

Opinion No. 56-6369

January 27, 1956

BY: RICHARD H. ROBINSON, Attorney General

TO: Mrs. Natalie Smith Buck, Secretary of State, Santa Fe, New Mexico

Receipt is acknowledged of your letter dated January 19, 1956, in which you request an opinion which will clarify whether or not an "agent" as mentioned in § 8, Chapter 218, Laws of 1955, should be required to present formal designation as such at the time he presents a Declaration of Candidacy for another to the Secretary of State or a County Clerk, as the case may be. The pertinent part of § 8, Chapter 218, Laws of 1955, reads as follows:

"Any person desiring to become a candidate of any political party participating in the primary for any office shall, **or his agent shall**, during the period commencing at 9:00 a.m., of the first Tuesday of March of each even numbered year and ending at 5:00 p.m., of the same day, file a declaration of candidacy, which declaration of candidacy shall be substantially in the following form: ____" (Emphasis supplied)

The general definition of the word "agent" is given at page 485, Volume 2A, Words and Phrases:

"An 'agent' is one who acts for another by authority from him. The term applies to any one who, by authority, performs an act for another. Herzog v. Mittleman, 65 P. 2d 384, 387, 155 Or. 624, 109 A.L.R. 662."

There is no language in § 8, Chapter 218, Laws of 1955, which provides that formal designation or authority should be presented by an agent when acting for his principal, or in this specific case, by a person who is acting as agent for a candidate. To require formal designation or some sort of written authority would be putting words in the Statute which are not there, or in other words, reading something in the Statute which was not intended by the Legislature. It is, therefore, the opinion of this office that an agent who appears for a person who is running for either a County, District, or State office, is not required by either the Secretary of State or the County Clerk to request formal designation as such agent when filing Declaration of Candidacy as agent for said person or candidate.

Trusting that this fully answers your request, I remain

By: Hilario Rubio

Assistant Attorney General