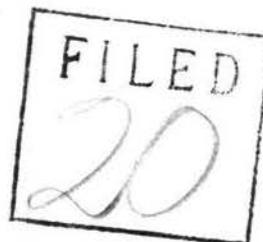


SCHOOLS:
DIRECTORS:
QUALIFICATIONS:
TAXPAYERS:

The person who is qualified to vote at a school meeting may be elected as a director of the school board of such district provided he has paid taxes, real and personal, in any county in the State of Missouri within the previous year.

April 19, 1938

Mr. Brevator R. Creech,
Prosecuting Attorney,
Lincoln County,
Troy, Missouri.



Dear Sir:

This is to acknowledge yours of the 15th, requesting an official opinion from this department based on the information set out in your letter which is as follows:

"I would like very much to have an opinion from your office on the following statement of facts:

On the first Tuesday in April, the school district of Winfield held a school election, and a resident of the Winfield School District by the name of Herbert J. Crosby (a person over the age of 21, and a citizen of the United States) obtained the highest number of votes as one of the candidates for school director.

Before he had an opportunity to attempt to qualify, the secretary of the board mailed him the enclosed letter which letter, as you will note, states that he had been instructed to notify Mr. Crosby that the present members of the board were of the opinion that he could not qualify as one of the directors, and this fact was made known to the County Superintendent of Schools, Mrs. Sanders.

The contention on the part of the board is that he is not a taxpayer, in the mean-

ing of the statute, in the Winfield School District, or in Lincoln County.

The facts are that Mr. Crosby was a resident of St. Louis up until two years ago, at which time he moved to Winfield School District and has been a resident of that School District since.

He owns property in the City of St. Louis and has paid taxes (personal and real estate) during the years of 1935, 1936, and 1937; and has paid poll tax in Lincoln County for the year of 1936. During the year of 1936 he was not assessed for '37, but was assessed in '37 for the year of '38, and will pay a tax in '38 on personal property.

I have taken occasion to read 189 Mo. 532 which seems to be in point on the situation here, and I am sending in this letter the tax receipts that he has paid and the letter received from the board of education of Winfield, and ask your office to give me an opinion upon whether or not this man is qualified to serve as a member of the board of directors for the Winfield School District.

I would like to have this opinion as speedily as possible as there is quite a bit of tension in this matter."

"As Secretary of the School District of Winfield, Mo., and by its authority I am instructed to inform you, that before you can qualify as a Director, you must qualify according to school law in regard to paying taxes in the district.

I have a copy of the School law which you may see. As soon as you have complied with its requirements, we will have a meeting of the board and install you into office."

By Section 9328, R.S. Mo. 1929, it is provided as follows:

"The qualified voters of the district shall, annually, on the first Tuesday of April, elect two directors, who are citizens of the United States resident taxpayers of the district, and who shall have paid a state and county tax within one year next preceding their election or appointment, and who shall have resided in this state for one year next preceding their election or appointment, and shall be at least thirty years of age, who shall hold their office for three years and until their successors are duly elected and qualified; and all vacancies in the board shall be filled for the unexpired term."

In the case of State v. Menengali, 270 S.W. 103, the Court said:

"It was admitted at the trial that respondent possessed all the qualifications required by above section to fill the position of school director, except the disputed issue as to whether she was a taxpayer of said school district, and as to whether she had paid, or caused to be paid, a state and county tax within one year next preceding her election in April, 1922. In Webster's New International Dictionary, a taxpayer is defined as: 'One who pays a tax.' In Funk & Wagnall's New Standard Dictionary, a taxpayer is defined as: 'One who pays any tax, or who is liable for the payment of any tax.'" * * * * *

In the case of State ex inf. Sutton v. Fasse, 189 Mo., 1.c. 536, the Court said:

"Appellant insists the requirement that a school director must be a resident taxpayer of the district means

that he must have paid taxes for school purposes within the district. That contention cannot be adopted without enlarging the language of the statute and changing its intention. The meaning is that a person who is a qualified voter of the district and also a taxpayer is eligible. A qualified voter is defined in the same section to be one who, under the general laws of the State, would be allowed to vote in any county for State and county officers and who has resided in the district thirty days preceding the school district meeting at which he offers to vote. Any person who possesses those qualifications is a qualified voter as defined in section 9798 (9759?) in regard to the qualifications of school director. If he is also a taxpayer (that is, a person owning property in the State subject to taxation and on which he regularly pays taxes) he is eligible to the office of school director whether he has in fact paid a tax within such school district or not; otherwise, when a new district is formed no one would be eligible to the office of school director; or, if territory is taken from one district and attached to another, no person residing in the newly attached part would be eligible to the office of school director in the district to which it is attached until he first had paid a school tax therein. Provisions are made by the statute for the formation of new districts and also for changing the territory of districts. (R.S. 1899, sec. 9742.) The statutes bearing on the subject must not be so construed as to have unreasonable consequences, and the construction contended for by appellant, we think, would have."

Mr. Brevator R. Creech

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April 19, 1938

From our research on this subject, we fail to find that the above rule as laid down in the Fasse case has been either criticized or overruled. From the tax receipts of Mr. Crosby which you enclosed with your letter, it is conclusively shown that he has paid taxes in the State of Missouri for the past three years and therefore is a taxpaying citizen of this state. As said in the Fasse case, it is not necessary that such party pay taxes in the district to which he is elected, and the only requirement is that he be a taxpaying citizen in the State of Missouri.

The qualifications of directors of common school districts and of city, town and consolidated districts are the same except that directors of city, town and consolidated districts must be at least thirty years of age.

CONCLUSION

From the foregoing, this office is of the opinion that Mr. Crosby, having paid taxes regularly within the State of Missouri for the past three years, and if he possesses the qualifications of a voter in the city school district and is at least thirty years of age, he is eligible to hold the office of school director in such district.

Respectfully submitted,

TYRE W. BURTON
Assistant Attorney General

APPROVED:

J. E. TAYLOR
(Acting) Attorney General

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