

## Opinion No. 74-32

September 25, 1974

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

**BY:** W. Royer, Assistant Attorney General

**TO:** Betty Fiorina Secretary of State Executive-Legislative Building Santa Fe, New Mexico 87501

### QUESTIONS

What requirements must be met by the petition filed by parties which nominate candidates by convention to allow such parties' candidates to be placed upon the general election ballot?

### CONCLUSION

See Analysis.

### FACTS

Pursuant to Section 3-8-2B, NMSA, 1953 Comp. (1973 P.S.), the American Independent Party has filed its certified list of candidates and its list of signatures and legal addresses of qualified electors with your office. Pursuant to Section 3-8-2C, NMSA, 1953 Comp. (1973 P.S.), the Partido La Raza Unida Party in Otero County has filed its certified list of candidates and its list of signatures and legal addresses of qualified electors with the County Clerk of Otero County. You have noted that Section 3-8-4B, NMSA, 1953 Comp. requires you to determine whether the requirements of the Election Code have been met and whether the list of signatures and legal addresses of voters are valid. You have noted that Section 3-8-2, **supra**, and 3-8-4, **supra**, are in conflict in the terms they use. You have asked whether or not you should certify the names of the party nominees to the county clerks based on the petitions of qualified electors.

### ANALYSIS

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The definition of "qualified electors" is found in Section 3-1-4, NMSA, 1953 Comp. It defines a qualified elector as any person who is qualified to vote under the provisions of the Constitution of New Mexico. The definition of "voter" is found in Section 3-1-5, NMSA, 1953 Comp. It defines a voter as any qualified elector who is registered to vote under the provisions of the Election Code. Thus, a discrepancy exists between Section 3-8-2, **supra**, and Section 3-8-4, **supra**.

Section 3-8-2, **supra**, establishes the criteria which must be met by political parties that select their candidates by the convention method in order to gain access to the general election ballot. It requires the party to submit "a list of signatures and legal addresses of not less than three percent [3%] of the qualified electors of the state as computed from the total number of votes cast for the office of governor at the last preceding general election . . ."

If a party has followed the directions and satisfied the requirements of Section 3-8-2, **supra**, it would be unjust and inconsistent with sound reason for the Secretary of State to apply a different criteria than that specified in Section 3-8-2, **supra**, i.e., that of "voters" as used in Section 3-8-4, **supra**, in determining whether a party has qualified to have its candidates placed on the general election ballot. Statutes should not be construed in a manner which will result in absurdity, hardship or injustice. **Sandoval v. Rodriguez**, 77 N.M. 160, 420 P.2d 308 (1966); **City Comm'n of Albuquerque v. State**, 75 N.M. 438, 405 P.2d 924 (1965). As the Court stated in **City Comm'n of Albuquerque v. State, supra**, 75 N.M. at 445:

"Statutes should be construed in the most beneficial way of which their language is susceptible to prevent absurdity, hardships or injustice, to favor public convenience, and to oppose all prejudice to public interests. *Cox v. City of Albuquerque*, 53 N.M. 334, 207 P.2d 1017."

Therefore, it is our opinion that if the petitions submitted contain sufficient signatures and legal addresses of individuals who are qualified to vote under the New Mexico Constitution, the political parties are entitled to have their candidates placed on the general election ballot.