

Opinion No. 49-5190

January 27, 1949

BY: JOE L. MARTINEZ, Attorney General

TO: Charles L. Rose Supt. of Public Instruction Santa Fe, New Mexico

{*11} We have your letter of January 19, 1949, requesting the opinion of this office upon the following question:

"Is the provision (Registration books showing qualified voters) mandatory on school election officials when it is not possible for Boards of Education to arrange boundaries of school voting districts to coincide with boundaries of voting precincts used at general elections?"

The provision you refer to is Section 55-905 of the 1941 Compilation as amended in 1947, the material part of which provides:

"On the first Tuesday in February in each odd numbered year, **the qualified electors of the district and territories attached thereto for school purposes** shall elect at large one (1) or two (2) members of the said board as the case may be (except as provided in the section next preceding) to succeed those now holding office whose terms expire. Said election shall be called by the municipal board of education and shall be called, conducted, returned and canvassed by said board as in the case of officers in the respective incorporated cities, towns, and villages. **Registration books showing qualified voters must be used as in general election.**

Through the **underscored** portions of the above quoted statute, the Legislature clearly indicated that only qualified electors should vote, and that registration within the voting division should be the basis of determining whether or not an elector is qualified. It is, therefore, the opinion of this office that no school board may dispense with the use of registration books.

If a given precinct contains territory not within the boundaries of the school district, the residence of the voter as shown upon the registration affidavit will determine whether or not the particular elector is entitled to vote.