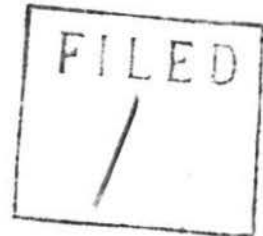


ELECTIONS: County superintendent of schools need not file declaration of candidacy.

March 27, 1939

Mr. H. D. Allison
County Clerk
Buchanan County
St. Joseph, Missouri



Dear Mr. Allison:

We wish to acknowledge your letter of March 18th wherein you state as follows:

"I would like to have a legal opinion on the following questions concerning the election of the County Superintendent of Schools which takes place April 4, 1939.

1. Is it the duty of the county clerk to furnish the ballots?
2. Does a candidate for this office have to file his declaration of candidacy with the county clerk? If so, what is the last day on which he can file?

We are unable to find any section of the law covering the above questions. It has always been customary in this county that the county clerk furnish ballots but since there is no section stating what the deadline on filing is, we are wondering what authority we would have for ordering ballots to be printed with the possibility that someone might file after the ballots come from the printers."

March 27, 1939

In reply to your first question, we are enclosing copy of an opinion rendered by this department under date of March 23, 1935, which we believe answers your question fully. Said opinion was written to Jos. Crain, Pros. Atty.

We have examined the statutes relating to the county superintendents and find no provision requiring a candidate for said office to file his declaration with the county clerk, or any other officer or office, nor do we find any provision that it shall be filed on a certain date.

Section 10257, R. S. Mo. 1929, provides that the name of no candidate shall be printed upon any official ballot at any primary election unless at least sixty days prior to such primary, a written declaration shall be filed by the candidate.

As pointed out in the enclosed opinion, however, (page 4) -

"Under the statutes creating the office of county superintendent of schools, there is no primary election; the election of a county superintendent of schools to be conducted along with and as a part of the annual school district meeting held in April, and the person receiving the highest number of votes, regardless of party affiliation, is declared elected to the office."

From the foregoing, we are of the opinion that candidates for the office of county superintendent of schools do not have to file declarations of candidacy in order to be elected to said office provided they have the other requisite qualifications.

Respectfully submitted,

MAX WASSERMAN
Assistant Attorney General

APPROVED:

W. J. BURKE
(Acting) Attorney General
MW:RT