

Opinion No. 71-30

February 18, 1971

BY: OPINION OF DAVID L. NORVELL, Attorney General

TO: Honorable Bruce King Governor of the State of New Mexico State Capitol Santa Fe, N.M. 87501

QUESTIONS

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May a member of a Board of Regents of an educational institution in New Mexico, as defined in Article XII, Section 11, New Mexico Constitution, change his political affiliation **after his appointment** to the Board so as to control political balance on the Board and the appointive authority of the governor under Article XII, Section 13, New Mexico Constitution? (Emphasis added)

CONCLUSION

No.

OPINION

{*46} ANALYSIS

Article XII, Section 13 of the New Mexico Constitution provides that,

"The legislature shall provide for the control and management of each of said institutions (Article XII, Section 11) by a Board of Regents for each institution, consisting of five (5) members, who shall be qualified electors of the State of New Mexico, no more than three (3) of whom **at the time of their appointment** shall be members of the same political party" (Emphasis added)

The critical time in determining the political balance on a Board of Regents is the political affiliation of the appointed member at the time of the original appointment. To permit a change in political affiliation of an incumbent board member to thereby limit the appointing power of a governor would be to sanction something the doing of which indirectly is not permitted directly. The Constitution is quite clear and may not be subverted by political party affiliation changes. That a person may change his party affiliation is not disputed, but certainly his personal desires in this matter cannot, under any circumstances, limit a governor's appointive power.