

ATTORNEY GENERAL

N.J.A.C. 6:27-1.13. In a number of decisions, the Commissioner of Education has specifically set forth this requirement as one applicable to all schools in all districts. See, e.g., *Somma et al. v. Board of Education of Long Branch*, 1974 S.L.D. 276, decided March 13, 1974; *Goldman et al. v. Bergenfield Board of Education*, 1973 S.L.D. 441, aff'd State Board of Education, February 6, 1974 aff'd Docket No. A-1679-73, Appellate Division of the Superior Court, November 22, 1974; *Moldovan et al. v. Hamilton Board of Education*, 1971 S.L.D. 246. Furthermore, the absence of any legislative modification of this requirement indicates implicit acquiescence by the Legislature in the administrative directives of the commissioner on this aspect of the conduct of the public schools.

For these reasons, you are hereby advised that in setting its annual calendar a local board of education shall as a matter of law provide its facilities for not less than 180 days in any school year.

Very truly yours,

WILLIAM F. HYLAND  
*Attorney General*

August 26, 1975

HONORABLE J. EDWARD CRABIEL  
*Secretary of State*  
State House  
Trenton, New Jersey 08625

FORMAL OPINION NO. 20-1975

Dear Secretary Crabel:

You have asked whether the requirements for voter reregistration set forth in N.J.S.A. 19:31-13 are applicable to registrants changing marital status but not changing their names, and whether women are compelled to reregister under the surname of a new spouse after marriage. For the reasons herein discussed, you are advised that a change of marital status does not necessitate reregistration unless such change also results in a change of name. You are further advised that the marriage of a woman voter registrant does not in itself change the registrant's name within the meaning of N.J.S.A. 19:31-13 if she continues to use her maiden name rather than assuming her husband's surname as her own.

In pertinent part, N.J.S.A. 19:31-13 reads:

"Whenever the registrant after his or her original registration *shall change his or her name* due to marriage, divorce, or by judgment of court, the registrant shall be required to reregister and the commissioner upon receipt of information or notice of such change, shall transfer the permanent registration forms of such persons to the inactive file, subject to the provisions of this section." (emphasis added).

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The statutory language directs only that if the registrant "... shall change his or her name ..." reregistration must be accomplished. It does not compel a registrant who changes marital status but not name to comply, nor does it compel change of name itself. A registrant who divorces but does not change name is neither compelled to reregister or change name. Similarly, a women registrant who marries is neither compelled to reregister or change name under the provisions of N.J.S.A. 19:31-13 unless some other statutory or common law authority compels such a name change.

A review of the election law of this State reveals no such authority. N.J.S.A. 19:31-3 and 19:31-6.4 require only that prospective registrants give their full names, but there is no further qualification that married women give the surnames of their husbands. Any suggestion that the name the Legislature intended a married woman to enter was one using her husband's surname would appear rebutted by the relatively recent amendment to N.J.S.A. 19:31-3, enacted as L. 1972, c. 82, § 1, which deleted the requirement that the designation "Miss" or "Mrs." prefix the names of women registrants. Whatever contribution identification of the marital status of women registrants may have made towards efficient administration of electorate rolls was evidently not of sufficient value to merit retention.

Nor does there appear to be any other legal compulsion on a woman to assume her husband's surname upon marriage. In a recent decision concerning the effect of marriage on the use of a woman's surname, *In re Application of Lawrence*, 133 N.J. Super. 408 (App. Div. 1975), the Appellate Division reversed the trial court's refusal to grant an application of a married woman for a change of name from her married to her maiden name. The court upheld a married woman's right to resume her maiden name notwithstanding that upon marriage she had assumed her husband's surname. The court also held that a woman is "not compelled by law to assume her husband's surname as her legal name." This finding reinforced the existing common law rule in this jurisdiction that an emancipated person is free to adopt any name as his or her legal surname as long as such name is adopted without fraudulent or criminal purpose and is not obscene or otherwise offensive. *In re Application of Lawrence, supra*, at 411-412, and cases cited therein. There does not appear to be any legislative indication in N.J.S.A. 19:31-13 of a purpose to modify this longstanding common law rule or to mandate reregistration and the use of a husband's surname for purposes of voting. Only in the circumstance where a woman uses her husband's surname for other purposes is there an obligation to use the husband's surname for voting pursuant to N.J.S.A. 19:31-13.

For these reasons, it is concluded that the requirements for voter reregistration set forth in N.J.S.A. 19:31-13 are not applicable to registrants who change their marital status but retain their maiden names. You are further advised that the marriage of a woman voter registrant does not in itself compel the change of a registrant's maiden or pre-marriage name to that of her husband within the meeting of our election laws.

Very truly yours,  
WILLIAM F. HYLAND  
*Attorney General of New Jersey*  
By: GREGORY E. NAGY  
*Deputy Attorney General*