

SCHOOLS:  
TEACHERS:  
COUNTY JUDGES:

There is no constitutional or statutory provision disqualifying a person from running for the position of county judge because he is a teacher in a state college.

September 30, 1969

OPINION NO. 365

Honorable James E. Spain  
Representative  
One Hundred Fifty-First District  
Bloomfield, Missouri 63825

Dear Representative Spain:

This is in answer to your request for the opinion of this office on whether a member of the faculty of a state college is disqualified from running for the office of county judge in a third class county. We assume that you are asking whether there is any constitutional or statutory provision which would prevent a person from running for and serving as county judge solely because he is a member of the faculty of a state college.

There is no constitutional qualification for the office of county judge which would disqualify a person because he is a state college teacher. Article VI, Section 7 of the Missouri Constitution provides for the election of a county court which shall manage all county business as prescribed by law. There is no provision in the Constitution setting forth particular qualifications for a county judge. However, Article VII, Section 8 is applicable to all public offices in the state, and states as follows:

"No person shall be elected or appointed to any civil or military office in this state who is not a citizen of the United States, and who shall not have resided in this state one year next preceding his election or appointment, except that the residence in this state shall not be necessary in cases of appointment to administrative positions requiring technical or specialized skill or knowledge."

Similarly, there is no statutory provision which would prevent a person from running for county judge for the sole reason that he is a teacher in a state college. Previous opinions of this office interpreting Sections 49.010 and 49.020, RSMo 1959 have held that a county judge must be a resident of the district in which he seeks election. See Opinion No. 404 dated October

14, 1963, and Opinion No. 26 dated January 27, 1944, copies of which are enclosed herewith. With the exception of this residency requirement, a candidate for county judge need only comply with the requirements of Article VII, Section 8, Missouri Constitution.

We have found no statute pertaining to professors or teachers in a state college which would disqualify such a person from seeking election and, if elected, serving as county judge. Section 174.120, RSMo 1959 places each state college "under the general control and management of its board of regents". The same statutory provision provides that the board of regents shall have full power and authority "to appoint and dismiss all officers and teachers". Section 174.140, RSMo 1959, provides that:

"Each such board shall have power to appoint and remove the president or any professor or teacher in any such state college in its district and to fix the duration, terms and conditions of their offices and compensation, and to enter into agreements for and make contributions to both voluntary and statutory retirement plans for such president, professors and teachers."

The general power over the employment and removal of teachers granted to a board of regents by Sections 174.120 and 174.140 is modified by Section 174.150 which states in part as follows:

"No president, professor or teacher shall be removed except for incompetency, neglect or refusal to perform his duties, dishonesty, drunkenness or immoral conduct; . . ."

No provision is made to remove a teacher because he seeks the office of county judge.

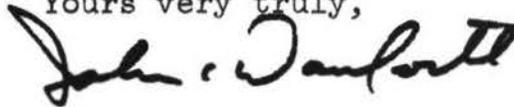
Should the teacher in question be elected county judge, we do not believe that the duties of a teacher in a state college and a judge of a county court would conflict. Therefore, we can see no inconsistency or incompatibility between the two positions. See State ex rel Walker v. Buss, 135 Mo. 325, 36 S.W. 636 (1896).

CONCLUSION

It is the conclusion of this office that there is no constitutional or statutory provision disqualifying a person from running for the position of county judge because he is a teacher in a state college.

The foregoing opinion, which I hereby adopt, was prepared by my Assistant, D. Brook Bartlett.

Yours very truly,

A handwritten signature in cursive script, reading "John C. Danforth". The signature is written in black ink and is positioned above the typed name.

JOHN C. DANFORTH  
Attorney General