



STATE OF NEW MEXICO
MAGGIE TOULOUSE OLIVER
SECRETARY OF STATE

2021 County Board of Registration & County Clerk Uniform & Nondiscriminatory Guidelines for Removal of Ineligible Voters

Removal of Voters Due to Change of Address - Federal and State Law

Pursuant to Section 1-4-28 (A), NMSA 1978, the “secretary of state, county clerks and boards of registration, in compliance with the federal National Voter Registration Act (NVRA) of 1993, shall remove from the official list of eligible voters the names of voters who are ineligible to vote due to a change of residence.”

That section and the NVRA provide that the Secretary of State shall conduct a general program that identifies voters who may no longer reside at their address of registration. This program shall use information supplied by the United States Postal Service National Change of Address. This program also includes identification of voters whose official election-related mail has been returned as undeliverable.

Additional legal resources to be familiar with prior to starting the removal process:

- New Mexico Election Code, Section 1-4-24, NMSA 1978
- New Mexico Election Code, Sections 1-4-28 to 1-4-29, NMSA 1978
- New Mexico Election Code, Section 1-4-32, NMSA 1978
- New Mexico Election Code, Sections 1-4-34 to 1-4-38, NMSA 1978
- New Mexico Election Code, Section 1-4-46, NMSA 1978
- NMAC 1.10.35.9

Confirmation Mailing - The Identification Program

A confirmation mailing was sent by the Secretary of State in August 2018 as the first step toward this March 2021 removal of ineligible voters. Section 1-4-28 (C), NMSA 1978, provides that between 90 and 120 days before a general election, the Secretary of State shall send to each voter who it appears has changed address from the voter’s precinct of registration a

notice, sent by forward-able mail, that shall include a postage prepaid and pre-addressed return card. All voters who received a confirmation mailer were placed in “Inactive” status by the secretary of state in compliance with NMAC 1.10.3.5.9 (A)(3).

Categories of Voters Who Received the August 2018 Confirmation Mailer: “Inactive” Voters

1. *Voters who filed a Change of Address with the U.S. Post Office*

NMAC 1.10.35.9 (A)(1) provides that the Secretary of State 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.

In compliance with this section, the statewide voter list was compared to the NCOA list and confirmation cards were mailed to those voters who had filed a change of address from their address of registration.

2. *Voters who were flagged by county clerks as “NVRA”*

NMAC 1.10.35.9 (A)(2) provides that the Secretary of State shall also create a file of all active voters designated with an NVRA flag in the statewide voter file due to an initial undeliverable mailing returned to the county clerk and so designated by the county clerk in the county voter file.

Under NMAC 1.10.35, an “NVRA” flag means a designation in the statewide voter file indicating that a voter was sent a non-discriminatory mailing, other than a confirmation mailing, which was returned to the county clerk as undeliverable.

Returning “Inactive” Voters Back to “Active” Status

The following circumstances will cause a voter’s record to be returned to “Active” status by the county clerk:

1. The voter returns the confirmation mailer with an updated/corrected address indicating that voter still resides within the county.
2. The voter votes in any election after receiving the confirmation mailer, up through the second general election that occurs after the date that the notice was sent.
3. The voter submits a new voter registration application to update their voter registration record.

Removal of “Inactive” Voters by the Board of Registration

The Board of Registration in each county shall review and remove all voters from the voter file who were mailed a confirmation postcard in August 2018, and who did not meet any of the conditions identified above that would return them to “Active” status.

The Meeting of the Board of Registration

The board of registration shall meet **no later than March 15, 2021** in the office of the county clerk. The county clerk, or their authorized deputy, shall serve as the secretary to the board of registration without additional compensation. The county clerk shall provide the oath of office form required of county officials to the members of the board of registration. The members shall execute the oaths and they shall be filed in the office of the county clerk.

Conduct of the Meeting of the Board of Registration

The board of registration is a public body, and as such, any meetings must be held subject to the New Mexico Open Meetings Act, which require 72-hour public notice.

Pursuant to Section 1-4-28, NMSA 1978, the county clerk will provide the board of registration with a report of voters who received the August 2018 confirmation mailer and who remain in "Inactive" status, generated from SERVIS. Those voters that did not return the confirmation card, otherwise update their voter registration address OR vote in any election after being mailed the August 2018 confirmation card, remain in "Inactive" status. The board of registration shall review the list of voters flagged as being eligible for removal from the voter file.

Pursuant to NMAC 1.10.35.9 (A)(8), a voter is eligible for removal from the voter file based upon the following criteria:

1. Was mailed a confirmation mailing in August 2018,
2. Is currently in "Inactive" status,
3. Has not updated his or her registration address since being mailed the August 2018 confirmation mailing, ***and***
4. Has not voted in any election since being mailed the August 2018 confirmation mailing.

With the assistance of the county clerk, the board of registration may review registration records in SERVIS in the event that the board needs to verify any of the information provided on the removal report, to make a determination on whether a particular voter should or should not be removed. The social security number and full date of birth are not public record and shall be protected by the county clerk during this review process.

After reviewing the list, the board of registration shall direct the county clerk to cancel the registration of any voter who meets these conditions. If there are any voters on the list who do not meet the conditions for removal, the board of registration shall direct the county clerk to return those voters to active status. The board of registration shall provide written reasons for directing the county clerk to return any voter to "Active" status.