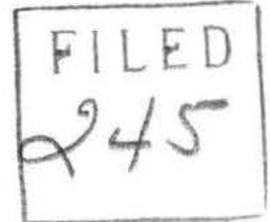


Opinion No. 245
Answered by letter

July 17, 1964



Honorable Charles P. Moll
Prosecuting Attorney
Franklin County
Union, Missouri

Dear Mr. Moll:

This letter is in response to yours of June 26, 1964,
wherein you pose the following questions:

"From whom are Absentee Ballots to
be obtained in a Consolidated School
District Election? How soon before
such an election may they be obtained?
Are said absentee ballots to be marked
with ink or indelible pencil to be a
proper ballot?"

As to your first question, from whom are absentee ballots
to be obtained? Section 112.020, RSMo 1959, provides applica-
tion for an absentee ballot is to be made "in person, or by
mail, to the county clerk, or, where existing, to the board of
election commissioners, or other officer or officers charged
with the duty of furnishing ballots for the election in his
voting precinct * * *." Therefore absentee ballots should be
obtained from the school officer who is charged with furnishing
the regular ballots.

As to your second question, how soon before the election
may they be obtained? Section 112.020 provides that "absentee
ballots may be obtained within thirty days next before the date
of the election and up to six o'clock p.m. on the day before
any election." Some school elections may be held with less
than thirty days notice. In such cases Section 112.020 must be
applied in substance but not in letter. In State v. Holman, Mo.,
349 SW2d 945, 949, the Missouri Supreme Court held the 30 day
requirement of Section 112.020 to be directory and not mandatory.

Honorable Charles P. Moll

-2-

As to your third question, are absentee ballots to be marked with ink or indelible pencil? Section 112.050 which sets forth the procedure for marking an absentee ballot makes no requirement as to the instruments of marking the ballot. We also note the absence of such requirements in Section 111.580 which sets out the method of preparing a regular ballot. We are not aware of any requirement that the voter must mark an absentee ballot with ink or indelible pencil.

No inquiry is made and we do not address the question of what school elections are within the terms of Chapter 112. For your information we are enclosing our opinions No. 4 (6-8-51) to Earl A. Baer and No. 20 (6-19-53) to Robert E. Crist.

Yours very truly,

THOMAS F. EAGLETON
Attorney General

TFE/LCD:dg

encl.