

Opinion No. 46-4862

February 25, 1946

BY: C. C. McCULLOH, Attorney General

TO: Mr. M. Ralph Brown District Attorney Albuquerque, New Mexico

{*193} In your letter dated February 20, 1946, you ask several questions pertaining
{*194} to municipal elections and registration.

First, you inquire whether registration for voters living in the City of Albuquerque closes 30 days prior to the municipal election for all purposes.

I am enclosing a copy of Opinion No. 4037, which covers this question, to the effect that registration closes for persons living inside the municipal limits 30 days prior to the municipal election, but that the County Clerk may continue to receive registrations from persons in outlying precincts.

Your second question is: "Does the phrase 'shall close registration' mean that all registration closes, or can the County Clerk accept registration for all purposes, but not use any of the registration for municipal elections?"

Section 56-217 does not prohibit the County Clerk from **receiving** affidavits of registration at all times, but only requires that he close registration 30 days before any election. Where the 30th day before an election falls on Sunday, this office has previously ruled that registration should be allowed all during the following Monday. See Opinion No. 4482 of the 1943-1944 Report of the Attorney General.

As to persons living within the municipality, if the County Clerk accepts affidavits of registration from such persons, he should not place such affidavits in the permanent registration book, but should keep them separate until after the municipal election.

The question might arise as to the use of the triplicate copy of the affidavit by a person desiring to vote, but under Section 56-245 of the 1941 Compilation, if a person attempts to vote without his affidavit being in the registration book, his vote is not counted, but should be placed in an envelope, pursuant to said section.

Your third question is whether persons in a municipality who do not intend to vote in the municipal election are discriminated against by being barred from registration.

So long as the Clerk is willing to receive affidavits from such persons, and hold them until after the municipal election, I do not see that such persons are discriminated against.

In answer to your fourth question, regarding change of party affiliation during the 30 day period prior to municipal elections for voters living within the municipality, Section 56-217 requires that the registration be closed, and this would mean that no original affidavits of registration should be placed in the registration book during the 30 day period. However, there is no prohibition against the Clerk changing party affiliation as to registration affidavits previously filed in the Clerk's office up until the time of the Governor's Proclamation on the Primary Election.