

Opinion No. 48-5142

April 2, 1948

BY: C. C. McCULLOH, Attorney General

TO: Mr. Marcelino P. Gutierrez District Attorney Santa Fe, New Mexico

{*142} This will acknowledge receipt of your letter of April 2, 1948, in which you request the opinion of this office on the following:

Does the Board of Registration, or its delegated agents, or the County Clerk, acting either in her official capacity, or as agent for the Board of Registration, have the authority, either with or without the consent of the City Clerk, to cancel affidavits of registration pursuant to the order of the Board of Registration, while the registration books are in the possession of the City Clerk, during the three day period prior to a municipal election?

Section 56-226, 1941 Compilation provides:

"For the purpose of municipal elections, the clerk of each incorporated municipality shall obtain from the county clerk the original affidavits of registration for all precincts and election districts in whole or in part within such municipality {*143} **at least three (3) days prior to any municipal election and such original affidavits of registration as show on their face that the elector is a resident within the limits of such municipality shall constitute the registration list for such municipal election.**"
(Emphasis mine.)

The Statute is clear that the list to be used at the election shall be made up of the original affidavits of registration which the City Clerk obtains from the County Clerk at least three (3) days prior to the election. Within that three (3) day period, neither the Board of Registration, nor the County Clerk, either with or without the consent of the City Clerk, would have the authority to cancel affidavits of registration which constitute the registration list for the municipal election.

By WM. R. FEDERICI,

Asst. Atty. General