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THE OFFICE OF THE NEW MEXICO SECRETARY OF STATE

IN RE:

RULEMAKING PROCEEDING  
FOR THE REPEAL OF 1.10.7 NMAC AND  
ADOPTION OF 1.10.7 NMAC –  
**RANDOMIZATION OF CANDIDATE  
NAMES ON BALLOTS**

**CONCISE EXPLANATORY STATEMENT**

The Office of the New Mexico Secretary of State (the “SOS”) hereby repeals current rule codified in Part 1.10.7 NMAC - Determination of Ballot Position for United States Representative Special Elections, and replaces Part 1.10.7 NMAC with a new rule entitled Part 1.10.7 NMAC – Randomization of Candidate Names on Ballots.

(1) Statutory Authority for Rule Promulgation:

This rule is authorized by Sections 1-8-21.1, 1-10-8.1, and 1-22-3.1 NMSA 1978 of the Election Code.

(2) Effective Date of Rule:

Date of publication in the New Mexico Register.

(3) Date of Adoption of Rule:

February 12, 2020

(4) Reasons for Adopting Rule:

This rulemaking was mandated by the Legislature in House Bill 407 (N.M. 2019). 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 SOS 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.

(5) Reasons for Repeal of 1.10.7 NMAC:

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

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name will appear on the ballot. Additionally, the ballot position will no longer be determined by party.

(6) Reasons for Changes from Published Rule:

The SOS made no substantive changes to the published rule in the New Mexico Register. New Mexico State Records and Archives recommended style changes before final publication and added the history notes after each part of the rule.

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

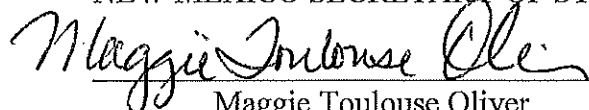
The SOS did not find persuasive the argument that the proposed rule was confusing. The process selected to order candidates on the ballot is the most transparent and equitable way to uniformly apply the ballot order for all elections administered by the SOS. This ballot order will apply to candidate contests in the Municipal Officer Election, the Regular Local Election, the Primary Election and the General Election.

The proposed repeal and replacement rule is hereby adopted as of today's date.

**IT IS SO ORDERED.**

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

2/12/2020  
DATE

  
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Maggie Toulouse Oliver  
Secretary of State