

**OPINION  
57-106**

September 13, 1957        (OPINION)

ELECTIONS

RE: School - Qualified Voter

We have received your letter dated September 11, 1957, with reference to section 15-2714 of the North Dakota Revised Code of 1943.

You state that the school officers manual published in 1954 in discussing who are eligible to sign a petition for annexation employs the following language, "electors residing in the district."

You then ask the following questions:

1. Is an individual who owns land in territory sought to be annexed to a special school district and who votes at the same location as he would if he lived on such land, but who actually lives in town away from such district, entitled to sign a petition for annexation of such territory to another school district?"

Webster defines an elector as a "person entitle to vote". A person need not necessarily have physical residence in a school district to be entitled to vote therein. This office has held that residence for voting purposes is established by combination of act and intent, and a person may reside physically in a town outside of the geographical area of a school district and still retain his voting residence in the district. It is, therefore, our opinion that a person who retains his voting residence in school district although his physical residence is elsewhere is entitled to sign a petition provided for in section 15-2714 of the Code.

Your second question is as follows:

2. Must such an individual be counted as an elector in determining, under the provisions of the above quoted section 15-2714, whether an application for attachment of territory signed by the required two-thirds of the electors of such territory?"

We believe such person must be counted because he is an elector in the area to be attached.

LESLIE R. BURGUM

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