

SCHOOLS:  
SCHOOL BOARDS:  
NOMINATIONS:  
ELECTIONS:  
ST. LOUIS CITY  
BOARD OF EDUCATION:

1. The sections of the Revised Statutes of Missouri which govern the procedure to be used in the handling of nomination petitions of persons who seek election to the Board of Education of the City of St. Louis as independent candidates are Sections 120.180 through 120.220, RSMo 1959, as amended. 2. The petitions are to be filed with the Board of Education for the St. Louis City School District.

OPINION NO. 213

March 28, 1968



Honorable James E. Godfrey, Speaker  
Missouri House of Representatives  
Capitol Building  
Jefferson City, Missouri

Dear Mr. Speaker:

This opinion is written to consider two questions which you submitted as follows:

"1. What sections of the Revised Statutes of Missouri govern the procedure to be used in the handling of the nomination petitions of persons who seek election to the Board of Education of the City of St. Louis as independent candidates?

2. Further, which is the proper political subdivision with whom said nominating petitions are to be filed? Is the filing to be with the Election Board of the City of St. Louis or with the Board of Education itself, whose district is coterminous with that of the city?"

In considering your first question, the general provisions for boards of education in metropolitan school districts are found in Sections 162.571 through 162.661, RSMo Cum. Supp. 1967. Section 162.601 provides that ". . . all elections for members of the Board of Education shall be subject to and governed by the same laws, rules and regulations which govern elections in the city for municipal officers. . ." However, members of the Board of Education are specifically excluded from the provisions for nominations in St. Louis City for municipal elections. Section 122.680, RSMo 1959. Thus the controlling sections are the general nomination provisions of Chapter 120, RSMo 1959.

Section 120.150, RSMo 1959, provides:

Honorable James E. Godfrey

". . . candidates for the office of member of the board of education in school districts in cities having seven hundred thousand inhabitants or more shall be nominated in accordance with the provisions of sections 120.180 through 120.220 as amended, both inclusive, any provision hereof to the contrary notwithstanding."

Therefore, the sections which govern the handling of nomination petitions for independent candidates are Sections 120.180 through 120.220, RSMo 1959, as amended.

With regard to your second question, the controlling statute is Section 120.220, RSMo 1959, which provides:

". . . petitions of nomination for nomination of candidates for the offices in cities and other political subdivisions shall be filed with the clerk or other proper officer or board of the political subdivision. . ."

This indicates that a distinction is to be made between candidates for offices in "cities" and candidates for offices in "other political subdivisions". This distinction governs the filing of the nomination petition since the petition is to be filed with the clerk or other proper officer or board of the political subdivision, depending upon the office sought.

A city is clearly a political subdivision of the state under the specific provisions of Section 120.220. A school district has also been held to be a political subdivision of the state. 78 C.J.S., Schools and School Districts, Section 24; State vs. Whittle, (Mo. 1933), 63 S.W. 2d 100, 102. These political subdivisions are separate entities as evidenced by the independent taxing power which is provided for them in the Missouri Constitution, Article X, Sections 11 (a) and 15.

The board of election commissioners is created for the city. Section 118.040, RSMo Cum. Supp. 1967. If a person desired to file for an office of the City of St. Louis, the nomination petitions and declarations of candidacy would have to be filed with the Board of Election Commissioners as provided in Sections 122.650 through 122.970, RSMo 1959. However, Section 122.680, as mentioned previously, excludes the nomination or election of members of boards of education from these provisions. Thus it is the opinion of this office that a candidate for election to the board of education of a

Honorable James E. Godfrey

school district is a candidate for office in "other political subdivisions" within Section 120.220 and, therefore, the filing of nomination petitions must be with the board of this political subdivision, i.e., the board of education.

This position is supported by the fact that requisite filings for nominations in urban school districts and certain six-director school districts are required to be with the respective boards of education. Sections 162.491, 162.492 and 162.271, RSMo Cum. Supp. 1967.

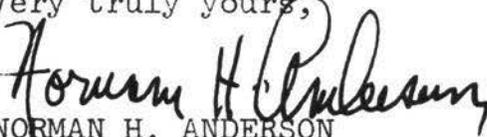
#### CONCLUSION

1. The sections of the Revised Statutes of Missouri which govern the procedure to be used in the handling of nomination petitions of persons who seek election to the Board of Education of the City of St. Louis as independent candidates are Sections 120.180 through 120.220, RSMo 1959, as amended.

2. The petitions are to be filed with the Board of Education for the St. Louis City School District.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Thomas J. Downey.

Very truly yours,

  
NORMAN H. ANDERSON  
Attorney General