

**OPINION
60-90**

September 15, 1960(OPINION)

ELECTIONS

RE: Affidavits of Residence - Authority of Election Board to Administer Oaths

Under date of September 2, 1960, you wrote this office concerning the election board with reference to the use of electors' affidavits, etc.

Section 16-0103 prescribes the qualifications of electors. This section was amended by chapter 153 of the 1957 Session Laws. It is now section 16-0103 of the 1957 Supplement to the North Dakota Revised Code of 1943 which reads as follows:

QUALIFICATIONS OF ELECTORS. Any person of the age of twenty-one years or upwards, who has resided in this state one year, in the county ninety days, and in the precinct thirty days next preceding any election, shall be a qualified elector at such election if he is a citizen of the United States."

Section 16-0105 of the North Dakota Revised Code of 1943 also provides that:

Where a qualified elector moves from one precinct to another precinct within this state, he shall be entitled to vote in the precinct from which he moved until he establishes his residence in the precinct to which he moves."

These are the precinct qualifications for electors.

In your letter you make reference to 16-0218 of the North Dakota Revised Code of 1943 which provided for registration of voters and the taking of affidavits as to residence. This section also provided that the judges or the inspectors of the election may administer the oath pertaining to such affidavit. This section was repealed by chapter 264 of the 1951 Session Laws, which repealed chapter 16-02 of the North Dakota Revised Code of 1943. This same chapter, however, amended section 40-2110 which was again amended by chapter 255 of the 1953 Session Laws and reads presently as follows:

REGISTRATION OF VOTERS. The governing body of any city or village may require the registration of voters in any election held or conducted within the municipality at such time and place or places as the governing body may designate."

It therefore seems that the only registration authorized by law is registration in municipalities where such municipality requires it. It is optional with municipalities.

Section 16-0103 of the 1957 Supplement to the North Dakota Revised Code of 1943 as set out above does not refer to any registration or to authority of election boards to administer oaths. For that matter, after a reasonable search of our election laws, we are unable to find any law which authorizes election boards or election officers to administer oaths. The qualifications of an elector and proof thereof may be furnished by voters by making an affidavit to that effect. Such affidavit must be executed either before a notary public or some party authorized to administer oaths. Election officers or members of an election board in themselves do not have such authority unless they are notaries public.

It is therefore our opinion that election officers or members of an election board are not authorized to administer oaths in connection with affidavits on residence, etc., unless such officer or board member is also a notary public.

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Attorney General