VOTER REGISTRATION

These resources are current as of 7/13/12. We do our best to periodically update these resources and welcome any comments or questions regarding new developments in the law. Please email us at advocacy@afj.org.

What’s New in This Guide
The following changes/additions have been made since the previous version of this guide:

- Updated “Recent and Pending Legislation” section
- Updated information on Third-Party Voter Registration:
  - Third-party voter registration agents no longer required to provide registration agents’ SSNs
  - Voter registration agents required to complete training
  - Updates regarding use and handling of registration forms

This guide summarizes key aspects of laws governing voter registration on the state level. It is not intended to provide legal advice or to serve as a substitute for legal advice.

In some jurisdictions, city and/or county regulations may also apply to certain political activities. Check with the appropriate local jurisdiction before undertaking any activity.

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DEADLINES FOR REGISTRATION

- **Deadline for registering**
  - If the registrant wishes to vote in the next election, the completed and signed Certificate of Registration shall be delivered or mailed and postmarked at least twenty-eight (28) days before the election. N.M. Stat. § 1-4-5.1(F). If this day falls on a Saturday, Sunday or holiday, registration shall close at 5:00 p.m. on the next regular business day. N.M. Stat. § 1-4-8(A)(5).
  - Citizens of the United States who are 18 years of age on or before Election Day may register to vote as late as 5:00 p.m. on the twenty-eighth (28th) day immediately preceding any election.
  - Federal qualified electors or overseas voters may properly register any time until 5:00 p.m. on the Friday immediately preceding the election. For such voters, county clerks shall accept a Certificate of Registration by electronic transmission from a voter qualified who applied for and votes by absentee ballot in the county if the transmission is received before 5:00 p.m. on the Friday immediately preceding the election. N.M. Stat. § 1-4-8(B).

- **Does state offer Election Day registration?**
  - No.

- **Does state allow by-mail registration?**
  - Yes. N.M. Stat. § 1-4-5.1(A).

- **May voter register before turning 18?**
  - Yes. N.M. Stat. § 1-4-5.1(I)(2).

VOTER ID REQUIREMENTS

- **Required for registration? If so, what kinds of ID?**
  - Yes, if registering by mail. No, if registering in person.
  - Identification is required if the form is submitted by mail and the applicant is registering for the first time in New Mexico. To satisfy the identification requirement, the applicant must submit a copy of:
    - A current and valid photo identification; or
    - A current utility bill, bank statement, government check, paycheck, student identification card or other government document, including identification issued by an Indian
Nation, Tribe or Pueblo, that shows the name and address of the applicant.

N.M. Stat. § 1-4-5.1(I)(4).

- If the applicant does not submit the required identification, the applicant will be required to do so when voting in person or absentee. N.M. Stat. § 1-4-5.1(I)(4).

- Note that New Mexico statutes provide for registration without a physical address and for no addresses by persons who have obtained court orders allowing this information to be withheld. N.M. Stat. §§ 1-4-5.1(D), 1-4-5.3.

**Required for voting? If so, what kinds of ID?**

- Yes. Before receiving a ballot at the polls, voters are required to announce their name and address, and provide required voter identification. N.M. Stat. §§ 1-12-10(A); 1-12-7.1(D).

- Required voter identification includes any of the following, as chosen by the voter:
  - A physical form of identification, which may be:
    - An original or copy of a current and valid photo identification with or without an address, which address is not required to match the voter’s certificate of registration; or
    - an original or copy of a utility bill, bank statement, government check, paycheck, student id card or other government document, including identification issued by an Indian nation, tribe or pueblo, with the name and address of the person, the address of which is not required to match the voter's certificate of registration; or
  - A verbal or written statement by the voter of the voter's name (does not need to include middle initial or suffix), registration address, and year of birth.

N.M. Stat. § 1-1-24(A).

- If the voter fails to provide the required voter identification, he or she will be allowed to vote a provisional ballot. N.M. Stat. § 1-12-10(B).
• **Requirement to provide proof of citizenship to register and/or vote?**
  o “Proof” of citizenship to register in person or to vote is not required, although persons registering to vote must sign under penalty that they are a citizen of the United States. N.M. Stat. § 1-4-5.1(I)(1).

**VOTER REGISTRATION DRIVES**

• **Does state accept National Voter Registration Act (NVRA) registration forms? Any restrictions?**
  Yes. The national form may be downloaded or duplicated by any voter or organization. See N.M. Stat. § 1-4-5.4. If NVRA forms are used to register voters, a written statement should be provided to the voter informing them that if they do not receive confirmation of the Voter Registration Application Form they completed and submitted within fifteen (15) days of the receipt date, that the voter applicant should contact the County Clerk in the County where they reside. That statement is contained on the receipt portion of the Voter Registration Application Form. See Third Party Voter Registration Agent Manual, Secretary of State, March 1, 2011, p. 8.

• **May groups “cage” completed registration forms (i.e. asks voters to mail them back to the group, which will then send them to the appropriate elections registrar(s))? If so, may they copy the forms or any of the data included on them? If so, any deadlines for sending the completed forms to the state or to local officials?**
  o Completed forms may be mailed or presented in person by the registrant or any other person to the Secretary of State or presented in person by the registrant or other person to the county clerk of the county in which the registrant resides. N.M. Stat. § 1-4-5.1(E).

  o Organizations employing registration agents or using volunteer registration agents shall deliver all Certificates of Registration to the Secretary of State or county clerk within forty-eight (48) hours of completion by the person registering to vote or the next business day if the appropriate office is closed for that 48-hour period. N.M. Stat. § 1-4-49(B).

  o Only when the Certificates of Registration are properly filled out, subscribed by the qualified elector and accepted for filing by the county clerk do the records constitute an official public record. N.M. Stat. § 1-4-12(C).

  o It is unlawful for the voter’s date of birth or any portion of the social security number to be copied, conveyed or used by anyone other...
than the person registering to vote, either before or after it is filed with the county clerk. N.M. Stat. § 1-4-5(E). A person who unlawfully copies, conveys or uses information form a certificate of registration is guilty of a fourth degree felony. N.M. Stat. § 1-4-5(F).

- Secretary of State-provided voter registration forms used by third party voter registration agents include a receipt of voter registration that shall be provided to the voter upon registering with the agent, and shall include language informing the voter that the third-party registration agent is responsible for returning the completed registration form to the Secretary of State or county clerk and that failure to do so will result in the voter not being registered. § 1.10.25.8(D) NMAC.

- Additionally, each third-party voter registration agent must keep a log regarding the use of each of the voter registration forms he acquires, including the following information:
  - the unique identification number associated with each form;
  - whether the registrant or the third party voter registration agent took possession of the form upon completion by the registrant; and
  - if the third party voter registration agent took possession of the form upon completion by the registrant, the date the form was completed by the registrant.

Third party voter registration agents shall produce a completed log when requesting additional blank voter registration forms from the Secretary of State or a county clerk. § 1.10.25.8(H) NMAC.

- The Secretary of State shall keep a record of all voter registration forms with a traceable number that is provided to third-party voter registration organizations. Voter registration forms will be provided in quantities of twenty (20) per third-party voter registration agent, with discretion to increase this amount. Any member of a voter registration organization may pick up blank New Mexico voter registration forms, including on behalf of other third party voter registration agents in the organization, provided, however, that any agent picking up forms for another agent must produce the absent agent’s completed log. § 1.10.25.8(E) NMAC.
- **May a group “pre-fill” some or all of the form before sending/giving it to a would-be registrant?**
  o The statute does not specifically authorize a group to pre-fill any information. But, the registrant may seek the assistance of any person in completing the form. *N.M. Stat. § 1-4-5.1(C).*

- **May voter registration drive workers assist a voter in completing their registration form?**
  o A qualified elector may seek the assistance of a registration officer (secretary of state, county clerk, or deputy county clerk, a member of the board of registration or state employee performing registration duties), or “any other person who assists another person in completing a voter registration application.” *N.M. Stat. §§ 1-1-16, 1-4-5.1(C).*

- **Does state require training of voter registration workers?**
  o Yes. All third party voter registration agents must complete training regarding the use of voter registration forms, the placed on third party voter registration agents, and the penalties for failing to comply with these requirements. Such training will be offered in person, both from the Secretary of State's office and from each county clerk in the state of New Mexico, but training must also be made available to all third party voter registration agents who cannot attend in person, including making training available through the internet on the secretary of state's website.  § 1.10.25.8(G) NMAC.

- **Does state require registration of voter registration drives? If so, for by-mail drives, too?**
  o Registration agents who either register or assist persons to register to vote on behalf of an organization that is not a state or federal agency shall register with the Secretary of State. The organization shall provide the Secretary of State with the name and permanent address of the organization, the names, addresses, and birth dates of each person registering persons to vote in New Mexico on behalf of the organization. Each registration agent must provide a sworn statement that the agent will obey all state laws and rules regarding the registration of voters a form that gives notice of the criminal penalties for false registration. *N.M. Stat. § 1-4-49.* The individual agents must also register with the Secretary of State on a prescribed form. § 1.10.25.8 NMCA.

  o A person who willfully violates a provision of this Section is guilty of a petty misdemeanor and shall have his third-party registration agent status revoked. *N.M. Stat. § 1-4-49(D).*
- The state has previously taken the position that the registration requirement also applies to by-mail voter registration drives.

- Any requirement that a group must provide information to voters about how they may contact the group to determine the status of their registration?
  - The registration agent or officer shall fill out each of the blanks on the Certificates of Registration. Each qualified elector shall be given a receipt that includes a number traceable to the registration agent of officer. § 1.10.25.8(D) NMAC.
  - It is unclear whether this requirement applies only to in-person registration drives, or to by-mail registration drives, too. No exceptions appear in the new legislation.

- May a group pay voter registration drive workers? If so, is it permissible to pay on a per-voter-registered basis?
  - Yes. New Mexico statutes do not prohibit payment to registration agents based on the number of registration forms collected.

### RECENT AND PENDING LEGISLATION

**NM H 308 (2011) – FAILED**
**Summary:** Requires in-person voters to present identification before voting, provides for free identification cards to be issued by the Motor Vehicle Division of the Taxation and Revenue Department in case of indigency, provides procedures for challenging a voter's identification.

**Summary:** Allows the consolidation of precincts for primary and general elections, provides procedures for consolidating precincts.

**NM S 403 (2011) – ENACTED - Chaptered. Chapter No. 2011-137**
**Summary:** Standardizes language in the Election Code, provides definitions, provides standards for ballot-printing systems, allows for election observers and election-related organizations, delimits duties of the secretary of state and county clerks, provides for the appointment and operation of precinct boards, provides for challengers, watchers and county canvass observers, provides registration procedures, provides procedures for early in-person absentee voting, provides qualification procedures for minor parties.

**NM S 80 (2008) – ENACTED - N.M. Laws, Chap. 58**
**Summary:** Permits voter registration forms at any time, provided they were postmarked at least 28 days before the election. Changes procedures for
removal of inactive voters from registration lists to be consistent with the federal National Voter Registration Act of 1993.

**Summary:** Eliminates the use of voters’ social security numbers on certain election-related documents; changes certain election code terminology, the definition of "required voter identification", and requirements for certain absentee ballot materials.

**Summary:** Provides alternative means for the removal of names of deceased Native Americans from voter rolls.

**NM HB 583 (2009) – ENACTED - N.M. Laws, Chap. 274**
**Summary:** Enacts a new section of the Election Code to provide for the designation of an election precinct as a "mail ballot election precinct" by the Board of County Commissioners upon the request of the County Clerk if the board finds that the precinct has fewer than 50 voters and the nearest polling place for an adjoining precinct is more than 30 miles driving distance from the polling place designated for the precinct in question. County Clerk required to notify voters in that precinct that they will be sent an absentee ballot 28 days before the election and that there will be no polling place for the precinct on election day. The voter may "opt out" of receiving an absentee ballot by returning a card to the clerk notifying the clerk that they do not want to receive an absentee ballot.

**NM SB 685 (2009) – ENACTED - N.M. Laws, Chap. 251**
**Summary:** Creates a new section that allows the county clerk to request its board of county commissioners to designate a precinct as a mail ballot election if the clerk finds that the precinct has less than 50 voters and the nearest polling place is more than 30 miles for the precinct in question. If a precinct is designated a mail ballot election precinct, clerks must notify the voters of the designation and then 28 days before the election send the voters the ballot. It then amends language to reconcile with the new section. Requires the county clerk to provide at least one alternate early voting location on Indian nation, tribal or pueblo land when requested by one of these entities. It also requires the Secretary of State to reimburse the county for the costs of voting equipment and personnel for the alternate early voting site on Indian nation, tribal or pueblo land.

**Summary:** Enacts a new provisions to require the Secretary of State to contract with an election auditor approved by the state auditor to oversee a check on the accuracy of precinct electronic vote tabulators, alternate voting location electronic vote tabulators and absent voter precinct electronic vote tabulators after each general election in which an automatic recount is not
required in order to detect faulty tabulators. The audit would apply to "selected offices" which include the offices of Governor, President, all federal elective offices, and other statewide offices for which the winning candidate won by the narrowest margin of all candidates.

**NM HB 198 (2010) – ENACTED - N.M. Laws, Chap. 28**

**Summary:** Requires the secretary of state to maintain records for each certified voting system purchased in 2006 and after. Requires the secretary of state to review and recertify each voting system during the year following a presidential election. Requires the secretary to undertake an investigation to determine if the voting system should continue to be certified for use in the state upon becoming aware at any time that a voting system certified for use in this state does not comply with all requirements in the Election Code or meet federal election standards.

**NM SJR 6 (2010) – PASSED**

**Summary:** Senate Joint Resolution 6 proposes to amend Article 7, Section 1 of the New Mexico Constitution. The substantive change in the proposed amendment removes the specific voting requirements contained in Article 7, Section 1 and instead adopts federal requirements to vote, subject to residency and registration requirements provided by state law.
CONTACT INFORMATION FOR STATE AND LOCAL AGENCIES

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www.sos.state.nm.us/

List of New Mexico county clerks:
www.newmexico.gov/government/County_Agencies.aspx

FOR FURTHER ASSISTANCE

For assistance regarding these resources or for more information about federal law, please contact our attorney one-on-one counseling service:
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