

## Opinion No. 71-101

August 18, 1971

**BY:** OPINION OF DAVID L. NORVELL, Attorney General

**TO:** Mr. David Eldon Douglas District Attorney Seventh Judicial District Post Office Box R Socorro, New Mexico 87801

### QUESTIONS

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May an elected county official serve as a member of a Board of Registration?

#### CONCLUSION

Yes.

### OPINION

#### {\*151} ANALYSIS

There is no one statutory section setting forth the qualifications for a member of a board of registration. Rather, the qualifications are found in the provisions of Sections 3-4-31 and 3-4-32, N.M.S.A., 1953 Comp. Section 3-4-31, **supra**, provides:

"A. On or before the first Monday of February of each odd-numbered year the county chairman of each of the two major political parties may furnish the board of county commissioners the names of four [4] voters in the county, each of whom is able to read and write legibly and is otherwise competent to perform the duties required of a member of a board of registration.

B. Each county chairman who submits the list provided for in subsection A of this section shall indicate his preference for appointment to the board of registration by placing the number 1, 2, 3 or 4 opposite the name of each person on his list respectively."

Section 3-4-32, **supra**, provides:

{\*152} "A. The board of county commissioners shall meet on the first Monday of February of each oddnumbered year and appoint from the lists submitted by the county chairmen three [3] voters who shall constitute the board of registration for the county.

B. Not more than two [2] of the three [3] persons appointed to the board of registration shall belong to the same political party at the time of their appointment.

C. In addition, the board of county commissioners shall appoint from the lists of the county chairmen two [2] alternates who shall not belong to the same political party at the time of their appointment.

D. In making all appointments to the board of registration or as alternates to the board of registration, the board of county commissioners shall give preference to the names in the order indicated by the numbers on the county chairman's list.

E. If any county chairman fails to furnish a list for purposes of making appointments to the board of registration by the first Monday of February in the odd-numbered year, the board of county commissioners shall appoint a member or members, and an alternate of such board of registration from the voters of the county who are of the same political party as such county chairman."

Initially the two major political party chairmen supply lists of suggested members of the board. The people on these lists must meet the qualifications set out in Section 3-4-31, **supra**, including the general qualifications that in addition to being able to read and write they must be otherwise competent to perform the functions of a member of a board of registration. This general qualification is not interpreted to mean that a person who meets the other qualifications who happens to be an elected county official is prohibited from serving as a board member. This qualification is interpreted to mean competency in a sense of physical and mental ability to perform the functions of a board member.

Chapter 195, Section 4, N.M. Laws 1971 amended Section 3-4-42, N.M.S.A., 1953 Comp. to place greater restrictions on the qualifications of persons allowed to serve as deputy registration officers under a board of registration. The fact that the Legislature chose to further limit the individuals who could hold the job of deputy registration officer does not show an intent to likewise so limit individuals who may serve on the board of registration.

By: James H. Russell, Jr.

Assistant Attorney General