

Opinion No. 72-38

August 28, 1972

BY: OPINION OF DAVID L. NORVELL, Attorney General Prentis Reid Griffith, Jr.,
Assistant Attorney General

TO: Lillian R. Green, Secretary, Employment Agency Board, Post Office Box 2246,
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QUESTIONS

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Is an organization which conducts a business where the organization obtains the names of potential employers and charges individuals who come into its office for the preparation of resumes to be submitted to these potential employers, an employment agency within the meaning of the Employment Agency Act?

CONCLUSION

Yes.

OPINION

{*65} ANALYSIS

Section 67-38-2(C), N.M.S.A., 1953 Compilation (1971 P.S.), provides as follows:

"Employment Agency' means any individual, agent, partnership, corporation or association engaged in the business of providing employment information, procuring employment for applicants, or procuring employees for placement with employers or other persons upon request, for a fee or other valuable thing, executed, charged or received, but does not include:

- (1) the United States;
- (2) the state of New Mexico or any of its political subdivisions;
- (3) farmers or stock raisers, acting severally or jointly in procuring laborers for their own use in this state, where no fee is charged or collected, either directly or indirectly, for employment given;
- (4) any veterans' organization, labor union or professional organization conducted by members of the profession which enrolls its members for the purpose of providing professional service to the public, and

(5) any person, firm, partnership, association or corporation operating an employment office for its own use within or without the state, provided no fee or other charge or reduction is exacted from the salary or wage of the worker for employment given."

In addition, Section 67-38-7, N.M.S.A., 1953 Compilation, (1971 P.S.) provides as follows:

"License required. -- No employment agency shall engage in business without a current license obtained under the provisions of the Employment Agency Act. However, all employment agencies engaged in business at the time the Employment Agency Act becomes effective shall have six months from that date to become licensed. No counselor shall be employed by an employment agency who is not licensed except as provided by regulation of the board."

In our opinion, the preparation of resumes, regardless whether the total fee includes any amount for services other than the preparation of a resume, constitutes the business of "providing employment information," or "procuring employment for applicants." The expertise which this company apparently uses in the preparation of resumes, if worth the fee charged, must include certain expertise in the area of presenting in the best light an employee's qualifications. This certainly is one method of helping to procure employment for an applicant for a fee or other valuable thing.

Therefore, it is our opinion that any organization which conducts the business you have described is an employment agency and must apply for licensure by the Employment Agency Act, Sections 67-38-1 thru 67-38-15, N.M.S.A., 1953 Compilation, (1971 {*66} P.S.), or be subject to prosecution under Section 67-38-7, N.M.S.A., 1953 Compilation, (1971 P.S.), if it conducts the type of business described in your question.