

Opinion No. 56-6398

February 23, 1956

BY: RICHARD H. ROBINSON, Attorney General

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

You have requested our opinion as to whether a candidate for nomination to a county office must be a registered elector of the county in which he seeks to file his candidacy.

In answer to your inquiry, Article XI, Section 2 of the Constitution, as it applies to this question, provides that every citizen of the United States who is a resident of this State and is a qualified elector therein shall be qualified to **hold** any public office in the State. Further, Article V, Section 13, provides that all district, county, precinct, and municipal officers shall be residents of the political subdivision for which they are elected or appointed. A qualified elector is defined in Section 3-2-51, N.M.S.A., 1953, as follows:

"Every citizen of the United States who is over the age of twenty-one (21) years and has resided in the state twelve (12) months, in the county ninety (90) days and in the precinct in which he offers to vote thirty (30) days, next preceding the election, . . ."

Therefore, this establishes that before a person can **hold** a county office he must be a qualified elector of the county wherein he seeks office. However, your specific question relates to whether a person can file for a county office on March 6th of this year, and be a candidate if on that date he is not a qualified elector of the county wherein he seeks to file his candidacy. You cite the following example:

"A person moved December 13, 1955, from one county within the State to another -- and presently is still registered in his former county -- desires to file as of March 6th as a county candidate in his new county, although he cannot become a qualified elector of the said new county until March 13th or thereafter."

It is our opinion that such person may file his candidacy under these circumstances because of the following wording found in Section 3-11-43, N.M.S.A., 1953 Compilation, Pocket Supplement:

". . . No person shall become a candidate for nomination for any office who will not be eligible and legally qualified to hold such office at the beginning of its term. . . ."

In the example you cite the person will be eligible and legally qualified to hold a county office in his new county at the beginning of its term, provided he becomes a qualified elector of said new county before the beginning of the term of office to which he is elected.

By: Jack A. Smith

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