

**TITLE 1            GENERAL GOVERNMENT ADMINISTRATION**  
**CHAPTER 10       ELECTIONS AND ELECTED OFFICIALS**  
**PART 7            RANDOMIZATION OF CANDIDATE NAMES ON BALLOTS**

**1.10.7.1            ISSUING AGENCY:** Office of the New Mexico Secretary of State  
[1.10.7.1 NMAC – Rp, 1.10.7.1 NMAC, 2/25/2020]

**1.10.7.2            SCOPE:** This rule applies to the printing of names on ballots for all elections conducted pursuant to the Election Code.  
[1.10.7.2 NMAC – Rp, 1.10.7.2 NMAC, 2/25/2020]

**1.10.7.3            STATUTORY AUTHORITY:** This rule is authorized by Sections 1-8-21.1, 1-10-8.1, and 1-22-3.1 NMSA 1978 of the Election Code.  
[1.10.7.3 NMAC – Rp, 1.10.7.3 NMAC, 2/25/2020]

**1.10.7.4            DURATION:** Permanent.  
[1.10.7.4 NMAC – Rp, 1.10.7.4 NMAC, 2/25/2020]

**1.10.7.5            EFFECTIVE DATE:** February 25, 2020, unless a later date is cited at the end of a section.  
[1.10.7.5 NMAC – Rp, 1.10.7.5 NMAC, 2/25/2020]

**1.10.7.6            OBJECTIVE:** The purpose of this rule is to provide a uniform system of randomization of candidate names for the same office on the ballot in all elections conducted pursuant to the Election Code.  
[1.10.7.6 NMAC – Rp, 1.10.7.6 NMAC, 2/25/2020]

**1.10.7.7            DEFINITIONS:**

**A.            “Alphabet”** means the 26 Roman typeface letters of the standard alphabet used in the United States, without differentiation between upper case and lower case version of each letter.

**B.            “Auditor”** means an auditor qualified by the state auditor to audit state agencies.

**C.            “Candidate name”** and **“candidate’s name”** means the name listed on the candidate’s certificate of registration in conformance with the requirements of Subsection (A) of Section 1-10-8 NMSA 1978 and disregarding any punctuation forming a part of a candidate’s name; provided that in the case of a ticket for the offices of president and vice president or of governor and lieutenant governor in a general election, only the name of the presidential or gubernatorial candidate is considered and the name of the vice presidential or lieutenant gubernatorial candidate is disregarded.

**D.            “Election cycle”** the biennial time period described in Subsection (A), of Section 1-1-3.1, NMSA 1978.

**E.            “First name”** means a candidate’s given name or forename as listed on the candidate’s certificate of voter registration.

**F.            “Letter”** means each of the 26 graphemes of the contemporary alphabet used in the United States: A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P, Q, R, S, T, U, V, W, X, Y, and Z; provided that in the case of any of the letters specified in this definition to which a diacritic is applied, the diacritic is disregarded; and provided further that in the case of a digraph, each grapheme forming the digraph is considered a separate letter.

**G.            “Last name”** means a candidate’s surname or family name as listed on the candidate’s certificate of registration in conformance with the requirements of Paragraph (1), of Subsection (A), of Section 1-10-6 NMSA 1978; the term includes a mononym in the case of a person with a single name.

**H.            “Middle name”** means the initial, initials, name or names as listed on a candidate’s certificate of registration in addition to a candidate’s first and last names; the term includes a nickname or pseudonym, but does not include honorific, academic or elected titles.

**I.            “New Mexico election alphabet”** means a version of the alphabet in which all letters have been randomized pursuant to this rule.

**J.            “Secretary”** means the secretary of state.  
[1.10.7.7 NMAC – Rp, 1.10.7.7 NMAC, 2/25/2020]

**1.10.7.8            CREATION OF THE NEW MEXICO ELECTION ALPHABET:**

**A.** Between the day of a general election and the last day of that calendar year, the auditor shall publicly create a randomization of the alphabet utilizing a method in which each letter not yet selected has a statistically equal chance of being the next letter selected.

**B.** The secretary shall post notice on the secretary's website at least one week in advance, providing the day, time and place of the randomization of the alphabet.

**C.** The randomized alphabet created by the auditor shall be the New Mexico election alphabet for the next election cycle.

**D.** By January 10th of each odd-numbered year, the secretary shall post the New Mexico election alphabet. The agency website shall contain the current New Mexico election alphabet and an archive of all previous New Mexico election alphabets.

[1.10.7.8 NMAC – Rp, 1.10.7.8 NMAC, 2/25/2020]

**1.10.7.9 ORDER OF CANDIDATE NAMES:**

**A.** The names of candidates for the same office shall be ordered based upon the first letter in each candidate's last name according to the order of letters in the New Mexico election alphabet.

**B.** When two or more candidates for the same office share the same first letter in each candidate's last name, the order of candidate names is resolved by applying the New Mexico election alphabet to each subsequent letter in each candidate's last name until a discernment can be ascertained between candidate names.

**C.** When two or more candidates for the same office share the same last name, the order of candidate names is resolved by applying the New Mexico election alphabet to each letter in each candidate's first name until a discernment can be ascertained between candidate names.

**D.** When two or more candidates for the same office share the same last and first names, the order of candidate names is resolved by applying the New Mexico election alphabet to each letter in each candidate's middle name, if any, until a discernment can be ascertained between candidate names.

**E.** When two or more candidates for the same office share the same candidate names, the order of candidate names is resolved in favor of the candidate with the higher card drawn on a day, time and location selected by the secretary and administered by the proper filing officer for the office for which the candidates have filed declarations of candidacy. The drawing of cards shall utilize a 52 card deck with jokers, face cards, and aces removed. With regard to the remaining 36 numbered cards, cards are ranked numerically from 2 low to 10 high, and if two cards with the same number are selected, suits are ranked with clubs lowest, diamonds low, hearts high and spades highest.

[1.10.7.9 NMAC – N, 2/25/2020]

**1.10.7.10 OFFICES WITH CANDIDATES DESIGNATED BY CONVENTION:**

**A.** Notwithstanding the New Mexico election alphabet, the names of candidates designated and certified by state convention pursuant to Section 1-8-21.1 NMSA 1978 shall be placed on the respective political party primary ballot in descending order of the vote received at the applicable state convention.

**B.** In the case of two or more candidates designated and certified by state convention who receive an equal number of votes, the order of names for those candidates on the respective political party primary ballot shall be determined using the New Mexico election alphabet and the order provided in 1.10.7.9 NMAC.

**C.** Names of candidates not designated or certified by state convention pursuant to Section 1-8-21.1 NMSA 1978 shall appear after all convention designated and certified candidates and shall be in the order provided in 1.10.7.9 NMAC.

[1.10.7.10 NMAC – N, 2/25/2020]

**1.10.7.11 SELECTION OF AUDITOR:**

**A.** At least 90 days prior to each general election, the secretary of state shall select an auditor to create the New Mexico election alphabet for the subsequent election cycle.

**B.** The auditor may be the same auditor contracted by the secretary pursuant to Section 1-14-13.2 NMSA 1978.

[1.10.7.11 NMAC – N, 2/25/2020]

**1.10.7.12 INITIAL NEW MEXICO ELECTION ALPHABET:**

**A.** Within 31 days following adoption of this rule, the secretary shall select an auditor to create the initial New Mexico election alphabet.

**B.** The auditor shall publicly create a randomization of the alphabet utilizing a method in which each letter not yet selected has a statistically equal chance of being the next letter selected.

**C.** The randomized alphabet created by the auditor shall be the New Mexico election alphabet for the remainder of the current election cycle.

**D.** Once created, the secretary shall post the initial New Mexico election alphabet as soon as practicable on its website.

[1.10.7.12 NMAC – N, 2/25/2020]

**History of 1.10.7 NMAC:**

1.10.7 NMAC - Determination of Ballot Position for United States Representative Special Elections, filed 3/15/1997; Recompiled 11/30/2001, was repealed and replaced by 1.10.7 NMAC - Randomization Of Candidate Names On Ballots, effective 2/25/2020