

Opinion No. 32-419

March 18, 1932

BY: E. K. Neumann, Attorney General

TO: Miss Thelma McCully, County School Superintendent, Roswell, New Mexico.

{*151} Your letter of the 16th instant asks if in elections of members of local boards of education, it is possible for persons to be elected to such boards who are patrons of the school, but who reside outside the school district in which the election is held, and, if such can be done, can patrons of the school, but who reside outside the district, vote in such elections.

{*152} Section 13 of Article 5 of the New Mexico Constitution is as follows:

"All district, county, precinct and municipal officers, shall be residents of the political subdivision for which they are elected or appointed."

This section undoubtedly, in our opinion, relates to members of a rural district school board and prohibits anyone holding the office of school director in any district of which he is not a legal resident. Consequently in the present case, patrons of a rural school district, not residents thereof, are disqualified from holding the office of school director in such district.

Patrons of a rural school district, in our opinion, are not entitled to vote in a school election held in the district of which they are patrons but of which district they are not residents. Our reason for this conclusion is based primarily upon Section 120-813 of the 1929 Code which, relating to elections for directors of rural school districts, in part is as follows:

"* * * Only legal voters, residing in said district shall be qualified to vote at said election;
* *"

Strengthening our conclusion further in the case of Klutts v. Jones, 20 N.M. 230, it was said by chief Justice Roberts, speaking for our Supreme Court, "Appellee admits that a person, to be a qualified voter at a school election, must be a resident of the school district at the time he offers to vote at an election held therein. That this is true is indisputable."