

TITLE 1 GENERAL GOVERNMENT ADMINISTRATION
CHAPTER 10 ELECTIONS AND ELECTED OFFICIALS
PART 35 VOTER RECORDS SYSTEM

1.10.35.1 ISSUING AGENCY: Office of the Secretary of State.
[1.10.35.1 NMAC - N, 3/15/2012]

1.10.35.2 SCOPE: This rule applies to the uniform operation and maintenance of the statewide computerized voter registration system in each of the 33 county clerk offices of New Mexico and the office of the secretary of state (SOS).
[1.10.35.2 NMAC - N, 3/15/2012; A, 2/12/2016]

1.10.35.3 STATUTORY AUTHORITY: The Election Code, Sections 1-2-1, 1-4-18.1 and Subsection C of 1-5-31 NMSA 1978, Public Law 103-31, The National Voter Registration Act of 1993; Public Law 107-252, The Help America Vote Act of 2002. The issuing authority shall issue rules to establish and administer the statewide computerized voter registration system and to require deadlines and timelines for the updating of voter files and shall adopt rules establishing a uniform and nondiscriminatory process to match the information contained in the voter registration election management system with the database of the motor vehicle division of the taxation and revenue department (TRD) or the federal social security administration for electronic certificates of registration.
[1.10.35.3 NMAC - N, 3/15/2012; A, 2/12/2016]

1.10.35.4 DURATION: Permanent.
[1.10.35.4 NMAC - N, 3/15/2012]

1.10.35.5 EFFECTIVE DATE: March 15, 2012, unless a later date is cited at the end of a section.
[1.10.35.5 NMAC - N, 3/15/2012]

1.10.35.6 OBJECTIVE: The Election Code [(Section 1-1-1 NMSA through 1-24-4 NMSA 1978)] was amended by Chapter 270, Laws 2005. The purpose of the amendment is to require the secretary of state to adopt such rules as are necessary to establish and administer the statewide computerized voter registration system and to require timelines for the updating of voter files. It is also the objective of this rule to provide for uniform administrative practices to carry out the provisions of the Election Code.
[1.10.35.6 NMAC - N, 3/15/2012; A, 8/31/2023]

1.10.35.7 DEFINITIONS:

- A. “Active voter”** means a registered voter who has not been declared an inactive voter.
- B. “Board of registration”** means the voters of a county who are appointed by the board of county commissioners and serve under the provisions of Sections 1-4-34 NMSA 1978.
- C. “Cancelled”** means the status of a person’s voter registration record when that person is no longer eligible to vote due to death; transfer of residence to another county or state; [a finding by a court of legal insanity;] felony conviction while the person is in [prison, on parole, or on supervised probation] a correctional facility; or at the voter’s request.
- D. “Certificate of registration”** means the form, prescribed by the SOS or the federal form complying with the National Voter Registration Act of 1993, used by qualified electors or by federal qualified electors to register to vote.
- E. “Confirmation card”** means a postage prepaid and preaddressed notice, with language in compliance with the National Voter Registration Act of 1993 and Subsection C of Section 1-4-28 NMSA 1978, sent by forwardable mail, with a postage prepaid return postcard on which a voter may state the voter’s current address.
- F. “Confirmation mailing”** means a non-discriminatory mass mailing; conducted by the office of the SOS to voters flagged as NVRA on the statewide voter file and to voters who have filed a change of address request with the postal service since the last confirmation mailing.
- G. “County”** means an administrative district of the state of New Mexico.
- H. “County register”** means a physical file of voter registration records kept in fire resistant containers at the county clerk’s office.
- I. “County voter file”** means the computerized version of the county register, comprising each county’s portion of the statewide voter file.

- J.** “**Data recording media**” means physical material that holds data expressed in any existing electronic format.
- K.** “**District**” means a distinct territorial subdivision containing a body of eligible voters within the represented area.
- L.** “**Duplicate search**” means the process of verifying that voters are not registered in more than one county of the state, or registered more than once in a single county.
- M.** “**Election**” means a statewide election that is a general election, political party-primary election, local elections included in the Local Elections Act, or elections to fill vacancies in the office of United States representative.
- N.** “**File maintenance**” means the total activities undertaken by county or state election officials to ensure the accuracy and integrity of the statewide voter file.
- O.** “**Inactive voter**” means a voter who has been mailed a confirmation card in accordance with 52 U.S.C. 20501 to 20511, and who has either failed to respond or has failed to vote in any election conducted after the mailing of the confirmation card.
- P.** “**Initial mailing**” means the first non-discriminatory mailing to a voter, by the county clerk or SOS, which is returned as undeliverable by the postal service.
- Q.** “**Mailing address**” means the address at which a voter receives correspondence; it is the address in the “physical street address where you live now” box on the certificate of registration, unless the voter’s address has been updated by the county clerk and the updated address is attached to the certificate of registration, or unless a voter has entered a different mailing address in the “address where you get your mail (if different from above) box on the certificate of registration.
- R.** “**Module**” means a portion of the statewide voter records system program that carries out a specific function and may be used alone or combined with other modules of the same program.
- S.** “**New registrant**” means a voter who has never been registered in any county within the state.
- T.** “**Non-standard address**” means an unnamed street, unknown structure or directional address not on the county street file.
- U.** “**NVRA**” means National Voter Registration Act and is a designation in the statewide voter file indicating a voter was sent an initial mailing other than a confirmation mailing, which was returned to the county clerk as undeliverable.
- V.** “**Online voter registration system**” means the system authorized by the SOS for the purpose of accepting voter registration applications through the internet.
- W.** “**Physical address**” means the location of a voter’s residence even if provided in the form of a map or geographic description pursuant to Section 1-4-5.3 NMSA 1978.
- X.** “**Positive match**” means that two records match based on a strong match or that a match has been determined to exist based on further investigation by a county clerk of a weak match.
- Y.** “**Precinct**” means a part of a county with definite boundaries established for electoral administrative functions.
- Z.** “**Precinct part**” means the designation given when a precinct is divided by one or more districts.
- AA.** “**Precinct voter list**” means a voter list arranged in alphabetical order of voter surname within and for each precinct.
- BB.** “**Public service request**” means information prepared for an individual or organization requesting certain information from the voter records system.
- CC.** “**Registrant detail**” means all data entered into the voter records system for an individual voter.
- DD.** “**Removable**” means the designation in the statewide voter file for the voter registration record of a person registered to vote whose voter registration has been cancelled due to death, transfer of residence to another state, ~~[a finding by a court of legal insanity,]~~ felony conviction while the person is in ~~[prison, on parole or on supervised probation]~~ a correctional facility, at the voter’s request, or, if after 45 days, a county clerk is unable to fulfill an incomplete application received online or electronically.
- EE.** “**Scanned image**” means the digital capture of the certificate of registration and any other physical documents relating to the voter’s record.
- FF.** “**Select groups**” means a group of voters selected based upon their party registration, or lack thereof, gender, residence, age, or any other protected class as defined by law.
- GG.** “**Special voter list**” means a prepared list of selected voters arranged in the order in which requested.
- HH.** “**State agency that provides public assistance or services to persons with disabilities**” means a designated agency pursuant to 1.10.8 NMAC 1978 and 1-4-5.2 NMSA 1978.

~~[HH.]~~ **II.** “Street file” means a method of geocoding or manually managing street segments, including address ranges, road networks and providing for incremental updates in the statewide voter registration system.

~~[H.]~~ **JJ.** “Strong match” means that two records in different databases have: (1) the same name, (2) same date of birth (DOB), and (3) the same full social security number (SSN)

~~[JJ.]~~ **KK.** “Suspense status” means an applicant for voter registration whose status as a voter is held in abeyance until certain voter qualifications are met.

~~[KK.]~~ **LL.** “Undeliverable mailing” means correspondence sent to a voter and returned by the postal service indicating that the voter no longer receives mail at that address.

~~[LL.]~~ **MM.** “Voter” means any qualified elector or federal qualified elector who is registered under the provisions of the Election Code.

~~[MM.]~~ **NN.** “Voter data” means selected information from the voter file.

~~[NN.]~~ **OO.** “Voter file” means all voter information required by law and by the secretary of state that has been extracted from the certificate of registration of each voter in the county, stored on the voter records system and certified by the county clerk as the source of all information required by the Voter Records System Act.

~~[OO.]~~ **PP.** “Voter history” means extracted voter information from the voter file indicating the jurisdiction where a voter voted, election and date, political party, if any, precinct or precinct part, location and method of voting.

~~[PP.]~~ **QQ.** “Voter list” means any prepared list of voters.

~~[QQ.]~~ **RR.** “Voter records system” means the statewide computerized voter registration system and database, in compliance with the Help America Vote Act of 2002, developed, implemented, established, supervised and maintained by the SOS. The system is used by the SOS to exchange electronic information with the county clerks.

~~[RR.]~~ **SS.** “Weak match” means that two records in different databases have any of the two following matching: (1) name, (2) DOB, (3) SSN, or (4) address.

[1.10.35.7 NMAC - N, 3/15/2012; A, 2/12/2016; A, 4/7/2020; A, 8/31/2023]

1.10.35.8 PROCESSING VOTER REGISTRATION CERTIFICATES:

A. Adding and transferring voters.

(1) Upon receipt of a voter registration certificate, the county clerk shall run a duplicate search to determine if the voter is already registered in the registration records of the county. To determine if a record already exists in the statewide voter registration system, the duplicate search criteria shall be based on a strong match. The county clerk may also conduct additional duplicate searches using different criteria to minimize the chance of entering a duplicate record. Additional search criteria may be based on weak match criteria. Upon running a duplicate search, if the voter’s information on the voter registration certificate matches with an existing record, the voter shall be updated and transferred from another county.

(2) If the qualified elector submits a paper voter registration form and provides all other required voter information, but only provides the qualified elector’s driver’s license or state identification number, or last four digits of the voter’s SSN, the county clerk will first verify that the voter has a matching MVD record with the provided information. If the county clerk can verify and match a MVD record with the qualified elector then the county clerk should complete the search stated in Paragraph (1), of Subsection A, of 1.10.35.8 NMAC. If the county clerk is unable to verify the voter has a matching MVD record, the clerk shall, within five days, email and mail the voter information with directions on how to provide their full SSN on the secure SOS portal.

(3) Upon receipt of a voter registration certificate, the county clerk shall run a search in the statewide voter registration system to determine if the applicant has been previously marked as deceased or ~~[as having]~~ is incarcerated in a correctional facility as a result of a felony conviction prior to acceptance of the application. If a strong match is found, the application shall be ~~[rejected]~~ processed pursuant to Subsection C of 1.10.35.8 NMAC. The county clerk may conduct additional searches to determine a possible match for purposes of ensuring a death ~~[or felony]~~ record does not exist prior to entering the voter registration certificate.

(4) ~~[AH]~~ Unless the voter is a public official with a designated confidential home address pursuant to 1.10.37 NMAC, all registrant detail and statutorily required data must be entered from the certificate of registration into the voter file including: name, full social security number (SSN), physical address, DOB, and an image of the signature. If the voter is a public official with such a designation, the voter record shall be marked as containing a confidential address, and “confidential” shall be entered in the address fields that correspond with the confidential address except for the zip code. The zip code indicated on the confidential home address designation shall be entered into the voter file.

(5) The county clerk may establish a best practice of proofreading data entry to prevent errors and duplicate voter entry. Proofreading may be done by a staff member who did not complete the original entry and the proofreading search for the record may be conducted using different criteria (i.e. DOB or name rather than SSN).

(6) The county clerk shall scan each certificate of voter registration in the county register and attach to the electronic voter record. All scanned images attached to a voter record transferred to another county shall be retained as attached to that record.

(7) Pursuant to Subsection C of Section 1-4-15 NMSA 1978, a voter who does not declare a political party preference shall be entered into the voter file as “decline to select”. County clerk staff shall not check the “no party” box on the certificate of voter registration, but shall leave it blank.

(8) A voter who does not declare a qualified political party preference shall be entered into the voter file as “decline to select.”

(9) A voter who is not 18 years of age at the time of registration shall be placed in “suspense” status. At 35 days and 21 days prior to the next election, the county clerk shall run a suspense query report of the county voter file and activate suspense voters on the appropriate date prior to the election. At 21 days prior to an election, the county clerk shall activate all those suspense voters who will be 18 on or before the election.

(10) If the age question is checked “no” or left blank the application shall nonetheless be accepted if the DOB demonstrates that the applicant is over the age of 18 or placed in suspense status if the DOB demonstrates the applicant is under the age of 18.

(11) When a voter registration agent number is provided on an application, the county clerk shall note the agent number and the registration form number in the statewide voter registration system.

B. Matching with MVD database: All online and MVD electronic registrations have been verified with the MVD database prior to transmission to the county clerk. Upon receiving a paper voter registration certificate, the county clerk may conduct a search in the MVD database for investigative purposes.

(1) If the county clerk determines that a conflict exists between the MVD database and the voter registration record the county clerk may contact the registrant to request clarification. If it is determined that the information provided on the voter registration form needs to be corrected, the county clerk shall request that the voter fill out a new voter registration form with the corrected information before processing the application.

(2) The MVD database shall not be used to fill in information that is not included on incomplete applications or applications not otherwise in proper form.

C. Rejection of voter registration forms.

(1) Rejection for incomplete information: Voter registration forms that do not contain the qualified elector’s name, address, DOB, and signature or usual mark shall be rejected. A full social security number is required to finish processing a new voter registration. For voter registration forms that only provide incomplete information or the county clerk cannot ascertain the qualified elector’s full SSN, the county clerk shall make the appropriate notation in the statewide voter file, and return the form to the qualified elector with an explanation of the reasons for rejection and indicate that the voter shall provide the full SSN prior to receiving a ballot and, if not, may only vote on a provisional ballot until the incomplete information is provided, within five business days of the county clerk rejecting the voter registration form.

(2) Rejection for non-citizenship: For voter registration forms in which the citizenship question is answered in the negative, the county clerk shall reject the form. The county clerk shall also reject any voter registration certificate in which the question regarding citizenship is not answered. The county clerk shall send a notice within five business days to the applicant with an explanation that non-citizens are not eligible to vote in New Mexico elections. If the box was checked in error, the applicant may fill out a new form.

(3) Rejection of forms containing commercial mailbox locations as the physical address: The county clerk shall maintain a listing of addresses for commercial mail box establishments, if any, to prevent the entry of a non-residential address as a residence address into the voter file. When any voter registration form is received containing a commercial mail box location as the physical address, it shall be rejected, and the form returned to the voter with an explanation of the reason for the rejection along with a new voter registration form and instructions on how to register online, if available to that voter, within five business days, but as soon as is practicable.

(4) Rejection for felony [~~conviction~~] incarceration confirmation: For voter registration forms submitted that have a positive match with a [~~felon~~] felony record in the voter records system, the county clerk shall confirm the application was submitted personally before a county clerk, the clerk's authorized representative or a precinct board member, at an office of the motor vehicle division of the taxation and revenue department or at a state agency that provides public assistance or services to persons with disabilities. If the clerk confirms this information,

the registration shall be accepted. If the clerk does not confirm this information, the county clerk shall process the application with a status of “not eligible” and a status reason of “felony incarceration” and send a notice to the applicant with an explanation that [felons are not allowed to vote while in prison, on parole or on supervised probation, and] an otherwise qualified elector is ineligible to register to vote while incarcerated in a correctional facility for a felony conviction. The notice shall also provide the elector with information on how they can become eligible or how to update or correct the information in the voter records system, within five business days, but as soon as is practicable.

(5) Rejection for deceased confirmation: For voter registration forms submitted that have a positive match with a death record in the voter records system, the county clerk shall contact the secretary of state who will work with the department of health or other authorized agencies to confirm that a death certificate exists. If the death is confirmed, the county clerk shall reject the voter registration form and shall refer the matter to the assigned election prosecutor within the district attorney’s office for investigation.

(6) Voter registration applications that contain an invalid series of numbers for SSN shall be rejected. Within five business days, but as soon as is practicable of the rejection, the form shall be returned to the voter with an explanation of the reason for the rejection. The social security administration has provided information regarding invalid or impossible SSNs as follows:

- (a) SSN’s never begin with the first three digits of 000, 666, or 900 series; and
- (b) prior to June 25, 2011, SSN’s did not begin with the first three digits of 800

series or above 772 in the 700 series.

(7) If applications are complete, but the county clerk reasonably believes an application is fraudulent, a copy of such registration shall be sent to the assigned election prosecutor within the district attorney’s office located in the same county, along with a statement of the reasons the application(s) are considered suspicious for further investigation. The county clerk may contact the SOS to request assistance in researching suspicious applications.

(8) The county clerk may contact the applicant via phone or e-mail if necessary, however, in no case shall a change in registrant information be processed unless provided in writing.

D. Processing online voter registration forms received from the SOS.

(1) In order for an applicant to use the online voter registration system, a positive match of identity is required with the MVD database. The match criteria shall be a current or expired MVD driver’s license ID number or state ID number, full SSN, and full DOB. If a positive match is not found in the MVD database, the applicant shall be provided with a notice that the application cannot be processed online because of non-matching MVD information. The applicant shall be provided a link to print a paper voter registration application and an option to provide contact information and request to be contacted by the county clerk. If a positive match is made with the MVD database, the applicant shall be allowed to proceed with online registration and the MVD will send an image of the signature and photo as part of the voter registration application.

(2) If the applicant answers no to the questions regarding citizenship, the voter will not be allowed to continue with the online application process.

(3) If the applicant answers no to the question regarding age, the voter will be allowed to continue with the online application process, however, the clerk will place the record in suspense status in the statewide voter registration system.

(4) If the applicant answers yes to the question regarding currently being in [~~prison, on parole, or on supervised probation~~] a correctional facility as a result of a felony conviction, the voter will not be allowed to continue with the online application process.

(5) The applicant shall be provided the opportunity to enter all information as prescribed by the paper registration form, except the voter will not be allowed to modify the SSN or DOB after receiving confirmation of a positive match with the MVD database.

(6) The online voter registration system shall allow the applicant to designate from the list of qualified political parties or choose not to designate a political party. The online voter registration system shall not permit an applicant to designate a political party that is not a qualified political party pursuant to Article 7 of the Election Code.

(7) The online voter registration system shall not allow incomplete voter registration applications to be submitted to the statewide voter registration system. The registrant shall receive a system notification when attempting to submit incomplete information and shall not be allowed to proceed until all required information has been provided. Required information shall include the voter’s first name, last name, DOB, SSN, gender, physical address, mailing address in the event a non-standard physical address is provided, answers to citizenship and age questions, and party designation or choice of no party designation.

(8) Upon receipt of any online or electronic application forwarded to the county clerk via the voter records system, the application shall be processed as described in Subsection A of 1.10.35.8 NMAC.

(9) The online voter registration system will generate a digital image of a voter registration certificate which shall be included as part of the statewide voter registration system and shall be printed and maintained as part of the county register pursuant to Section 1-4-12 NMSA 1978.

(10) The online voter registration system shall transmit all information provided by the voter via a secured and encrypted transmission path and an audit log of all attempts, both successful and unsuccessful, to use the online voter registration system will be maintained by the secretary of state.

E. Processing electronic voter registration forms received from the MVD.

(1) Upon receipt of any electronic application forwarded to the county clerk via the voter records system, the application shall be processed as described in Subsection A of 1.10.35.8 NMAC.

(2) The electronic voter registration system will generate an image of a voter registration certificate which shall be included as part of the statewide voter registration system and shall be printed and maintained as part of the county register pursuant to Section 1-4-12 NMSA 1978.

F. Processing incomplete or ineligible electronic or online voter registration applications: This section applies to all electronically submitted voter registration applications.

(1) Upon determining that the electronic or online voter registration application does not contain a valid physical address, includes a non-standard address with no mailing address, or is otherwise not filled out in proper form, the county clerk shall place the voter in "suspense" status with the status reason of "incomplete application." The county clerk shall attempt to contact the applicant to request a corrected voter registration form within five business days, but as soon as is practicable.

(2) After 45 days of an electronic record remaining in "suspense" status, the county clerk shall place the voter in "removable" status with a reason of "incomplete application" until such time the voter submits a completed application. Additionally, the clerk shall print the affected voter registration certificate image(s), mark as removable with the applicable status reason, and maintain as part of the county register pursuant to Section 1-4-12 NMSA 1978.

(3) Upon determining that the electronic or online voter registration application is ineligible by reason of felony ~~[conviction]~~ incarceration, death, or other applicable reason pursuant to Section 1-4-24 NMSA 1978, the county clerk shall process the application with the applicable status and status reason code as follows:

(a) If a county clerk determines that the applicant has a death record in the voter records system, the county clerk shall contact the SOS to receive confirmation and a copy of the state vital records death certificate. Upon confirmation, the application shall be processed with a status of "removable" and a status reason of "deceased" and shall refer the matter to the assigned election prosecutor within the district attorney's office for investigation.

(b) If a county clerk determines that the applicant ~~[has a felony conviction record in the voter records system that has not been satisfied and the county clerk has received no information satisfying the county clerk that the felon is no longer in prison or on parole or on supervised probation]~~ is incarcerated in a correctional facility as a result of a felony conviction, the county clerk shall process the application with a status of "not eligible" and a status reason of "felony ~~[conviction]~~ incarceration." Additionally, the county clerk shall send a notice to the applicant with an explanation that ~~[felons are not allowed to vote while in prison, on parole or on supervised probation, and]~~ an otherwise qualified elector is ineligible to register to vote while incarcerated in a correctional facility for a felony conviction. The notice shall also provide the elector with information on how they can become eligible or how to update or correct the information in the voter records system, within five business days, but as soon as is practicable.

(c) If a county clerk determines that the applicant is ineligible for any other reason, the county clerk shall process the application with a status of "removable" and the applicable status reason. [1.10.35.8 NMAC - N, 3/15/2012; Repealed, 2/12/2016; 1.10.35.8 NMAC - N, 2/12/2016; A, 4/7/2020; A, 8/31/2023]

1.10.35.9 FILE MAINTENANCE: List maintenance activities shall be conducted in a non-discriminatory manner and in no instance shall select groups of voters be targeted for cancellation or removal from the voter file.

A. Confirmation mailings for voters designated as NVRA under Section 1-4-28 NMSA 1978 (change of address).

(1) The SOS shall contract with a postal service approved vendor of the national change of address program (NCOA) pursuant to Section 1-4-28 NMSA 1978. The entire statewide voter file shall be compared to the NCOA listings for the confirmation mailing.

(2) The SOS shall also create a file of all active voters designated NVRA on the statewide voter file due to an initial undeliverable mailing returned to the county clerk or SOS and so designated by the county clerk in the county voter file.

(3) All active voters appearing in either the NCOA or the NVRA files shall be marked with a status of “inactive” and a status reason of “confirmation mailing” and mailed a confirmation card to the voter’s mailing address by the SOS.

(4) The SOS shall deliver returned and address corrected confirmation cards to the county clerk and the county clerk shall enter the corrected address into the voter file, scan the confirmation card and attach the scanned image to the voter’s record in the voter file. The physical confirmation card shall be attached to the voter’s certificate of registration to be filed in the county register.

(5) The SOS shall return to the county clerk any confirmation card with an address indicating that the voter has moved to another state or county. If the voter has moved to another county, the county clerk shall forward a photocopy or scanned image of the confirmation card to the county clerk of that county and the voter shall be mailed a new certificate of registration by the county clerk of the county where the voter now resides.

(6) The SOS shall return to the county clerk any confirmation card that indicates the voter has moved to another state or country. The county clerk shall mark the record with a status of “removable” and a status reason of “moved outside of county/city,” remove the certificate of registration from the county register with the confirmation card attached, and retain it for six years. The county clerk shall also scan the card and attached it to the electronic voter record.

(7) The SOS shall return to the county clerk any confirmation card that is returned as undeliverable. The county clerk shall log the mail as undeliverable in the electronic voter record and attach the confirmation card to the certificate of registration in the county register. The county clerk shall also scan the card and attached it to the electronic voter record.

(8) A voter is eligible for removal from the voter file if the voter has not been returned to active status, corrected the voter’s address on the certificate of registration and not appeared to vote during a period beginning on the date of the confirmation mailing and ending on the day after the date of the second general election that occurs after the date of the confirmation mailing.

(9) Cancellation of voter registration shall be by the board of registration and subject to the provisions of the Election Code. Upon cancellation, the county clerk shall remove the certificate of registration from the county register and retain it for six years.

B. Street file maintenance: The county clerk shall establish a street file of standard 911 residential addresses within the voter file to determine a registrant’s physical address and shall attempt to correct all non-standard addresses, if any.

C. Precinct assignments: The county clerk shall ensure that all political subdivision changes due to reapportionment, redistricting or annexations are entered into the voter file and voters are assigned to correct voting districts, precincts or precinct parts, if any. The county clerk shall also conduct an audit in every odd numbered year to ensure that all precinct assignments are correct and shall ensure all discrepancies that are discovered in the audit are corrected as soon as possible and at least by the end of the odd numbered year.

D. Felony ~~[convictions and satisfactions]~~ incarceration.

(1) The SOS, via the voter records system, shall enter, as the method of forwarding to county clerks, information on state and federal felony ~~[convictions]~~ incarcerations into the statewide voter file upon receipt from the administrative office of the courts, the department of corrections, the department of justice, or other legally recognized source. Within five business days of receiving information from the voter records system, the county clerk shall check to see if there is a strong or weak match with a voter in the voter file. If there is a strong match, the county clerk shall remove the voter’s voter registration certificate from the county register and mark the record in the electronic voter file system with a status code of “not eligible” and a status reason of “felony ~~[conviction]~~ incarceration.” If there is a weak match, the county clerk shall conduct a further investigation to determine if there is actually a match between the felon record and the voter in the voter file. The county clerk may contact the appropriate agency to resolve weak matches of data. The county clerk may contact the SOS to request assistance in resolving weak matches of data in the felon records.

(2) Upon determining a positive match due to felony ~~[conviction]~~ incarceration, the county clerk shall ~~[send a notice to the cancelled registrant explaining that the person’s registration has been cancelled due to a positive match with a felony conviction with]~~ confirm the applicant appeared personally before a county clerk, the clerk’s authorized representative or a precinct board member, at an office of the motor vehicle division of the taxation and revenue department or at a state agency that provides public assistance or services to persons with disabilities. If the county clerk confirms this information, the registration shall be accepted. If the county clerk does

not confirm this information, the county clerk shall process the application with a status of “not eligible” and a status reason of “felony incarceration” and send a notice to the applicant with an explanation that an otherwise qualified elector is ineligible to register to vote while incarcerated in a correctional facility for a felony conviction. The notice shall provide information on how they can reinstate their registrant status if the person believes the cancellation has occurred in error, within five business days, but as soon as is practicable.

~~[(3) When the SOS receives notice of satisfaction of felony conditions for a voter, the SOS shall enter the voter’s restoration of eligibility into the voter records system. The SOS shall send regular notices of restoration to each county clerk via mail or secure electronic transport.~~

~~[(4) (3) Upon [satisfaction of felony conditions, the qualified elector must re-register by providing a new voter registration form. The county clerk shall consider receipt of acceptable documentation from the voter of satisfaction of conditions or restoration of eligibility in the voter records system as satisfactory proof of eligibility to register. The county clerk may consider additional evidence of satisfaction for restoration of eligibility and may contact the SOS for further investigation. Upon re-registering, the voter’s record shall be changed to active status.] release from a correctional facility, a voter or a qualified elector who appears personally before a county clerk, the clerk’s authorized representative or an election board member, at an office of the motor vehicle division of the taxation and revenue department or at a state agency that provides public assistance or services to persons with disabilities is presumed to meet the voting and voter registration eligibility requirement of not being incarcerated.~~

E. Deceased voters.

(1) The SOS, via the voter records system, shall enter, as the method of forwarding to county clerks, the list of deceased voters received from the DOH into the statewide voter registration system. Within five business days of receiving information in the voter records system, the county clerk shall determine if there is a strong or weak match with a voter in the voter file. If there is a strong match, the county clerk shall mark the record in the statewide voter registration system with a status code of “removable” and a status reason of “deceased.” If there is a weak match, the county clerk shall conduct a further investigation to determine if there is actually a match between the death record and the voter in the voter file and may contact appropriate agencies in an attempt to resolve weak matches of data. The county clerk may contact the SOS to request assistance in resolving weak matches of data in the death records.

(2) The county clerk may also utilize information provided in the obituaries in the local newspaper of record, online sites containing such records, or signed and notarized statements from family members to positively confirm deceased status. The county clerk may also use probate information, death certificates, or information pursuant to Subsection F of Section 1-4-25 NMSA 1978, to determine strong or weak matches with a voter in the voter file. If there is a strong match, the county clerk shall mark the record in the statewide voter registration system with a status code of “removable” and a status reason of “deceased.” If there is a weak match, the county clerk shall conduct a further investigation to determine if there is actually a match between the death record and the voter in the voter file and may contact appropriate agencies in an attempt to resolve weak matches of data. The county clerk may contact the SOS to request assistance in resolving weak matches of data in the death records.

(3) Upon designating a voter as cancelled in the voter file, the county clerk shall remove the voter’s certificate of registration from the county register and retain it for six years.

F. Native American deceased processing: For counties that include tribal or pueblo land and precincts, that county’s Native American coordinator shall coordinate with the tribe or pueblo officials at least three times per year to identify deceased voters on the rolls as follows:

(1) The county Native American coordinator shall request a notarized list of deceased residents since the last time period requested, that includes full name, DOB, gender, address, SSN, and place and date of death from the tribe or pueblo. Pursuant to Subsection F of Section 1-4-25 NMSA 1978, the notarized list must be provided by the president or governor of an Indian nation, tribe or pueblo, or from a tribal enrollment clerk.

(2) Upon receipt of the notarized listing, the county shall determine if there is a strong or weak match with a voter in the voter file. If there is a strong match, the county clerk shall mark the record in the statewide voter registration system with a status code of “removable” and a status reason of “deceased.” If there is a weak match, the county clerk shall conduct a further investigation to determine if there is actually a match between the death record and the voter in the voter file. In the case of a weak match, the county clerk may send a letter to the residence address or relative requesting confirmation of the death. The relative will be asked to provide a signed statement from a family member indicating that the voter in question is deceased. If no response or no supporting documentation is provided, the voter’s record is left unaltered and will remain on the voter registration rolls. The record will be subject to the normal NVRA purge process.

G. Other state notifications: Upon receiving notification by another state of a voter registering to vote

in that state, the county clerk shall cancel that voter's registration and designate as "removable" and status reason to "moved outside of county/city."

[1.10.35.9 NMAC - N, 3/15/2012; A, 2/12/2016; A, 4/7/2020; A, 8/31/2023]

1.10.35.10 VOTER RECORDS REQUESTS:

A. All requesters of voter file data or public service requests shall complete the affidavit of authorization prescribed by the secretary of state.

B. The secretary of state shall develop a uniform fee schedule for data recording media, voter data, voter lists, special voter lists, precinct lists, printed labels, and early and absentee daily voting reports. County clerks may require a deposit for any data requested.

[1.10.35.10 NMAC - N, 3/15/2012]

1.10.35.11 PROTECTION AND ACCEPTABLE USE OF THE ELECTRONIC VOTER FILE

SYSTEM: In accordance with Sections 1-4-5.5 to -5.6, and 1-4-50 NMSA 1978, the SOS and county clerk offices shall take measures to minimize the risk of unauthorized disclosure, unauthorized acquisition, unauthorized access or other situation that would provide access to voter registration records outside what is allowable by law. Measures shall include:

A. All usernames and passwords shall be kept confidential by each authorized user of the statewide voter registration system.

B. The SOS and county clerk offices shall disable all user accounts immediately upon the effective date of resignation or termination of an employee from the respective office.

C. The SOS and county clerk shall conduct an audit at least annually of the user permissions of each authorized user within their respective office to ensure each authorized user has the minimal roles assigned in order for the user to perform his/her job functions.

D. The SOS and county clerk offices shall conduct an audit of authorized user accounts at least monthly to ensure the user account database is accurate.

E. The SOS and county clerk offices shall take reasonable measures to restrict access to voter registration data, both in electronic and paper form, except as required by the authorized user to perform his/her job functions.

F. Authorized users of the statewide voter registration system shall not use the system for any other purpose except as authorized by statute and defined by his/her job functions within the office.

G. The SOS and county clerk is prohibited from using unencrypted email to transport voter registration information that includes SSN.

H. Data exports created from the statewide voter registration system shall be stored in a protected location and shall be permanently deleted once they are no longer needed and can only be exported to work owned computers or devices within the SOS or county clerk offices.

I. The SOS and county clerk offices shall ensure that antivirus, antimalware, and an operating system patching program is maintained on all computers that access the statewide voter system.

[1.10.35.11 NMAC - N, 3/15/2012; Repealed, 2/12/2016; 1.10.35.11 NMAC - N, 2/12/2016]

1.10.35.12 ~~[[RESERVED]]~~ USE OF GOVERNMENTAL AND OFFICIAL BUILDING AS MAILING ADDRESSES ON VOTER REGISTRATION CERTIFICATES

A. Upon written request from an Indian nation, tribe or pueblo, the secretary of state may designate a government or official building for use for mailing addresses on voter registrations for members of that Indian nation, tribe or pueblo. The written request must comply with Subsection D of Section 1-21A-1 NMSA 1978.

B. The written request designating the government or official building shall be submitted to the secretary of state in March or April of any year. It shall include the common name for the building, the mailing address of the building, and the name(s) and phone number(s) of lead person(s) charged with the oversight of election mail at the building.

C. Upon receipt of a written request, the secretary of state shall perform a security evaluation of the building to ensure: the building has a space to safely keep the official election mail in a locked and number-sealed ballot box or envelope.

D. The secretary of state shall respond in writing within sixty days of the request.

E. An approved designation will take effect at the general election or regular local election of the year in which the request was approved.

F. Election mail shall only be provided to the voter to whom it is addressed. The lead person(s)

charged with the oversight of election mail at the building shall maintain a log of election mail that includes:

- (1) the location of the officially designated building;
- (2) date and time of arrival of the election mail;
- (3) printed full name of the voter retrieving the mail;
- (4) signature of the voter retrieving the mail;
- (5) printed full name of the person providing mail to the voter
- (6) signature of the person providing the ballot to the voter

G. If the request is approved and upon implementation, the secretary of state shall send a notification of new designations in writing and shall provide an updated list of approved government and official buildings by county to each county clerk with an Indian nation, tribe or pueblo in the county.

H. If a county clerk receives a voter registration certificate that lists a government or official building on Indian nation, tribe or pueblo land by common name only, the county clerk shall not reject the certificate and, if the certificate is otherwise in the proper form, shall mail information to the voter using the address for the government or official building.

[1.10.35.12 NMAC - N, 8/31/2023]

HISTORY OF 1.10.35 NMAC: [RESERVED]