

SCHOOLS: (1) Voter must vote for county superintendent of schools in the school district in which he resides;
(2) Voter must reside in school district thirty days prior to the election in which he offers to vote.

March 30, 1943.

4-21



Honorable E. V. Kell
Prosecuting Attorney
County of Howell
West Plains, Missouri

Dear Mr. Kell:

The Attorney-General wishes to acknowledge receipt of your letter of March 25th in which you request an opinion from this Department. Your letter requesting such opinion is as follows:

"Will you please favor me with an opinion on the following questions regarding the voting in election for County Superintendent of Schools:

"1. Can a voter cast his vote for County superintendent of Schools in a school district other than the district where he resides in same county?

"2. If a voter has changed his residence 30 days prior to said election, which district may he legally cast his vote for superintendent of Schools."

We note from your letter that there are two questions which you wish answered, and we will first consider question number one, as to whether or not a voter may cast his vote for county superintendent of schools in a school district other than the district where he resides in the same county.

We first call your attention to Section 10420, R. S. Mo. 1939, which sets out the qualifications of the voters at a district school election. Omitting that part of said section which is not pertinent to the question involved, we wish to cite the following:

"* * * A qualified voter within the meaning of this chapter shall be any person who, under the general laws of this state, would be allowed to vote in the county for state and county officers, and who shall have resided in the district thirty days next preceding the annual or special meeting at which he offers to vote."

As will be seen from the above provision, in order for a voter to vote at an annual school election for the directors in his district it is necessary that he reside in the district wherein he wishes to vote, at least thirty days next preceding the annual or special meeting at which he offers to cast his ballot.

As is common knowledge, the county superintendent of schools is voted on at the annual school meetings in the different districts in the year in which such officer is required under the statutes to be elected. If a person voted in a district in which he did not live or in which he had not resided for thirty days preceding the election at which he offered to vote, he would be in the anomalous position of voting for a county superintendent of schools in a precinct in which he had not been qualified to vote for a school director. We do not feel that this is the meaning of the statutes, but that in order that a person vote for the county superintendent of schools that he must cast his ballot in the school district wherein he resides and wherein he is a qualified voter.

Your second question is as to where the voter shall cast his vote for superintendent of schools when he has changed

his residence thirty days prior to an election therefor.

As can be seen from the statute which has been cited above, when a voter has lived in a school district thirty days prior to any election at which he offers to vote, he becomes a qualified voter of that particular district and may vote for the directors for such school district, and under the reasoning and decision above he therefore must cast his ballot for the county superintendent of schools in the district into which he has moved and wherein he has resided for thirty days.

Conclusion.

Therefore, it is the opinion of this Department that a person wishing to vote for county superintendent of schools must cast his ballot in the district wherein he resides and has resided for thirty days previous to the day of election, and may not vote in any other school district.

It is further the opinion of this Department that where a voter has changed his residence thirty days prior to an election at which he offers to vote, that he must cast his ballot for county superintendent of schools in the district where he has moved and wherein he has resided for thirty days preceding the day of election.

Respectfully submitted,

JOHN S. PHILLIPS
Assistant Attorney-General

APPROVED:

ROY MCKITTRICK
Attorney-General

JSP:EG