

FILE

Subject

City - Recreation
Systems
School - District
Recreational

Copy to



STATE OF KANSAS

Office of the Attorney General

State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

VERN MILLER
Attorney General

May 16, 1974

Opinion No. 74- 153

Charles H. Moore, Chairman
Abilene Recreation Commission
City Building
Abilene, Kansas 67410

• Dear Mr. Moore:

As chairman of the Abilene Recreation Commission, you inquire concerning the eligibility of one of the members of the Commission to continue in office. The Commission, you indicate, was created jointly by the city and the school district. K.S.A. 12-1907 states in pertinent part thus:

"Upon the adoption of the provisions of this act by the city and school district acting jointly . . . , the governing bodies shall each appoint two (2) of its electors to serve as members of the recreation commission, and the persons so selected shall select one additional person, and all of said persons shall constitute the recreation commission."

The two members appointed respectively by the city and school district are each required to be "electors" of the governmental unit which appoints them. The question which you pose is whether such a member remains eligible for continued membership on the Commission if she moves outside the boundaries of the city or school district by which she was appointed.

The general rule is stated thus at 63 Am.Jur.2d, Public Officers and Employees, § 42:

"Eligibility to public office is of a continuing nature and must exist at the commencement of the term and during the occupancy of this office. The fact that the candidate may have

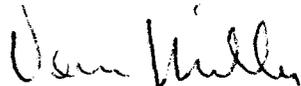
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been qualified at the time of his election is not sufficient to entitle him to hold the office, if at the time of the commencement of the term or during the continuance of the incumbency he ceases to be qualified." [Footnote omitted.]

Our research discloses no reported decision of the Kansas Supreme Court upon this precise question. The weight of authority, however, as reported and discussed in an annotation at 88 American Law Reports 812, at 828, supports the general rule as stated above, that the fact that an individual is qualified at the time of his election or appointment is not sufficient to entitle him to continue to hold the office, if during the continuance of the term, he ceases to be qualified.

In accordance with the weight of authority from other jurisdictions, we must conclude that the member of the Commission who moves out of the jurisdiction of either the city or school district which appointed her becomes thereupon ineligible for continued membership upon the Commission.

Yours very truly,



VERN MILLER
Attorney General

VM:JRM:jsm