. Buffalo has had a residency sleuth who conducted on site surveillance and interviews with neighborhoods to root out employees violating that city's rules.

In New York City, some government agencies have asked some workers to sign affidavits and, in some cases, employees may blow the whistle on other employees. It seems likely the teacher's union, which had been warring with Brooklyn Tech principal McCaskill, may have alerted education department officials that he lived in New Jersey.

THE EFFECT ON SPECIFIC PROFESSIONS

Whatever the merits of these arguments, residency requirements, and the debate about them, play out in different ways, depending upon the job.

Firefighters

Residency is a particularly sensitive issue in the fire department. Despite frequent vows by the city to diversify, the department remains 92 percent white and almost entirely male. And about half of all firefighters live outside the city. Some advocates argue that requiring firefighters to live in the city would bring more blacks and Latinos to its ranks.

For now, though, like police officers, firefighters must live in one of 11 New York counties: the five that make up the city along with Nassau, Suffolk, Westchester, Rockland, Putnam or Orange. Changing that would require action by the state legislature.



The department does give preference to city residents, adding five extra percentage points on to the department's entrance exam. But according to Paul Washington, president of the Vulcan Society an organization of black firefighters, many people claim to live in the city when they do not. The additional five points "would have an impact if it was really enforced," Washington says, but "it's easy for candidates to get around it," and the department "seems to find it impossible to come up with a residency criteria that really works."

A 2001 audit by the city's Equal Employment Practices Commission agrees that residency requirements might help bring people other than white men into the department. It cited an array of reasons for the department's homogeneity, including a failure to verify residency claims. But the corrections department has the same residency requirements as the fire department, and has a uniformed force that is more than 80 percent black and Latino.

Sanitation Workers



Since 1986, city sanitation workers have had to live in the city. But late last year, the state legislature said that sanitation workers, like police and firefighters, could also reside in six other counties. The workers "are ecstatic," Harry Nespoli, head of the Uniformed Sanitationmen's Association, told the Daily News after Governor George Pataki signed the bill easing residency requirements. "They want a piece of the American pie. They want to own a home."

Bloomberg, though, expressed irritation at the state's intruding in what he saw as city business. "I don't think any of these things should be up to the state legislature," he said on the radio at the time. "It should be the city negotiating with its unions and the state should stay out of it -- whether it's medical benefits, pension benefits, where you can live or any of those kinds of things."

Elected Officials

Perhaps because so many New Yorkers come from somewhere else, voters here have accepted politicians from elsewhere. When New York was filling its first Senate seat in 1789, a Long Island native lost out to Rufus King of Massachusetts.

And in the years since, voters seem unfazed by politicians branded as Carpetbaggers, to use the term first coined to describe the Northerners who went South after the Civil War. Robert F. Kennedy became a New York senator even though he had spent most of his adult life in Massachusetts and Virginia. Hillary Clinton followed successfully in his footsteps more than 30 years later.

This year, people question whether William Weld was a carpetbagger when he ran for governor of Massachusetts, where he had lived for a number of year, or whether he is a carpetbagger now as he seeks to become governor of New York, where he grew up and has kept a summer home.

But some politicians have stumbled on the residency issues. Councilmember Bill deBlasio met with some derision earlier this year as he pondered whether to run for a congressional seat from Staten Island; the district includes a sliver of Brooklyn, but not the Park Slope area where deBlasio lives (and which he now represents in City Council).

DeBlasio decided not to enter the race, but his City Council colleague David Yassky continues his quest to represent a congressional district, which his home is close to but not in. (To remedy the problem, Yassky recently moved.)



And residency requirements can offer an opportunity for the canny politician. Take Brooklyn Assemblymember Roger Green. In 2002, Green faced a vigorous challenge from lawyer Hakeem Jeffries. Green won but did not want to risk facing Jeffries again. So, when the state legislature set about redrawing assembly districts, Green made sure they moved the boundaries of his district by one block -- just enough to put the Jeffries home outside of it.

And now? Jeffries and his family have moved so they will be in the district. And Roger Green is running for Congress, to represent a district where he has lived for many years.

Other Related Articles:

Stated Meeting: Residency Redux and Inspecting Water Tanks (2009-02-12)

Disclosure Bill's Uncertain Future (2008-09-22)

A Permanent Address: Regulating Residency Requirements at the City Council (2008-02-25)

Enabling Voters With Disabilities? (2006-06-07)

The DREAM Act and Immigrant Youth (2006-01-09)

The Community Service Stigma (2004-08-09)

Bush Housing Policies Lack (2004-08-09)

React to this article on our Issue of the Week Message Board.

Visit the complete "Issue of the Week" Archives

Sites of Interest from Collegester:

Online Casino | Wireless broadband | Place Your Link Here!

Gotham Gazette is brought to you by Citizens Union Foundation. It is made possible by a grants from the Alfred P. Sloan Foundation, the Altman Foundation, the Fund for the City of New York, the John S. and James L. Knight Foundation, New York Times Foundation, the Charles H. Revson Foundation, the Robert Sterling Clark Foundation, the Rockefeller Brothers Fund and readers like you. Please consider making a tax-deductible contribution.