

NOTICE OF HEARING AND PROPOSED RULES

The New Mexico Taxation and Revenue Department proposes to amend/repeal/replace the following rules:

Motor Vehicle Code, Section 66-5-54 NMSA 1978

18.19.5.7 NMAC - Definitions:

Motor Vehicle Code, Section 66-5-9 NMSA 1978

18.19.5.12 NMAC - Proof of identification number, identity and age for United States citizen, United States national or permanent resident alien.

18.19.5.14 NMAC - Proof of identification number, identity, age, and lawful status for lawful United States residents.

18.19.5.15 NMAC - Proof of identity, and age for a driving authorization card or identification card that is not acceptable for federal purposes.

The New Mexico Taxation and Revenue Department proposes to repeal the following rule:

Motor Vehicle Code, Section 66-5-9 NMSA 1978

18.19.5.16 NMAC - Proof of New Mexico residency.

Motor Vehicle Code, Section 66-5-15.2 NMSA 1978

18.19.5.17 NMAC - Fingerprints and Criminal History Screening.

Summary of Proposed Changes:

The proposed rules are being amended or repealed to reflect the 2019 legislative session changes to Section 66-5-9 NMSA 1978, Section 66-5-15.2 NMSA 1978 and Section 66-5-54 NMSA 1978.

The proposals were placed on file in the Office of the Secretary on June 8, 2020. Pursuant to Section 9-11-6.2 NMSA 1978 of the Taxation and Revenue Department Act, the final of the proposals, if filed, will be filed as required by law on or about August 25, 2020.

A public hearing will be held on the proposals on Thursday, July 23, 2020, at 10:00 a.m. through the internet, email, and telephonic means in response to concerns surrounding COVID-19 and in accord with Executive Order 2020-004, Declaration of a Public Health Emergency, and the March 12, 2020 Public Health Emergency Order to Limit Mass Gatherings Due to COVID-19.

The Public Hearing will be accessible via WebEx by going to <https://nm-tax.webex.com/nm-tax/j.php?MTID=m2a6b2b02e9a3b85d68b3ceeb1fa85f63> or by telephone by dialing 1-415-655-0002 and using the meeting number (access code) 133 393 3794. Any oral comments made during this hearing will be recorded and any electronic written comments can be submitted during the hearing at policy.office@state.nm.us. At the time of the hearing an employee will be available at the 3rd floor in the Montoya Building, 1100 South St. Francis Drive, Santa Fe, New Mexico 87504.

Accessible copies of the proposals are at www.tax.newmexico.gov/proposed-regulations-hearing-notices.aspx or are available upon request; contact the Tax Policy Office at policy.office@state.nm.us.

Written comments on the proposals can be by email to policy.office@state.nm.us or by mail to the Taxation and Revenue Department, Tax Information and Policy Office, Post Office Box 630, Santa Fe, New Mexico 87504-0630 or on or before July 23, 2020. All written comments received by the agency will be posted on www.tax.newmexico.gov no more than 3 business days following receipt to allow for public review.

Individuals with disabilities who need any form of auxiliary aid to attend or participate in the public hearing are asked to contact Bobbie Marquez at BobbieJ.Marquez@state.nm.us. The Taxation and Revenue Department will make every effort to accommodate all reasonable requests but cannot guarantee accommodation of a request that is not received at least ten calendar days prior to the scheduled hearing.

18.19.5.7 DEFINITIONS:

A. As used in regulations under the provisions of the New Mexico Commercial Driver's License Act:
(1) **“commercial driver's license”** means a license issued by a state or other jurisdiction which authorizes the holder to operate a commercial motor vehicle;

(2) **“commercial motor vehicle”** means a motor vehicle of a type used in commerce:
(a) if the vehicle has a gross vehicle weight rating of 26,001 or more pounds;
(b) if the vehicle is designed to transport sixteen or more passengers, including the driver; or

(c) if the vehicle is transporting hazardous materials and is required to be placarded pursuant to applicable law;

(3) **“combination vehicle”** means a power or tractor unit with one or more semi-trailers, trailers or semi-trailers converted to trailers by means of a converter gear;

(4) **“disqualified”** means a driver who has had the qualification to drive a commercial motor vehicle removed and whose New Mexico commercial driver's license is canceled; for purposes of this definition and Section 66-5-68 NMSA 1978, “canceled” shall mean that the commercial driver's license is in “revocation” as that term is defined in Subsection B of Section 66-5-1 NMSA 1978, and the driver is not eligible to apply for a commercial driver's license until the period of time for which the driver was disqualified has elapsed; and

(5) **“resident”** means a person who intends to reside in New Mexico evidenced by registration to vote or other action acceptable to the motor vehicle division.

B. As used in Subsection C of Section 66-5-6 NMSA 1978, “healing arts practitioner” means a person licensed to practice in this state medicine, osteopathic medicine, oriental medicine, chiropractic, or similar medical services for human beings. The term also includes a person licensed to practice in this state as a certified nurse practitioner, clinical nurse specialist, physician assistant or osteopathic physician assistant.

C. As used in regulations under the provisions of the New Mexico Motor Vehicle Code:

(1) **“driver's license”** means any license, permit or driving authorization card issued by a state or other jurisdiction recognized under the laws of New Mexico pertaining to the authorizing of persons to operate motor vehicles and including a REAL ID-compliant driver's license and a standard driver's license;

(2) **“identification card”** means a document issued by the department or the motor vehicle administration of a state or other jurisdiction recognized under the laws of New Mexico that identifies the holder and including a REAL ID-compliant identification card and a standard identification card;

(3) **“license”** without modification means any license, permit or driving authorization card issued by a state or other jurisdiction under the laws of New Mexico pertaining to authorizing of persons to operate motor vehicles including a REAL ID-compliant driver's license and a standard driver's license;

(4) **“REAL ID-compliant driver's license”** means a license or a class of license issued by a state or other jurisdiction pertaining to the authorizing of persons to operate motor vehicles and that meets federal requirements to be accepted by federal agencies for official federal purposes;

(5) **“REAL ID-compliant identification card”** means an identification card that meets federal requirements to be accepted by federal agencies for official federal purposes;

(6) **“sex”** male, female or gender x;

(7) **“standard driver's license”** means a license or a class of license issued by a state or other jurisdiction recognized by the law of New Mexico that authorizes the holder to operate motor vehicles and is not guaranteed to be accepted for official federal purposes;

(8) **“standard identification card”** means an identification card that is not guaranteed to be accepted for official federal purposes.

[2/28/1990, 8/20/1993, 10/31/1996; 18.19.5.7 NMAC - Rn & A, 18 NMAC 19.5.7, 9/14/2000; A, 10/31/2007, A, xx/xx/xxxx]

18.19.5.12 [PROOF OF IDENTIFICATION NUMBER, IDENTITY, AND AGE FOR UNITED STATES CITIZEN, UNITED STATES NATIONAL OR PERMANENT RESIDENT ALIEN] REAL ID-COMPLIANT DRIVER'S LICENSES AND IDENTIFICATION CARDS FOR UNITED STATES CITIZENS, UNITED STATES NATIONALS OR PERMANENT RESIDENT ALIENS:

A. A United States citizen, United States national or permanent resident alien applying for a REAL ID [~~Act of 2005~~] compliant New Mexico driver's license or identification card, [~~driving permit, provisional driver's license, or driver's license~~], other than a commercial driver's license, must provide documentary proof of their identification number, identity, age, indication of sex, lawful status and New Mexico residency.

B. Proof of identity and age: To establish identity and age [~~and lawful status~~] the applicant must present at least one of the following documents:

- (1) a valid, unexpired United States passport;
- (2) a valid, unexpired United States passport card;
- (3) a valid foreign passport with I-551 stamp;
- (4) an original or a certified copy of a birth certificate filed with a state office of vital statistics or equivalent agency in the individual's place (state) of birth;
- (5) a consular report of birth abroad (CRBA) issued by the U.S. department of state, form FS-240, DS-1350 or FS-545;
- (6) a valid, unexpired permanent resident card (form I-551) issued by the U.S. department of homeland security (DHS) or immigration and naturalization service (INS);
- (7) a certificate of naturalization issued by DHS, form N-550 or form N-570;
- (8) a certificate of citizenship, form N-560 or form N-561, issued by DHS;
- (9) [~~other documents as DHS may designate by notice published in the federal register; or~~] a valid unexpired employment authorization document (EAD) issued by DHS, form I-766 or form I-688B, verified through the systematic alien verification for entitlement system (SAVE);
- (10) [~~other documents as allowed by an approved DHS exception process.~~] a foreign passport with unexpired U.S. visa affixed, accompanied by the approved I-94 form documenting the applicant's most recent admittance into the U.S., verified by SAVE;
- (11) REAL ID driver's license or ID card combined proof of legal presence if legal presence is temporary; or
- (12) other documents as allowed by an approved DHS exception process.

C. Proof of Identification number: Along with the proof of identity and age document listed above, an applicant must also present [~~his or her social security administration (SSA) account number card. If a SSA account card is not available, the person shall present~~] one the following documents, provided that the document bears the applicant's social security number:

- (1) a social security number (SSN) card;
- ~~(1)~~ (2) a W-2 form;
- ~~(2)~~ (3) a social security administration (SSA)-1099 form;
- ~~(3)~~ (4) a non-SSA-1099 form; or
- ~~(4)~~ (5) a pay stub with the applicant's name and social security number on it.

D. Proof of New Mexico residency: The applicant must present at least two of the following documents that include the individual's name and principal residence:

- (1) a current real property rental agreement or a purchase agreement;
- (2) a utility bill dates within 60 days of the application and that is not a cellular phone bill;
- (3) an insurance bill, card or binder dated within the past six months of the application;
- (4) a bank or credit card statement dated within 60 days of the application;
- (5) an employment pay stub containing applicant's name and address, dated within 60 days of the application;
- (6) a local property tax statement from the county assessor's office of the county where the property is located;
- (7) documentation from an educational institution such as a transcript, report card or enrollment confirmation, dated within 60 days of the application;
- (8) original documentation from a city, county, state, tribal or federal government organization or community organization attesting to the applicant's New Mexico residency;
- (9) a New Mexico medical or public assistance card with address on card, letter from issuing agency that came with the card, showing name and address, or profile print-out from issuing agency;
- (10) documents indicating membership in a New Mexico religious organization provided applicant is less than 18 years of age;
- (11) documents indicating membership in a New Mexico sports organization provided applicant is less than 18 years of age;

(12) if the applicant is less than 18 years of age, an affidavit from the applicant's parent or guardian stating that the applicant lives with that person, as long as the affidavit is accompanied by the parent/guardian's New Mexico identification card, or two proofs of residency of the parent/guardian; or

(13) a document evidencing eligibility and proof that the applicant is currently receiving services from a non-profit organization qualified pursuant to Section 501 (c)(3) of the Federal Internal Revenue Code of 1986 provided the document displays the applicant's address.

E. Indication of Sex: an applicant must indicate their sex as either male, female or gender x.

F. Proof of lawful status: An applicant must present one of the documents listed in Paragraph (1) a valid unexpired US passport, Paragraph (2) a valid unexpired US passport card, Paragraph (4) an original or a certified copy of birth certificate filed with a state office of vital statistics or equivalent agency in the individual's place (state) of birth, Paragraph (5) a consular report of birth abroad, Paragraph (6) a valid unexpired permanent resident card, or Paragraph (7) a certificate of naturalization of Subsection (B) of 18.19.5.12 NMAC.

G. Exceptions process: A process for persons who, for reasons beyond their control, are unable to present all necessary documents and must rely on alternate documents to establish identity or age. Alternative documents to demonstrate lawful status will only be allowed to demonstrate U.S. citizenship. Circumstances deemed "beyond the person's control" include but are not limited to: an event occurred prior to the year official documents are available from the state or territory; natural disaster circumstances; customer provides proof from the issuing agency that documents were destroyed; or non-issuance of official records.

(1) Defined Exception Process #1: Certified letter of enrollment or of Indian blood & affidavit of birth. If the applicant is a member of a federally- recognized Indian nation, tribe or pueblo and does not have a birth certificate because they were not born in a hospital, the motor vehicle division will accept their certified letter of enrollment or valid identification card issued by a federally recognized Indian nation, tribe or pueblo and the applicant's birth registration notification issued by the U.S. census office for the applicant's federally- recognized Indian nation, tribe or pueblo so long as the letter contains the applicant's name and date of birth and the applicant provides a letter from the New Mexico department of health, bureau of vital statistics rejecting the applicant's request for a delayed birth registration. The combination of these documents provides proof of U.S. citizenship and identity.

(2) Defined Exception Process #2: Certified letter of enrollment or valid identification card issued by a federally recognized Indian Nation, tribe or pueblo as proof of age. If the applicant is a member of a federally- recognized Indian nation, tribe or pueblo and does not have a birth certificate to demonstrate proof of age, the applicant may use a certified letter of enrollment or valid photo-identification card issued by a federally- recognized Indian nation, tribe or pueblo as documentary proof of the applicant's age so long as the letter contains the applicant's name and date of birth and the applicant provides a letter from the New Mexico department of health, bureau of vital statistics rejecting the applicant's request for a delayed birth registration.

(3) Defined Exception Process #3: Baptismal certificate as proof of age. If the applicant was born before December 31, 1941, the applicant may use an original baptismal record or certified copy of a baptismal record as documentary proof of the applicant's age so long as the baptismal record contains the applicant's name and date of birth or date of baptism and the applicant provides a letter from the New Mexico department of health, bureau of vital records and health statistics rejecting the applicant's request for a delayed birth registration.

(4) Defined Exception Process #4: Military records as proof of age. If the applicant was born before December 31, 1941, the applicant may use a certified copy of military records as documentary proof of the applicant's age so long as the record contains the applicant's name and date of birth and the applicant provides a letter from the New Mexico department of health, bureau of vital records and health statistics rejecting the applicant's request for a delayed birth registration.

[18.19.5.12 NMAC - N, 6/29/2001; A, 6/14/2002; A, 6/30/2003; A, 10/1/2007; A, 7/31/2009; A, 11/15/2016; A, xx/xx/xxxx]

**18.19.5.14 ~~[PROOF OF IDENTIFICATION NUMBER, IDENTITY, AGE, AND LAWFUL STATUS]~~
~~REAL ID-COMPLIANT DRIVER'S LICENSE AND IDENTIFICATION CARDS FOR LAWFUL UNITED STATES RESIDENTS:~~**

A. A person who is legally in the United States but not a United States citizen, United States national or permanent resident alien may apply for a REAL ID [Aet of 2005] compliant New Mexico driver's license, or identification card [~~driving permit, provisional driver's license, or driver's license~~], other than a commercial driver's license, and must provide documentary proof of their identification number, identity, age, indication of sex, lawful status and New Mexico residency.

B. Proof of identity and age: To establish identity and age, the applicant must present one of the following documents:

(1) an unexpired employment authorization document issued by U.S. department of homeland security (DHS), form I-766 or form I-688B, verified by the systematic alien verification for entitlements system (SAVE);

(2) an unexpired foreign passport with a valid, unexpired U.S. visa affixed accompanied by the approved I-94 form documenting the applicant's most recent admittance into the United States, verified by SAVE. This document can be used to satisfy both the identity and age requirement, and proof of identification number requirement for a REAL ID compliant credential.

(3) REAL ID [~~Act of 2005~~] driver's license or identification card issued in compliance with the standards established by this part.

C. If the identity document submitted is [~~from one~~] a REAL ID driver's license or identification card as listed in Paragraph (3) of Subsection B of 18.19.5.14 NMAC, then to establish legal or lawful presence in the United States, the applicant must present one of the following documents issued by the U.S. federal government verified through SAVE:

(1) an unexpired immigrant or nonimmigrant visa status for admission into the United States;

(2) a pending or approved application for asylum in the United States;

(3) documentation of admission into the United States as a refugee;

(4) a pending or approved application for temporary protected status in the United States;

(5) documentation of approved deferred action status;

(6) a pending application for adjustment of status to legal permanent resident or conditional

resident;

(7) conditional permanent resident alien status; or

(8) other documents as DHS may designate by notice published in the federal register.

D. Proof of identification number: An applicant must also present documentary evidence of their identification number from one of the following documents:

(1) if, eligible for social security number, [~~his or her social security administration (SSA) account number card. If a social security administration account card is not available, the person shall present~~] one of the following documents, provided that the document bears the applicant's social security number:

(a) a social security number (SSN) card;

(~~a~~) (b) a W-2 form;

(~~b~~) (c) a SSA-1099 form;

(e) (~~d~~) a non-SSA-1099 form;

(~~d~~) (e) a pay stub with the applicant's name and social security number on it; or.

(2) an unexpired foreign passport with a valid, unexpired U.S. visa affixed accompanied by the approved I-94 form documenting the applicant's most recent admittance into the United States, verified by SAVE. This document can be used to satisfy both the identity and age requirement, and identification number requirement for a Real ID compliant credential.

E. Indication of sex: an applicant must indicate their sex as either male, female or gender x.

F. Proof of New Mexico residency: The applicant must present at least two of the following documents that include the individual's name and principal residence:

(1) a current real property rental agreement or a purchase agreement;

(2) a utility bill dates within 60 days of the application and that is not a cellular phone bill;

(3) an insurance bill, card or binder dated within the past six months of the application;

(4) a bank or credit card statement dated within 60 days of the application;

(5) an employment pay stub containing applicant's name and address, dated within 60 days of the application;

(6) a local property tax statement from the county assessor's office of the county where the property is located;

(7) documentation from an educational institution such as a transcript, report card or enrollment confirmation, dated within 60 days of the application;

(8) original documentation from a city, county, state, tribal or federal government organization or community organization attesting to the applicant's New Mexico residency;

(9) a New Mexico medical or public assistance card with address on card, letter from issuing agency that came with the card, showing name and address, or profile print-out from issuing agency;

(10) documents indicating membership in a New Mexico religious organization provided applicant is less than 18 years of age;

(11) documents indicating membership in a New Mexico sports organization provided applicant is less than 18 years of age;

(12) if the applicant is less than 18 years of age, an affidavit from the applicant's parent or guardian stating that the applicant lives with that person, as long as the affidavit is accompanied by the parent/guardian's New Mexico identification card, or two proofs of residency of the parent/guardian; or

(13) a document evidencing eligibility and proof that the applicant is currently receiving services from a non-profit organization qualified pursuant to Section 501 (c)(3) of the Federal Internal Revenue Code of 1986 provided the document displays the applicant's address.

[18.19.5.14 NMAC - N, 11/15/2016, A, xx/xx/xxxx]

18.19.5.15 ~~[PROOF OF IDENTITY, AND AGE FOR A DRIVING AUTHORIZATION CARD OR] STANDARD DRIVER'S LICENSE OR STANDARD IDENTIFICATION CARD THAT IS NOT ACCEPTABLE FOR FEDERAL PURPOSES:~~

A. Applicants for a New Mexico ~~[driving authorization card]~~ standard license or standard identification card that is not acceptable for federal purposes must provide documentary proof of their identity, indication of sex, age and New Mexico residency.

B. ~~[An applicant who cannot establish lawful status and who does not hold a current, valid New Mexico driver's license or identification card must also submit fingerprints for a background check, as provided in 19.18.5.17 NMAC.~~

~~**C.] Proof of identity and age:** To establish identity and age, [Applicants] applicants can use one of the following documents if it contains the applicant's name and date of birth, to provide documentary proof of their identity and age. If the document does not contain the applicant's name and date of birth, two of the following documents will be required:~~

~~(1) an original or certified copy of a birth certificate filed with a state office of vital statistics or equivalent agency in the individual's place of birth;~~

~~(2) a consular report of birth abroad issued by the U.S. department of state, form FS-240, DS-1350 or FS-545;~~

~~(3) an unexpired employment authorization document issued by the U.S. department of homeland security, form I-766 or form I-688B, verified by SAVE;~~

~~(4) an identification card issued by a foreign consulate, such as the consulate of Mexico in El Paso, Texas, or Albuquerque, New Mexico [or such other foreign consulate];~~

~~(5) a certified letter of enrollment issued by a federally recognized Indian nation, tribe or pueblo;~~

~~(6) a valid identification card issued by a federally recognized Indian nation, tribe or pueblo;~~

~~(7) certified copy of foreign birth certificate issued by the applicant's place or birth, provided that if the document is not in English, a certified copy of the foreign birth with a notarized English translation;~~

~~(8) affidavit of Indian birth;~~

~~(9) a state issued driver's license, a driver's license issued by a territory of the United States, or by jurisdiction of Canada, as long as it has a photograph and has not been expired more than one year;~~

~~(10) a state government-issued photo identification card, or a photo identification card issued by a territory of the United States, or by a jurisdiction of Canada, as long as it has a photograph and has not been expired more than one year;~~

~~(11) a state government-issued photo learner's permit, or a photo learner's permit issued by a territory of the United States, or by a jurisdiction of Canada, as long as it has a photograph and has not been expired more than one year;~~

~~(12) an American Indian or Alaskan proof of Indian blood, certificate of degree of Indian blood, federal Indian census card or tribal membership card;~~

~~(13) a photo identification card issued by the United States military, United States coast guard or New Mexico national guard;~~

~~(14) an identification document issued by the United States veterans administration, so long as it is accompanied by a United States veterans administration medical center identification card;~~

~~(15) a valid United States active duty/retiree/reservist military identification card (DOD ID DD-2);~~

- (16) a United States, state, or local government-issued photo ID, issued based on name, social security number and date of birth;
- (17) N560 certificate of citizenship if verified in SAVE;
- (18) N550 certificate of naturalization if verified in SAVE;
- (19) a valid permanent resident card issued by the United States government if verified in SAVE;
- (20) a valid I-551 resident alien card issued since 1997 if verified in SAVE;
- (21) a valid New Mexico license or identification card;
- (22) a court order for name change, gender change, adoption or divorce, as long as it includes the legal name, date of birth and court seal;
- (23) a New Mexico correction department photo identification card, or a photo identification card issued by the federal bureau of prisons, that includes the name, date of birth and documentation that the card has not expired within the past year;
- (24) a social security card;
- (25) military discharge/separation papers (DD 214);
- (26) selective service card;
- (27) an I-94 form presented without a passport if it contains the applicant's photo;
- (28) a military dependent identification card that includes the applicant's photo;
- (29) a medical insurance card or documentation of medical insurance coverage or eligibility containing an insurance identification number including a Medicaid or Medicare card;
- (30) a passport or passport card from the applicant's country of citizenship;
- (31) a passport or passport card from the United States if verified through systematic alien verification for entitlements system (SAVE);
- (32) individual tax identification number (ITIN);
- (33) a medical record less than one year old that is not from a visit to an emergency room or urgent care facility;
- (34) proof of eligibility for and receipt of [welfare] public assistance benefits, including general assistance, temporary assistance for needy families and the supplemental nutrition assistance program with a copy of the state human services department eligibility profile page dated with the last year.

C. Proof of New Mexico residence: A person must present at least two of the following documents that include the individual's name and principal residence:

- (1) a current real property agreement or a purchase agreement;
- (2) a utility bill dated within 60 days of the application and does not include a cell phone bill;
- (3) an insurance bill, card or binder dated within the past six months of the application;
- (4) a bank or credit card statement dated within 60 days of the application;
- (5) an employment pay stub containing applicant's name and address, dated within 60 days of the application;
- (6) a local property tax statement from the county assessor's office of the county where the property is located;
- (7) documentation from an education institution such as a transcript, report card or enrollment confirmation, dated within 60 days of the application;
- (8) original documentation from a city, county, state, tribal or federal government organization or community organization attesting to the applicant's New Mexico residency;
- (9) a New Mexico medical or public assistance card with address on card, letter from issuing agency that came with the card, showing name and address, or profile print-out from issuing agency;
- (10) documents indicating membership in a New Mexico religious organization provided applicant is less than 18 years of age;
- (11) documents indicating membership in a New Mexico sports organization provided applicant is less than 18 years of age;
- (12) if the applicant is less than 18 years of age, an affidavit from the applicant's parent or guardian stating that the applicant lives with that person, as long as the affidavit is accompanied by the parent/guardian's New Mexico identification card, or two proofs of residency of the parent/guardian;
- (13) a document evidencing eligibility and proof that the applicant is currently receiving services from a non-profit organization qualified pursuant to Section 501 (c)(3) of the Federal Internal Revenue Code of 1986 provided the document displays the applicant's address.

D. Applicants for a standard driver's license or standard identification card not acceptable for federal purposes who are homeless or in temporary lodging and unable to provide two of the documents identified in Subsection C of 18.19.5.15 NMAC may provide an affidavit or a notarized letter from a representative of a New Mexico governmental entity, not-for-profit organization, assisted care facility/home, adult assisted living facility/home, homeless shelter, transitional service provider, or group/half way house attesting to the address where the applicant resides or receives services *in lieu of* the documents required in Subsection C of 18.19.5.15 NMAC.

E. **Indication of sex:** an applicant must indicate their sex as either male, female or gender x.
[18.19.5.15 NMAC - N, 11/15/2016; A/E, 6/26/2018; A, 10/30/2018, A, xx/xx/xx]

18.19.5.16 - [PROOF OF NEW MEXICO RESIDENCY:]

A. All applicants for a REAL ID Act of 2005 compliant New Mexico identification card, driving permit, provisional driver's license, or driver's license, other than a commercial driver's license, and all applicants for a driving authorization card or identification card not acceptable for federal purposes must provide documentary evidence demonstrating New Mexico residency.

B. Applicants must provide two of the following documents, showing the applicant's name or the name of applicant's spouse in combination with a certificate of marriage and a New Mexico residential address for the applicant, as proof that the applicant lives in New Mexico:

(1) a current real property rental agreement or purchase agreement;

(2) a utility bill dated within 60 days, such as water, gas, electric, waste, telephone, cable or satellite bill, but not a bill for a cell phone;

(3) an insurance bill, card or binder, dated within the past 6 months;

(4) a bank or credit card statement dated within 60 days;

(5) an employment pay stub that contains the applicant's name and address, dated within 60 days;

(6) a current, local property tax statement or mortgage documents;

(7) a document from an education institution, such as a transcript, report card or enrollment confirmation, provided it is dated within 60 days;

(8) original documents from a city, county, state, tribal or federal government organization attesting to the fact that the applicant is a New Mexico resident;

(9) a New Mexico medical assistance card with address on card, letter from issuing agency that came with card showing name and address, or profile printout from issuing agency;

(10) a New Mexico public assistance card with address on card, letter from issuing agency that came with card showing name and address, or profile printout from issuing agency;

(11) documents indicating membership in a New Mexico religious organization, provided that the applicant is less than 18 years of age; or

(12) documents indicating membership in a New Mexico sports organization, provided that the applicant is less than 18 years of age;

(13) a New Mexico medical or public assistance card, profile printout or a letter from the issuing agency;

(14) if the applicant is less than 18 years of age, an affidavit from the applicant's parent or guardian stating that the applicant lives with that person, as long as the affidavit is accompanied by the parent/guardian's New Mexico driver's license, the parent/guardian's New Mexico identification card, or two proofs of New Mexico residency of the parent/guardian; and

(15) a document evidencing eligibility and proof that the applicant is currently receiving services from a non-profit organization qualified pursuant to Section 501(c)(3) of the Federal Internal Revenue Code of 1986 provided the document displays the applicant's address.

C. Applicants for an identification card not acceptable for federal purposes who are homeless or in temporary lodging and unable to provide two of the documents identified in Subsection B of 18.19.5.16 NMAC may provide an affidavit or a notarized letter from a representative of a New Mexico governmental entity, not for profit organization, assisted care facility/home, adult assisted living facility/home, homeless shelter, transitional service provider, or group/half way house attesting to the address where the applicant resides or receives services *in lieu of* the documents required in Subsection B of 18.19.5.16 NMAC.] **[RESERVED]**

[18.19.5.16 NMAC - N, 11/15/2016; A/E, 6/26/2018; A, 10/30/2018, Repealed, xx/xx/xxxx]

18.19.5.17 [FINGERPRINTS AND CRIMINAL HISTORY SCREENING:]

~~_____ **A. Authority; use of criminal history information:** The taxation and revenue department (TRD) is authorized to obtain the criminal history records of applicants for driving authorization cards and TRD is authorized to obtain criminal history records of applicants for identification cards that are not acceptable for federal agencies for federal purposes, provided that the applicant does not possess a valid New Mexico license or identification card and that the applicant does not provide proof of lawful status.~~

~~_____ **B. Procedure for applicants:**~~

~~_____ (1) If an applicant otherwise meets the application and eligibility requirements, then TRD shall take a full face or front view photograph and fingerprints of the applicant and shall submit the same to the New Mexico department of public safety (DPS) for the purpose of obtaining a current criminal history screening through the national crime information center as well as a criminal history screening through the records of DPS.~~

~~_____ (2) An applicant shall provide to TRD a criminal background screening request, fingerprints, and supporting documentation including an authorization for release of information to TRD in accordance with the procedures of DPS.~~

~~_____ (3) DPS will review state records and also transmit the fingerprints to the federal bureau of investigation for a national screening. The results of the screening will be transmitted to TRD for review.~~

~~_____ (4) Applicants and licensees shall bear any costs associated with ordering or conducting criminal history screening. Fees are determined by and payable to DPS or designee of DPS. Fees cannot be waived by TRD.~~

~~_____ (5) TRD shall comply with applicable confidentiality requirements of the DPS and the federal bureau of investigation regarding the handling and dissemination of criminal history information.~~

~~_____ **C. TRD review of criminal history information:**~~

~~_____ (1) TRD shall review the results and shall not issue a driving authorization card if the results show that the applicant has an outstanding criminal arrest warrant for a felony or a misdemeanor charge in any state or country or if the results show that the applicant's fingerprints are associated with any name, date of birth or social security number other than those provided when the person applied for the driving authorization card.~~

~~_____ (2) TRD shall notify the person if the application is denied, including the reason for the denial, and the person's right to a hearing.~~

~~_____ (3) TRD shall destroy the results of the screening after it has completed its review and issued the driving authorization card, or one year from the date of the denial, whichever occurs sooner.~~

~~_____ **D. Evidence of eligibility:** A person whose application for a driving authorization has been denied shall become eligible upon submitting evidence that the basis for ineligibility was resolved. Such evidence may include:~~

~~_____ (1) documents that demonstrate that the criminal arrest warrant was quashed, withdrawn, or resolved;~~

~~_____ (2) documents that demonstrate that there is not a conflict with the name, date of birth or social security number; or~~

~~_____ (3) other documents as approved by the director of the motor vehicle division.]~~

[RESERVED]

[18.19.5.17 NMAC - N, 11/15/2016; A/E, 6/26/2018; A, 10/30/2018, Repealed, xx/xx/xxxx]