

Opinion No. 44-4485

March 22, 1944

BY: EDWARD P. CHASE, Attorney General

TO: Mr. David W. Carmody, District Attorney, Santa Fe, New Mexico

I have your letter of March 20, 1944, wherein you state:

"Section 55-601 New Mexico Statutes Annotated, 1941, provides for the appointment of two school budget commissioners, one from each of the two dominant political parties."

In view of this statute you request an opinion of this office concerning whether or not the party affiliation, as shown on the registration certificate, is final as to membership for appointment under the above statute.

It is my opinion that while the political affiliation as shown on the registration certificate is entitled to great weight it is not necessarily conclusive, and in order for the county commissioners to fully comply with the spirit of the statute they should not be precluded from exercising their discretion in determining the actual facts in order to prevent an evasion of the statute by registering as a member of a political party that a person is not in fact affiliated with.

Hoping that the above fully answers your question, I remain,

By HARRY L. BIGBEE,

Asst. Atty. General