

This is an amendment to 1.10.24 NMAC, Sections 2, 3, 6, 7, 8, 9 and 10, effective 8/31/2023.

1.10.24.2 SCOPE: This rule applies to any referendum petition submitted or filed with the office of the secretary of state pursuant to Article IV, Section 1 of the Constitution of New Mexico and pursuant to the provisions of Section 1-17-1 through 1-17-14, NMSA 1978.
[1.10.24.2 NMAC - N, 4/15/2004; A, 8/31/2023]

1.10.24.3 STATUTORY AUTHORITY: [~~Election Code,~~] Paragraph (2) of Subsection A of Section 1-2-1 NMSA 1978 and Article 17 of the Election Code. [~~The issuing authority shall adopt rules and regulations to carry out the provisions of the Election Code.~~]
[1.10.24.3 NMAC - N, 4/15/2004; A, 8/31/2023]

1.10.24.6 OBJECTIVE: The objective of this rule is to establish administrative procedures for the review of submitted draft referendum petitions prior to circulation and to establish administrative procedures for the review of signatures [for] on completed referendum petitions.
[1.10.24.6 NMAC - N, 4/15/2004; A, 8/31/2023]

1.10.24.7 DEFINITIONS:

A. “Certified list” means the alphabetized listing of registered voters of a county that is under the signature and seal of the [~~county clerk~~] secretary of state.

B. “Designated agent” means the sole individual authorized by the referendum sponsors to act on behalf of sponsors.

C. “Fictitious, forged or otherwise clouded signatures” means signatures including, but not limited to, the names of celebrities and actors that are not registered voters or qualified electors of New Mexico, cartoon characters, historical figures, animal companions or livestock, or any signature where the address is not legible and the signer could not be sufficiently identified by a judge.

D. “Petition” means the referendum form, approved, certified, and circulated pursuant to Article 17 of the Election Code.

E. “Petitioner” means an individual, group of persons or organization circulating a referendum petition pursuant to Article IV, Section 1 of the New Mexico Constitution and the provisions of Article 17 of the Election Code.

F. “Qualified elector” means any [~~person~~] resident of this state who is qualified to vote under the provisions of the Constitution of New Mexico and the Constitution of the United States and includes any qualified resident.

G. “Registered voter” means a qualified elector, registered to vote pursuant to the provisions of the Election Code.

H. “Signer” means a qualified elector or registered voter who signs his name to a referendum petition.

I. “Solicitor” means a person who circulates a referendum petition and requests the signatures of qualified electors or registered voters.

J. “Sponsor” means the individual, group of persons or organization circulating a referendum petition pursuant to Article IV, Section 1 of the New Mexico Constitution and the provisions of Article 17 of the Election Code.

[1.10.24.7 NMAC - N, 4/15/2004; A, 8/31/2023]

1.10.24.8 COMPLETED PETITION FILING:

A. Only the designated agent shall file the petition on behalf of the sponsors.

B. A completed referendum petition filed pursuant to Section 1-17-10 NMSA 1978, shall not be withdrawn nor added to at the time of initial filing, but may be later amended subject to the provisions of Section 1-17-12 NMSA 1978.

C. At the time of filing, the designated agent shall submit a certified list or the registered voters of each county represented in the petition. The secretary of state shall provide the certified lists to the designated agent upon completion of a request affidavit on a form prescribed by secretary of state. The affidavit shall inform the designated agent of the requirement to comply with Section 1-5-5.6 and Subsection A of Section 1-5-22 NMSA 1978. The certified list shall be [~~in both electronic media and paper~~] provided electronically.

D. If a signer of a referendum petition is a qualified elector, but not a registered voter pursuant to the provisions of the Election Code [~~(NMSA 1-1-1 through 1-24-4, NMSA 1978)~~] the qualified elector shall write “qualified elector” in lieu of a voting precinct on the petition page, and the designated agent shall submit documentation that the signer is 18 years of age and a resident of the county listed above the signature of the signer. Acceptable documentation consists of a government issued verification of the age of the signer and other documents that indicate county of residence.

E. The secretary of state shall determine the acceptability of any documents submitted.
[1.10.24.8 NMAC - N, 4/15/2004; A, 8/31/2023]

1.10.24.9 COMPLETED PETITION VERIFICATION:

A. The secretary of state shall examine each page of the petition to determine the validity of signatures consistent with the requirements of Article 17 of the Election Code.

B. Fictitious, forged or otherwise clouded signatures shall be deleted from the petition consistent with Section 1-17-11, NMSA 1978.

[1.10.24.9 NMAC - N, 4/15/2004; A, 8/31/2023]

1.10.24.10 PETITION APPROVAL BEFORE CIRCULATION:

A. Before any referendum petition is circulated for signatures, the sponsors shall submit the original draft thereof to the secretary of state to determine if it meets the requirements of law for referendum petitions pursuant to Section 1-17-1, Section 1-17-2, Section 1-17-5, Section 1-17-6, Section 1-17-8 NMSA 1978 and Article IV, Section 1 of the Constitution of New Mexico.

B. Requirements as outlined in Section 1-17-2 and Subsection E of Section 1-17-5 NMSA 1978 shall appear on the front of the petition page, as only the required certificate shall appear on the back of each petition page pursuant to Section 1-17-6 NMSA 1978.

C. Pursuant to Section 1-2-1.1 NMSA 1978, the secretary of state shall contact the attorney general for review of referendum petition submissions and request signature for petitions certified as meeting all requirements of law for referendum petitions as required by 1-17-8 NMSA 1978.

D. The secretary of state shall respond to the draft submission in accordance with Subsection B of 1-17-8 NMSA 1978 within 30 days of submission.

[1.10.24.10 NMAC – N, 8/31/2023]

History of 1.10.24 NMAC: [RESERVED]