

Date Issued: June 15, 1981 (AGO 81-61)

Requested by: Bruce Hagen, Chairman,
State Personnel Board

- QUESTION PRESENTED -

Whether a member of the State Personnel Board, elected by state employees pursuant to section 54-44.3-03 of the North Dakota Century Code, may continue to serve on the board after separating from state employment.

- ATTORNEY GENERAL'S OPINION -

It is my opinion that a member of the State Personnel Board, duly elected by state employees, may not continue to serve on the board after separating from state employment.

- ANALYSIS -

Section 54-44.3-03, N.D.C.C., creates a five-member state personnel board which includes two members elected by classified state employees. The last sentence of that section provides in part that, "Those members of the board elected by the state employees shall be full-time employees in good standing of the classified service." The quoted language constitutes a qualification for membership on the board and the member must remain qualified during the term of his service.

As stated in 63 Am. Jur.2d., Public Officers and Employees, Section 42: "Eligibility to public office is of a continuing nature and must exist at the commencement of the term and during the occupancy of the office." While we express no opinion as to whether a member of the State Personnel Board is a "public officer" for other purposes, we do find the quoted language applicable to members of the State Personnel Board.

- EFFECT -

This opinion is issued pursuant to section 54-12-01, N.D.C.C. It governs the actions of public officials until such time as the question presented is decided by the courts.

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