

NEW MEXICO SECRETARY OF STATE PUBLIC RULE HEARING

RULE NO: 1.10.36 NMAC, 1.10.37 NMAC, 1.10.27 NMAC

Friday, May 26, 2023
MORGAN HALL
STATE LAND OFFICE
310 OLD SANTA FE TRAIL
Santa Fe, New Mexico 87501
(505) 827-5760
9:00 a.m.

this Public Hearing was held pursuant to and
accordance with:

SECTION 14-14A-26 NMSA 1978

REPORTED BY: CHRISTINE J. ROYBAL, CCR, RPR, CSR,
CCR No. 50, CSR-1157
200 Pueblo Solano Rd. NW
Albuquerque, NM 87107
(505) 730-6639

PARTIES PRESENT

HEARING OFFICER:

MS. LINDSEY BACHMAN, DIRECTOR OF
LEGISLATIVE AND EXECUTIVE AFFAIRS FOR THE
MEXICO OFFICE OF THE SECRETARY OF STATE

MS. MANDY VIGIL, ELECTIONS DIRECTOR FOR THE
NEW MEXICO OFFICE OF THE SECRETARY OF STATE

MS. SHARON PINO, DEPUTY SECRETARY OF STATE

E X H I B I T S

Exhibit 1 Notices of Rulemaking	9:10
Exhibit 2 Postings of Notice of Rulemaking on NM Sunshine Portal, April 24, 2023 and Minor Amendment to Posting for 1.10.37 NMAC on May 23, 2023	9:10
Exhibit 3 Electronic Correspondence Sent Regarding the Notice of Rulemaking Sent to Interested Parties and Legislative Council Services, April 24, 2023	9:10
Exhibit 4 Confirmation and Correspondence of Posting on NMSOS Website	9:10
Exhibit 5 Proposed Rule 1.10.36 NMAC Election Fund Grants, Reimbursements and Reporting	9:10
Exhibit 6 Proposed Rule 1.10.37 NMAC, Public Official Home Address Confidentiality	9:10
Exhibit 7 Proposed Amendments to 1.10.27 NMAC, Voter Action Act	9:10
Exhibit 8 Integrated new 1.10.27 NMAC, Voter Action Act	9:10
Exhibit 9 Written Comment Received on the Proposed Rules Prior to Today's Hearing	9:10
Exhibit 10 Attendance Sheet	15:12

1 HEARING OFFICER: All right. This meeting will --
2 this hearing will now come to order. Today is May 26, 2023,
3 the time is 9:00 a.m. and we're assembled in Morgan Hall at
4 the State Land Office, Santa Fe, New Mexico. I am Lindsey
5 Bachman, Director of Legislative and Executive Affairs for
6 the New Mexico Office of the Secretary of State. I will be
7 acting as Hearing Officer for this public comment rule
8 hearing.

9 The purpose of this hearing is for the SOS to receive
10 public comments, views arguments, testimony and data on two
11 new administrative rules, 1.10.36 NMAC, Election Funds
12 Grants, Reimbursements and Reporting, and 1.10.37 NMAC,
13 Public Official Home Address Confidentiality, as well as
14 amendments to an existing Rule 1.10.27 NMAC, Voter Action
15 Act.

16 This hearing is being conducted pursuant to, and in
17 accordance with Sections 14-14A-26 NMSA 1978, which
18 authorizes the SOS to implement -- which authorizes the SOS
19 to make rules. In addition, this hearing format will comply
20 with the State rules act. And to be clear, the Secretary of
21 State's Office has authority under the election code also,
22 to implement rules. The citation I just read is related to
23 business services, so I apologize for that error.

24 Public notice of this hearing was provided to the
25 public and published in the New Mexico Register on

1 April 25th, 2023. Copies of the proposed rules have been
2 available at the Secretary of State's office, and posted on
3 its website since the notice was published. Copies of the
4 proposed rules are also available to the public attending
5 this hearing on the table located near the door.

6 I ask all members in attendance today to silence their
7 cell phones and ask that any extended conversations be held
8 outside of this room.

9 May I remind everyone to sign the attendance sheet
10 that will later be entered as an exhibit into the hearing of
11 this hearing.

12 Everyone signed in? Okay.

13 Let the record show that staff from the SOS are
14 present, the Deputy Secretary of State, Sharon Pino, and
15 Elections Director, Mandy Vigil.

16 This is a formal proceeding and a court reporter has
17 been designated to transcribe the proceedings. The
18 transcript from this hearing will become part of the rule
19 hearing record; therefore, persons recognized to testify or
20 offer comment are asked to identify yourself for the record
21 by name and relevant affiliation, if any, each time you
22 speak to the Hearing Officer. Speak loudly and clearly so
23 the reporter can pick up your comment.

24 This hearing will be conducted in the following manner
25 and in accordance with 1.24.25.13 NMAC. First, the

1 Secretary of State office staff will present exhibits, I.
2 will rule on the admissibility of the exhibits offered for
3 admission. Exhibits admitted into evidence are available
4 for review by members of the public. After staff offers
5 exhibits and their admission has been ruled upon, I will
6 open the hearing for testimony and comment from the
7 audience. If you have indicated that you would like to
8 testify, you should have signed your name on the
9 corresponding attendance sheet.

10 We will proceed in numerical sequence through each
11 part of the proposed rules and amendments. I will call
12 individuals to testify in the order they've signed up.
13 After public comment is given on specific sections of the
14 rule in which there is an amendment, I will call for general
15 public comment. If you would like to give a general comment
16 on the amendment to the rule or the rule as a whole, please
17 save your comment until the general comment period.

18 The Secretary of State office staff will introduce the
19 part of the rule in which we receive testimony. After the
20 part of the rule is introduced I will call for testimony.
21 Speakers will address only one part of rule at a time.
22 Please limit your testimony to only the part of the rule we
23 are receiving testimony on. However, speakers may refer to
24 other parts of rules that reasonably relate to the part of
25 the rule being discussed, or which relate to your comment.

1 I further ask that people do not applaud or voice opposition
2 after hearing a particular comment.

3 The Secretary of State does not follow the Rules of
4 Evidence, and therefore, the Hearing Officer may, in the
5 interest of efficiency, exclude or limit comment or
6 questions deemed irrelevant, redundant, or unduly
7 repetitious. The decision as to whether such exhibits,
8 testimony, commentary, or other evidence is irrelevant,
9 redundant, or unduly repetitious shall be made by the
10 hearing officer.

11 May I have a show of hands on the number of people who
12 intend to testify on -- or comment on the proposed rules or
13 rule amendments.

14 I see two, for the record.

15 After a person has testified or offered comment, any
16 member of the audience wishing to recognize that a person
17 may do so after being recognized by the Hearing Officer.
18 Each person recognized to speak shall identify him or
19 herself for the record. Questions will be limited to only
20 clarifying questions to the person who has offered
21 testimony. In asking clarifying questions, please be aware
22 that this hearing is scheduled for four hours, and we need
23 to be respectful of everyone's time. This public hearing is
24 intended to provide the public with an opportunity to voice
25 opinions on the proposed rule.

1 This public hearing is now open. Secretary of State's
2 Office, do you have any exhibits to introduce for evidence
3 at this time?

4 MS. VIGIL: Good morning Ms. Bachman, my name is
5 Mandy Vigil, I'm the election director here on behalf of the
6 Secretary of State's Office, and I have the following
7 exhibits to enter into evidence:

8 Exhibit 1, Notice of Rulemaking published in the
9 New Mexico Register April 25, 2023.

10 Exhibit 2, Posting of Notice of Rulemaking on the New
11 Mexico Sunshine Portal, April 24th, 2023, and minor
12 amendment to posting for 1.10.37 NMAC, on May 23rd, 2023.

13 Exhibit 3, electronic correspondence sent regarding
14 the Notice of Rulemaking sent to interested parties and
15 Legislative Council Services, April 24, 2023.

16 Exhibit 4, Confirmation and correspondence of posting
17 on NMSOS website.

18 Exhibit 5, proposed Rule 1.10.36, NMAC Election Fund
19 Grants, reimbursements and reporting.

20 Exhibit 6, proposed Rule 1.10.37 NMAC, Public Official
21 Home Address Confidentiality.

22 Exhibit 7, proposed amendments to 1.10.27 NMAC, Voter
23 Action Act.

24 Exhibit 8, integrated new 1.10.27 NMAC, Voter Action
25 Act.

1 And Exhibit 9, written comment received on the
2 proposed rules prior to today's hearing.

3 HEARING OFFICER: Although these proposed exhibits
4 have been available for inspection before the hearing, is
5 there any member of the public who would like to inspect
6 these exhibits before I enter them into the official record?

7 Seeing no one, Exhibits 1 through 9 are hereby
8 admitted into the record.

9 (Exhibits 1-9 admitted into the record.)

10 HEARING OFFICER: Any persons wishing to submit
11 additional data, views, argument or testimony shall do so
12 after they are recognized by the Hearing Officer.

13 Each document shall be introduced as an exhibit in the
14 record. Upon a ruling of admissibility, each exhibit will
15 be marked and numbered and entered into the record.

16 The proposed rule has been introduced into the record.
17 I will now open the floor to audience for testimony and
18 comments on each part of the rule. The audience may ask
19 clarifying questions to each person after providing his or
20 her testimony or commentary. One minute will be allowed to
21 respond to the posted clarifying -- posited clarifying
22 question.

23 To begin with, may I see a show of hands of people in
24 attendance and support the rule -- rules?

25 Okay, I see two.

1 May I see a show of hands of people who oppose the
2 rule.

3 For the record, I see none.

4 At this time, we will call anyone wishing to comment
5 on the proposed Rule 1.10.36 NMAC, Election Fund Grants
6 Reimbursements and Reporting, Subsections 1 through 5.

7 If you have a comment regarding Subsections 1 through
8 5, please identify yourself and the sections that you're
9 addressing.

10 MS. CLARK: Okay, so Section 1-10-3 -- 36.7 -- by
11 the way, Katharine Clark, Santa Fe County Clerk.

12 Under "C," eligible expenses, I was hoping to say that
13 I would like to see election security added to an eligible
14 expense. Some of the things that we have to do are change
15 the locks of locations where we're renting a location to be
16 able to have a polling site there. There's all of these
17 sort of additional expenses now that we have more interest
18 in elections, and we have more pressure on us to have
19 security. So things like chain of custody, changing of the
20 locks, anything sort of the umbrella of elections security,
21 we'd like to, obviously with reasonable limitations, have
22 under the umbrella of eligible expenses.

23 Thank you.

24 HEARING OFFICER: Thank you.

25 Is there anyone else wishing to comment on Subsections

1 1 through 5 of Election Fund Grants, Reimbursements and
2 Reporting?

3 MS. LÓPEZ ASKIN: Good morning, Amanda López
4 Askin, Doña Ana County Clerk. Happy to be here this
5 morning. I hope I'm speaking on the correct section. When
6 you talked subsections I got a little concerned. I would
7 like to comment on 1.10.37.7 -- sorry 36.8 first, if I may.
8 And the proposed rule indicates the Secretary of State is
9 not responsible for entering into MOUs -- sorry, the statute
10 for that administration of special elections; however,
11 county clerks may finalize and sign MOUs of municipalities.
12 If we can have some clarification, if the possibility that
13 local public bodies other than municipalities will
14 participate in a special election. Are we only able to
15 enter into MOUs with municipalities, or should this proposed
16 rule be reverted to include those other public bodies?

17 The next one I have comments on would be 37.7. If we
18 can get a clarification on the public official --

19 HEARING OFFICER: If I may ask you to reserve
20 comments for 1.10.37 until we get to that rule.

21 MS. LÓPEZ ASKIN: Yes, thank you.

22 HEARING OFFICER: Thank you very much.

23 So it seems that comments for 1.10.36 were provided
24 for Section 7 and Section 8. Those were outside of
25 Subsections 1 through 5, but I permitted it considering

1 there was only a couple speakers in the audience. So at
2 this time, if there's anyone wishing to comment generally on
3 the proposed rules 1.10.36, I will take general comment on
4 the proposed rules.

5 Okay, thank you.

6 Public comment on the part 1.10.36 NMAC has now
7 concluded.

8 At this time, we'll call anyone wishing to comment on
9 proposed Rule 1.10.37 NMAC, Public Official Address
10 Confidentiality, Subsections 1 through 5.

11 MS. CLARK: 1 through 5.

12 HEARING OFFICER: If you look at the rules, you'll
13 see that there are subsections and we're doing 1 through 5.

14 Seeing none, we will take comment on Subsections 6
15 through 9, yes.

16 MS. CLARK: Katharine Clark, Santa Fe County
17 Clerk. I do have some questions -- clarifying questions
18 around the confidential home address designation 1.10.37.8.
19 We are concerned about how we are going to reconcile those
20 voters in canvass, also how we're going to designate them.
21 It is mostly just a service-related question; are we going
22 to check them on a checkmark, and then that, you know, sort
23 of procedural? And that, we'd like some clarifying
24 questions around how that's going to work, just so that
25 we -- you know, if they are going to be more like cap, then

1 they are going to be invisible to us. If they are going to
2 be more like the judges, and they are going to be more
3 visible to us. Either way, we need to be able to see them
4 in service or not see them in service, but have a procedure
5 for that.

6 Thank you.

7 HEARING OFFICER: Thank you.

8 MS. LÓPEZ ASKIN: Thank you.

9 Amanda López Askin, Doña Ana County clerk. I'm a
10 little out of order, so --

11 HEARING OFFICER: That's okay.

12 MS. LÓPEZ ASKIN: -- I'm asking for your grace
13 here.

14 I just think we wanted a clarification on public
15 official, specifically staff is asking if it is meant to
16 include the staff of the clerk's office and/or other elected
17 officials, if there can just be more clarification connected
18 to that.

19 HEARING OFFICER: Okay, at this time, we call
20 anyone wishing to comment generally on the proposed rules
21 1.10.37 entitled Public Official Home Address
22 Confidentiality. Are there any general comments?

23 General comments? Seeing none, we'll move on, thank
24 you.

25 Public comment on part 1.10.37 NMAC has now concluded.

1 At this time we call on anyone wishing to comment on
2 the proposed amendment to Subsection 7 and 12 of the Rule
3 1.10.27 NMAC, Voter Action Act.

4 Seeing none, we, at this time will call on anyone
5 wishing to comment generally on the proposed rules, 1.10.27
6 NMAC entitled Voter Action Act.

7 MS. CLARK: One general comment, and that is,
8 there are, you know, we have public financing in our city,
9 and those candidates start running fairly early in the cycle
10 before the Voter Action Act takes over, and so more clarity
11 around who is -- you know, if you start running as a
12 candidate under the municipality, then you're not eligible
13 you know, making sure that there's clarity around the
14 timelines, because what we're seeing is that there's a lot
15 of confusion between the City and the Secretary of State and
16 the County on when candidates are starting to run, who is
17 responsible under what umbrella. So more clarity.

18 It probably is not -- it is probably something we can
19 just clarify in the rules to make sure, but we would like to
20 see that explicitly if you are running as a municipal
21 candidate, you're not eligible, or there's clarity around
22 eligibility around, you know, through the timelines because
23 multiple entities are controlling financing.

24 HEARING OFFICER: Thank you for those comments.
25 Can you identify yourself for the record.

1 MS. CLARK: Yes, Katharine Clark, Santa Fe County
2 Clerk.

3 HEARING OFFICER: Thank you.

4 MS. CLARK: Thank you.

5 HEARING OFFICER: Okay, has everyone present
6 signed the attendance sheet, along with their information
7 and provided their information?

8 At this time, the attendance sheet will be marked as
9 an exhibit and entered into the record. All members in
10 attendance who have provided their email address will be
11 included in correspondence regarding these rules.

12 (Exhibit 10 marked for identification.)

13 MS. VIGIL: Okay, I'm so sorry.

14 HEARING OFFICER: Ms. Vigil, with the Secretary of
15 State's Office, has handed me a document. If you'll speak
16 to what you handed me, that will be great.

17 MS. VIGIL: Yes. Mandy Vigil with the Secretary
18 of State's Office. I have just provided you Exhibit 10,
19 which is the attendance sheet for those that are here today.

20 HEARING OFFICER: Does anyone in the audience have
21 any questions about the attendance sheet?

22 Exhibit 10 is hereby admitted into the record.

23 (Exhibit 10 admitted into the record.)

24 HEARING OFFICER: The hearing is now closed. No
25 further oral testimony will be heard or written comments

1 accepted. Informing the public -- so the data, arguments,
2 and testimony submitted during this rule hearing will be
3 duly considered by the Secretary of State's office. Any
4 rules adopted by the Secretary of State's office will be
5 filed at the State Records and Archives Center, in
6 accordance with the State Rules Act and New Mexico Register
7 publication deadlines.

8 Any rules that are not adopted may be postponed for
9 further discussion at a future time, or may be postponed
10 indefinitely. I would like to thank all members of the
11 public who are present for their participation and
12 attendance today.

13 Let the record reflect that this hearing was adjourned
14 at 9:19 a.m. on May 26, 2023.

15 (Hearing Concluded at 9:19 a.m.)
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CORRECTION PAGE

If there are any typographical errors to your deposition, indicate them below:

PAGE/LINE

_____ Change to _____

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_____ Change to _____

Any other changes to this transcript are to be listed below with a statement as to the reason for such change.

PAGE/LINE	CORRECTION	REASON FOR CHANGE
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I, _____, do hereby certify that I have read the foregoing pages of this transcript as transcribed and that the same is a true and correct transcript of the meeting except for the changes made.

Signature

1 NEW MEXICO SECRETARY OF STATE PUBLIC RULE HEARING

2 RULE NO: 1.10.36 NMAC, 1.10.37 NMAC, 1.10.27 NMAC
3

4 CERTIFICATE OF COMPLETION

5 I, Christine J. Roybal, CCR # 50, DO
6 HEREBY CERTIFY that on May 26, 2023, this Public
7 Hearing was taken before me at the request of the
8 New Mexico Secretary of State.9 I FURTHER CERTIFY that copies of this
10 certificate have been mailed or delivered to: NMSOS.11 I FURTHER CERTIFY that I did report in
12 stenographic shorthand the Public Hearing as set
13 forth herein, and the foregoing is a true and
14 correct transcript of the Public Hearing upon the
15 taking of this Public Hearing to the best of my
16 ability.17 I FURTHER CERTIFY that I am neither
18 employed by nor related to any of the parties in
19 this Public Hearing, and that I have no interest in
20 the final disposition.
21

22 CHRISTINE J. ROYBAL, RPR, CCR, CSR
23 Certified Court Reporter #50
24 License Expires: 12/31/2023
25