

Opinion No. 55-6208

June 29, 1955

BY: RICHARD H. ROBINSON, Attorney General

TO: Mrs. Georgia L. Lusk, Superintendent of Public Instruction, State Department of Education, Santa Fe, New Mexico

In your letter of June 27, 1955, you request our opinion as to what constitutes a qualified elector for the purpose of school bond elections. As you point out, this office has previously held, in Opinion No. 5889, that registration is not a qualification for voting in school bond elections.

Article 9, Section 11 of the Constitution of New Mexico provides that question must be "submitted to a vote of such qualified electors of the district as are owners of real estate within such school district . . ."

Qualified electors are defined by Article 7, Section 1 of the Constitution of New Mexico, as follows:

"Every citizen of the United States, who is over the age of twenty-one years, and has resided in New Mexico twelve months, in the county ninety days, and in the precinct in which he offers to vote thirty days, next preceding the election, except idiots, insane persons, persons convicted of a felonious or infamous crime unless restored to political rights, . . . shall be qualified to vote . . ."

The term "residence" has been defined as being synonymous with home or domicile denoting the permanent dwelling place to which a party, when absent, intends to return. Attorney General's Opinions - 1929-30, page 57, and also as "that place wherein he legally resides and has his domicile and from which, when temporarily absent he intends to return." § 3-1-1, N.M.S.A., 1953 Compilation.

By: Walter R. Kegel

Assistant Attorney General