

OFFICIAL OPINION NO. 1

January 2, 1962

Hon. Ralph H. Waltz
State Representative
Hagerstown, Indiana

Dear Representative Waltz:

Your letter of December 13, 1961 has been received and reads as follows:

“The Citizens of the proposed Nettle Creek School Corporation circulated a petition to have the corporation come into being on January 1st, 1962 as provided by the School Re-organization Act.

“The make-up of the counterparts contained all the legal parts necessary for a petition. The signature page was divided into three parts: 1. Date; 2. Signature—Address; 3. and an address-o-graph copy of the poll list from the County Clerk’s Office which was glued and stapled to the petition form. This address-o-graph list contained the names and addresses of each proposed signer. As the petition was circulated signatures were placed at the left of their name and address with the date.

“Signatures were discounted by the Clerk of Wayne County because the signer failed to write his address along with his signature.

“An Opinion is requested in answer to the following question:

“Is the signer required to write with his own hand his address when it is in evidence on the petition by the address-o-graph form which is a part of the petition?”

An example of the signature sheet is shown in your letter substantially as follows:

(Date) (Signature) (Address-o-graph Poll List)

		John Doe 23 E St.
		Hagerstown, Indiana

OPINION 1

Acts of 1959, Ch. 202, Sec. 7 (1), as amended, as found in Burns' (1961 Supp.), Section 28-6117, provides in part as follows:

"The petition shall show therein the date on which each person has signed the petition and his residence on such date. The petition may be executed in several counterparts, the total of which shall constitute the petition authorized by this subsection. * * *"

2 R. S. 1852, Ch. 17, Sec. 1, as found in Burns' (1946 Repl.), Section 1-201 provides in part as follows:

"The construction of all statutes of this state shall be by the following rules, unless such construction be plainly repugnant to the intent of the legislature or of the context of the same statute:

"First. Words and phrases shall be taken in their plain, or ordinary and usual, sense. But technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import."

A statute clear and unambiguous on its face need not and cannot be interpreted by a court, and only those statutes which are ambiguous and have doubtful meaning are subject to the process of statutory interpretation.

Sutherland Statutory Construction, 3rd Ed., Vol. 2,
Sec. 4502, p. 316;

Citizens Trust and Savings Bank of South Bend v.
Fletcher American Company *et al.* (1934), 207
Ind. 328, 334, 190 N. E. 868.

Under the plain wording of the above-quoted provision of the statute it is clear it is only necessary that the petition *show therein* the person's residence on such date. It does not state that the address shall be placed thereon by the signer. It also does not state whether such address shall be written or printed. Under the facts stated in your letter, the person signed the same at a time when his address was on the petition and on the same line on which he placed his signature, in my opinion

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this fully meets the requirement of the statute that the address be shown *therein*.

The reason for the existence of the address on the petition as of the date of signing is evident for unquestionably the Legislature desired the petition to show on its face that at the time of signing the person was a resident at a given place shown in the petition. This is accomplished whether the address is written by the signer of the petition or whether it has previously been placed there for the signer's convenience.

I am therefore of the opinion a petition in the form shown by your letter meets the requirements of the statute when signed and dated.

OFFICIAL OPINION NO. 2

January 3, 1962

Hon. Dorothy Gardner
Auditor of State
238 State House
Indianapolis 4, Indiana

Dear Mrs. Gardner:

This will acknowledge receipt of your letter of December 14, 1961, wherein you request my Official Opinion with respect to the payment of salary to a legislator.

Your letter states in part as follows:

"It has come to our attention that a legislator has moved from his district and outside the State of Indiana. Article 4, Section 7 of the Constitution of Indiana establishes qualifications for members of the General Assembly 'at the time of his election.' Chapter 65, Section 1 of the Acts of 1955 provides for date and amount of salary to be paid to members of the General Assembly. Chapter 245 of the Acts of 1957 amends Chapter 65 of the Acts of 1955 by stating:

[Here follows your quotation of Section 1 of the Acts of 1957, Ch. 245, *supra*.]

"We are unable to find any law which appears to cover this particular situation. We, therefore, respect-