

**OPINION**  
**76-94**

June 23, 1976           (OPINION)

The Honorable Ben Meier  
Secretary of State  
State Capitol  
Bismarck, ND 58505

Dear Mr. Meier:

This is in response to your letter of June 22, 1976, in which you ask if petitions for nomination of candidates in the Primary Election must have a circulator's affidavit attached, such as is required by Section 16-01-11 for initiative, referendum or recall petitions.

This matter would appear to be governed by Section 16-04-02 of the N.D.C.C., as amended, which provides in part as follows:

Every candidate shall, . . . present to the secretary of state a petition or an appropriate certificate of endorsement from the state chairman of any legally recognized political party, giving his name, post-office address, the title of the office to which he aspires, and the party which he represents, except that in the petition for an office having a no-party designation, no reference shall be made to party affiliation.  
\* \* \* Such petition shall contain the names of three percent of the total vote cast for the candidates of the party with which he affiliates, for the same position at the last general election, except that in no case shall more than three hundred names be required. \* \* \* Each name on the petition shall be that of an elector, contain such elector's mailing address, together with the date of signing, and shall be subscribed under a certified party heading."

Similar provisions are found in section 16-04-04 of the N.D.C.C., as amended, insofar as the form of petition for county and legislative district candidates' petitions are concerned.

Section 16-01-11 of the N.D.C.C. is, by its own terms, applicable to initiative, referendum or recall petitions. It is not applicable to petitions for nomination to office. We have found no provisions in chapter 16-04 of the N.D.C.C., governing the Primary Election, which would require the circulator's affidavit to be attached to nominating petitions under that chapter. It is therefore our opinion that candidates' petitions filed pursuant to chapter 16-04 of the N.D.C.C., the Primary Election Law, need not have a circulator's affidavit attached thereto. The attachment of such an affidavit would not, however, invalidate the petition.

We would further conclude that certificate of nomination pursuant to chapter 16-03 of the N.D.C.C. need not have the circulator's affidavit attached thereto.

Sincerely,

ALLEN I. OLSON

Attorney General