



Helping Voters Register Under New Mexico Law

Important: Voter registration drives in New Mexico have to follow certain state laws and rules, such as a requirement that drives register with the Secretary of State, complete training, and turn in applications within a specific timeframe. It is important to review **all** relevant information regarding voter registration drives before beginning a voter registration program.

About this guide: The guide is broken up into five parts: 1) Eligibility, 2) Frequently Asked Eligibility/Residency Questions, 3) Filling out an Application, 4) Voter Registration Deadline, and 5) Voter Registration Drive Rules. Voter Registration Drive laws and rules are often more complicated than the summary table used for quick reference, so, if appropriate, a more detailed explanation is below the table. Sometimes the detailed explanation may not answer all the questions. Therefore, as a best practice, Project Vote recommends that voter registration drive organizers meet with their local election officials before beginning their programs. Election officials may be able to clarify rules and may also have their own interpretation or perspective that you will want to understand when starting your drive.

Need assistance? Project Vote offers training in running voter registration programs and best practices. Contact us at (202) 546-4173, www.projectvote.org, info@projectvote.org.

PART 1: ELIGIBILITY

In New Mexico, an individual may register to vote if the person is:

- A U.S. citizen;
- At least 18 years of age at the time of the next election;
- A resident of New Mexico;
- Not a convicted felon, or a felon who has completed all of the terms and conditions of sentencing, including parole or probation;¹ and
- Not legally declared mentally incapacitated.²

PART 2: FREQUENTLY ASKED ELIGIBILITY/RESIDENCY QUESTIONS:

Homeless Applicants: If a qualified elector resides in an area lacking a specific physical address, the qualified elector must be allowed to substitute a mailing address along with a description, such as a map or the latitude and longitude, indicating where the qualified elector resides.³ The New Mexico Voter Registration form contains a map on the reverse side that may be used if the applicant has a non-street address or lives at a non-traditional place. The instructions indicate to draw a map of where the applicant lives in relation to local landmarks, such as roads, schools, churches, stores, etc.⁴

Felony Convictions: Persons with felony convictions who have completed all of the terms and conditions of sentencing may register.⁵ This includes completing any term of parole or probation for the conviction. This provision includes federal, state and out-of-state convictions. Persons with felony convictions should contact the

Department of Corrections, Division of Parole and Probation (505.827.8830) or a comparable agency in the state in which you were convicted for questions regarding restoration of rights.⁶

College Students: New Mexico rules do not specifically address college students.

PART 3: FILLING OUT AN APPLICATION

Information that must be included on New Mexico voter registration forms to be considered complete includes:⁷

- Name
- Gender
- Date of birth
- Social Security Number
- Residence address
- Mailing address, if different
- Name change, if any
- Political party (if none desired, applicant should check the “No Party” box)
 - Persons must be registered with a party to participate in primary elections for that party⁸
 - A person who does not designate a party on the form is considered to have declined to designate a party affiliation
- C. A voter who does not designate on the certificate of registration a party affiliation shall be considered to have declined to designate a party affiliation.⁹
- N.M. Stat. Ann. § 1-4-15 (West)
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- Citizenship and age checkboxes
 - Any application in which the question regarding citizenship is not answered or is answered in the negative must be rejected¹⁰
- State, county, or city of former registration, if applicable
- Signature or mark of applicant, affirming:
 - That the applicant meets the listed eligibility requirements
 - That the information supplied by the applicant is correct
 - That the applicant authorizes the cancellation of his or her previous registration
- Date
- Name of registration agent, if a registration assistant assisted the applicant in filling out the form

PART 4: VOTER REGISTRATION DEADLINE

- Registration closes at 5:00 p.m. on the 28th day immediately preceding the election.¹¹ If the 28th day before the election falls on a Saturday, Sunday or legal holiday, registration will close at 5:00 p.m. on the next business day.¹² The clerk will accept any application subscribed and dated before the 28th day if received before 5:00 p.m. on the Friday immediately following registration, if mailed and postmarked not less than 28 days prior to any election, or if accepted at a state-designated agency.¹³
- A qualified elector complies with a voter registration deadline when a properly filled-out voter registration certificate has been received by a county clerk or the secretary of state, regardless of the date the certificate is processed.¹⁴
- **A specific turn-around-time applies to voter registration drives turning in applications they collect. See below.**

PART 5: SUMMARY OF STATE VOTER REGISTRATION DRIVE RULES

<i>Does the state require organizations conducting voter registration drives to register?</i>	Yes, drives must file with the Secretary of State, including providing individual canvassers' information, see details in question A below.
<i>Are there restrictions on getting voter registration forms?</i>	Yes, state forms may not be copied and must be picked up in person. Drives can use the state or federal form, see details below question B.
<i>Does the state have any restrictions on using pre-filled voter registration forms or other rules for mailing forms to potential applicants?</i>	New Mexico law does not address this issue.
<i>Does the state require any training in order to conduct voter registration drives?</i>	Yes, each agent must be trained, see details below, question C.
<i>Does the state have restrictions on who may help others register to vote?</i>	Not outside the registration and training requirements, see below, questions A and B. All agents must register (see Section A below) and complete the training course (see Section B below) and be issued a Voter Registration Agent Number by the Secretary of State's office. ¹⁵
<i>Does the state have restrictions on paying drive workers, or additional rules related to payment?</i>	New Mexico law does not address this issue.
<i>Are there restrictions on the voter registration drive offering something of value to a person in exchange for completing a voter registration application?</i>	Yes, under federal law, see below, question D.
<i>Must the registration drive worker sign her name to the completed voter registration application, and/or must the drive or canvasser place other information on applications?</i>	The New Mexico voter registration form indicates that a registration agent who assists applicants in filling out the voter registration form must provide his or her name and Voter Registration Agent (VRA) number in the designated space on the application. ¹⁶
<i>Does the state have a rule requiring a receipt or other tracking information to be provided to the applicant?</i>	Yes, including the agent's VRA number. Drives must also maintain a log of applications. See details below, question E.

<i>Are voter registration groups prohibited from putting identifying marks on completed voter registration applications or subject to other rules regarding information added to registration applications?</i>	New Mexico law does not address this issue.
<i>Are there restrictions on copying completed voter registration applications prior to submitting them to the election official, or other restrictions on data entry or disclosure?</i>	Yes, it is unlawful to copy, convey or use the applicant's month and day of birth or any portion of her Social Security Number either before or after it is filed with the clerk. ¹⁷ Violation is a felony. See further details below, question F.
<i>Is there a time limit for voter registration groups to submit the voter registration applications they collect?</i>	Yes, within 48 hours of completion. See details below, question G.
<i>What are the consequences for failing to submit applications on time?</i>	There are criminal and civil penalties depending on the circumstances, see below, question H.
<i>If an application is incomplete, may the voter registration drive write the missing information on the application with the applicant's consent?</i>	New Mexico law does not specifically address this issue.
<i>How will an applicant know whether the election official received the application?</i>	Voters will receive notice. There is also an online lookup. See question below, question I, for details.
<i>How may an applicant correct an incomplete application after it has been submitted to election officials?</i>	With a new registration form or following other instructions from the county clerk, see below question J for details.
<i>Who investigates and enforces the state rules?</i>	The Secretary of State/Attorney General/district attorney, see below question K.

State Voter Registration Drive Rules: Detailed Explanations

BEFORE THE DRIVE

A. Does the state require voter registration organizations to register or file other information detailing its voter registration activities?

Yes. Third-party registration organizations must register with the Secretary of State and provide the following information:¹⁸

- The names of officers of the organization;
- The name and permanent address of the organization;
- The names, permanent addresses, temporary addresses (if any), and dates of birth of each person registering persons on behalf of the organization; and

- A sworn statement from each registration agent that the agent will obey all state laws and rules regarding voter registration on a form that gives notice of criminal penalties for false registration.

To register, third-party registration organizations must use a prescribed form that must be made available on the internet on the Secretary of State's website and at county clerk offices. The form may be hand-delivered, hand-delivered by another person, or delivered by mail or as a portable document format (.pdf) file via email to the secretary of state's office. The form must bear a legible notary seal or the equivalent.¹⁹

Tracking information regarding applications collected must also be provided in a log, see below.

A third party registration agent is defined as any individual who solicits and provides substantive assistance to another person (who is not his or her family member) in the completion of a certificate of voter registration on behalf of a voter registration organization that is not a state, county or federal agency. "Assist" or "assistance" means taking physical possession of a certificate of voter registration completed by a registrant.²⁰

B. Are there restrictions on getting voter registration forms?

Individuals or groups conducting voter registration drives may use Third Party Registration Forms or the National Form. The state form is cardstock, not available online, and may not be duplicated. Packets of forms must be obtained in person and are not mailed to drives.²¹ The federal form may be downloaded and/or duplicated by any voter or organization.²²

C. Does the state require any training in order to conduct voter registration drives?

Yes, all third party voter registration agents must complete training regarding the use of voter registration forms, the requirements that Section 1-4-49 places on third party voter registration agents, and the penalties for failing to comply with those requirements. Training is offered in person at the Secretary of State's office and from each county clerk in the state, but the law requires training to be available to all third party voter registration agents who cannot attend in person, including through the internet on the Secretary of State's website.²³

D. Are there restrictions on the voter registration drive offering something of value to a person in exchange for completing a voter registration application?

Federal law states that whoever "pays or offers to pay or accepts payment either for registration to vote or for voting shall be fined not more than \$10,000 or imprisoned not more than five years."²⁴ At least one federal appellate court has interpreted "payment" as "intended to include forms of pecuniary value offered or given directly to an individual voter, and indicated the value should be based on "an assessment of the monetary worth of an item from the perspective of the voter receiving the item." That case held that food vouchers could be "payment."²⁵

Another example is California's Secretary of State's interpretation of the federal law to mean that "[a]ny type of incentive is considered 'payment,' even things as seemingly innocent as cookies or admission to an entertainment event."²⁶

DURING THE DRIVE

E. Does the state have a rule requiring a receipt or other tracking information to be provided to the applicant and/or provided by the drive?

Where the applicant receives the assistance of a registration agent, the applicant must receive a receipt from the agent that contains a number traceable to that agent, a statement informing the applicant that

he or she should contact the county clerk if she does not receive confirmation of her registration within 15 days of the receipt date, and a toll-free number for the county clerk and website address for the Secretary of State.²⁷ Third party voter registration agents must also maintain a log regarding the use of each blank state voter registration form the agent receives from the Secretary of State or County Clerk. The log must include the unique identification number of each form, whether the registrant or third party registration agent took possession of the form upon completion by the registrant, and, if the third party voter registration agent took possession of the form upon completion by the registrant, the date the form was completed by the registrant. A form for the log is available at http://www.sos.state.nm.us/uploads/FileLinks/bf074f1ff3d84dc2a72a17af29e00f10/VoterRegistrationAgentLog_1.pdf. Third party voter registration agents (or a person requesting forms on their behalf) must produce the completed log when requesting additional blank voter registration forms from the Secretary of State or a county clerk.²⁸ The Secretary of State's voter registration drive manual indicates that agents should note any red flags or issues with applications on the log. The manual also indicates that groups should void and return unused or spoiled forms.²⁹

F. Are there restrictions on copying completed voter registration applications prior to submitting them to the registrar, or other restrictions on data entry or disclosure?

Yes. It is unlawful to copy, convey or use the applicant's month and day of birth or any portion of her Social Security Number either before or after it is filed with the clerk.³⁰ A registration agent may not release to the public a voter's Social Security Number or a voter's month and day of birth, and no person may release to the public or share that information with someone other than a registration officer if the person learned of that information from the voter's certificate of registration.³¹ A person who unlawfully copies, conveys, or uses this information is guilty of a fourth degree felony in New Mexico.³² Organizations who wish to photocopy forms must redact the above information, and organizations should review procedures with election officials.

G. Is there a time limit for voter registration groups to submit the voter registration applications they collect?

Yes. A third-party voter registration organization must deliver or mail applications within 48 hours of completion by the person registering to vote, or deliver it the next business day if the appropriate office is closed for that 48-hour period.³³

H. What are the consequences for failing to submit voter registration applications on time?

Intentional violation of the laws regarding third party registration agents, which includes the 48-hour requirement, results in a petty misdemeanor and the revocation of the person's third-party registration agent status. If the person is an employee of an organization and has decision-making authority involving the organization's voter registration activities, or if the person is an officer of the organization, that organization may be subject to civil penalties. Such penalties may include permanent or temporary injunctions, restraining orders and other appropriate orders, including fines of \$250 per violation, not to exceed \$5000.³⁴

I. How will an applicant know whether the election official received the application?

Once the applicant's eligibility is verified, a voter identification card will be delivered or mailed to the voter, and the original certificate will be filed alphabetically by surname and inserted into the county register. The county clerk must, on Monday of each week, process all certificates of registration that are in proper form and that were received in his or her office up to 5:00 p.m. on the preceding Friday.³⁵ An online voter lookup is available at <https://voterview.state.nm.us/VoterView/RegistrantSearch.do>.

J. How may an applicant correct an incomplete application after it has been submitted to election officials?

If the form the applicant submits is missing information that prevents the applicant from registering, the applicant will be notified by a letter sent to the address on the registration form. That letter is sent within ten days or less from receipt of the form. The letter will specify what the problem with the registration form is and will include a new registration form or other instructions on how to correct the situation.³⁶

The clerk is required to reject any registration that does not contain the applicant's name, address, social security number and date of birth, along with a signature or usual mark. The county clerk must also reject any application in which the question regarding citizenship is not answered or is answered in the negative.³⁷

K. Who is responsible for investigating and enforcing the state rules?

If the Secretary of State believes that there has been a violation of third-party registration laws, the Secretary must refer the matter to the Attorney General or a district attorney for enforcement. The Attorney General or district attorney may institute a civil action for violations or to prevent violations. Relief may include a permanent or temporary injunction, a restraining order, or any other appropriate order, including a civil penalty of \$250 for each violation, not to exceed \$5,000.³⁸

WEB PAGE OF STATUTE

<http://public.nmcompcomm.us/nmpublic/gateway.dll/?f=templates&fn=default.htm>

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DISCLAIMER

The information contained in this document is for general guidance only. It should not be used as a substitute for consultation with professional legal or other competent advisers. Project Vote is not responsible for any errors or omissions, or for the results obtained from the use of this information.

¹ N.M. Stat. Ann. § 31-13-1(C)

² N.M. Secretary of State, Voter Registration Information, http://www.sos.state.nm.us/Voter_Information/Voter_Registration_Information.aspx (last visited Jan. 13, 2016).

³ N.M. Stat. Ann. § 1-4-5.3

⁴ N.M. Secretary of State, *Third-Party Voter Registration Agent Manual* 15 (last revised March 2011) (hereinafter "*N.M. Third-Party Voter Registration Agent Manual*"), available at <http://www.sos.state.nm.us/uploads/FileLinks/bf074f1ff3d84dc2a72a17af29e00f10/VoterRegistrationAgentManual.pdf>

⁵ N.M. Stat. Ann. § 31-13-1(C)

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- ⁶ N.M. Sec’y of State, Voter Registration Eligibility Requirements and FAQs, [https://portal.sos.state.nm.us/OVR/\(S\(b1dl0lrut2n4g445xzrochkg\)\)/WebPages/Eligibility.aspx](https://portal.sos.state.nm.us/OVR/(S(b1dl0lrut2n4g445xzrochkg))/WebPages/Eligibility.aspx) (last visited Jan. 12, 2016).
- ⁷ N.M. Secretary of State, *Third-Party Voter Registration Agent Manual* 17-20 (last revised March 2011) (hereinafter “N.M. Third-Party Voter Registration Agent Manual”), available at <http://www.sos.state.nm.us/uploads/FileLinks/bf074f1ff3d84dc2a72a17af29e00f10/VoterRegistrationAgentManual.pdf>; N.M. Stat. Ann. §§ 1-4-5.1(I), 1-4-5.4, 1-4-11.
- ⁸ N.M. Sec’y of State, Voter Registration Eligibility Requirements and FAQs, [https://portal.sos.state.nm.us/OVR/\(S\(b1dl0lrut2n4g445xzrochkg\)\)/WebPages/Eligibility.aspx](https://portal.sos.state.nm.us/OVR/(S(b1dl0lrut2n4g445xzrochkg))/WebPages/Eligibility.aspx) (last visited Jan. 12, 2016).
- ⁹ N.M. Stat. Ann. § 1-4-15
- ¹⁰ N.M. Stat. Ann. § 1-4-11
- ¹¹ N.M. Stat. Ann. § 1-4-8(1)
- ¹² N.M. Stat. Ann. § 1-4-8(5)
- ¹³ N.M. Stat. Ann. § 1-4-8(F)
- ¹⁴ N.M. Stat. Ann. § 1-4-5.1 (effective July 1, 2015)
- ¹⁵ N.M. *Third-Party Voter Registration Agent Manual* at 10.
- ¹⁶ N.M. *Third-Party Voter Registration Agent Manual* at 14.
- ¹⁷ N.M. Stat. Ann. § 1-4-5(D)-(E)
- ¹⁸ N.M. Stat. Ann. § 1-4-49(A)
- ¹⁹ N.M. Admin. Code. § 1.10.25.8(A). Project Vote is not currently aware of any form used specifically for this purpose. Organizations should consult with election officials. However, the Secretary of State has created an application form for third-party *agents* who work to register persons on behalf of a third-party organization. See N.M. *Third-Party Voter Registration Agent Manual* at 25.
- ²⁰ N.M. Admin. Code. § 1.10.25.7
- ²¹ N.M. *Third-Party Voter Registration Agent Manual* at 9.
- ²² N.M. Sec’y of State, Voter Registration Information, http://www.sos.state.nm.us/Voter_Information/Voter_Registration_Information.aspx (last visited Jan. 13, 2016).
- ²³ N.M. Admin. Code. § 1.10.25.8(G)
- ²⁴ 52 U.S.C. § 10307(c)
- ²⁵ *United States v. Garcia*, 719 F.2d 99, 102-103 (5th Cir. 1983).
- ²⁶ California Secretary of State, Guide to Voter Registration Drives 11, available at <http://elections.cdn.sos.ca.gov/guides/guide-to-vr-drives.pdf> (last revised February 2015)
- ²⁷ N.M. Stat. Ann. § 1-4-5(B)
- ²⁸ N.M. Admin. Code § 1.10.25.8(H)
- ²⁹ N.M. *Third-Party Voter Registration Agent Manual* at 10.
- ³⁰ N.M. Stat. Ann. § 1-4-5(D)-(E)
- ³¹ N.M. Stat. Ann. § 1-4-50
- ³² N.M. Stat. Ann. § 1-4-5(D)-(E)
- ³³ N.M. Stat. Ann. § 1-4-49(B)
- ³⁴ N.M. Stat. Ann. § 1-4-49(D)-(E)
- ³⁵ N.M. Stat. Ann. § 1-4-12(A)-(B)
- ³⁶ N.M. Sec’y of State, Voter FAQs, http://www.sos.state.nm.us/Voter_Information/Frequently_Asked_Questions.aspx; see also N.M. Stat. Ann. § 1-4-11(B)
- ³⁷ N.M. Stat. Ann. § 1-4-11(C)
- ³⁸ N.M. Stat. Ann. § 1-4-49(E)