



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN, TEXAS 78711

**CRAWFORD C. MARTIN
ATTORNEY GENERAL**

April 17, 1972

Hon. Oscar B. McInnis
Criminal District Attorney
Hidalgo County
Edinburg, Texas

Opinion No. M-1118

Re: Filing deadline for candidate
for office of trustee of
Independent School District.

Dear Mr. McInnis:

In your recent letter, supplemented by phone, you have requested an opinion of this department as to the filing deadline for candidates for the office of trustee of an Independent School District.

Chapter 23 of the Texas Education Code governs independent school districts. Section 23.03, Subsection (a) governs the filing deadline for places on the ballot. That subsection reads as follows:

"(a) Applications of candidates for a place on the ballot shall be filed not less than 30 days prior to the day of the election, and no candidate shall have his name printed on said ballot unless there has been compliance with the provisions of this section."

Under the quoted language, the deadline is midnight of the 31st day preceding the election, not counting the day of the election. The same holding was reached in Attorney General's Opinion No. WW-1371 (1962) construing language in Article 2745c, Vernon's Civil Statutes. That statute, now repealed, included in its relevant part language identical to that in Section 23.03, Subsection (a) of the Texas Education Code.

Opinion No. WW-1371 also includes the following statement:

"Statutory provisions fixing the time for the filing of applications are mandatory. The general rule is that an instrument is not 'filed' until it is delivered to the proper officer. See Attorney General's Opinion WW-75, citing Burroughs v. Lyles, 142 Tex. 704, 181 S.W.2d 570 (1944) and McWaters v. Tucker, 249 S.W.2d 80 (Civ.App. 1952)."

You have pointed out that Article 4.10, Section 2 of the Election Code of the State of Texas reads, in part, as follows:

"Sec. 2. Such application must be filed not later than 6 p.m. of the 31st day before any such special election, and shall not be considered filed unless it has actually been received by the officer with whom it is to be filed. . . ."

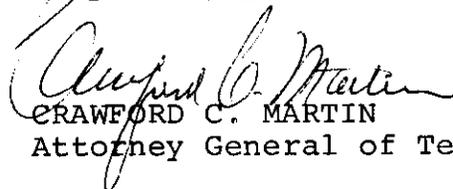
You inquire whether this 6 p.m. deadline applies to election of trustees for an independent school district.

This Article 4.10 does not apply to the election of trustees of an independent school district. The election of school board trustees is governed by relevant provisions of the Texas Education Code, enacted by the Legislature for the express purpose of governing schools of the State.

S U M M A R Y

The filing deadline for candidates for the office of trustee of an Independent School District is midnight of the 31st day preceding the election, not counting the day of the election.

Very truly yours,


CRAWFORD C. MARTIN
Attorney General of Texas

Prepared by James S. Swearingen
Assistant Attorney General

APPROVED:
OPINION COMMITTEE

Kerns Taylor, Chairman
W. E. Allen, Co-Chairman
Roland Allen
Bill Campbell
James McCoy
John Banks

Hon. Oscar B. McInnis, page 3 (M-1118)

SAMUEL D. McDANIEL
Staff Legal Assistant

ALFRED WALKER
Executive Assistant

NOLA WHITE
First Assistant