

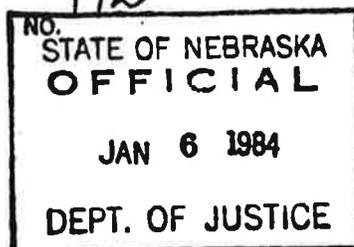
DEPARTMENT OF JUSTICE

STATE OF NEBRASKA

TELEPHONE 402/471-2682 • STATE CAPITOL • LINCOLN, NEBRASKA 68509

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January 5, 1984



Senator Don Wesely
Nebraska State Legislature
808 State Capitol
Lincoln, Nebraska 68509

Dear Senator Wesely:

You have asked what the definition of a Democrat, a Republican, and an Independent is in Nebraska. You have also asked whether or not a person needs to be registered to vote to be "legally" considered to be a Democrat, a Republican, or an Independent. You further indicate that, depending upon the nature of our response, you are considering proposing legislation to provide such definitions.

We are unaware of any statutory definition of these terms and we are likewise unaware of any instance wherein the Nebraska Supreme Court has defined them. We would assume that a person is a Republican or a Democrat if they consider themselves to be affiliated with the Republican or Democratic parties. Likewise, we would assume that an Independent is one who does not claim affiliation with any political party.

With respect to your second question, we would be of the opinion that an elector would not need to be registered to vote to lawfully claim affiliation with the Democratic or Republican parties. As you are no doubt aware, Nebraska does not require any proof of such affiliation when one exercises the elective franchise.

There is some difference, however, between voting as an affiliate with a particular political party and running as a candidate claiming affiliation with a political party. In Nebraska in order to run as a candidate affiliated with a political party, the party must be a recognized party. Historically, the two major parties, Republican and Democrat, have been recognized and over the years various minor parties

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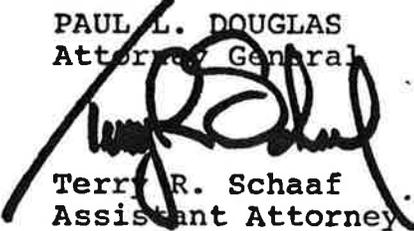
have achieved recognition, i.e., Populist, American, Libertarian, etc.

Achieving recognition as a minor party involves a statutory petitioning process and once recognized, as the two major parties have been, a party remains recognized until it fails to receive the percentage of the vote required by Neb.Rev.Stat. §32-521 (Reissue 1978).

We also suspect that there may be a difference from the perspective of the leadership of a particular political party between a person claiming to be a member of that party for purposes of exercising their right to vote and a person claiming to be a member of a party for purposes of running for elective office affiliated with that party. However, with respect to the questions you have posed, we do not believe there are any legal prerequisites to generally claiming affiliation with the Democratic or Republican parties. We also do not believe, as a matter of law, that it is necessary to have registered to vote to claim affiliation with any political party.

Sincerely,

PAUL L. DOUGLAS
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cc: Patrick O'Donnell
Clerk of the Legislature