

Opinion No. 58-61

March 26, 1958

BY: OPINION OF FRED M. STANDLEY, Attorney General Hilton A. Dickson, Jr.,
Assistant Attorney General

TO: Honorable Natalie Smith Buck, Secretary of State, Santa Fe, New Mexico

QUESTION

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Must a married woman in declaring her candidacy for nomination in a primary election, file under her married name or may she file under her maiden name in keeping with her last affidavit of registration?

CONCLUSION

Under her married name.

OPINION

ANALYSIS

The considered inquiry arises from the discovery of a declaration of candidacy, executed in the candidate's maiden name, which followed the style of her affidavit of registration.

The statutory requirements for declarations of candidacy are compiled at Sec. 3-11-43, which in part provides:

"Any person desiring to become a candidate of any political party participating in the primary for any office shall, or his agent shall, during the period commencing at 9:00 A.M., of the first Tuesday of March of each even numbered year and ending at 5:00 P.M., of the same day, file a declaration of candidacy, which declaration of candidacy shall be substantially in the following form:

'DECLARATION OF CANDIDACY

I, _____, (here insert candidate's true name) being first duly sworn on oath, depose and say:"

As indicated, the candidate must use his or her **true** name.

In Attorney General's Opn. No. 6399, dated March 1, 1956, it was held:

". . . Section 3-2-10, N.M.S.A., 1953 Compilation, specifically provides that all married women shall register according to the name of the husband and not by the wife's given name.

It is therefore the opinion of this office that a wife must register by the husband's name. **However, in the declaration of candidacy**, as provided in Section 8 of Chapter 218, New Mexico Session Laws of 1955, provides that the declaration of candidacy shall be substantially in the following form, and under the blank where the name of the candidate is supposed to be written, are the words, 'Here insert candidate's true name.' There is nothing said about a wife not using initials, or her given name **with her husband's surname.**' (Emphasis ours).

Generally:

"A married woman's name consists, in law, of her own Christian name and her husband's surname, marriage conferring on her the surname of the husband. Her correct first name is her maiden Christian name, and not the Christian name of her husband." 38 Am. Jur. 600.

Accordingly, it is our opinion that in executing a declaration of candidacy, a married woman must use her married name which, in this case, would be the "true name", and further that a declaration filed in her maiden name would not be valid.