

Opinion No. 64-76

June 4, 1964

BY: OPINION OF EARL E. HARTLEY, Attorney General Oliver E Payne, Assistant Attorney General

TO: Alberta Miller, Secretary of State, State Capitol Building, Santa Fe, New Mexico

QUESTION

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May persons who are authorized to register voters give the registrant the triplicate copy of the affidavit of registration at the time of registration, or must the original, duplicate and triplicate be presented to the county clerk who in turn will give the registrant the triplicate copy?

CONCLUSION

Registration officers who register persons at places other than the county clerk's office may use either procedure. Other persons who are authorized to register voters must send the original, the duplicate and the triplicate to the county clerk.

OPINION

ANALYSIS

It should first be pointed out that under Section 3-2-42, N.M.S.A., 1953 Compilation, the county clerk, deputy county clerks, registration clerks and members of the board of registration are deemed to be registration officers. However, as this office has often advised, affidavits of registration may be filled out by any person authorized to administer oaths. Opinion No. 59-169. We point this out because as regards persons other than registration officers, the answer to your question is clear; the original, the duplicate **and the triplicate** of the affidavit of registration must be delivered to the county clerk. Section 3-2-47, N.M.S.A., 1953 Compilation, provides in pertinent part as follows:

"All copies of registrations taken by other officials (other than county clerk, deputy county clerks, registration clerks and members of the boards of registration) authorized to administer oaths hereafter shall be delivered to the county clerk, **and the triplicate copy shall be returned to the registrant only after the same has been signed or stamped by the county clerk.**" (Emphasis added).

Section 3-2-12, N.M.S.A., 1953 Compilation, provides that "upon receipt of the original and duplicate affidavits, if in proper form. . the county clerk shall forthwith file the same.

. . ." It further provides that "the triplicate copy of the affidavit shall be delivered to the voter at the time of such registration." This section contemplates a situation where the person registers at the county clerk's office.

As we have pointed out however, persons may register with proper officials at places other than the county clerk's office. See e.g., Section 3-2-14, N.M.S.A., 1953 Compilation. When registration is accomplished in this manner by registration officers, Section 3-2-6, N.M.S.A., 1953 Compilation, is applicable. This section provides that:

"Any qualified elector may register by filling out and executing the affidavit of registration in triplicate hereinafter provided for and filing **the original and duplicate** of same with the county clerk. . . ." (Emphasis added).

This section only **requires** that the original and duplicate be filed with the county clerk. Thus registration officers, as defined in Section 3-2-42, supra, may give the registrant the triplicate copy of his affidavit at the time he registers, or in the alternative may deliver the original, the duplicate and the triplicate to the county clerk who in turn will forward the triplicate copy to the registrant. See Opinion No. 3457 (1940).