

## Opinion No. 60-39

March 8, 1960

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

**TO:** Mrs. Betty Florina Secretary of State Santa Fe, New Mexico

### QUESTION

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Is a person who filed for office but failed to strike either provision (a) or (b) in the third paragraph of the Declaration of Candidacy ineligible to have his name placed on the ballot?

#### CONCLUSION

No.

### OPINION

#### {\*392} ANALYSIS

The section which provides for the form of the Declaration of Candidacy is Section 3-11-43, N.M.S.A., 1953 Comp., (PS). The portion of the form of declaration about which you inquire reads as follows:

{\*393} "That I am a member of the \_\_\_ party, and have been affiliated with said party, as shown by my affidavit of registration, (a) for not less than twelve (12) months prior to the first Monday of February of this year; (b) since my initial registration in the State of New Mexico; (strike out inapplicable provision)"

It might be noted first of all that cases can arise where both (a) and (b) are correct since a person's first registration in this State could be exactly 12 months prior to the first Monday of February of this year.

Second, we are of the opinion that the mere fact that a person fails through inadvertence to strike out one of the provisions should not prevent him from exercising his right to run for public office. It is a well-known rule of statutory construction that statutes dealing with elections and the right of persons to hold office should be liberally construed. With this rule in mind, we are of the opinion that a person should not be prohibited from filing for a public office because of a failure to correctly fill out the declaration form, if he is otherwise qualified to run for and hold the office for which he has filed.

By: Boston E. Witt

Assistant Attorney General