

Opinion No. 65-59

April 5, 1965

BY: OPINION OF BOSTON E. WITT, Attorney General Thomas A. Donnelly, Assistant Attorney General

TO: Mr. Leonard DeLayo, Superintendent of Public Instruction, Department of Education, Santa Fe, New Mexico

QUESTION

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If a member of the State Board of Education changes his domicile from one county to another would such change affect such person's eligibility to continue serving on such state board?

CONCLUSION

Not unless such person relocates his residence outside the judicial district which he was elected to represent.

OPINION

{*98} ANALYSIS

The State Constitution is controlling over the question presented in your inquiry. Article XII, Section 6, states in part:

". . . B. The members of the state board of education shall be elected at the general {*99} election next following the adoption of this amendment. One member shall be elected from each of the present ten judicial districts. The initial board shall determine by lot from its members three members to serve terms of two years and three members to serve terms of four years. The remaining of the initial board shall serve terms of six years. Thereafter, as the terms of members expire, their replacements shall be elected from the same districts for terms of six years.

If additional judicial districts are created the legislature may provide by law for the election by the people of a board of not less than seven members nor more than ten members from board of education districts, created by the legislature. . . .

C. Board members shall be residents of the district they represent. Change of residence of a board member to a place outside the district from which he was elected shall automatically terminate the term of that member. The board members

may be removed in the manner in which the legislature may provide by law." (Emphasis supplied).

It is clear under Section 6, Article XII, quoted above, that so long as an elected member of the State Board of Education continues to maintain his bona fide residence in a location within the judicial district for which he was elected to represent, then he may move his residence to any county situate within such judicial district without affecting his position upon such board. Conversely, however, if a board member changes his bona fide residence to a county outside the judicial district for which he was elected, then and in such event such removal would effect an automatic termination of the term of such State Board of Education member causing a vacancy to occur in such position.