

**This is a short-form amendment to 1.10.35 NMAC, Sections 8 and 9, effective xx/xx/xxxx. In Section 8, Subsections A, B, and D through F are not shown as no changes were made to those subsections, in Section 9 Subsections A, B, C, and E through G are not shown as no changes were made to those subsections.**

#### **1.10.35.8 PROCESSING VOTER REGISTRATION CERTIFICATES:**

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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 incarceration confirmation: For voter registration forms submitted that have a positive match with a felony incarceration record in the voter records system ~~[the county clerk shall confirm the application]~~ maintained by the secretary of state, if 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 applicant is presumed not to be incarcerated and the registration shall be accepted. Until the secretary of state notifies the county clerks that all pending litigation in which data information sharing systems described in Subsection C of Section 1-4-27.1 NMSA 1978 are at issue have been concluded and the assigned court has found that such systems effectively carry out the data information transfer provided in Subsection C of Section 1-4-27.1 NMSA 1978, if the statewide voter registration electronic management system indicates a positive match, as defined in Subsection X of 1.10.35.7 NMAC, with a current felony incarceration record in that system but the application was not 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, the county clerk shall verify the applicant's eligibility by contacting the hotline set up and staffed by the New Mexico corrections department, to confirm whether the applicant is incarcerated in a New Mexico correctional facility for a felony conviction. If the county clerk confirms that the applicant is currently incarcerated in a New Mexico state correctional facility for a felony conviction, 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 also provide the elector with information on how they can become eligible ~~[or]~~ and how to update or correct the information in the voter records system, within five business days, but as soon as is practicable. The notice shall also provide an appeal form, with prepaid return postage, that allows the applicant to affirm, under penalty of perjury, that they are not currently incarcerated. Absent evidence of current incarceration, otherwise qualified applicants who have previously been incarcerated for a felony conviction are not required to register in person and are legally eligible to register through all legal registration methods upon release from a correctional facility.

including online registration, registration by mail, and registration through a voter registration agent.

(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.

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[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; A, xx/xx/xxxx]

**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.

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**D. Felony 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 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 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]~~ with a felony incarceration ~~[the county clerk shall confirm the applicant]~~ record in the voter records system maintained by the secretary of state, if 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, the applicant is presumed not to be incarcerated and the registration shall be accepted. Until the secretary of state notifies the county clerks that all pending litigation in which data information sharing systems as described in Subsection C of Section 1-4-27.1 NMSA 1978 are at issue have been concluded and the assigned court has found that such systems effectively carry out the data information transfer provided in Subsection C of Section 1-4-27.1 NMSA 1978, if the statewide voter registration electronic management system indicates a positive match, as defined in Subsection X of 1.10.35.7 NMAC, with a current felony incarceration record in that system but the application was not 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, the county clerk shall verify the applicant's eligibility by contacting the hotline set up and staffed by the New Mexico corrections department, to confirm whether the applicant is incarcerated in a New Mexico state

correctional facility for a felony conviction. If the county clerk confirms [this information, the registration shall be accepted. If the county clerk does not confirm this information] the applicant is currently incarcerated in a New Mexico state correctional facility for a felony conviction, 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 the applicant with information on how they can [reinstate their registrant status if the person believes the cancellation has occurred in error,] become eligible and how to update or correct the information in the voter records system within five business days, but as soon as is practicable. The notice shall also provide an appeal form, with prepaid return postage, that allows the applicant to affirm, under penalty of perjury, that they are not currently incarcerated. Absent evidence of current incarceration, otherwise qualified applicants who have previously been incarcerated for a felony conviction are not required to register in person and are legally eligible to register through all legal registration methods upon release from a correctional facility, including online registration, registration by mail, and registration through a voter registration agent.

(3) Upon 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.

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