

Opinion No. 64-157

December 28, 1964

BY: OPINION OF EARL E. HARTLEY, Attorney General James V. Noble, Assistant Attorney General

TO: Mr. Charles S. Solomon, Attorney for Vaughn and Jemez Springs, Municipal School Districts, Suite 50 Sena Plaza, Santa Fe, New Mexico

QUESTION

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1. May watchers be appointed in non-partisan school board elections?
2. If so, how are they appointed and by whom?
3. If so, can the board of education require that their names be presented to it prior to election day?
4. What is the procedure to be followed in holding a nonpartisan school board election?

CONCLUSIONS

1. Yes.
2. See analysis.
3. Yes, but see analysis.
4. See analysis.

OPINION

ANALYSIS

Your first question is answered by Opinion No. 57-14, Report of the Attorney General, 1957-1958. It held that Section 73-10-5, N.M.S.A., 1953 Compilation provides for municipal school board elections to be held and conducted in the same manner as municipal elections which in turn are held in the same manner as county elections. Section 14-14-3, N.M.S.A., 1953 Compilation. Section 3-6-3, N.M.S.A., 1953 Compilation provides in part that any two or more candidates in a municipal election may appoint two watchers in each voting precinct. Since a school election is governed by this provision, watchers may be appointed in non-partisan school board elections by any two or more candidates. Such appointments shall be in writing and shall be

submitted to the chief clerical officer of the board. Two such watchers may be appointed for each voting precinct. This opinion is expressly affirmed.

Your third question concerns the time of filing of such appointments of watchers and is answered in the affirmative. For the same reasons that are hereinafter set forth in answer to your next question, a board of education may require that such appointments be filed with its chief clerical officer a reasonable length of time in advance of the election. What is reasonable will be determined in each case by the facts present but may well include the time necessary for delivery of election supplies, time needed for verification of appointments, if any, and other elements.

Fourthly you ask what procedures are to be followed in selection of candidates for non-partisan school board elections. As above stated the procedure for the holding of county elections, where applicable, applies unless special provisions are made for school or municipal elections by the statutes. **Telles v. Carter**, 57 N.M. 704, 262 P.2 985.

The case of **Hampton v. Priddy**, et al, 50 N.M. 23, 168 P.2d 100 stands for the proposition that all of the provisions of the general election law are not necessarily applicable to municipal elections and that one may run for municipal office on a non-partisan basis. The same reasoning would apply to school elections.

Section 73-10-5, N.M.S.A., 1953 Compilation (P.S.) provides for certain election procedures in school board elections. The election shall be called by the municipal board of education. Under Section 14-14-3, N.M.S.A., 1953 Compilation, governing municipal elections, the proclamation for the election shall be signed by the mayor and attested by the clerk. Necessarily in school elections the call is signed by the board president and attested by its clerk. The election proclamation shall be published once a week for two successive weeks with the last insertion at least one day prior to the election. Such publication shall be in English unless the board desires it to be published in both English and Spanish. Such publications shall be printed in one newspaper published in the municipality (school district) or, if none is so published, posted in at least five public places within the municipality (school district) for a period of at least eight days prior to the election.

Section 73-10-5, supra, also provides for the constitution, by resolution of the board duly adopted of the district as one or more voting divisions and for the appointment of three election judges and two election clerks for each such division. In the case of such a division the election proclamation shall also contain a brief description of the boundaries of each voting division, the designation of the polling place, and the names of the election officials appointed therein.

The names of the candidates are not required to be printed in the proclamation. However, since ballots have to be printed and distributed, or voting machines prepared, a municipal board may adopt reasonable regulations or rules as to the time within which names of candidates must be filed. They should be filed with the clerk of the board rather than the county clerk. Section 3-3-2, N.M.S.A., 1953 Compilation (P.S.).

Since the primary election laws do not apply to such election, and since there is no other method of designating candidates running under a non-partisan designation, the board is necessarily empowered to adopt reasonable rules and regulations concerning the election of candidates. Our election laws apply only to the method of selection of candidates by political parties and insofar as applicable would apply to nomination by political parties for school board vacancies. Under the authority of **Hampton v. Priddy**, supra, one is able to run for election to a school board as a non-partisan candidate and it would necessarily follow that, no other provision being made governing such cases, the board could adopt such reasonable rules and regulations as it saw fit governing selection of such candidates. Among these might be the requirement of a public meeting, adequate notice, a reasonable minimum number of qualified electors present, or a petition in reasonable form executed by a reasonable number of electors, or any other reasonable method or methods of selection of candidates, non-partisan ticket designation, and other matters necessarily involved in such process of selection.