

Opinion No. 54-5967

June 8, 1954

BY: RICHARD H. ROBINSON, Attorney General

TO: Mr. J. Chris Sanchez Acting Secretary of State State Capitol Building Santa Fe, New Mexico

{*426} In your letter of March 30, 1954 you request the opinion of this office as to the permissibility of a candidate for public office withdrawing his name either prior to or following the primary election. The situation as to withdrawals prior to the primary is governed by Opinion No. 5294, a copy of which is enclosed herewith.

We feel that this opinion is applicable with equal force to opposed and unopposed candidates, and to those designated by convention or filing by petition.

As to vacancies occurring after the primary, the practice in this State for many years has been to permit withdrawals. Section 56-817, 1941 Comp., 1941 Pocket Supplement, provides for the filling of vacancies existing after the primary by political party committees. This Section authorizes appointment if "for any cause . . . there shall be a vacancy in the list of candidates of a political party entitled to representation on the official ballot . . ." The broad language of this Section, in our opinion, authorizes withdrawals and filling of vacancies. The cases cited in Opinion No. 5294, above mentioned, are applicable likewise to this situation.

By: Walter R. Kegel

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