

SCHOOLS:  
SCHOOL DISTRICTS:  
COUNTY BOARD OF EDUCATION:

Resident of Andrew County who lives in a school district of Nodaway County having territory located in Andrew and Holt Counties, if he meets all other statutory qualifications, is eligible for and qualified to serve, if elected, as a member of the board of education of Andrew County.

OPINION NO. 160 - 1968

September 3, 1968

Honorable Alden S. Lance  
Prosecuting Attorney  
Andrew County  
Savannah, Missouri



Dear Mr. Lance:

This is in response to your request for an opinion dated January 8, 1968, which reads as follows:

"This question concerns the County Board of Education in Andrew County, which is a county of the third class. The County Board of Education consists of six members, three of whom reside in one County Court District, and three of whom reside in the second County Court District. One of the County Board Members resides in, owns property in, and paid school taxes in a school district, part of which was, at the annual election in 1967 and by Board of Arbitration action subsequent thereto, transferred to a school district lying in the two adjacent counties of Holt and Nodaway. This school board member's taxes for the year 1967 went to the school district lying in the two adjacent counties.

"My question is: Is this County Board Member of the County Board of Education of Andrew County, who is now a resident of and a taxpayer in a school district located in Nodaway County but having territory located in Andrew and Holt Counties, eligible to remain as a member of the Andrew County Board of Education? Although he is still a resident of Andrew County, it would appear that, by virtue of the aforesaid facts, his school loyalties would no longer be in Andrew County but would be in the school district of an adjoining county. The section of law involved would appear to be 162.111 RSMo., 1959, As Amended."

Section 162.111 RSMo Supp., 1967, provides for a county board of education in second, third and fourth class counties and also sets the qualifications of the members and the procedure for election and reads as follows:

"1. There is created in each second, third and fourth class county in this state a county board of education whose members shall be elected by popular vote at the annual school election held on the first Tuesday in April in each year. Each member shall be a citizen of the United States and of the State of Missouri; a resident householder and voter of the county, and shall be not less than twenty-four years of age. Nominations for board members shall be filed with the secretary of the county board of education at least thirty days before the election. The county board of education shall prepare ballots and publish notice for such election in the same manner as for boards of education in school districts.

"2. At the annual school election next following October 13, 1963, six members shall be elected whose terms shall be determined at the first meeting of the board subsequent to the election as follows: In each county court district the member receiving the highest number of votes shall serve for three years; the member receiving the next highest number of votes shall serve for two years, and the member receiving the least number of votes shall serve for one year. Thereafter each member shall serve for three years. Not more than three members shall be elected from one county court district.

"3. The cost of the election shall be charged to each component district of the county in the proportion that its assessed valuation bears to the assessed valuation of the entire county and shall be paid from the incidental fund."

Section 162.111 spells out the qualifications very clearly in that each member shall be (a) a citizen of the United States and of the State of Missouri, (b) a resident householder, (c) a voter of the county, and (d) not less than twenty-four years of age. The only other restriction is that there shall be no more than three members from one county court district.

This office has ruled that one who resides in a school district but outside the county to which the district has been designated to belong, is not qualified or eligible for election as a member of the county board of education of that county to which said district belongs because such individual in order to be a member of the county board of education must be a "resident householder of the county."

Honorable Alden S. Lance

We are enclosing official opinion No. 415, rendered to Honorable Richard M. Webster under date of December 24, 1963, which makes such holding.

It is provided in Section 162.181 RSMo Supp., 1967, that when a plan of reorganization includes any district with territory in more than one county, the state board of education shall designate the county containing that portion of the proposed district which has the highest assessed valuation as the county to which the district belongs. It appears that the legislature intended that the county board of education to which such district was assigned would be the board with regard to the entire district. However, it does not follow that this disqualifies one who is a resident of the fractional portion of the district that lies in the second county from serving on the county board of education of the second county. The members of the legislature chose not to add a requirement that a candidate for the county school board reside in a school district of the county of his residence. Had they done so, they would have disqualified some persons from serving on any county board of education.

CONCLUSION

It is the opinion of this office that a resident of Andrew County who lives in a school district of Nodaway County having territory in Andrew and Holt Counties, if he meets all other statutory qualifications, is eligible for and qualified to serve, if elected, as a member of the county board of education of Andrew County.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Mr. Robert K. Spalding.

Very truly yours,

  
NORMAN H. ANDERSON  
Attorney General

Encl: