

TITLE 1 GENERAL GOVERNMENT ADMINISTRATION
CHAPTER 10 ELECTIONS AND ELECTED OFFICIALS
PART 15 ALTERNATIVE AND ELECTION DAY VOTING ADMINISTRATION

1.10.15.1 ISSUING AGENCY: Office of the New Mexico Secretary of State
[1.10.15.1 NMAC - N, 9/29/2020]

1.10.15.2 SCOPE: This rule applies to the administration of all elections conducted pursuant to the Election Code.
[1.10.15.2 NMAC - N, 9/29/2020]

1.10.15.3 STATUTORY AUTHORITY: This rule is authorized by Section 1-2-1 NMSA 1978 of the Election Code.
[1.10.15.3 NMAC - N, 9/29/2020; A, 8/24/2021]

1.10.15.4 DURATION: Permanent.
[1.10.15.4 NMAC - N, 9/29/2020]

1.10.15.5 EFFECTIVE DATE: September 29, 2020, unless a later date is cited at the end of a section.
[1.10.15.5 NMAC - N, 9/29/2020]

1.10.15.6 OBJECTIVE: The purpose of this rule is to provide a uniform system of handling and challenging ballots consistent with the Election Code.
[1.10.15.6 NMAC - N, 9/29/2020; A, 8/24/2021]

1.10.15.7 DEFINITIONS: [RESERVED]
[1.10.15.7 NMAC – N, 9/29/2020]

1.10.15.8 [RESERVED]
[1.10.15.8 NMAC - N, 9/29/2020; Repealed, 8/24/2021]

1.10.15.9 INTERPOSING ELECTION CHALLENGES:

A. A properly appointed challenger or member of the election board may interpose challenges only for the specific reasons outlined in Sections 1-12-20 and Subsection C of Section 1-6-14 NMSA 1978.

B. The election board shall allow a challenger to view the application to vote form, signature roster, precinct voter list, and the voting machine pursuant to Section 1-2-23 NMSA 1978. The county clerk and the presiding judge have the discretion regarding whether the signature roster or precinct voter list be provided in electronic or paper form, however, under no circumstance will a challenger be allowed to view a voter's full date of birth or any portion of the voter's social security number. A challenger may view a voting machine only before the polls are opened to ensure that the public counter is at zero, that the results tape contains no votes and that there are no voted ballots in the voting machine bins.

C. In accordance with Subsection C of Section 1-6-14 NMSA 1978, a challenger may view the official mailing envelope prior to the time that it is opened by the election board.

D. Challengers must conduct themselves in an orderly manner at all times. A challenger can be expelled from the precinct for unnecessarily obstructing or delaying the work of the election inspectors; touching ballots, election materials or voting equipment; campaigning; or acting in a disorderly manner.

E. Challenges may not be made indiscriminately or without good cause. Doing so constitutes disrupting a polling place.

F. Challengers do not have the authority to approach voters or talk to voters inside the polling location.

G. Challengers do not have the right to use video cameras or recording devices inside a polling location.

H. County clerks must ensure that they include training on the rules and statutes relating to interposing election challenges at their school of instruction for all election board members.

[1.10.15.9 NMAC - N, 9/29/2020; A, 8/24/2021]

1.10.15.10 ABSENT VOTER ELECTION BOARD; CHALLENGES; DISPOSITION:

A. Challenges in front of the absent voter election board are handled in accordance with Subsections C and D of Section 1-6-14 NMSA 1978.

B. If a challenge is made in front of the absent voter election board, a designated election board member shall notate “challenged” on the absentee ballot envelope but the absent voter election board does not have to rule on the challenge at that time, and may do so when it is otherwise convenient.

C. If the challenge is unanimously affirmed by the absent voter election board, an election board member shall mark “affirmed” on the ballot envelope and mark “rejected” on the absent voter’s record on the absentee register. A unanimously affirmed challenged ballot shall not be opened but placed in a container provided for challenged ballots.

D. If the reason for the challenge is satisfied by the voter before the conclusion of the county canvass or as part of an appeal, the voter’s record on the absentee ballot register shall be changed from “rejected” to “accepted,” the notation “challenge affirmed” on the absentee ballot envelope shall be crossed out and signed and dated by the presiding judge and the county clerk, and the official mailing envelope shall be opened and the vote counted by an election board convened by the county clerk. If the ballot is hand tallied it shall be recorded in the absentee by-mail hand tally counting group. If the ballot is tabulated by a voting tabulator, it shall be recorded in the absentee by-mail machine counting group. If the ballot is counted after the county canvass report has been adopted, the county canvass board shall reconvene to amend the report prior to the state canvassing board convening. If the county canvass board is unable to convene prior to the date of the meeting of the state canvassing board due to the date of the appeal, the county clerk shall provide the information to the secretary of state to present to the state canvassing board. The state canvassing board shall review and adopt the change to the county canvass report in lieu of the county canvass board reconvening, however, if the change results in a change to the winner of a single-county candidate contest or ballot questions, the state canvassing board shall order the county canvassing board to reconvene to adopt the change to the county canvassing report.

[1.10.15.10 NMAC - N, 9/29/2020; A, 8/24/2021]

History of 1.10.15 NMAC: [RESERVED]

History of Repealed Material:

1.10.15.8 NMAC: County Clerk Mailed Ballot Rejection of Qualification, filed 9/29/2020; Repealed 8/24/2021.