

Opinion No. 65-14

January 27, 1965

BY: OPINION OF BOSTON E. WITT, Attorney General Oliver E. Payne, Deputy Attorney General

TO: Senator Matias L. Chacon, New Mexico State Senate, State Capitol Building, Santa Fe, New Mexico

QUESTION

QUESTIONS

1. In a school board election can a person be appointed to serve as an election official in a precinct other than the one in which he resides and is registered?
2. Who may assist the person asking for assistance in a school board election?
3. What persons are entitled to assistance in voting in a school board election?
4. Can an elected county official serve as an election official in a school board election?

CONCLUSIONS

1. No, but see analysis.
2. See analysis.
3. See analysis
4. Yes, except for sheriffs.

OPINION

{*25} ANALYSIS

Section 3-3-16, N.M.S.A., 1953 Compilation provides in pertinent part as follows:

"All election officials, including challengers and watchers, shall be legal residents of the precinct wherein the election at which they serve is held."

{*26} Thus we see that an election official must be a legal resident of the precinct in which he serves. However, in the case of school board elections we find that Section 3-2-3.1, N.M.S.A., 1953 Compilation (P.S.) provides as follows:

"For all purposes relating to any and all school elections, including school bond elections, all the area within the exterior boundaries of any school district, as now defined or as may hereafter be created or altered, is hereby declared an defined to be one precinct, whether in one or more counties."

Based on this statute, a person need only reside in the school district in order to be eligible to serve as an election official in a school board election for that district -- assuming he qualifies in all other respects.

Section 73-10-5, N.M.S.A., 1953 Compilation provides that school board elections shall be called, conducted, returned and canvassed in the same manner as municipal elections and it further provides for the appointment of three election judges and two poll clerks in each voting district. Thus the general provisions regarding assistance are applicable and a person eligible for assistance is to be aided "by the two poll clerks and one person of his own selection, but by no other person or persons." Sections 3-3-30 and 3-3-20, N.M.S.A., 1953 Compilation.

Persons eligible for assistance are those who are unable to mark their ballot (or operate a voting machine) due to blindness, defective eyesight, or other physical disability and those who are unable to read either the English or Spanish language sufficiently to mark a ballot. Sections 3-3-20 and 3-3-30, supra. Before any elector is to be afforded assistance he must execute the required affidavit for assistance. Sections 3-3-20 and 3-3-30, supra.

We find no statute which prohibits elective county officials, other than sheriffs, from serving as election officials in school board elections. See Section 3-3-16, N.M.S.A., 1953 Compilation.