

**VOLUME NO. 35**

**Opinion No. 91**

**ELECTIONS—School districts, elector and candidate qualifications, ballots cast; SCHOOLS AND SCHOOL DISTRICTS—Elections, elector and candidate qualifications, ballots cast. Sections 23-3004.1, 23-3018, 75-5913, 75-6410, 75-6414, 75-6418 and 75-6422, R.C.M. 1947.**

- HELD:**
- 1. In order to qualify for the office of school trustee a person must be registered to vote as a resident of the school district in which he proposes to vote.**
  - 2. Votes cast in a school election by persons who are residents of the district but who are not registered to vote in that district are invalid.**

July 19, 1974

Mr. Douglas Y. Freeman  
Big Horn County Attorney  
County Attorney's Office  
Hardin, Montana 59034

Dear Mr. Freeman:

You have requested my opinion on the following questions:

1. Whether a candidate for the office of school trustee who is a resident of a school district but who is not registered to vote in that district is qualified to hold the office of school trustee in that district.
2. Whether votes cast in a school election by electors who are residents of the district but who are not registered to vote in that district are valid?

Candidate qualifications for the office of school district trustee are set forth in section 75-5913, Revised Codes of Montana, 1947, providing in pertinent part:

Any person who is qualified to vote in a district under the provisions of section 75-6410 shall be eligible for the office of trustee.

Section 75-6410 provides in pertinent part:

Every person is entitled to vote at school elections if he has the following qualifications:

- (1) He has **registered to vote** with the county registrar **as a resident** in the school district in which he resides and proposes to vote in the manner provided by the general state election laws ... (Emphasis supplied)

The plain, ordinary meaning of the language of a statute is used in construing its meaning. Section 93-401-16. **State ex rel. Woodahl v. District Court**, \_\_\_ Mont. \_\_\_, 511 P.2d 318 (1973). Clearly, in order to be eligible for the office of school trustee under the provisions of sections 75-5913 and 75-6410, supra, an individual must be registered to vote and must be a resident of the school district for which he seeks office. If a candidate for school trustee fails to meet both of these requirements he is not qualified to hold the office of school trustee.

In response to your second question concerning the validity of ballots in a school trustee election, section 23-3004.1, R.C.M. 1947, provides in pertinent part:

... the county registrar shall record the resident school district of each person registering to vote to allow the preparation of registered elector lists for each school district of the county.

Section 23-3004.1, supra, is implemented in section 75-6414, R.C.M. 1947, providing:

After closing registration the county registrar shall prepare a list of registered electors for each polling place established by the trustees. The list for each polling place shall be prepared in the format of a precinct register book.

As noted in section 75-6410, supra, in order to qualify as an elector in a school election an individual must have "registered to vote with the county registrar as a resident in the school district in which he resides and proposes to vote." Thus, as a prerequisite to voting in a school election, an individual must be on the voter registration list for that school district.

In section 75-6418, R.C.M. 1947, the law provides that school district trustees must supply election judges and each polling place with:

- (3) a list of electors prepared in the format of a precinct register book.

Section 23-3018, R.C.M. 1947, of the general election laws provides in part:

- (1) **A person shall not vote at an election ... unless his name appears on election day in the copy of the official precinct register furnished by the registrar to the election judges. The fact that his name appears in the copy of the precinct register is prima facie evidence of his right to vote. (Emphasis supplied)**

Further, regarding the conduct of school elections, section 75-6422, R.C.M. 1947, provides in part:

- (1) **The election judges shall deliver the ballots to the elector offering to vote and shall cause the recording of such elector's signature on the registered elector listing for the polling place. (Emphasis supplied)**

A review of these statutes clearly emphasizes that only individuals duly registered as residents in the district are entitled to cast ballots in a school election. Those individuals who are not registered and who do not properly appear on the official register listing are not eligible to vote as a school district elector. Consequently, any ballots cast by individuals who are not duly registered to vote as residents in that school district are invalid.

**THEREFORE, IT IS MY OPINION:**

1. In order to qualify for the office of school trustee a person must be registered to vote as a resident of the school district in which he proposes to vote.
2. Votes cast in a school election by persons who are residents of the district but who are not registered to vote in that district are invalid.

Very truly yours,

**ROBERT L. WOODAHL**  
Attorney General