

**OFFICE OF THE NEW MEXICO SECRETARY OF STATE**

IN REFERENCE:

RULEMAKING PROCEEDING FOR THE REPEAL OF  
1.10.31 NMAC – FINANCIAL DISCLOSURE REPORTING PROCEDURES

**CONCISE EXPLANATORY STATEMENT**

The Office of the New Mexico Secretary of State (“SOS”) hereby adopts the Financial Disclosure Reporting Procedures rule; that is codified as 1.10.31 NMAC.

(1) Statutory Authority for Rule Promulgation:

This rule is authorized by Section 10-16A-9 NMSA 1978.

(2) Effective Date of Rule:

January 1, 2022

(3) Date of Adoption of Rule:

December 16, 2021

(4) Reasons for Adopting Rule:

The objective of the rule is to establish uniformity in the filing and enforcement of the financial disclosure act as prescribed by the Financial Disclosure Act [Chapter 10, Article 16A NMSA 1978].

(5) Reasons for changes from Published Rule:

The changes made to the published rules are based on written and oral public comment received.

1.10.31.7(A) NMAC was modified such that the definition of “business interest” better aligns with statutory language and provides for a more robust definition by requiring filers to include information when a business interest puts the filer at risk of losing \$10,000 or more.

10.31.7(C) NMAC was modified such that the definition of “employer” removes the requirement for a salary to be paid. Therefore, the definition for “salary” previously defined at Subsection K is no longer needed and removed and the rule was renumbered accordingly.

1.10.31.7(G) NMAC was modified such that the definition of “income” includes per diem if it is deemed taxable by the Internal Revenue Service.

1.10.31.8 subsection titles were minimally modified to improve readability and a lettering sequence error was corrected. Also, a new Subsection Q was added to require that the statement be signed under penalty of perjury.

1.10.31.10 NMAC added a new Subsection D expanding on the responsibilities of the secretary of state to conduct annual compliance reviews.

(6) Reasons for Not Accepting Substantive Arguments from Public Comment:

The SOS received conflicting public comment regarding how to address the disclosure of filers who are self-employed. The SOS chose not to expand upon the definition of “employer” at 10.31.7(C) NMAC or 1.10.31.8(D) NMAC to include instructions regarding self-employment because the existing definition of employer addresses the concern that disclosure requires that self-filers disclose who hires or pays them for work even if self-employed.

The SOS chose not to substantively modify Section 1.10.31.8(F) NMAC as the current language aligns with the current statutory requirements that require gross income be reported by category rather than by each single line item. Maintaining the current language promotes uniformity in filling out the statements.

The proposed repeal is hereby adopted as of the date of this Concise Explanatory Statement.

**IT IS SO ORDERED.**

ON BEHALF OF THE OFFICE OF THE  
NEW MEXICO SECRETARY OF STATE



12/16/2021

DATE

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Maggie Toulouse Oliver  
Secretary of State