

NEW MEXICO SECRETARY OF STATE MAGGIE TOULOUSE-OLIVER
PUBLIC HEARING ON PROPOSED ADMINISTRATIVE RULES
Friday, March 30, 2018, 9:08 a.m.

New Mexico State Capitol Building
490 Old Santa Fe Trail
Room 321
Santa Fe, New Mexico

A P P E A R A N C E S

DYLAN LANGE, Hearing Officer

MAGGIE TOULOUSE-OLIVER, Secretary of State

JOHN BLAIR, Deputy Secretary of State

KARI FRESQUEZ, State Elections Director

REBECCA MARTINEZ, Elections Administrator

BEFORE: KIM KAY SHOLLENBARGER, RPR, CCR #236
Paul Baca Professional Court Reporters
500 4th Street, Northwest, Suite 105
Albuquerque, New Mexico 87102

- 1 EXHIBITS
- 2 1. Cover sheet - 1.10.10 NMAC
- 3 2. 1.10.11.8 NMAC
- 4 3. Notice of Rule Hearing
- 5 4. 1.10.13.27 NMAC
- 6 5. Notice of Rule Hearing
- 7 6. Santa Fe New Mexican published notice
- 8 7. Affidavit of Publication in New Mexico Register
and invoice
- 9
- 10 8. Notice of Rulemaking Hearing
- 11 9. Title 1, Chapter 10, Part 22 statute
- 12 10. Title 1, Chapter 10, Part 22 statute
- 13 11. Sign-in sheets
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

1 HEARING OFFICER LANGE: This hearing will
2 now come to order. Today is March 30th, 2018. The
3 time is 9:08 and we're assembled at the State Capitol
4 Building, Room 321, Santa Fe, New Mexico. My name is
5 Dylan Lange, Assistant Attorney General. I'll be
6 acting as Presiding Officer for this Public Comment
7 Rule Hearing. The purpose of the hearing is for the
8 New Mexico Office of the Secretary of the State to
9 receive public comment, views, argument and testimony
10 and data on the repeal and replacement of Rule
11 1.10.10, 1.10.11, 1.10.13 and 1.10.22 in the New
12 Mexico Administrative Code. The Secretary of State
13 welcomes everyone present at this hearing, whether in
14 person or remotely.

15 SECRETARY TOULOUSE-OLIVER: Thank you all
16 for being here. I look forward to hearing your
17 comments.

18 HEARING OFFICER LANGE: The hearing is being
19 conducted pursuant and in accordance with NMSA 1978,
20 Sections 1-10-8, 1-2-1, 1-19.26.2, 1-6.5, 1.6-16.1,
21 1-12-25.2, 1-12-25.4 and the State Rules Act, Chapter
22 14, Article 4, and the New Mexico Administrative
23 Procedure Act.

24 The public notice of this hearing was
25 advertised in the New Mexico Register on February

1 27th, 2018, and on February 21st, 2018 in The Santa
2 Fe New Mexican.

3 Copies of the proposed rules have been
4 available at the Secretary of State's Office since
5 the notice was published. Copies of the proposed
6 rules were also published on the Secretary of State's
7 web site and were available to anyone who requested
8 them as of February 27th, 2018. Copies of the
9 proposed rules are also available to the public
10 attending this hearing on the table located near the
11 door. This hearing is also being live streamed on
12 the Secretary of State's web site at
13 [HTTP://www.sos.state.nm.us](http://www.sos.state.nm.us).

14 I'll remind everyone here to sign the
15 attendance sheet in the back. It will later be
16 entered as an exhibit in this rule hearing. Let the
17 record show that staff from the SOS is present,
18 Secretary of State Maggie Toulouse-Oliver, Deputy
19 Secretary of State John Blair, Elections Director and
20 Chief Information Officer Kari Fresquez, and
21 Elections Administrator Rebecca Martinez.

22 This is a formal proceeding and a court
23 reporter has been designated to transcribe the
24 proceeding. A transcript from the hearing will
25 become part of the rule-making record. Therefore,

1 persons recognized to testify to offer comments are
2 asked to identify yourself each and every time you
3 address yourself to the Presiding Officer. Speak
4 loudly and clearly so everyone can pick up your
5 comments.

6 The hearing will be conducted in the
7 following manner: The SOS will present exhibits, I
8 will rule on admissibility. We'll proceed
9 numerically through each part of the proposed rule.
10 I'll comment -- I'll call individuals to testify in
11 the order they have signed up. After public comment
12 is given on specific sections of the rule I'll call
13 for general comment. If you would like to give a
14 general comment about the proposed rules, please save
15 your comment until the general comment period.

16 The SOS does not follow the rules of
17 evidence, but shall in the interest of efficiency
18 reserve the right to limit all exhibits, testimony
19 and commentary or other evidence deemed irrelevant,
20 redundant or unduly repetitious, that decision will
21 be made by me, the Presiding Officer.

22 May I have a show of hands of the number of
23 people who intend to testify or comment on the rules
24 here today? After a person has testified or offered
25 a comment, any member of the public or audience

1 wishing to question the person may do so after being
2 recognized by me, the Presiding Officer. Each person
3 recognized to speak shall identify himself or herself
4 for the record. Any questions will be limited to
5 clarifying questions only.

6 This is a public hearing and it's intended
7 to provide the public with an opportunity to voice
8 opinions on proposed rules. The public hearing is
9 now open.

10 SOS, do you have any exhibits you would like
11 to introduce into evidence at this time?

12 DIRECTOR FRESQUEZ: Mr. Lange, we do. We
13 have the proposed repeal of NMAC 1.10.10. The
14 proposed amendment to NMAC 1.10.11, the Order of
15 Offices on the Statewide Ballot. The notice of rule
16 hearing published for both of those. The proposed
17 amendment to NMAC 1.10.13, the Campaign Finance Rule.
18 The notice of rule hearing for the proposed
19 amendment. The publication announcing the rule
20 hearing in the Santa Fe New Mexican. The affidavit
21 of publication in the New Mexico Register. And I
22 believe Ms. Martinez has additional items to add to
23 the record as well.

24 ADMINISTRATOR MARTINEZ: Yes. Mr. Lange, in
25 reference to Provisional Voting, NMAC 1.10.22, for

1 the exhibits I do have a notice of rule-making
2 hearing for the repeal and replacement of that
3 particular rule to include the current rule that
4 stands right now.

5 DIRECTOR FRESQUEZ: The proposed rule and
6 the current rule.

7 HEARING OFFICER LANGE: So I now have in
8 front of me ten exhibits I will enter into the
9 record. Are there any other, I guess, exhibits you
10 would like to enter into evidence right now?

11 DIRECTOR FRESQUEZ: Mr. Lange, would you
12 like the sign-in sheets now or later?

13 HEARING OFFICER LANGE: Not now. I don't
14 see any written comments received. Did we receive
15 any written comments on either the repeal or
16 replacement of any of these rules?

17 DIRECTOR FRESQUEZ: We did not.

18 HEARING OFFICER LANGE: Okay. So again,
19 I'll admit now ten exhibits into the record to form
20 the rule-making record.

21 And we'll just begin now to take testimony
22 from members of the public here. I ask any person
23 who will be testifying or commenting at this rule
24 hearing to please rise to be sworn in. Will you
25 raise your hand.

1 (Speakers Sworn)

2 HEARING OFFICER LANGE: So let the record
3 show that all persons intending to testify or comment
4 on this rule have been sworn or affirmed that his or
5 her testimony or commentary will be truthful.

6 To begin with, may I see a show of hands of
7 the people in attendance who support the rules or
8 replacement? Any hands of those that oppose? Thank
9 you.

10 We'll begin by starting with anyone wishing
11 to comment on the proposed repeal of ballot position,
12 Supreme Court or Court of Appeals currently codified
13 in 1.10.10 NMAC?

14 Seeing none, we'll move on to the amendment
15 to Order of Offices on the ballot, 1.10.11 NMAC.
16 Please.

17 EXECUTIVE DIRECTOR IVEY-SOTO: May I testify
18 from here or do you want me to go to the table?

19 HEARING OFFICER LANGE: Can we hear you? We
20 need to make sure we can hear you.

21 EXECUTIVE DIRECTOR IVEY-SOTO: May I testify
22 from here?

23 HEARING OFFICER LANGE: You may.

24 EXECUTIVE DIRECTOR IVEY-SOTO: Yes. So just
25 a couple of quick comments.

1 DIRECTOR FRESQUEZ: State your name, please.

2 EXECUTIVE DIRECTOR IVEY-SOTO: Sorry. Thank
3 you, very much. Appreciate it. Daniel Ivey-Soto.
4 Last name is spelled I, v as in Victory, e-y, dash,
5 capital S, o-t-o, Executive Director of the County
6 Clerks.

7 So just one, a stylistic and then a
8 substantive. So the stylistic, at paragraph E where
9 we're talking about in sub 1, sub 2, and it's really
10 just a stylistic thing, but in the brackets where you
11 say, "designated on the ballot by numerical
12 position." Given that the positions themselves are
13 not numerically designated, it's on the ballot only,
14 it's just a stylistic thing. I would suggest saying,
15 instead of on, say, "for purposes of," designated for
16 purposes of the ballot. Because otherwise, once
17 you're elected you're not in a position on either the
18 Supreme Court or the Court of Appeals.

19 With regard to Part 10, on the back page.
20 So two things. With regard to paragraph A, we're
21 still with major party. I think that a more cogent
22 way to proceed on this would be that if no candidate
23 for governor qualifies, then no one shall appear on
24 the general election ballot for that position. If no
25 one for lieutenant governor qualifies, but someone

1 qualifies for governor, that that be treated as a
2 vacancy on the ballot and be filled after the primary
3 by the political party. And I may need to review
4 1-8-7 just to see if that's possible to be done
5 statutorily or if that would have to be amended. But
6 anyway, it's just a suggestion.

7 With regard to paragraph C, that paragraph
8 should strike any reference to minor parties. Minor
9 parties designate who their nominees are before they
10 go get signatures. And so, if a minor party is doing
11 their job you will never have multiple candidates for
12 the same position from a minor party getting
13 signatures. But you can have that for an
14 independent. That's it.

15 HEARING OFFICER LANGE: All right. Thank
16 you. That's who signed up on the sign-in sheet. Is
17 there any member of the public who would like to give
18 comment on proposed amendment to -- or I guess
19 replacement of Rule 1.10.11 NMAC? Seeing none, we'll
20 move on to amendment to the Campaign Finance Rule
21 codified to 1.10.13.27 NMAC. The first person signed
22 up on that is Mr. Ivey-Soto.

23 EXECUTIVE DIRECTOR IVEY-SOTO: Yes, thank
24 you, very much. Daniel Ivey-Soto, same spelling,
25 same position. Just a comment on the new language on

1 C. This is something that leads to some confusion
2 within the system and it leads to some confusion with
3 regard to observance of the limits. And that is that
4 it would be helpful if this rule would provide with
5 regard to incumbents, that an incumbent is
6 transferred into the next -- until the incumbent
7 files a declaration of candidacy for some other
8 office, an incumbent is transferred into their next
9 election cycle automatically.

10 So here's what happens: For example, let's
11 say, hypothetically, I'm a State Senator. So I'm
12 elected in 2012, and so under the current rules my
13 primary election cycle for 2016 begins the day after
14 the general election. But the system right now does
15 not put me into the 2016 election cycle until I file
16 a declaration of candidacy three years later. And
17 then it puts me in the cycle, but it doesn't go back
18 and pick up everything from the day after the
19 primary, or the day after the general of a
20 preselection. So what happens is, I'm raising money
21 and it's not showing in the system as being part of
22 that next election cycle, which it should be
23 considered as part of that next election cycle until
24 I file a declaration of candidacy for some other
25 office. Because the problem is, let's say the day

1 after the general election suddenly it maxes out to
2 me. When somebody's looking in the system it
3 appears, looking in the system, that that
4 contribution was given in the 2012 cycle, and then
5 when I file a declaration of candidacy and the same
6 person gives me more money, unless somebody knows, is
7 sophisticated to look at both, and I'm not just
8 talking about Watchdogs or you all, but I'm mostly
9 talking about candidates. Unless they know to go and
10 look at both, they may not realize that they have
11 gone over the limits.

12 So anyways, I just think that would be a
13 helpful functionality and it would be a helpful thing
14 to have in the rule. Thank you. Like I said, I do
15 think you could just simply default an incumbent into
16 the next cycle until and unless they filed a
17 declaration of candidacy or a notice that they're not
18 going to run for office again. Thank you.

19 HEARING OFFICER LANGE: Thank you.
20 Mr. Trujillo, you're next.

21 MR. TRUJILLO: Would it be best if I sat at
22 the table?

23 HEARING OFFICER LANGE: Sure.

24 MR. TRUJILLO: Mr. Hearing Officer, a few
25 comments. I don't have anything in particular in

1 terms of language suggestions, more so would be a
2 request going to the previous comments that were
3 received, some clarifications with respect to C. I
4 think what would be beneficial, some potential
5 explanatory comments that could go into the record
6 that folks could rely on to -- number one, I won't
7 reiterate the issue that Mr. Ivey-Soto commented on,
8 but that is where I think some confusion is, that
9 instead of changing the language in here, maybe
10 providing some explanatory language as a part of the
11 record so the folks could rely on how this is
12 interpreted. In particular --

13 HEARING OFFICER LANGE: Will you state your
14 name for the record.

15 MR. TRUJILLO: Oh, I'm sorry. My name is
16 T.J. Trujillo with the law firm of Gallagher and
17 Kennedy. In particular, in addition to the comments
18 that Mr. Ivey-Soto had made, I'll give you another
19 practical example where there is some confusion, that
20 perhaps some explanatory language in the record would
21 be beneficial to the folks that are relying, and that
22 relates to C(4). And under 1.10.13.27 under C(4), I
23 think there's some confusion as to -- and maybe the
24 best way to proceed would be to give some explanatory
25 comments relative to examples of when -- if the

1 contribution is collected in the previous campaign
2 and you exceed what is allowable for the office
3 associated with the new campaign, what happens if
4 you're an incumbent and how does that fall back. I
5 guess the request would be to provide some
6 explanatory language on practical examples as to what
7 really constitutes an exceedance under 4. I can
8 provide an example. Let's say that a candidate --
9 I'm sorry, an incumbent senator who was under a
10 four-year election cycle receives campaign
11 contributions, decides to run for a statewide office,
12 let's say hypothetically run for lieutenant governor,
13 and that cycle falls between two years of that
14 incumbent's term. They raise money for that, money
15 is required to be transferred, based on my
16 understanding of the way the new rules work,
17 transferred into the new campaign. Let's assume they
18 lose. The question becomes, what becomes an
19 exceedance at that point if they want to then turn
20 around and use the money as a part of their senate
21 campaign to get re-elected the next election cycle.
22 I think there's some confusion as to really what
23 constitutes an exceedance under C(4). So again, I
24 don't have any particular language changes. I just
25 think practical examples as a part of this record

1 would be beneficial to provide to the public and
2 those of us who try to advise particular clients,
3 like myself, on really what C(4) means and what
4 circumstances are permissible to be able to
5 contribute, would be beneficial as a part of this
6 record. Thank you, Mr. Hearing Officer.

7 HEARING OFFICER LANGE: Thank you. That's
8 everyone who signed up on the sheet-in sheet. Is
9 there additional comment that would like to be made
10 on this particular rule? Seeing none, we'll move on
11 to the repeal and replacement of Provisional Ballot
12 Rule codified now under 1.10.22 NMAC.

13 We'll just go through each section first and
14 if we have general comments as well we can hear them
15 after we introduce all the different sections of this
16 new rule.

17 So the first section is Issuing Agency, part
18 1. Is there any general comment? No one has signed
19 up. Is there any general comment on that section?
20 Seeing none, we'll move to part 2, Scope. No one has
21 signed up. Would anyone like to give comment on
22 that? Please.

23 EXECUTIVE DIRECTOR IVEY-SOTO: Yes.

24 HEARING OFFICER LANGE: Actually, before you
25 start, do we have a section, a Scope section to read

1 into the record, please.

2 ADMINISTRATOR MARTINEZ: This section
3 provides in the statutes that give authority to and
4 bestow responsibility upon the Secretary of the State
5 to prepare and provide uniform rules to New Mexico
6 clerks. And it basically pertains to the various
7 categories of the elections within the Election Code
8 and includes those elections covered by the Local
9 Election Act, which was currently adopted.

10 HEARING OFFICER LANGE: Thank you. Now we
11 will receive comments.

12 EXECUTIVE DIRECTOR IVEY-SOTO: Yes, thank
13 you. Certainly the scope should no longer make
14 reference to the School Election Law, but instead the
15 Local Election Act. And the other thing is that the
16 scope should also make reference to special elections
17 pursuant to Article 24, because one of the amendments
18 to Article 24 is that you have special districts that
19 are not covered by the Election Code for their
20 regular elections. But if they have a special
21 election they are still covered under the amendments
22 to Article 24 that go into effect July 1. They are
23 still covered by Article 24 and having to do them by
24 mail.

25 HEARING OFFICER LANGE: Thank you for that.

1 Will you state your name.

2 EXECUTIVE DIRECTOR IVEY-SOTO: Oh, yes, I'm
3 sorry. Daniel Ivey-Soto. I, v as in Victor, e-y,
4 dash, capital S, o-t-o, Executive Director of the
5 County Clerks.

6 HEARING OFFICER LANGE: Thank you. Any
7 further comment on Part 2, Scope, of the rule?
8 Seeing none, we will move to Part 3, Statutory
9 Authority. No one has signed. Is there a member of
10 the public who would like to provide comment on
11 Statutory Authority? Seeing none, we'll move to Part
12 6, Objective. Any public comment to be received?
13 We'll move back to Part 5, Effective Date. Any
14 public comment? Seeing none, we'll move to Duration,
15 Part 4. Any public comment? Seeing none, we'll move
16 to the Definitions section of the rule, Part 7. All
17 right. Will you read into the record the Definitions
18 section, please.

19 ADMINISTRATOR MARTINEZ: Yes, Hearing
20 Officer. The Definitions section does include terms
21 currently within the Election Code as it pertains to
22 provisional voting, as well as terms within the rule
23 makes available those meanings as well.

24 HEARING OFFICER LANGE: Thank you.

25 Mr. Ivey-Soto.

1 EXECUTIVE DIRECTOR IVEY-SOTO: Yes, thank
2 you, very much. Daniel Ivey-Soto, Executive Director
3 of New Mexico Clerks. Just a general comment, that
4 any definitions that appear as definition in the
5 Election Code should be omitted or should be -- or if
6 it's going to be included, means what is said in the
7 Definitions section of the Election Code.

8 And it would be helpful -- for example, I
9 see you did that on DD, Required Voter
10 Identification, but not on HH with regard to Voter,
11 and then there's various other places around. And on
12 some of these that exist in a single place like, for
13 example, Health Care Provider, where I believe health
14 care provider only is an issue with regard to
15 emergency ballots. So those that appear for with
16 regard to a single issue, it might be helpful to say,
17 "health care provider as used in that particular
18 section," because that's the only section that it's
19 in. Some of these are used in various sections, it
20 would not make sense to do that. Thank you.

21 HEARING OFFICER LANGE: Thank you. Any
22 further comment on Part 7, Definitions? Seeing none,
23 we'll move to Part 8, Provisional Ballot Issuance and
24 Precinct and Board Procedures. Will you read that
25 section into the record, please.

1 ADMINISTRATOR MARTINEZ: Yes, Hearing
2 Officer. Within this section are instructions for
3 the precincts on the issuance of a provisional
4 ballot. This also describes the custody transfer of
5 ballots to the County Clerk when the time frame for
6 voting has concluded.

7 HEARING OFFICER LANGE: Thank you.
8 Mr. Ivey-Soto.

9 EXECUTIVE DIRECTOR IVEY-SOTO: Thank you,
10 Mr. Hearing Officer. So two things on this. The
11 first is, and this is where it's sometimes -- you
12 know, one should caution in terms of trying to
13 restate what's in the statute, because there are some
14 places in the Election Code in addition to 1-12-8,
15 there are some places in the Election Code that
16 provide for the issuance of a provisional ballot and
17 they're kind of sporadically placed in different
18 places.

19 For example, 1-3-4-D(6), Consolidation of
20 Precincts, where we provide that if you have a rural
21 precinct and someone can go in and consolidate it
22 into BCC and vote on a provisional ballot, and then
23 nothing has to be qualified about it, other than that
24 they not had voted in their traditional precinct.
25 And so, really A, instead of trying to describe when

1 a provisional ballot would be issued, because that's
2 provided for in the statute, I think what would be
3 better, as provided for in the Election Code, and
4 just simply leave it at that, and then go into what
5 happens with things.

6 And then just the other thing is that with
7 regard to 1-6-16.2. That provision, I think it is --
8 okay, so that provision has it as a provisional --
9 never mind, okay. That's the replacement ballot,
10 that's 16.1. With regard to the replacement ballot,
11 I'm not sure exactly where it is in here, and this
12 may not be the right section, but if I can just make
13 a comment about that. If we could just simply
14 comment that that should be treated as a provisional
15 ballot as opposing to saying, "it is a provisional
16 ballot," right, so that -- the statutes don't call
17 that a provisional ballot, but creates the process of
18 a provisional ballot for that kind of a ballot. I
19 think that will marry up the statutory language with
20 the procedures that are being put in place here.

21 HEARING OFFICER LANGE: Thank you. Any
22 further comment on Part 8? Seeing none, we'll move
23 to Part 9, County Clerk Procedures. Any comment on
24 County Clerk Procedures? Will you please read the
25 section into the record.

1 ADMINISTRATOR MARTINEZ: This section
2 provides guidelines for how provisional ballots shall
3 be organized and provided to ensure that after the
4 qualification process the qualified ballots are
5 tabulated and recorded by voting method and voting
6 location. Additionally, this section provides
7 instructions on how to provide information to
8 lawfully appointed canvass observers without
9 disclosing any personal information contained on the
10 provisional ballot envelope. And also to preserve
11 the secrecy of the provisional voter's ballot.

12 Last, this section contains procedures for
13 how to notify provisional voters of the final
14 disposition of their ballot.

15 HEARING OFFICER LANGE: Thank you. We will
16 now hear testimony.

17 EXECUTIVE DIRECTOR IVEY-SOTO: Daniel
18 Ivey-Soto, Executive Director for County Clerks. So
19 again, this section kind of goes though in some
20 places and restates what's in the statute. And so,
21 for example, in paragraph C, you restate why the
22 provisional ballot shall be rejected, but then you
23 have some circumstances, such as the one articulated
24 before with regard to a BCC where it's not a
25 qualification issue, it's just a protection against

1 double voting. And so again, by trying to provide a
2 Bright Line Rule based on one section of the statute,
3 we actually miss some other places in the statutes
4 where we're using provisional ballots for purposes
5 other than if the person is qualified to vote.

6 And actually, the same thing exists with
7 regard to 1-6-16.2, the emergency ballot, which is
8 now a provisional ballot. But the qualification on
9 that provisional ballot it shall be counted as long
10 as the person hasn't voted in any other way. So
11 there's not a -- so some of these don't apply in
12 those cases. Again, I think instead of kind of
13 putting it all in one place here as if it were a
14 handbook, it's better to leave the statutory stuff
15 with the statutory and simply refer to that and say,
16 you know, in terms of the different things, because
17 it's kind of spread out. Thank you.

18 HEARING OFFICER LANGE: Any further
19 testimony on Part 9, County Clerk Procedures? Seeing
20 none, we'll move to Part 10, Tabulation and
21 Canvassing of Qualified Provisional Ballot. Is there
22 a member of the public who would like to give comment
23 on Part 10? Seeing none, we'll move to Part 11,
24 Provisional Voter Notification and Hearing Process.
25 Is there any general comment on Part 10? Please read

1 Part 10 into the record.

2 ADMINISTRATOR MARTINEZ: This section
3 explains the -- Part 10, I'm sorry, Mr. Hearing
4 Officer, provides instructions to county clerks on
5 how each voting tabulator used to tabulate qualified
6 provisional ballots is to be programmed and tested
7 for accuracy. It also contains specifics on the
8 recording of overvoting, undervoting, blank ballots
9 or ballots that require a hand tally.

10 HEARING OFFICER LANGE: Thank you. Will you
11 also read Part 11 into the record.

12 ADMINISTRATOR MARTINEZ: This section
13 explains the hearing process that is afforded to a
14 provisional voter who decides to appeal the
15 disqualification of their ballot and explains the
16 details related to the selection of a hearing officer
17 who will ultimately preside over the appeal hearing.

18 HEARING OFFICER LANGE: Thank you. We will
19 receive testimony now.

20 EXECUTIVE DIRECTOR IVEY-SOTO: Thank you.
21 Daniel Ivey-Soto, Executive Director for County
22 Clerks. Just two very brief things on this. The
23 first is, this is like a place where if you're going
24 to have other kinds of ballots be treated as a
25 provisional ballot, then write provisional ballot or

1 a ballot treated as a provisional ballot kind of
2 thing.

3 But the other thing is that in terms of the
4 hearing officer, where you say in A(1), "the county
5 clerk shall select a hearing officer from staff or a
6 person who is not affiliated with any candidate on the
7 ballot. Just recognize, so what is the scope of the
8 ballot? And what is the scope of candidate with
9 regard to that?

10 In other words, if there is a provisional
11 ballot being challenged in Las Cruces and you have
12 somebody who is maybe married to a candidate who is
13 running for a totally unrelated office up here in
14 Santa Fe, is that person disqualified from being a
15 hearing officer for anything? So anyway, just a
16 little bit better definition on any candidate on the
17 ballot, are we talking about the ballot for that
18 precinct? It would just be helpful. Thank you.

19 HEARING OFFICER LANGE: Any further testimony
20 on Part 11? Seeing none, we'll move to Part 12,
21 Secretary of State Procedures. Any public comment on
22 Part 12? Seeing none, we'll now move to general
23 comments on any of the rules we've discussed here
24 today, either the repeal or replacement of said rules.
25 Any further general comments that members of the

1 public would like to provide today? Please.

2 EXECUTIVE DIRECTOR IVEY-SOTO: Daniel
3 Ivey-Soto, Executive Director, County Clerks. I just
4 wanted to thank the Secretary of State and her staff
5 for all the work that you guys have done on this. On
6 the record.

7 HEARING OFFICER LANGE: Thank you. Any
8 further comment? Seeing none, we'll now move to admit
9 the attendance sheet into evidence. It will be marked
10 as Exhibit 11 and entered into the record. Does
11 anyone have any questions about the attendance sheet
12 here today? Seeing none, the hearing is now closed
13 and no further oral testimony will be heard. The
14 data, arguments and testimony submitted during today's
15 ruling hearing will be duly considered by the SOS.
16 The SOS has now concluded its public comment hearing
17 on this rule. Also, any rules adopted by the
18 Secretary will be filed with the State Records and
19 Archive Center in accordance with the State Rules Act
20 and New Mexico Register Publication Deadlines. Any
21 rules or amendments not adopted will be postponed for
22 future discussion. I would like to thank all members
23 of the public present for their participation and
24 attendance. Let the record reflect that the hearing
25 was adjourned at 9:44 a.m. on March 30th. Thank you.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

(Hearing adjourned 9:44 a.m.)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

REPORTER'S CERTIFICATE

I, Kim Kay Shollenbarger, New Mexico Certified Court Reporter, No. 236, do hereby certify that I reported the foregoing proceedings in stenographic shorthand and that the foregoing pages are a true and correct transcript of those proceedings taken to the best of my ability.

I FURTHER CERTIFY that I am neither employed by nor related to any of the parties or attorneys in this matter and that I have no interest in the final disposition of this matter.

Kim Kay Shollenbarger
CCR No. 236, RPR
License Expires 12-31-2018