

BUREAU OF ELECTIONS

HANDBOOK
FOR
ELECTION
CHALLENGERS
AND
WATCHERS

ISSUED BY
BUREAU OF ELECTIONS
OFFICE OF THE SECRETARY OF STATE
SANTA FE, NEW MEXICO 87503

NME-49 (Rev. April 20, 2012)

CHALLENGERS

1-1-3.2

As used in the Election Code, "election observer" means a person registered with the United States department of state as an international election observer or a person registered with the New Mexico secretary of state who is an academic engaged in research on elections and the election process

1-1-3.3

As used in the Election Code, "election-related organization" means an organization registered with the secretary of state that is involved in election monitoring or voter turnout activities.

1-2-21. Challengers; appointment.

- A. The county chair of each political party represented on the ballot may appoint in writing challengers for each polling location. If more than one challenger is appointed to a polling location, the challengers shall be listed in ranking order.
- B. If any county chair fails to make such appointments, the precinct chair of the political party may appoint in writing one challenger for the polling location corresponding to the precinct.
- C. If any precinct chair fails to make such appointments, or if no person properly appointed is present at the polling place and offers to serve, the voters present belonging to that political party may appoint one challenger in writing.

1-2-22. Challengers, watchers and election observers; qualifications; restrictions.

Challengers and watchers shall be voters of a precinct located in that county to which they are appointed. No person shall be qualified for appointment or service as a challenger, watcher or election observer:

- A. who is a candidate for any office to be voted for at the election;
- B. who is a spouse, parent, child, brother or sister of any candidate to be voted for at the election;
- C. who is married to a parent, child, brother or sister of any candidate to be voted for at the election or who is the parent of the spouse of any candidate to be voted for at the election; or
- D. who is a sheriff, deputy sheriff, marshal, deputy marshal or state or municipal police officer.

1-2-23. Challengers; permitted activities.

- A. A challenger, upon presentation of the written appointment to the precinct board, shall be permitted to be present at any time from the time the precinct board convenes at the polling place until the completion of the precinct board's duties after the polls close.
- B. A challenger, for the purpose of interposing challenges, may:
 - (1) view the signature roster or precinct voter list for the purpose of determining whether the challenger desires to interpose a challenge when a signature roster or precinct voter list is used;
 - (2) view the application to vote form before the voter receives a ballot for the purpose of determining whether the challenger desires to interpose a challenge when an application to vote form is used;
 - (3) view the signature roster or checklist of voters to determine whether entries are being made in accordance with the Election Code;

- (4) view each voting machine before the polls are opened to ensure that the public counter is at zero, that the results tape contains no votes and that there are no voted ballots in the voting machine bins; and
- (5) make in any polling place and preserve for future reference written memoranda of any action or omission on the part of any member of the precinct board.

1-2-24. Challengers; identification badges.

At all times while they are present in the polling place, challengers shall wear uniform identification badges designating them as authorized challengers of the political party which they represent. They shall not wear any other form of identification, party or candidate pins. The secretary of state shall prescribe the form and materials of such badges and such badges shall be furnished to the challengers by the presiding judge upon presentation of their written appointments.

1-6-14 CHALLENGERS; ABSENTEE PRECINCT

- C. A lawfully appointed challenger may view the official mailing envelope and may challenge the ballot of any absent voter for the following reasons:
 - (1) the official mailing envelope has been opened by someone other than the voter prior to being received by the absent voter precinct board;
 - (2) the official mailing envelope does not contain a signature; or
 - (3) the person offering to vote is not a voter as provided in the Election Code [Chapter 1 NMSA 1978].

1-12-20 INTERPOSING CHALLENGES

A challenge may be interposed by a member of the precinct board or by a party challenger for the following reasons:

- A. the person offering to vote is not registered to vote;
- B. the person offering to vote is listed among those persons to whom an absentee ballot was mailed;
- C. the person offering to vote has already cast a ballot in that election;
- D. the person offering to vote is improperly registered because the person is not a qualified elector; or
- E. in the case of a primary election, the person desiring to vote is not affiliated with a political party represented on the ballot.

1-12-21

When a challenge is interposed, the judges or election clerks shall enter the word "CHALLENGED" under the notation headings in the signature rosters, along with the reason for the challenge, the time the challenge was made and the name and title of the person interposing the challenge.

1-12-22 Challenges shall be handled as follows:

- A. if the challenge is unanimously affirmed by the presiding judge and the two election judges, the person shall be furnished a provisional paper ballot. The election clerks shall enter such voter's name in the checklist of registered voters, and the voter shall sign the voter's name in the signature roster. The word "Affirmed" shall be written opposite such voter's name under the challenge notation in the signature roster and checklist of registered voters, together with the number of the ballot so furnished; or
- B. if the challenge is not unanimously affirmed by the presiding judge and the two election judges, the voter shall be allowed to vote, and the election clerks shall enter the words "Not Affirmed" under the challenge notation after the voter's name in the signature roster and the checklist of registered voters.

1-2-25. Challengers, watchers, county canvass observers; permitted and prohibited activities.

- A. Challengers, watchers and county canvass observers shall:
 - (1) not be permitted to perform any duty of a precinct board member;
 - (2) not handle the ballots, signature rosters, checklist of voters or voting machines or take any part in the counting or tallying of the ballots or the county canvass;
 - (3) not be allowed to view a voter's full date of birth or any portion of the voter's social security number;
 - (4) not interfere with the orderly conduct of the election, the counting or tallying of the ballots or the county canvass;
 - (5) be allowed in the room in which the voting is being conducted at a polling location, provided that at any given time each political party, candidate or election-related organization may have no more than one person present; and
 - (6) be allowed in the room in which the absent voter precinct board conducts its business or, in the case of county canvass observers, in which the county canvass is conducted, provided that each political party, candidate or election-related organization shall have no more than:
 - (a) two persons present at any given time in counties with more than ten thousand registered voters;
 - (b) four persons present at any given time in counties with more than fifty thousand registered voters; or
 - (c) fifteen persons present at any given time in counties with more than two hundred fifty thousand registered voters.
- B. Subject to permission granted by the county clerk, additional challengers may be present in the room in which the absent voter precinct board conducts its business, provided that the number of additional challengers allowed pursuant to this subsection is identical for each political party participating in the election.

1-2-26. Challengers; penalty.

The act of denying a challenger, who has presented a written appointment to the precinct board and who is not interfering with the orderly conduct of the election, the right to be present at the polling place, or denying a challenger the right to challenge voters and view the signature rosters or checklist of voters or denying a challenger the right to witness the precinct board in the conduct of its duties is a petty misdemeanor.

WATCHERS

1-2-27. Watchers; appointment.

- A. An election-related organization may appoint watchers in a county if the organization provides a written notice to the secretary of state at least ten days prior to the election date and specifies the names of the qualified appointees. The secretary of state shall notify the county clerk of the qualified appointees at least five days before the election.
- B. Any group of three candidates for elected office may appoint watchers in a county if the candidates provide a written notice to the secretary of state at least ten days prior to the election date and specify the names of the qualified appointees. The secretary of state shall notify the county clerk of the qualified appointees at least five days before the election.

1-2-29. Watchers and election observers; permissible activities.

- A. Upon presentation to a precinct board of a written appointment, a watcher or election observer may:
 - (1) be present at any time from the time the precinct board convenes at the polling place until the completion of the precinct board's duties after the polls close;
 - (2) be permitted to observe that the election is being conducted in accordance with the Election Code;
 - (3) view the precinct voter list to ascertain whether a voter has voted, subject to the same prohibitions and restrictions as are placed upon challengers by the Election Code;
 - (4) view any voting machine being used in the precinct in the same manner that challengers may examine the voting machines; and
 - (5) make in any polling place and preserve for future reference written memoranda of any action or omission on the part of any member of the precinct board charged with the performance of a duty by the Election Code.
- B. A watcher appointed on behalf of candidates may be present only in polling locations within the county of appointment at which ballots are cast for at least one of the candidates making the appointment.

1-2-30. Watchers and election observers; penalty.

The act of denying a watcher or an election observer, who has presented a written appointment to the precinct board and who is not interfering with the orderly conduct of the election, the right to be present at the polling place or denying a watcher or election observer the right to witness the precinct board in the conduct of its duties is a petty misdemeanor.

1-2-31. County canvass observers.

- A. The county chair of each political party represented on the ballot may appoint in writing county canvass observers. A candidate for elected office and an election-related organization may each appoint county canvass observers in a county if the candidate or organization makes a written request to the secretary of state at least ten days prior to the election date and specifies the names of the qualified appointees. The secretary of state shall notify the county clerk of the qualified appointees at least five days before the election.
- B. County canvass observers shall be voters of a precinct located in that county to which they are appointed. No person shall be qualified for appointment or service as a county canvass observer who is a sheriff, deputy sheriff, marshal, deputy marshal or state or municipal police officer.
- C. A county canvass observer or an election observer, upon presentation of the observer's written appointment, shall be permitted to be present at any time from the time the county canvassing begins until the completion of the canvass.
- D. A county canvass observer or election observer is strictly limited to observing and documenting the canvassing process and shall not interrupt the canvassing process.
- E. County canvass observers and election observers shall not interfere with the orderly conduct of the canvass and may be removed by the county clerk if the observer does not comply with the law.
- F. As used in this section, "county canvass" means the process of qualifying and verifying paper ballots and counting and tallying votes for each precinct beginning upon the closing of the polls and ending with the certification and announcement of the results by the county canvassing board.

1-2-32. State canvass observers.

- A. The state chair of each political party represented on the ballot may appoint in writing state canvass observers. A candidate for elected office and an election-related organization may each appoint state canvass observers if the candidate or organization makes a written request to the secretary of state at least ten days prior to the election date and specifies the names of the qualified appointees.
- B. State canvass observers shall be voters of the state. No person shall be qualified for appointment or service as a state canvass observer who is a sheriff, deputy sheriff, marshal, deputy marshal or state or municipal police officer.
- C. The state canvass observer or election observer, upon presentation of the observer's written appointment, shall be permitted to be present at any time from the time the state canvassing begins until the completion of the canvass.
- D. A state canvass observer or election observer is strictly limited to observing and documenting the canvassing process, and shall not interrupt the canvassing process.
- E. State canvass observers shall not interfere with the orderly conduct of the canvass and may be removed by the secretary of state if the observer does not comply with the law.
- F. As used in this section, "state canvass" means the process of examining election returns and certificates issued by the county canvassing boards and ending with the certification and announcement of the results by the state canvassing board.

