

Opinion No. 64-18

April 10, 1964

BY: OPINION OF EARL E. HARTLEY, Attorney General

TO: Mrs. Alberta Miller, Secretary of State, Santa Fe, New Mexico and All County Clerks

QUESTION

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1. How is the order that candidates for legislative, judicial district, county and precinct offices are to appear on the ballot for a particular office to be determined?
2. Must candidates for the New Mexico House of Representatives reside in the legislative district from which they are elected?

CONCLUSIONS

1. By the order of filing.
2. yes.

OPINION

ANALYSIS

Based on the unreported opinion of the Supreme Court of New Mexico in the case of **In the Matter of the Petition of Dan Sosa, Jr., for a Writ of Mandamus**, Docket No. 7612, heard and decided by the Court on April 9, 1964, **all** candidates for legislative, judicial district, county and precinct offices are to appear on the ballot in the order in which they filed a declaration of candidacy. Accordingly, Opinion No. 64-18, issued on March 4, 1964, is withdrawn and this Opinion is substituted therefor.

The answer to your second question is in the affirmative.

Section 6 of House Bill No. 2, Special Session Laws, 1963, provides that "Each member of the house of representatives shall reside in the legislative district from which he is elected."

In addition, Article VII, Section 2, New Mexico Constitution, 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. . ." (Emphasis added). Article VII, Section 1, New Mexico Constitution, requires that in order to be a qualified

elector a person must have "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."

Based on these constitutional and statutory provisions it is the opinion of this office that candidates for the New Mexico House of Representatives must actually reside in the legislative district where they are seeking election and must be qualified electors in such legislative district.