

ELECTIONS:
VOTERS: Residence -
Qualifications -
STUDENTS:

whether or not students may vote,
depends upon facts and circumstances
of each particular voter.

October 24, 1940

Mr. J. W. Tucker
Secretary of State's Office
Room 114
Jefferson City, Missouri



Dear Sir:

In reply to your request on the question of whether or not students attending Park College, who possess other qualifications besides their residence as voters, may vote in the general election, I find that this question has been thoroughly covered by the Kansas City Court of Appeals in the case of Goben v. Murrell, 195 Mo. App. 104.

In this case, which was an election contest, the contestant contended that certain students of the School of Osteopathy had voted for his opponent and that they were not legal voters because they had not resided in the City more than sixty days prior to the City election. In this State a person must reside within the State one year, and sixty days in the County, before the election, in order to be permitted to vote.

In the Murrell case the facts as to the students' status as residents are similar to the facts that generally come up on this question. In that case the facts upon which the court found that the students were not permitted to vote were:

They had left their place of residence and had come to Kirksville for the sole purpose of becoming students at that institution of learning; they intended to remain in the school for three years and locate elsewhere for the practice of their profession; they never had altered their intentions of leaving Kirksville as soon as the course of study had been completed. In other

words, the facts showed that they were there for the temporary purpose of obtaining an education, and when that was completed they intended to locate elsewhere.

As stated above, when such conditions exist, the student is not a resident which would authorize him to vote in that election. In such cases the student should make application for an absentee ballot to vote at his home precinct or where he actually resides.

In the Murrell case, at l. c. 108, the court said:

"* * * Residence must have some connection or identification with the community. One's stay should at least be indefinite and not, as shown here, for the mere temporary purpose of attending school and then immediately leaving to locate in a permanent home elsewhere."

Again, at l. c. 109, the court said:

"Under our election law a student neither loses his old residence nor gains a new one during his absence from the former, or presence at the latter. It is true that this law does not preclude his becoming a resident and voter at the school town or city, but his intention must be evidenced by something more than his mere physical stay in the place. He must intend to make it his home--not that he shall remain for life--but his home indefinitely. And so if he comes into the place for the temporary purpose of getting an education and then to leave for other parts, he has not such a residence as entitled him to vote. * * *"

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Again, at l. c. 110, the court said:

"* * * Would one suppose that mere students are eligible to the offices at the locality of the school? There are municipalities in which schools are located, where the students outnumber the citizens proper. It certainly would strike one as extraordinary to learn that it was in the power of these nontaxpaying sojourners to wrest the city or county government from the voice and hand of the permanent citizens."

The question of residence always depends on facts, circumstances, conditions and intentions. Seldom will these be alike in two different cases. In case of doubt, or, in all cases, the judges of election have a right to inquire into the case and ascertain the facts and qualifications of the applicant for the ballot.

CONCLUSION.

It is, therefore, the opinion of this Department that if the facts show that a student comes to Park College merely for the purpose of obtaining his education, and not with the intention of residing in that County, then such person would not be considered a resident and qualified to vote there.

Respectfully submitted,

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APPROVED:

J. E. TAYLOR
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