

State Superintendent of Schools: VOTING IN SCHOOL DISTRICTS

Question of right of  
employees of McCune  
Home, Jackson County,  
to vote on school affairs.

June 17th  
1933.

6-20



Honorable Charles A. Lee,  
State Superintendent of Schools,  
Jefferson City, Mo.

Dear Mr. Lee:-

We acknowledge receipt of your letter of May 10, 1933,  
as follows:

"The attached information concerns School District  
No. 19 in Jackson County. Mrs. Blythe was in to see me this  
week and also had a conference with your Assistant, Mr. Strother.

"Mrs. Blythe stated Mr. Strother suggested that I ask  
for an opinion relative to the employees of the McCune Home in  
Jackson County having the right to vote on school matters in  
the local district. She alleges that the home of these  
employees is located in other sections of the state and that  
for all practical purposes they are not citizens of the dis-  
trict, so the question is, do these employees of the McCune  
Home have a voice in the affairs of the local school government  
as expressed in the annual school meeting?"

The section of the statute dealing with the matter in the  
letter quoted above is Section 9287, Revised Statutes of Missouri,  
1929. In line 12 of said section, it is provided that the directors  
who are to govern and control the school district shall be chosen  
by the qualified voters of the district. In line 23 of the same  
section the term "qualified voter" within the meaning of the entire  
chapter is defined as follows:

"A qualified voter within the meaning of this  
Chapter shall be any person who, under the laws of this  
state, would be allowed to vote in the county for state  
and county officers, and who shall have resided in the  
district thirty days next preceding the annual or special  
meeting at which he offers to vote."

Article VIII, Section 2, of the Constitution of Missouri  
sets out the qualifications for being able to vote generally,  
including, of course, the eligibility to vote for state and county

Honorable Charles A. Lee

-2-

June 17th, 1933.

officers, as follows:

"All citizens of the United States, including occupants of soldiers and sailors homes, over the age of twenty-one years, who have resided in this state more than one year and in the county, city or town sixty days immediately preceding the election at which they offer to vote and no other person shall be entitled to vote at all elections by the people; provided no idiot, no insane person, and no person while kept in any poor-house at public expense or while confined in any public prison shall be entitled to vote, and persons convicted of felony, or crime connected with the exercise of the right of suffrage may be excluded by law from the right of voting."

As to whether, under Section 9287 read in connection with the constitutional section above quoted, the employees of the McCune Home can vote on the election of these directors, it is a question of fact as to each employee's status and the consequent right or disability based thereon. In the present case the question of residence in the school district, thirty days under section 9287, seems to be the important factor.

The question of what constitutes "residence" is a well settled doctrine in the State of Missouri. The "intention" of the person claiming residence is for all practical purposes the controlling factor. Hope vs. Flentge, 140 Mo. 390, 41 S. W. 1002, 47 L.R.A. 806, a case often cited, holds that "whether they were residents was a question of fact into which their intention largely entered and a finding that they were would not be disturbed". The case of Northern vs. McCaw, 189 Mo. App. 362, 175 S.W. 317, holds that "since a person's residence depends entirely upon his intention an expression of that intention can be overcome only by strong circumstances to the contrary."

Whether the employees of the McCune Home are bona fide residents of School District #19, and, other things being equal, should be allowed to vote on school matters can resolve itself only into a question of fact in the individual case of each employee. If an investigation shows clearly that they are bona fide residents of another district and merely nominal residents of School District #19 their votes could be withheld.

APPROVED:

Very truly yours,

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Attorney-General

CMHjr-MB

CHARLES M. HOWELL, Jr.  
Assistant Attorney-General