

OPINION
64-252

August 24, 1964 (OPINION)

Honorable M. F. Peterson

Superintendent

Public Instruction

RE: Schools - Elections - Composition of Election Board

This is in reply to your letter of August 14, 1964, relative to the statutes governing school elections.

You state the following questions:

Is it lawful for a candidate for membership on a school board to act on the election board? The school election laws are silent on this particular point while the general election laws provide that a candidate for membership on a board cannot act on the election board.

My question number 2 has to do with inspectors. Most of the school election boards - all of them as far as I know - set up a board consisting of four persons - two judges and two clerks.

Does that system satisfy the requirements of the law? Specifically, must a school election board have an inspector?"

Chapter 15-28 of the North Dakota Century Code, as amended, governs school district elections. Section 15-28-10 of the North Dakota Century Code, as amended, makes certain specific provisions of the general election laws applicable to school districts. As you have noted in your letter, the school election laws make no specific provision relative to a candidate at a school election serving on the election board. However, section 15-47-06 of the North Dakota Century Code, as amended, provides in part:

An election in a public school district, except as otherwise provided in this title, shall be conducted and the votes shall be canvassed in the manner provided by the laws of this state for the election of county officers. * * *."

The general election laws govern the election of county officials. See section 11-10-02 of the North Dakota Century Code, as amended, and section 16-01-01 of the North Dakota Century Code (which constitutes a portion of the general election laws) provides in part that no person shall be a member of the board of elections who is a candidate at the election or who is the husband, wife, father, mother, father-in-law, mother-in-law, son, daughter, son-in-law, daughter-in-law, brother or sister, of any candidate at the election.

It is to be noted that the provisions of the school election laws are

silent as to the qualifications of the members of the board of elections at a school district election. The provisions of section 15-47-06 of the North Dakota Century Code, as amended, would, therefore, make the general election laws applicable in this regard.

In view of the provisions of section 16-10-01 of the North Dakota Century Code, it is our opinion that a candidate for membership on the school board is not qualified to act as a member of the election board at the election upon which his candidacy is to be determined by ballot.

With regard to your second question, we note that section 15-28-04 of the North Dakota Century Code, as amended, provides in part:

* * * The board shall appoint two persons to act as judges and two persons to act as clerks of the election in each precinct. * * *."

The general election laws provide for an inspector of elections. See section 16-10-01. However the school election laws do not provide for an inspector of elections but rather provide the board shall be composed of two judges and two clerks. In this instance the specific law applicable to school elections would govern the law applicable to general elections.

It is our opinion that the board of elections for a school district election is composed of two judges and two clerks appointed by the school board and that an inspector of elections is not required.

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