



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

September 2, 1976

ATTORNEY GENERAL OPINION NO. 76- 274

Mr. Philip E. Winter
Assistant County Attorney
Lyon County Courthouse
Emporia, Kansas 66801

Re: Elections--Voters--Eligibility

Synopsis: Persons who are duly registered to vote, and who registered when enrolled as students at the Way College of Bible, remain entitled to receive absentee ballots, unless and until registration is cancelled pursuant to law. Failure to enroll in the fall semester, and absence from the county, does not in and of itself conclusively establish a change of residence so as to warrant cancellation of registration.

* * *

Dear Mr. Winter:

You inquire concerning the eligibility of certain individuals to vote in the forthcoming general election. You advise that the Lyon County election officer has received printed post cards from addresses in Ohio from individuals requesting absentee ballots. These individuals, you advise, registered to vote in Lyon County while attending the Way College of Bible Studies in Emporia, but are not enrolled there this fall, and do not now reside in the county. Accordingly, you ask whether the county election officer is required to send these individuals absentee ballots.

In my judgment, so long as they are duly registered to vote in the county, they remain qualified electors who are entitled to receive absentee ballots if they are unable to vote in person because of their absence from the county. If a voter changes his or her legal place of residence, of course, registration becomes void, pursuant to K.S.A.

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25-2316. However, the fact that a registrant, a student at the College, is not enrolled there this semester, and does not reside in the county at the present time, is not legally conclusive that a change of residence has occurred. The registrant may be only temporarily absent from the county, for example, and may fully intend to return at a later time. If the student registers in another jurisdiction, of course, and the Lyon County election officer is notified by the election officer of such other jurisdiction of that registration, the registration here may be voided. However, mere failure to enroll this fall in the Way College, and mere absence from the county itself, does not justify a cancellation of registration, in my judgment. After the individual has failed to vote, for example, and the appropriate inquiry has been made pursuant to K.S.A. 25-2316(d), cancellation is justified. However, the factual circumstances you describe do not warrant or justify the unilateral cancellation of registration, in my opinion, and the individuals in question remain entitled to absentee ballots so long as they are duly registered.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj