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ARIZONA ATTORNEY GENERAL

July 14, 1972

DEPARTMENT OF LAW OPINION NO. 72-20 (R-52)

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REQUESTED BY: COUNTY ATTORNEYS

ARIZONA STATE BOARD OF EDUCATION

THE HONORABLE WELDON P. SHOFSTALL  
Superintendent of Public Instruction

QUESTIONS:

1. Is there a method by which ballots may be marked or color coded to identify such ballots in order to aid the election board in issuing the right ballot to each voter?
2. May the County School Superintendents use paper ballots in conjunction with electronic ballots, and must the names be rotated on the ballots?
3. Does the polling place have to be within the school district?
4. Must all ballots for the same office be uniform?
5. What notice is required for a regular trustee election?
6. Under the new trustee election statutes, are the candidates for office entitled to have poll watchers at the polling places?

ANSWERS:

1. See body of opinion.
2. See body of opinion.
3. No. See body of opinion.
4. See body of opinion.
5. See body of opinion.
6. No.

The last legislative session radically changed the method of voting for school trustees. Each of the offices concerned in this matter have submitted numerous requests for opinions. Because of the volume of such requests, this will be the first in a series of opinions which will be issued as the questions are answered.

1. Color coding may not be used on voting machines. A.R.S. § 16-793.B.3 states: "Permit a voter to vote for any candidate . . . for whom . . . he is entitled to vote, but none other." A.R.S. § 16-795.A requires ballots on clear white paper printed in black ink. Therefore, machines must be set to prevent any voter from voting for a candidate not within the voter's district. This would nullify the purpose of color coding, and the literal terms of the statute should therefore be followed.

Paper ballots may be color coded as follows: The front of the ballot must conform to A.R.S. § 16-844, which requires black ink on white paper, which paper shall be of a thickness to prevent the printing from showing on the reverse side. This ballot may be coded by placing a colored stripe across the back of the ballot. This stripe may not show through onto the ballot side. The stripe should be placed in such a manner as to include the stub which is removed before the ballot is placed in the ballot box. Where envelopes are used to enclose the ballot, the envelope may be color coded. Computer ballots are regulated by A.R.S. § 16-1026. These ballots must be white on front and be printed in black ink, except for primary elections where they must be a different color. Therefore, computer ballots may be color coded in the same manner as the paper ballots.

2. A.R.S. § 15-474.B states:

B. The superintendent may cause separate ballots to be prepared, or such school district candidates' names may be included as a part of the regular ballot. In any event the names of all persons whose petitions have been filed shall appear on a ballot, without partisan or other designation except the title of the office.

Therefore, the decision whether or not to use paper ballots rests with the County School Superintendents. There is no requirement that the names of school district candidates be

rotated on either paper ballots or voting machines. A.R.S. § 16-844.J requires rotation only where two candidates of the same party run for the same office, or for candidates for judge. A.R.S. § 16-1226.D requires rotation of non-partisan candidates. Thus, only when computer cards are used does the law require the names of the candidates to be rotated. If the County School Superintendent uses paper ballots, the names do not have to be rotated, even though all other votes are cast on computer cards.

3. A.R.S. § 15-471 was amended by Chapter 138, Laws of 1972, to require regular trustee elections to be held at the time and place and in the manner of general elections, as provided in Title 16.

Sections A and E of A.R.S. § 15-471 were amended in such manner as to replace the requirement that trustee elections must have polling places within the boundaries of the school district. These elections will now be held at the polling places designated by the Board of Supervisors, pursuant to Title 16.

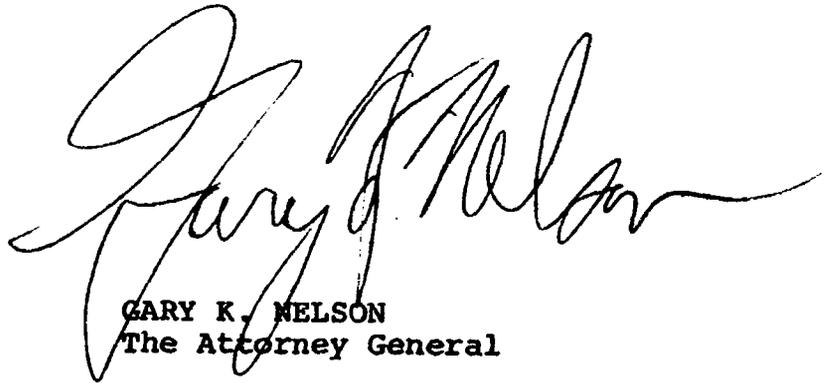
4. The form of the ballot is set by the County School Superintendent, and should be uniform wherever possible, but the ballot may vary if the polling places at which the elections are held use different methods of voting or if other candidates to be elected at such polling places differ and the ballots for district candidates are combined with those for other candidates.

5. These elections require the same notice as a general election under the provisions of Title 16. It is our opinion that notice of a regular election is given pursuant to A.R.S. § 16-705. The County School Superintendent shall perform the duties of the Governor by issuing a proclamation stating the time of the election and the school offices to be filled within the county. The Superintendent shall transmit a copy of said proclamation to the Board of Supervisors of the county, and must then publish said notice as required. Then, pursuant to A.R.S. §§ 16-761, 15-479.B and 11-512.14, the Board of Supervisors shall set the polling places and make such notice as required by Title 16.

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6. All of the statutes in Title 16 concerning poll watchers and challengers are predicated on a bi-partisan election. There is no provision within Title 16 or within the new school election law which permits a candidate for trustee to have poll watchers within the polling places.

Respectfully submitted,



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The Attorney General

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