



STATE OF NEW MEXICO  
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SECRETARY OF STATE



# Secretary of State and Attorney General's 2020 New Mexico General Election Voter Information Advisory

October 14, 2020

## Introduction

The right of each voter to cast his or her ballot free from intimidation or coercion is foundational to our democracy. Multiple statutes protect voter rights and central to these rights is maintaining order in and around the polling place. Voter intimidation and discriminatory conduct, as well as obstruction or interference at the polls, is illegal under federal and New Mexico law. Any activity that threatens, harasses or intimidates voters, including any activity that is intended to, or has the effect of, interfering with any voter's right to vote is illegal, whether it occurs outside the polling place or inside the polling place.

## Know Your Rights

All registered voters have a right to cast a secret ballot without anyone bothering you or telling you how to vote. If someone interferes with your right to vote through threats, intimidation, or coercion, or you become aware of any interference with the right of New Mexico residents to vote, please contact the Attorney General's Election Security Hotline at (505) 318-1008.

## Trusted Information

Election Officials, which include the Office of the Secretary of State (SOS) and the 33 County Clerk Offices, are your source for reliable and trustworthy information for election information. Be wary of confusion and misinformation being posted by varying sources on television, online or on social media.

Voter Information Portal - [NMVote.org](https://www.nmvote.org)

New Mexico residents can find trusted information about the 2020 General Election, including polling locations, a ballot tracker, and a sample ballot, at [NMVote.org](https://www.nmvote.org) or by contacting your local county clerk.

SOS Voter Hotline - 1-800-477-3632

County Clerk Information -

<https://www.sos.state.nm.us/voting-and-elections/voter-information-portal/county-clerk-information/>

## Voting Deadlines

October 6 - Deadline to register to vote by mail to participate in the November election

October 6 - County Clerks begin mailing absentee ballots for those that have applied to receive one

October 6 - in person, early voting begins in the office of the county clerk

October 17 - in person, early voting expands to include additional locations in some counties (Check [NMVote.org](https://www.nmvote.org) to find an early polling location in your area)

October 20 - Last day to apply to receive an absentee ballot (Apply at [NMVote.org](https://www.nmvote.org) or contact your County Clerk)

October 31 - Last day for in person, early voting

November 3 - in person voting available from 7AM to 7PM (Check [NMVote.org](https://www.nmvote.org) to find a polling location in your area)

November 3 - absentee ballots must be received by 7PM to be counted

## What to Expect When You Vote Absentee by Mail

Voting by absentee ballot (aka mail-in ballot) is a safe and easy way to participate in the November election.

### Applying for an Absentee Ballot

Any registered voter may apply to receive an absentee ballot by mail. To apply online go to [NMVote.org](https://www.nmvote.org) or contact your local county clerk.

Beginning on October 6 (28 days prior to Election Day), county clerks will begin mailing absentee ballots to voters who have applied for one.

**The deadline to apply for an absentee ballot is October 20.**

### Completing an Absentee Ballot

Once you receive your ballot, it is important to follow the instructions to complete the ballot including the required information on the official return envelope. The voter is required to sign in the designated location and provide the last four (4) digits of their social security number for voter identification purposes. If this information is not provided, the ballot will be rejected by the county clerk.

### Returning an Absentee Ballot

The return envelope includes pre-paid postage and is pre-addressed for delivery back to the county clerk so you may simply drop it off in a mailbox or post office or you may hand deliver the sealed absentee ballot envelope to the county clerk's office or to any early voting polling location. Some counties may also offer express or drive up drop boxes for hand delivering absentee ballots.

Pursuant to state law only a voter, caregiver to that voter or member of that voter's immediate family may deliver that voter's absentee ballot to the county clerk in person or by mail. "Immediate family" means the spouse, children, parents or siblings of a voter. If any one of these authorized people returns the mailed ballot of the voter, they must sign the official mailing envelope.

In all cases, the ballot must be delivered by 7:00 PM on Election Day or else it will not be counted.

For information on drop box options to submit your ballot, see COVID-19 Public Health Orders below.

### Tracking an Absentee Ballot

You may track the status of your absentee application or ballot at [NMVote.org](https://nmvote.org). This website will provide information regarding whether or not your ballot was received by the county clerk and whether it has been accepted.

You may also contact your local county clerk for information on the status of your absentee ballot.

Decided to vote in person, rather than vote your requested absentee ballot? A voter may be issued a replacement ballot when they show up at a voting location any time during early voting. The voter will be asked by the poll official to sign an affidavit attesting that they have not and will not vote the absentee ballot previously issued and they will then receive their replacement ballot that may be voted and fed into the tabulator. If for some reason the county clerk is unable to determine whether or not the absentee ballot has already been returned by the voter, a provisional ballot may be issued in lieu of the replacement ballot for later review and qualification.

## What to Expect When You Vote In Person

### Early and Election Day Voting

Registered voters may vote at any early or election day polling location in your county. Hours of operation for early voting locations will vary. Check [NMVote.org](https://nmvote.org) or contact your local county clerk to find a polling location near you.

All election day polling locations are required to be open from 7AM to 7PM on November 3.

When you appear to vote in person, you will first be checked in by a poll worker who will ask you to provide and verify your name, registered address, and year of birth. Once you sign in, you will be issued a ballot and directed to a voting booth where you will be provided privacy to mark your ballot.

Once you are finished marking your ballot, you will be directed to insert it into a tabulation machine to be counted.

### Voters with Disabilities

You may request assistance with voting in a polling location if you are blind, physically disabled, unable to read or write or are a member of a language minority. Any person of your choice, including a poll worker, may assist you, except your employer, a union agent, or a candidate whose name is on the ballot.

Additionally, accessible voting and ballot marking devices are available at every polling location for voters who are blind, have low vision, or with motor impairments.

## **Persons Explicitly Allowed in a Polling Location**

Aside from voters, individuals authorized to be inside of a polling location should be wearing official name badges and/or have a letter of authorization from a party chairperson or the secretary of state authorizing their presence in a polling location.

The following persons are permitted in the polling place while voting is occurring:

### **Election Board Members (aka “Poll Workers”)**

Election board members are the workers hired by the county clerk to run the polling location. These workers are responsible for ensuring the proper conduct of voting which includes checking in voters, issuing ballots, supervising the tabulation machines, and keeping order.

The lead election board member is known as the Presiding Judge (PJ). At a minimum there are at least one PJ and two election judges at every polling location. There may also be any number of election clerks present as deemed appropriate by the county clerk. The PJ and one election judge are always of differing political parties.

The PJ is responsible for enforcing the rules for the conduct of the election at the polling place. For example: 1) who is permitted within the polling place, 2) the number of voters permitted inside, 3) electioneering rules, and 4) ensuring orderly conduct. The PJ or any election judge may call upon various law enforcement authorities to assist him or her to that end.

### **Voters**

Voters in the process of voting, along with their children, are allowed in the polling location. Additionally, if a voter qualifies to receive voting assistance under the law, a person may bring someone of their choice to assist them with few exceptions. A voter may request assistance if he or she is blind, physically disabled, unable to read or write, a member of a language minority who has an inability to read well enough to exercise the elective franchise, or requires assistance in operating the voting system provided for people with disabilities.

### **Election Staff or Messengers**

Messengers or credentialed agents working on behalf of the county clerk or secretary of state (SOS) are authorized to be present at a polling location. These people include election staff or vendors assigned to deliver supplies, pick up absentee ballots, and troubleshoot tabulation equipment or check-in computer stations. This may also include credentialed staff authorized to monitor the conduct of elections at a polling location.

### **Challengers**

Challengers are appointed, in writing, by a county or state political party to be present at a polling location. They are required to be voters in the county to which they are appointed. Each party may have one challenger per polling location. Challengers serve as a check and balance to poll workers and may raise a “challenge” to the PJ under certain conditions. For example: 1) If the person offering to vote is not registered to vote, 2) a person has already voted in the election, or 3) a person is improperly registered or not a qualified elector. If a challenge is raised, the PJ is trained to handle this in accordance with statute. Challengers may not perform any duty of an election board member or touch

ballots, voting rosters, or other election related materials. They should only interact with the PJ and challenges may not be made indiscriminately or without good cause.

### Watchers

Election related organizations or any group of three candidates may appoint watchers to observe the conduct of voting in a polling location. They are required to be voters in the county to which they are appointed. The names of these people must be submitted to the secretary of state in advance of their service and, if authorized, they will be issued a letter by the SOS granting them access to the polling place. These individuals are not authorized to issue a challenge but may take notes and observe the proceedings.

### Election Observers

These individuals are registered with the US Department of State and the SOS and are typically international visitors with an academic interest in the election process. These individuals will be issued a letter by the SOS granting them access to the polling place. These individuals are silent observers.

### The Role of Law Enforcement

No member of state police or other peace officers may interfere in any way with a member of the election board, a voter, or the conduct of election, except to assist in maintaining order when requested by the PJ or other election judge. The PJ or any election judge may request peace officers to assist by standing outside the polling location entrance and controlling the admission of voters to the polling place.

There are specific penalties in the election code against law enforcement that enter the polls without authorization. See Section 1-12-5 NMSA 1978. It is not appropriate for uniformed law enforcement to be present inside or outside of a polling location without being specifically called to assist by the election board or county clerk with maintaining order.

## **COVID-19 Public Health Orders**

### In Person Voting Considerations

A public health order was issued by the New Mexico Department of Health on September 3, 2020 imposing 6 foot social distancing and maximum occupancy restrictions at polling places. County clerks are responsible for ensuring that voting check-in lines and voting booths are set up to accommodate these requirements. Voters may be asked to wear masks and maintain social distancing while waiting in line or otherwise engaging in voting activities.

Additionally, county clerks and poll workers have been issued personal protective equipment including masks and sanitizer to assist in safeguarding public health during voting. Poll workers have been provided guidance for regularly sanitizing pens, voting booths, and other items that may be touched inside of a polling location.

Masks are required by the current Public Health Order. However, voters who refuse to wear a mask, or cannot based on instructions from their physician, should not be turned away from a polling place. The PJ and county officials may seek a compromise or offer an alternate accommodation to help maintain the comfort and safety of other voters in the vicinity. This may include offering a further distanced voting booth or otherwise separating the voter from other people to the extent possible.

## Drop Boxes

To further the effort to provide safe voting options during the pandemic, consistent with the Public Health Order, the SOS has issued specific guidance allowing for supervised absentee ballot drop boxes to be deployed during this election. These drop boxes are provided to voters as an alternative to mailing an absentee ballot back to the county clerk's office. County clerks may provide drop boxes both inside of polling locations and outside for express or drive through service depending upon the needs of a particular community.

All ballot drop boxes should be considered an extension of a polling location. As such, electioneering within 100 feet and other prohibited activities mentioned below apply to locations where ballot drop boxes have been set up. Additionally, drop boxes should have at least two workers supervising them at all times.

Again, pursuant to state law, only a voter, caregiver to that voter or member of that voter's immediate family may deliver that voter's absentee ballot.

## Prohibited Activity and Unauthorized Individuals

Anyone who intentionally refuses to permit a person to vote who is entitled to under law commits a crime under the Federal Voting Rights Act of 1965 and the New Mexico Election Code.

Some specific activities are prohibited under federal and state law and are summarized in the following sections.

### Unauthorized Individuals

The PJ is the first line of defense in asking unauthorized individuals at a polling location to leave immediately. If an individual is resistant to following instructions or to leaving, the PJ has been instructed to contact law enforcement and the county clerk.

Only authorized challengers, watchers, and observers are permitted inside a polling location. Self-appointed watchers, such as private citizens, individuals purportedly appointed by organizations or private militia type groups, are not allowed to linger in the polling location and can easily present a disruption.

Additionally, authorized challengers, watchers, or observers may not directly confront voters. They also may not use raised voices or insulting, offensive, or threatening language. No one may interfere with the duties of the election board members.

Media: While the NM Election Code does not specifically address media in the polling place, the county clerk or PJ may choose to allow media access as long as it is not interfering with the voting process or compromising the secrecy of the ballot.

Persons not authorized to be in the polling place or willfully blocking the entrance of a polling place may be guilty of obstructing the polling place.

### Voter Intimidation

Voter intimidation is a crime under federal and state laws. Under the New Mexico Election Code, intimidation consists of "inducing or attempting to induce fear in any member of a election board, voter,

challenger, or watcher by use of or threatened force, violence, infliction of damage...for the purpose of impeding or preventing the free exercise of the elective franchise or the impartial administration of the election.”

<sup>1</sup>Some examples of voter intimidation include:

- Violent behavior inside or outside the polling site
- Verbal threats of violence
- Confronting voters while wearing military-style or official-looking uniforms
- Spreading false information about voter fraud, voting requirements, or related criminal penalties
- Brandishing firearms or the intimidating display of firearms
- Aggressively approaching voters’ vehicles or writing down voters’ license plate numbers
- Disrupting voting lines or blocking the entrance to the polling place
- Harassing voters, aggressively questioning them about their qualifications to vote
- Following voters to, from, or within the polling place

### Electioneering

Electioneering includes the display or distribution of signs or campaign literature, campaign buttons, t-shirts, hats, pins or other such items and includes the verbal or electronic solicitation of votes for a candidate or question.

The NM Election Code prohibits electioneering within 100 feet of a polling location or absentee ballot drop box.

### Coercion & Bribes

It is against state law to offer a bribe or accept a bribe related to voting for or refraining to vote for or against any candidate or ballot question.

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<sup>1</sup> Fact Sheet: Protecting Against Voter Intimidation, Institute for Constitutional Advocacy and Protection, Georgetown Law (2020)