



OFFICES OF THE
ATTORNEY GENERAL OF MISSOURI
JEFFERSON CITY

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ATTORNEY GENERAL

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OPINION LETTER NO. 172

Honorable Doris M. Quinn
State Representative, 40th District
3302 North Osage
Independence, Missouri 64050

Dear Representative Quinn:

This letter is in response to your question asking:

"Does Section 162.491 of the Public School Laws of Missouri require that candidates for the School Board be cross-endorsed by the political parties and this being the case, does that mandate that these names be listed in duplicate under each political party, with the names of each individual nominated by petition listed separately, one time only with no political party affiliation showing?"

You also state that:

"Cross-endorsement has been used by the Jackson County Democratic and Republican party committees. These committees appoint 5 member candidate selection panel for their respective parties. After the candidates are selected, they are submitted for endorsement by the other party's selection panel. The two cross-endorsed candidates for the two seats which are up for election every two years appear twice on the ballots, once under the Republican column, once under the Democratic column. An independent candidate

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nominated by petition which requires signatures of registered voters in the district equal to 10% of the total votes cast for the candidate who received the most votes in the last board race, appears separately from the other two candidates."

Section 162.491, RSMo, to which you refer, provides:

"1. In any urban school district in a city having a population of less than three hundred thousand inhabitants, which city lies within a county which also contains a city having a population of more than three hundred thousand inhabitants, candidates for school directors may be nominated by a majority of the members-elect residing in the school district of each political party committee of the city in which the school district is located. If there is no political party committee of a city having a population of less than three hundred thousand inhabitants and lying within a county which also contains a city having a population of more than three hundred thousand inhabitants, the nominations may be made by a panel consisting of ten members, each of whom shall be at least thirty years of age and a resident of the school district. Five of the members shall be selected by a majority of the members-elect of each major political party committee of the county in which the school district is located.

"2. A certificate of nomination signed by the chairman of the party committee, by a majority of the members-elect of the committee residing in the school district, or by the majority of the members of the nominating panel, whichever is applicable, giving the names of the candidates and certifying that they have been selected by a majority of all the members-elect of the committee residing in the school district or by the majority of the members of the nominating panel, as the case may be, shall be filed with the secretary of the board of directors of the school district not later than thirty days before

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the election. In case of any vacancy in a nomination by resignation, death or otherwise, occurring after the filing of a certificate and before the election, the vacancy may be filled in the same manner as herein provided, and an affidavit shall be made by one or more members of the committee residing in the district covering all of the facts, and shall be presented to the judge of some court of record, who shall under his hand and the seal of the court grant a certificate covering the facts. The certificate shall be filed with the secretary of the board of directors of the school district.

"3. Directors for urban school districts, other than those districts containing the greater part of a city of over three hundred thousand inhabitants, may also be nominated by petition to be filed with the secretary of the board and signed by a number of voters in the district equal to ten per cent of the total number of votes cast for the director receiving the highest number of votes cast at the next preceding biennial election."

We find no legal precedent to guide us in answering your question and therefore must rely solely on our view of the legislative intent in enacting such provisions.

Under the provisions of Section 162.491, such candidates may be nominated by a majority of the members-elect residing in the school district of each political party committee of the city in which the school district is located. If there is no political party committee of such a city the nominations may be made by a panel consisting of ten members, each of whom shall be at least thirty years of age and a resident of the school district. Five of the members shall be selected by a majority of the members-elect of each majority political party committee of the county in which the school district is located.

We understand that in the case about which you inquire the nominations are made by the ten member panel. We find nothing in the statute to authorize cross filing of names of candidates so nominated as party candidates. Section 162.491 simply authorizes nominations for school director to be made by two methods; by nominating petitions and by panels consisting of the members

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of city political committees or a combination of members selected by the two major political parties. The legislative intent is that candidates be nominated for the office of school director but there is no intent that candidates be listed as political party candidates. The city political committees or the panel selected by political committees simply are representative bodies that the legislature believed should have the power of nominating candidates for school director but there is no intimation that candidates for the school boards under Section 162.491 are candidates of a political party or are to be listed under party labels. The intent clearly is that candidates can be nominated by representative bodies without having imposed on such candidates the onerous and crushing burden of securing petitions containing names equal to 10% of the votes cast for the candidate who received the most votes in the last board race. The nomination of the same candidate by two political party committees refutes any contention that such persons are party candidates as it is clear that a person cannot be a Democrat and a Republican (the two major parties at present) at the same time. It is also clear that no legislative intent is shown to authorize nominations of both Republican and Democratic candidates by a panel of Republicans and Democrats. In fact, the past practice you describe of listing candidates under both political parties (or under one political party) is, in our view, contrary to the legislative intent, illogical, confusing to the voters, and unfair to candidates nominated by petition.

Very truly yours,



JOHN C. DANFORTH
Attorney General