

DE 94-04 - March 3, 1994

**When Qualifications for Selected Offices Must Be Met; Residency
§§ 99.021 and 230.10, F.S.; DE 78-31 and DE 92-10**

TO: The Honorable Peggy Rae Border, Supervisor of Elections, Flagler County, Post Office Box 901, Bunnell, Florida 32210-0901

Prepared by: Division of Elections

This is in response to your request for an advisory opinion regarding residency. You are the Supervisor of Elections for Flagler County and, pursuant to Section 106.23(2), Florida Statutes, the Division has authority to issue this opinion to you.

You ask when must a candidate meet the residency requirements for the office of school board member?

The answer to this question is found at Section 230.10, Florida Statutes, which provides that a candidate for school board must be a resident of the school board member residence area from which he seeks election at the time he qualifies.

Since the Division's jurisdiction to render opinions is limited to Chapters 97-106, Florida Statutes, we have no authority to interpret Section 230.10, Florida Statutes. However, Section 99.021, Florida Statutes, does require that all candidates, at the time of qualifying as candidates for public office, subscribe to an oath that they are qualified electors of their county. In order to be a qualified elector, one must be a resident of Florida and the county wherein he registers to vote.

The Division has issued several opinions on residency; none of these has specifically dealt with when one must meet a residency requirement. However, we have opined that unless otherwise provided constitutionally, legislatively or judicially, the qualifications one must possess for public office, which would include residency, are effective at the commencement of the term of office. Op. Div. Elect. 92-10 (June 24, 1992).

Consistent with the foregoing, the following is a list of locally elected public officers and the time at which their residency must be established:

County Commissioners:	At the time of election. <u>State v. Grassi</u> , 532 So. 2d 1055 (Fla. 1988); Op. Div. Elect. 92-10 (June 24, 1992).
School Board	At the time of qualifying. § 230.10, Fla. Stat.

City Commission:	At the time of assuming office, unless provided otherwise by city charter or ordinance. Op. Div. Elect. 92-10 (June 24, 1992).
Judges:	At the time of assuming office. Compare by analogy <u>Advisory Opinion to the Governor</u> , 192 So. 2d 757 (Fla. 1966); Ops. Div. Elect. 78-31 (August 3, 1978), and 92-10 (June 24, 1992).
County Constitutional Officers:	At the time of assuming office. Compare by analogy <u>Advisory Opinion to the Governor</u> , <u>supra</u> ; Op. Div. Elect. 92-10 (June 24, 1992).

Consequently, we remain of the opinion that the qualifications one must possess for public office are effective at the commencement of the term of office unless provided otherwise constitutionally, legislatively or judicially.

SUMMARY

The qualifications one must possess for public office, which would include residency, are effective at the commencement of the term of office unless otherwise provided constitutionally, legislatively or judicially.