

Opinion No. 25-3811

March 30, 1925

BY: JAMES N. BUJAC, Assistant Attorney General

TO: Requested March 24, 1925, by Miss I. L. Eckles, Superintendent of Public Instruction, Santa Fe, New Mexico.

Act Relating to Nepotism Enacted by Seventh Legislature Unconstitutional. (Chapter 50, Session Laws 1925)

OPINION

Your request is whether or not the "Act relating to Nepotism" enacted by the Seventh Legislature applies to your Office.

Section 2, Article 7, of the Constitution of the State of New Mexico, as amended by Constitutional Amendment No. 1, proposed by the Fifth Legislature and adopted by a special election held on September 20, 1921, reads, in part, as follows:

"Sec. 2. 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 except as otherwise provided in this Constitution. * * *"

As the Law in question attempts to further define the qualifications necessary to hold public office in this State derogatory to qualifications set out in the above quoted Constitutional provision, it is my opinion that the said "Act relating to Nepotism" is unconstitutional and that therefore it is void and of no effect.

Note: The Legislature has no power to make restrictions in addition to the Constitutional provisions to the right to hold public

office. *Gibbany v. Ford*, 29 N.M. 621.