

1974 WL 28119 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 31, 1974

\*1 James M. Dickson, Esquire  
P. O. Box 226  
Clover, South Carolina 29710

Dear Mr. Dickson:

Thank you for your letter of October 25, 1974, in which you inquired whether or not the names of two candidates for the Clover School Board of Trustees should be placed upon the ballot. You have informed me that these individuals were not registered electors as of October 6, 1974; however, subsequent to the date for closing the registration books these two men did register to vote. Therefore, neither candidate will be able to vote in the November 5 school election.

Under Article 17, Section 1 of our Constitution, no person shall be elected or appointed to any office unless he possesses the qualifications of an elector. The qualifications of an elector as contained in Article 2, Sections 3 and 4 of the South Carolina Constitution are the age, citizenship and residence requirements set forth therein and registration. Registration is essential to constitute one a qualified elector. [State v. Mittle](#), 120 S.C. 526, 113 S.E. 335. The term 'qualified elector' means 'registered elector.' [New v. Charleston Ry. Co.](#), 55 S.C. 90, 32 S.E. 828. A candidate for office must not only be a qualified or registered elector, but must be eligible to vote in election that elects him. [State ex rel Culp v. City Council of Union](#), 95 S.C. 131.

Assuming therefore that a candidate is a duly qualified, registered elector on the day of election, there is the further requirement that his registration certificate must have been issued at least 30 days before the election. Section 23-66, 1962 Code of Laws.

It would, therefore, be the opinion of this office that these two individuals would not be qualified to serve if elected. It has been the previous opinion of this office that it would be proper for the election officials to refuse to place the name of an unqualified candidate on the ballot until he becomes qualified. However, the ultimate decision as to whether or not to place the candidate's name upon the ballot would rest with the election officials. Recent Supreme Court cases have reasserted the importance of the individual's right to access to the ballot as a candidate. See [Lubin v. Panish](#), 415 U.S. — (1974); [Bullock v. Carter](#), 405 U.S. 134, 31 L.Ed.2d 92, 92 S. Ct. 849 (1972).

Therefore, although it would be proper to refuse to place the name of an unqualified candidate upon the ballot, the election officials may allow the names to be placed upon the ballot. If the two candidates should be successful, a suit could be brought to determine whether or not these individuals would be qualified to serve.

Sincerely,

Treva Ashworth  
Assistant Attorney General

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