

Opinion No. 59-210

December 30, 1959

BY: OPINION of HILTON A. DICKSON, JR., Attorney General

TO: The Honorable Rafael T. Garcia Representative, Rio Arriba County Lumberton, New Mexico

QUESTION

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Is a school bus driver, employed by the county, eligible to be a candidate and run for election for the office of county commissioner?

CONCLUSION

Yes.

OPINION

{*324} **ANALYSIS**

The New Mexico Constitution at Article VII, § 2, provides that every citizen of the United States who is a legal resident of the state and is a qualified elector therein shall be qualified to hold any public office in the state except as otherwise provided in the Constitution. The qualifications for electors are set forth in Article VII, § 1 of the New Mexico Constitution, which states that every male citizen of the United States who is over the age of twenty-one years and has resided in New Mexico twelve months, in the county ninety days, and in the precinct in which he offers to vote thirty days, next preceding the election, except idiots, insane persons, persons convicted of a felonious or infamous crime unless restored to political rights, and Indians not taxed, shall be qualified to vote at all elections for public officers.

The woman suffrage amendment to the Federal Constitution has removed the disqualification of women to vote and a recent Federal case in the Federal District Court of New Mexico has removed the disqualification from voting of Indians not taxed.

Accordingly, if a person over twenty-one meets the residency requirements of Article VII, § 1, and unless he is an idiot, insane person or a person convicted of a felonious or infamous crime, unless restored to political rights, he is a qualified elector, qualified to hold any public office in the state.

Section 15-37-2, N.M.S.A., 1953 Compilation, states that the board of county commissioners shall consist of three qualified electors, any two of whom shall be

competent to transact business, who shall be elected according to law. Therefore, the statute regarding qualifications for county commissioners follows the constitutional provision that the only requirement for holding such office is that of being a qualified elector. There is no other statutory or constitutional prohibition applicable to this situation.

Therefore, we must conclude that a school bus driver, employed by the county, is eligible to be a candidate and may run for election for the office of county commissioner if he is a qualified elector and is not otherwise disqualified generally by reason of the disqualification spelled out in the New Mexico Constitution.

Our opinion is limited to the question you have presented. We shall not express an opinion at this time as to whether such school bus driver may continue to be employed by the county if he is elected as a county commissioner, since such employment might very well be considered as incompatible with holding the office of county commissioner.

By: Philip R. Ashby

Assistant Attorney General