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ATTORNEY GENERAL OPINION NO. 89-40

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Re: Elections -- Precinct Boundaries -- Boundary
Changes; Offices of Precinct Committeewoman and
Committeeman

Elections -- Political Parties -- Effect of
Precinct Boundary Changes on the Offices of
Precinct Committeewoman and Committeeman

Synopsis: Questions concerning vacancies in the offices of
precinct committeewoman and committeeman, and the
effect of precinct boundary changes are discussed.
Cited herein: K.S.A. 1988 Supp. 25-26a01;
25-26a02; K.S.A. 25-3801; 25-3802.

* * *

Dear Mr. Martin and Ms. Jeffrey:

You have asked our opinion on several questions relating to
filling precinct committee offices. Your questions arise

because many precinct boundaries have recently been changed pursuant to K.S.A. 1988 Supp. 25-26a01 et seq. This act required all county election officers to establish or change election precincts so that

"[e]ach election precinct as nearly as practicable shall be composed of contiguous and compact areas having clearly observable boundaries using visible ground features which meet the requirements of the federal bureau of the census and wholly contained within any larger district from which any municipal, township or county officers are elected. . . ." K.S.A. 1988 Supp. 25-26a02(a).

Kansas law provides that at the primary election held in August of even-numbered years, persons who are members of a political party residing in each precinct are to elect a precinct committeewoman and a precinct committeeman. K.S.A. 25-3801. The qualifications for holding the office of precinct committeeperson are listed in K.S.A. 25-3801:

"No person shall be eligible to be a candidate for or hold the office of precinct committeeman or precinct committeewoman of a party in any precinct unless such person actually lives, resides and occupies a place of abode in such precinct, and is in all other respects a qualified elector and is shown as a member of such party on the party affiliation list, in the office of the county election officer." (Emphasis added).

Vacancies occurring in precinct offices are filled by the county chairperson. K.S.A. 25-3801. All the precinct officers in the county of a political party constitute the party's county central committee. K.S.A. 25-3802. The statute also provides as follows:

"All persons elected to the office of precinct committeeman or precinct committeewoman shall continue as members of the county central committee to the end of the term to which they were elected

when their precinct designation is eliminated by consolidation of precincts or changes in precinct boundaries."

We will separately address each of your questions concerning vacancies in precinct offices.

I. "Do county chairmen fill vacancies according to the precinct boundaries as they were in August, 1988, or as they are since December 24, 1988?"

K.S.A. 1988 Supp. 25-26a01 provides that precinct boundaries established or changed pursuant to the act "shall be effective for the purpose of conducting elections held after January 1, 1989. . . ." Since the new boundaries are in effect, vacancies should be filled in accordance with the new boundaries.

II. "If precinct committeemen and committeewomen are to be appointed in the new precincts, do those who were appointed after the election in the old precincts retain their position on the central committee the same as they would had they been elected?"

Persons appointed by the county chairperson after the primary election, but before the new precinct boundaries were established to fill vacancies in precinct offices, retain their position as a precinct officer if the person remained a resident of the precinct after the boundaries were changed. K.S.A. 25-3802 provides that persons "elected" to a precinct office remain on the central committee to the end of their term if their precinct designation is eliminated due to a change in precinct boundaries. The question is whether a person who is appointed to a precinct office remains on the central committee if the person appointed is no longer a resident of the precinct due to boundary changes. In our opinion, a person appointed after the primary election and before the boundary changes remains on the county central committee if that person has lost her or his precinct designation. The statutes governing precinct committeepersons grant the same powers and duties to appointed officers as those granted to officers who had been elected. Therefore, an appointed committeeperson who lost her or his precinct designation due to new precinct boundaries should have the same right to remain on the county central committee as a person who had been elected in the August primary.

III. "If there are two elected precinct committeemen in a new consolidated precinct, must one of those precinct committeemen be appointed to the newly created precinct position or can both of the elected committeemen remain on the central committee and a new committeeman be appointed to the newly consolidated precinct?"

As an example of the question you present, Ward 1 Precinct 1 and Ward 1 Precinct 2 each elect a precinct committeeman. As a result of the boundary changes, the two precincts are combined and designated as Ward 1 Precinct 1. In such a situation, the person elected in old Ward 1 Precinct 1 remains the committeeman for new Ward 1 Precinct 1. The person elected as committeeman in old Ward 1 Precinct 2 is no longer a resident of that precinct, due to the precinct boundary changes. While he loses his precinct office designation, K.S.A. 25-3801, he remains on the county central committee, K.S.A. 25-3802.

IV. "If there are two elected precinct committeewomen in a new consolidated precinct, and if one is to be appointed to the newly created precinct position, who makes that appointment and according to what standards or guidelines?"

As in the previous question, the person who was elected from the precinct with the same designation as the precinct in which they both now reside, is the committeewoman for the precinct. The other person who had been elected precinct committeewoman loses that designation but remains on the county central committee. Vacancies which occur in other precincts due to the boundary changes are filled by appointment by the county party chairperson. The Kansas statutes do not prescribe guidelines to follow in making the appointments.

V. "If there is an appointed precinct committeewoman and an elected precinct committeewoman in a new consolidated precinct, does the elected precinct committeewoman have priority if one is to be appointed to the newly created vacancy?"

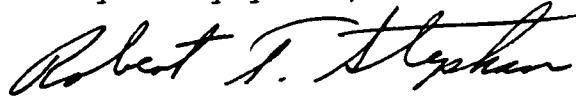
Examples will illustrate our answer to this question. Assume Ward 1 Precinct 1 elected a committeewoman. No one ran for the precinct committeewoman office in Ward 1 Precinct 2, but the vacancy was filled by appointment prior to the establishment of the new boundaries. If the precincts were consolidated, resulting in an expanded Ward 1 Precinct 1, the person elected would serve as committeewoman and the appointed

Douglas F. Martin
Linda P. Jeffrey
Page 5

person would remain on the central committee. If, however, the precincts were consolidated so that Ward 1 Precinct 2 was the expanded district, the appointed person would be the committeewoman while the elected person would continue as a member of the central committee.

We trust this opinion answers your questions. Please feel free to contact this office if we can be of further assistance.

Very truly yours,



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