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FILE NO. S-410

ELECTIONS:

School Director and Member of
Board of Education

Honorable Michael J. Bakalis
Superintendent of Public Instruction
302 State Office Building
Springfield, Illinois 62706

Dear Superintendent Bakalis:

I have your recent letter wherein you state:

"As a result of Constitutional Amendment and legislative changes, 18 year old persons are now eligible to vote in all elections. House Bill 1963 specifically amended Sections 6-5 and 9-3 of the School Code by lowering the voting age to 18 in elections for the county board of school trustees and school elections in general.

Sections 10-3 and 10-10 of the School Code, however, were not amended and continue to require a person to be 21 years of age to be eligible to run for the position of school director or school board member respectively. In light of your recent opinion stating

that 18 year olds may serve on juries even though the statute says jurors must be 21, are 18 year old persons eligible to be elected to the position of school director or school board member?"

Section 10-3 of "An Act in relation to the establishment, operation and maintenance of public schools, * * *.",

Ill. Rev. Stat., 1969, Ch. 122, Par. 10-3, reads as follows:

"Any person who, on the date of his election, is a citizen of the United States, of the age of 21 years or over, a resident of the State and of the territory of the district for at least one year immediately preceding his election, a registered voter as provided in Section 9-3, and is not a school trustee or a school treasurer, shall be eligible to the office of school director."

Section 10-10 of "An Act in relation to the establishment, operation and maintenance of public schools, * * *.",

Ill. Rev. Stat., 1969, Ch. 122, Par. 10-10, states:

"All school districts having a population of not fewer than 1,000 and not more than 500,000 inhabitants, as ascertained by any special or general census, and not governed by special Acts, shall be governed by a board of education consisting of 7 members serving without compensation except as herein provided. Each member shall be elected pursuant to the provisions of Article 9 of the School Code for a term of 3 years, unless otherwise provided herein. When the voters of a district have voted to elect members of the board of education in odd-numbered years, as provided in Section 9-5, rather than annually, the terms of office of members of the board of education of that district expire on the second Saturday of April of the year following that in which the proposition

was submitted. At the election held on that date in the odd-numbered year, 3 members shall be elected for a 2 year term, 2 for a 4 year term and 2 for a 6 year term. Thereafter members elected in odd-numbered years shall be elected to a 6 year term. An election for board members shall not be held in school districts which by consolidation, annexation or otherwise shall cease to exist as a school district within six months after the election date, and the term of all board members which would otherwise terminate shall be continued until such district shall cease to exist. Each member shall, on the date of his election, be a citizen of the United States of the age of 21 years or over, a resident of the state and the territory of the district for at least one year immediately preceding his election, and shall not be a school trustee or a school treasurer.

It can be observed from the foregoing statutes that in order to be eligible for the office of school director or member of a board of education, a person must be of the age of 21 years or over. It has been held that the right to be appointed or elected to an office is not a property right, but a mere privilege. And, when an office is created by the General Assembly it may provide the qualifications required to hold such office, and it is immaterial that all citizens of the State do not possess all of the qualifications or fulfill all of the requirements required by the statute, People v. Evans, 247 Ill. 547. A statute may require the attainment of a specified age in order for an individual

to hold a public office, State, ex rel, Boda v. Brown, 157 Ohio St. 368. I am of the opinion, therefore, that a person must have attained the age of 21 in order to hold the offices of school director and member of the board of education under the provisions of Sections 10-3 and 10-10 of "An Act in relation to the establishment, operation and maintenance of public schools, * * *.", Ill. Rev. Stat., 1969, Ch. 122, Pars. 10-3 and 10-10.

Very truly yours,

A T T O R N E Y G E N E R A L