

## NOTICE OF PROPOSED RULEMAKING

The Office of the New Mexico Secretary of State (“Office”) hereby gives notice that the Office will conduct a public hearing on the described rule below.

A public hearing will be held in Morgan Hall, at the State Land Office, 310 Old Santa Fe Trail, Santa Fe, New Mexico 87501, on Wednesday, February 5, 2020, from 9:00 am to 12:00 pm. Every effort will be made to ensure that this hearing will be live streamed on the Office’s website.

The purpose of this hearing is to obtain public input on the new Randomization of Candidate Names on Ballots to be codified as *Part 1.10.7 NMAC* and the repeal of Determination of Ballot Position for United States Representative Special Elections, Part 1.10.7. The public hearing allows members of the public an opportunity to submit data, testimony, and arguments in person on the proposed rule changes detailed below.

**Authority:** NMSA 1978, Sections 1-2-1, 1-10-8.1, and 1-22-3.1 of the Election Code, authorize the Office to adopt and promulgate rules and regulations to order candidates for the same office using a randomization method provided by rule based on the candidate’s name.

### **1.10.7 NMAC Randomization of Candidate Names on Ballots**

**Purpose:** The purpose for this rule is to provide a uniform and transparent system of randomizing candidate names running for the same office for the order that they appear on the ballot in all elections conducted pursuant to the Election Code. This rule defines certain terms related to the selection of the alphabet, how the Office will determine a candidate’s name and how the auditor, who will conduct the randomization, will be selected. This rule also provides the process for determining the alphabet used to order candidates after the passage of this rule and going forward. This rule was mandated by the legislature in House Bill 407 (N.M. 2019).

**Summary of Full Text:** Section *1.10.7.7 NMAC* defines key terms like “alphabet,” “letter,” and “candidate name”. Section *1.10.7.8 NMAC* describes the creation of the New Mexico Election Alphabet (“alphabet”) and the SOS’s duties to publicize the selected alphabet. Section *1.10.7.9 NMAC* provides the procedures for how candidates’ names will be ordered once the alphabet is determined including procedures for candidates running for the same office with the same last name. Section *1.10.7.10 NMAC* addresses candidate order when the candidates are designated by convention pursuant to NMSA 1978, Section 1-8-21.1. Section *1.10.7.11 NMAC* provides the procedure for selecting the auditor to conduct the randomization including the requirement that the auditor must be selected 90 days before prior to the general election. Section *1.10.7.12 NMAC* provides the procedure for how the Office will determine the first alphabet following adoption of the rule.

### **REPEAL 1.10.7 NMAC Determination of Ballot Position for United States Representative Special Elections**

**Purpose:** The purpose of the repeal is that this administrative rule is redundant after the effective date of the proposed *1.10.7 NMAC Randomization of Candidate Names on Ballots*. Current *1.10.7 NMAC* relates to candidates for the office of United States Representative in a special election. The new randomization rule incorporates such candidates and will determine the order their name will appear on the ballot. Additionally, ballot position will no longer be determined by party.

**Details for Obtaining a Copy of Rules and Submitting Oral or Written Comments:** Copies of the proposed rule are available on the Office’s website at [www.sos.state.nm.us](http://www.sos.state.nm.us) or can be obtained from the Bureau of Elections by calling (505) 827-3600 or emailing [sos.rules@state.nm.us](mailto:sos.rules@state.nm.us). Interested individuals may provide comments at the public hearing and/or submit written comments to Dylan Lange, Director of Legislative and Executive Affairs, via email at [sos.rules@state.nm.us](mailto:sos.rules@state.nm.us), or [Dylan.Lange@state.nm.us](mailto:Dylan.Lange@state.nm.us), fax (505) 827-8403, or by regular mail at Attn: Dylan Lange – proposed rule, The Office of the New Mexico Secretary of State, 325 Don Gaspar, Suite 300, Santa Fe, NM

87501. Written comments must be received no later than 5:00 pm on the date prior to the public hearing. All written public comments will be posted on the website throughout the written comment period at: [www.sos.state.nm.us](http://www.sos.state.nm.us).

Any person with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or auxiliary aid or service to attend or participate in the hearing should contact (505) 827-3600 or email [Dylan.Lange@state.nm.us](mailto:Dylan.Lange@state.nm.us) (5) business days prior to the hearing.