

1979 WL 43587 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 13, 1979

*1 Bruce E. Davis, Esquire
1704 Fair Street
Camden, SC 29020

Dear Mr. Davis:

I am in receipt of your recent letter concerning residency requirements of school board members in Union County. You have inquired as to the effect of a trustee moving from the voting precinct from which he was elected to another precinct.

Act No. 419 of 1969 governs the election of school board members. This Act provides as follows:

... each member of the board shall be a qualified elector and reside within the voting precinct which he represents.

The members of the board shall be elected from the following voting precincts: Four members shall be elected from Bonham; Oakland; Excelsior; Monarch No. 1; Monarch No. 2; Ottaray; Union Ward No. 1; Union Ward No. 2; Union Ward No. 3; Union Ward No. 4, Precinct No. 1; and Union Ward No. 4, Precinct No. 2. Three members shall be elected from Jonesville No. 1; Jonesville No. 2; Jonesville No. 3; West Springs; and Kelton. Two members shall be elected from Adamsburg; Lockhart No. 1; and Lockhart No. 2. Two members shall be elected from Buffalo No. 1; Buffalo No. 2; Coleraine; Putman; and Parham. Two members shall be elected from Black Rock; Cross Keys; Carlisle; Meadows; and Santuc.

This Act clearly requires a member of the board to reside within the precinct that he represents. However, the Act further states that the members are elected from groups of precincts.

A requirement for a person to be a resident of a district in which he is elected is in derogation of the common law and must be expressly stated. 29 C.J.S. Elections, § 130; 63 Am.Jur.2d Public Officers and Employees, § 47. Act 419 of 1969 established the requirement that a member of the board must live within the precinct that he represents; however, by the terms of the Act, a member can come from one of several voting precincts grouped together by the Act.

Therefore, if a member of the board moves from his voting precinct and into a voting precinct not in that group of voting precincts he must reside within, he could not continue to serve. (Example: from Bonham Precinct to Jonesville No. 1). 63 Am.Jur.2d Public Officers and Employees, §§ 42, 47; 67 C.J.S. Officers, §§ 75, 100. If he moves from his voting precinct to a voting precinct inside the group that he must reside within, he most probably could continue to represent his area. (Example: from Bonham Precinct to Oakland Precinct).

Very truly yours,

Treva G. Ashworth
Senior Assistant Attorney General

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