U.S. ELECTION ASSISTANCE COMMISSION

2016 Election Administration & Voting Survey

Statutory Overview

In order to better understand state laws governing Federal elections, the U.S. Election Assistance Commission, as part of its biennial Election Administration and Voting Survey, is collecting information on state election laws and procedures. These answers will help EAC to better understand the quantitative data relating to the 2016 general election that we are collecting from all U.S. states and territories.

EAC understands that responding to this Statutory Overview may require significant staff time on the part of your office. Please be assured that we have attempted to minimize the burden, and we appreciate your cooperation in this very important project.

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DIRECTIONS AND EXAMPLE

As appropriate, please provide your state's legal citation for the responses to the questions beginning on the following page.

Please answer each question to the best of your ability. If a term or concept is ambiguous, please explain why. If a question is not applicable to your state, please explain why. If a definition or term lacks statutory reference in your state but is widely used in practice, please explain. If election procedures vary at the local level within your state, please explain these variations to the best of your ability.

The Statutory Overview data collection document has two columns below each question.

- On the left, we have provided you with the answer your state provided for the 2014 Statutory Overview. If there has not been a change in your state's laws or legal citation in the response to a question, please mark the box labeled **No Change since 2014** at the top of the left column.

- If the response has changed since 2014 – or your state has not answered this question previously for some reason— please mark the box labeled **Changed since 2014** at the top of the right column and then provide the new answer in the text box provided. If your response is too long to fit in the box, please make a note in the text box and place your response in the "Notes" page at the end of the document. Additionally, if a law was repealed in full, please answer "repealed in full" in the box.

If any of your state laws are currently enjoined or otherwise blocked from enforcement by a state or federal court or by executive decision, please specify.

Example:

A1. How does your state define the following terms related to votes and ballots? Please provide your state's legal citation defining these terms, where applicable.

a) Over-vote

☒ **No Change since 2014** ☐ **Changed since 2014**

State code 1.11 - An attempt to vote for a larger number of candidates than is allowed.

b) Under-vote

☐ **No Change since 2014** ☒ **Changed since 2014**

This term has no legal definition.

State code 1.12 - An attempt to vote for a smaller number of candidates than is allowed.

SECTION A: GENERAL

A1. How does your state define the following terms related to votes and ballots? Please provide your state's legal citation defining these terms, where applicable.

a) Over-vote

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

"Overvoted ballot" means a ballot on which the voter has voted for more than the number of candidates to be elected for that office, or in both the affirmative and negative on a ballot question.
NMAC 1.10.12 7 (O)

"Overvote" means the selection by a voter of more than the number of alternatives allowed in a voting response area.
NMAC 1.10.23.7 (O)

2016 Response:

b) Under-vote

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

"Undervoted ballot" means a paper ballot that is not a blank ballot and on which the voter has selected at least one candidate or answered at least one ballot question in accordance with the instructions for that ballot type, but on which the voter has selected fewer than the number of alternatives allowed in a candidate contest or on a ballot question.
NMAC 1.10.12.7 (R)

"Under-vote" means the failure of a voter to select any of the alternatives in a voting response area.
NMAC 1.10.23.7 (W)

2016 Response:

c) Blank ballot

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

"Blank ballot" means a paper ballot on which the voter has not selected any of the alternatives allowed in any candidate contest or ballot question.
NMAC 1.10.12 (G)

2016 Response:

d) Void/Spoiled ballot

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

A voter who accidentally spoils or erroneously prepares the voter's paper ballot may return the spoiled or erroneously prepared paper ballot to the presiding judge and receive a new paper ballot.

NMSA 1978, §1-12-62 (A.)

The voter shall mark the spoiled or erroneously prepared paper ballot with the word “SPOILED” and shall place it in a separate envelope marked “SPOILED BALLOTS”, which shall be returned to the county clerk.

NMSA 1978, §1-12-62 (D.)

2016 Response:

e) Provisional/Challenged ballot

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

"Provisional ballot" means a ballot that is marked by a provisional voter.

NMAC 1.10.22.7 (T)

2016 Response:

f) Absentee

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

"Absentee ballot" means a method of voting by ballot, accomplished by a voter who is absent from the voter's polling place on election day.

NMAC 1978, 1.10.12.7 (A)
NMAC 1978, 1.10.23.7 (B)
NMAC 1978, 1.10.22.7 (C)

2016 Response:

g) Early voting

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

Commencing on the third Saturday prior to an election and ending on the Saturday immediately preceding the election, an early voter may vote in person on a voting system at an alternate voting location established by the county clerk.

NMSA 1978, §1-6-5.7 (A.)

2016 Response:

h) Active Voter

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

"Active voter" means a registered voter who has not been declared an inactive voter.

NMAC 1.10.35.7 (A)

2016 Response:

i) Inactive Voter

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

"Inactive voter" means a voter who has been mailed a confirmation card in accordance with 52 U.S.C. 20501 to 20511, and who has either failed to respond or has failed to vote in any election conducted after the mailing of the confirmation card.

NMAC 1.10.35.7 (D)

2016 Response:

j) Other terms (please specify) _____

☐ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

2016 Response:

A2. Please provide the legal citation for any *significant* changes to election laws or procedures that have been enacted or adopted since the previous Federal election. "Significant" does not include routine or technical changes (such as changes to election district boundaries or polling place changes). However, EAC would like to learn about any new identification requirements for voters or registrants; changes in eligibility for voting or registering; adoption of alternative voting methods; and other changes that you believe represent a significant change in the way your state runs its elections.

☐ **No Change since 2014** ☒ **Changed since 2014**

2014 Response:

When precincts are consolidated for a primary and general election, the resolution required by Section 1-3-2 NMSA 1978, in addition to the other matters required by law, shall state therein which precincts have been consolidated and the designation of the polling place. In addition, when consolidating precincts for primary and general elections:
(1) any voter of the county shall be allowed to vote in any consolidated precinct polling location in the county;
(2) each consolidated precinct shall be comprised of no more than ten precincts;
(3) each consolidated precinct shall comply with the provisions of Section 1-3-7 NMSA 1978;
(4) each consolidated precinct polling location shall have a broadband internet connection and real-time access to the statewide voter registration electronic management system;
(5) the county clerk may maintain any alternative voting locations previously used in the same election open for voting on election day for any voter in the county, in addition to the polling location established in each consolidated precinct; and
(6) the board of county commissioners may permit rural precincts to be exempted from operating as or being a part of a consolidated precinct; provided that if the precinct is not designated as a mail ballot election precinct pursuant to Section 1-6-22.1 NMSA 1978 and the polling place for the rural precinct does not have real-time access to the statewide voter registration electronic management system, voters registered in a rural precinct as described in this paragraph are permitted to vote in any consolidated precinct polling location on election day only by use of a provisional paper ballot, which shall be counted after the county clerk confirms that the voter did not also vote in the rural precinct.

NMSA 1978, §1-3-4 (D.)

2016 Response:

Establishment of Article 6B of the Election Code regarding uniform military and overseas voters bring state statute into full compliance with federal requirements and including a provision for emergency response providers.

1-4-18.1, NMSA 1978 Requirement for the Secretary of State to establish an online voter registration system

1-9-5, NMSA 1978 amendments to ensure sufficient number of check-in stations at polling places are determined and implemented for statewide elections

Amendments to Article 14 of the Election Code modernizing the procedures for the conduct of recounts and the percentages required to trigger an automatic recount of a race

SECTION B: VOTER REGISTRATION

B1. Is your state's voter registration database system best described as a bottom-up, a top-down, or a hybrid? (Note: A bottom-up system generally uploads information retained at the local level and compiled at regular intervals to form the statewide voter registration list. A top-down system is hosted on a single, central platform/mainframe and is generally maintained by the state with information supplied by local jurisdictions. A hybrid is some combination of both systems described above.)

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

New Mexico operates a top-down system. The statewide voter file is a single, central platform, supplied by ES&S Voter Registration Election Management System. Information is input into the system at the county level.

2016 Response:

If your state uses a bottom-up or hybrid system, how often do local jurisdictions transmit registration information to the state list?

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

Not applicable; the system operates in real time.

2016 Response:

B2. Please describe the process used in your state to move voters from the active list to the inactive list, and from the inactive list to the active list. Is a different process used for UOCAVA voters?

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

FILE MAINTENANCE:
A. The secretary of state shall contract with a postal service approved vendor of the national change of address program (NCOA) pursuant to Section 1-4-28, NMSA 1978. The entire statewide voter file shall be compared to the NCOA listings for the confirmation mailing.
B. The secretary of state shall also create a file of all active voters designated NVRA on the statewide voter file due to an initial undeliverable mailing returned to the county clerk and so designated by the county clerk in the county voter file.
C. All active voters appearing in either the NCOA or the NVRA files shall be mailed a confirmation card to the voter's mailing address. The confirmation card shall be returned by the voter no later than twenty-eight (28) days prior to the next general election.
D. The secretary of state shall deliver returned and address corrected confirmation cards to the county clerk and the county clerk shall enter the corrected address into the voter file, scan the confirmation card and attach the scanned image

2016 Response:

B3. Please describe your state's process for removing voters from the voter registration rolls (not merely moving them from active to inactive). Please include information regarding notices and confirmations. Are these procedures the same for UOCAVA voters?

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

2016 Response:

Sections 1-4-22 through 1-4-32, NMSA 1978

The county clerk may cancel certificates of registration for the following reasons:
1. death of a voter
2. legal insanity of a voter
3. felony conviction of a voter
4. at the request of the voter
5. at the direction of the board of registration

Additionally, the SOS may petition district court if there is belief that certain registered persons are not qualified electors.

These sections of law also describe the NVRA purge process due to change of address that occurs each odd numbered year and is approved by a county based board of registration.

These procedures are the same for UOCAVA voters.

B4. Can your state's voter registration database (or equivalent) share information electronically with your state's driver's license agency (for example, to match records or trace changes in address)? Can your voter registration database be similarly linked with databases in any other state or Federal agencies? Please describe these links, including any use of database matching to verify voter registration applications.

☐ **No Change since 2014** ☒ **Changed since 2014**

2014 Response:

No, the Voter Registration Election Management System does not currently interface with any other state or federal agencies.

2016 Response:

1-4-47, NMSA 1978 requires simultaneous electronic voter registration at the time a qualified elector is applying for a driver's license or driver's license renewal.

1-4-18.1, NMSA 1978 requires that the online voter registration system interface with the motor vehicle department's driver's license database.

B5. Please describe how your state uses National Change of Address (NCOA). What has been your state's experience with NCOA?

☐ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

The NCOA mailing is used as the confirmation mailing.

The secretary of state, county clerks and boards of registration, in compliance with the federal National Voter Registration Act of 1993, shall remove from the official list of eligible voters the names of voters who are ineligible to vote due to change of residence.

The secretary of state shall conduct a general program that identifies voters who may no longer reside at their address of registration. This program shall use information supplied by the United States postal service national change of address service. This program may also include, among other practices, identification of voters whose official election related mail is returned and periodic mailings to voters to verify continued residency at their address of registration, provided such practices are uniform, nondiscriminatory and in compliance with the federal Voting Rights Act of 1965.

2016 Response:

Our state uses NCOA as a means to prepare the confirmation mailing for purposes of complying with NVRA. NMSA 1978, §1-4-28

This generally works well for us, however, we have had instances where people indicating a temporary change of address were included in the match and therefore received a confirmation mailer and should not have.

B6. Please describe your state's voting eligibility requirements as they relate to individuals with a felony conviction. (For example, are convicted felons allowed to vote while in prison or while on parole or probation? Are voting rights automatically restored or does the individual have to apply for a pardon, certificate of eligibility or other similar certificate? Does an individual whose voting rights have been restored have to produce documentation of his/her status when registering to vote?)

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

A convicted felon can vote if that person has:

Completed the terms of their suspended deferred sentence; or
Was unconditionally or conditionally discharged from a State correctional facility or unconditionally discharged from a federal correctional facility and completed all conditions of probation and parole; or
Was granted a pardon or certificate by the Governor restoring their full rights of citizenship.
The Secretary of State is to notify all County Clerks when a convicted felon is eligible to register as a voter when:
A State District Court notifies the Secretary of State that a person has completed the terms of that person's suspended or deferred sentence; or
The New Mexico Corrections Department or the corrections

2016 Response:

Someone who is convicted of a felony and is in prison, probation, or parole has their registration canceled in NM.

Upon satisfaction of the felony, the person may re-register to vote.
NMSA 1978, §1-4-27.1

B7. Does your state currently use the Internet in any way to facilitate voter registration? If yes, please describe how your state allows voters to use the Internet in the registration process (e.g., entire registration completed online; completed online but then must be printed, signed, and mailed by voter, etc.).

☐ **No Change since 2014** ☒ **Changed since 2014**

2014 Response:

2016 Response:

A person may register online or update their registration online as long as they provide a current or expired driver's license or state id and full social security number and full date of birth which is validated against the motor vehicle database. The entire registration is completed online and the electronic record is transmitted to the appropriate county clerk for processing.

1-4-18.1, NMSA 1978
1.10.35 NMAC

SECTION C: ELECTION ADMINISTRATION

C1. Please describe how all votes cast at a place other than the voter's precinct of registration are tabulated (for example, please include descriptions of such votes as absentee ballots, mail-in ballots, votes cast at vote centers, provisional ballots, early voting locations, etc.).

a. Are the votes counted centrally or at the precincts?

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

New Mexico votes are tabulated using Dominion ICP, ICE and the ICC tabulators at the polling place. Tabulator totals are uploaded to a central statewide file.

2016 Response:

Absentee ballots are tabulated at a central county location by an absentee precinct board.

Early and Election day vote center votes are tabulated at the polling location.

Provisional ballots are tabulated by hand by the county clerk.

b. If centrally tabulated, are the votes redirected to the appropriate precinct for reporting in the canvass?

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

All vote totals are reported by precinct.

2016 Response:

c. Are the absentee, mail, etc., votes reported separately for each precinct, or are they added to the in-precinct results and reported as just a single number?

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

The county clerk shall maintain voting data by precinct that includes the number of voters who voted early in-person, absentee by mail and on election day and the number of voters who voted using each type of voting system.

The county clerk shall report to the secretary of state the vote totals in each precinct.

NMSA 1978, §1-12-70

2016 Response:

d. How are UOCAVA ballots counted and reported?

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

UOCAVA ballots are counted and reported by precinct and are included in the absentee ballot count.

2016 Response:

C2. Does your state require a reason for voting absentee, or does your state allow no-excuse absentee voting? (If a reason is required, please provide the legal citation.)

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

New Mexico does not require a reason to cast an absentee ballot.

2016 Response:

C3. Does your state provide for in-person early voting? If so, how is early voting defined? When early voting is used, are the ballots counted at the precinct or at a central location? How are these votes reported?

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

Commencing on the third Saturday prior to an election and ending on the Saturday immediately preceding the election, an early voter may vote in person on a voting system at an alternate voting location established by the county clerk. Early voting ballots are tabulated using tabulators at each early voting site and reported by precinct.

NMSA 1978, §1-6-5.7

2016 Response:

C4. Do any jurisdictions in your state use a vote-by-mail system to replace (and not merely supplement) at-the-precinct voting in any elections?

☐ **No Change since 2014** ☒ **Changed since 2014**

2014 Response:

2016 Response:

A local government may elect to have an all mail ballot election. As used in the Mail Ballot Election Act [1-23-1 to 1-23-7 NMSA 1978], "local government" means any county, school district or incorporated municipality.

Notwithstanding any other provision of law and regardless of the number of eligible voters within its boundaries, a local government may, by resolution of its governing body, conduct by all-mailed ballot any bond election, any election on the imposition of a mill levy or a property tax rate for a specified purpose or any special election at which no candidates are to be nominated for or elected to office.

NMSA 1978, § 1-23-3

Notwithstanding the provisions of Section 1-1-11 NMSA 1978, a board of county commissioners may designate a precinct as a mail ballot election precinct if, upon a written request of the county

C5. Please list each of the situations that require a provisional ballot in your state. Please provide the relevant legal citation for each situation.

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

A person shall be permitted to vote on a provisional paper ballot even though the person's original certificate of registration cannot be found in the county register or even if the person's name does not appear on the signature roster, provided:
(1) the person's residence is within the boundaries of the county in which the person offers to vote;
(2) the person's name is not on the list of persons submitting absentee ballots; and
(3) the person executes a statement swearing or affirming to the best of the person's knowledge that the person is a qualified elector, is currently registered and eligible to vote in that county and has not cast a ballot or voted in that election.

A voter shall vote on a provisional paper ballot if the voter:
(1) has not previously voted in a general election in New Mexico or has been purged from the voter list;
(2) registered to vote by mail;
(3) did not submit the physical form of the required voter identification with the certificate of registration form; and
(4) does not present to the election judge a physical form of the required voter identification.

2016 Response:

C6. Does your state count provisional ballots of voters who are registered in different precincts, or are those ballots automatically rejected? Please describe the process used by local election officials in determining whether to count a provisional ballot.

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

When counting provisional paper ballots, votes shall be counted for only those positions or measures for which the voter was eligible to vote in the precinct where the ballot was cast.

NMAC 1.10.22.9 (N)

2016 Response:

C7. Please describe your state's laws regarding post-election audits, if any. A post-election audit refers to hand-counting votes on paper records and comparing those counts to the corresponding vote counts originally reported, as a check on the accuracy of election results, and resolving discrepancies using accurate hand counts of the paper records as the benchmark.

If your state has post-election auditing, consider including in your response information such as the unit being audited (e.g., precincts, machines); the sampling method (e.g., fixed percentages); whether there is a specific trigger for the audit; the location of the random selection (e.g., state, county); and the races that can be audited.

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

A post-election voting system check shall be conducted after each statewide general election.

The Secretary of State is required to contract with an auditor who will select a random sample of precincts. The auditor shall select precincts starting with the statewide office with the largest winning margin and ending with the precincts for the statewide office with the smallest winning margin, in the same manner, select precinct from each congressional district. The number of precincts required as defined in statute is dependent upon the percent margin and if the winning margin is greater than 15% than a voting system for that election is not required.

The audit will then be conducted by the county and results reported to the auditor and state. The audit requires a hand count of ballots to be compared to the tabulated result.

NMSA 1978, §1-14-13.2

2016 Response:

C8. Please describe any state requirements for poll worker training.

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

State law requires county clerks to conduct precinct worker training before every statewide election.

NMSA 1978, §1-2-17

2016 Response:

SECTION D: ELECTION DAY ACTIVITIES

D1. Please describe your state's process for capturing "over-vote" and "under-vote" counts.

☐ **No Change since 2014** ☒ **Changed since 2014**

2014 Response:

The tabulator behavioral setting is set such that the voter will be notified of an overvote and provided the option to return the ballot, spoil it, and vote a new ballot or they may choose to continue to vote the ballot in which case the overvoted contest(s) would not be counted in the vote tally.

Under voted contests are allowed by the tabulator with no special notification to the voter.

2016 Response:

D2. What identification does your state require from voters in the following situations:

a. registering to vote;

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

A qualified elector may apply for registration by mail, in the office of the secretary of state or county clerk or with a registration agent or officer. If the form is submitted by mail by the applicant and the applicant is registering for the first time in New Mexico, the applicant must submit with the form a copy of:
1) a current and valid photo identification; or
2) a current utility bill, bank statement, government check, paycheck, student identification card or other government document, including identification issued by an Indian nation, tribe or pueblo, that shows the name and current address of the applicant; and
If the applicant does not submit the required identification, the applicant will be required to do so when voting in person or absentee; and a statement requiring the applicant to swear or affirm that the information supplied by the applicant is true

2016 Response:

b. casting an in-person ballot;

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

As used in the Election Code, "required voter identification" means any of the following forms of identification as chosen by the voter:
A. a physical form of identification, which may be:
(1) an original or copy of a current and valid photo identification with or without an address, which address is not required to match the voter's certificate of registration; or
(2) an original or copy of a utility bill, bank statement, government check, paycheck, student identification card or other government document, including identification issued by an Indian nation, tribe or pueblo, that shows the name and address of the person, the address of which is not required to match the voter's certificate of registration; or
B. a verbal or written statement by the voter of the voter's name, registration address and year of birth; provided, however, that the statement of the voter's name need not contain the voter's middle initial or suffix.

§ 1-1-24. Required voter identification

2016 Response:

c. casting a mail-in or absentee vote;

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

For first time New Mexico voters who registered by mail, the NVRA identification is required.

As used in the Election Code, "required voter identification" means any of the following forms of identification as chosen by the voter:

A. a physical form of identification, which may be:
(1) an original or copy of a current and valid photo identification with or without an address, which address is not required to match the voter's certificate of registration; or
(2) an original or copy of a utility bill, bank statement, government check, paycheck, student identification card or other government document, including identification issued by an Indian nation, tribe or pueblo, that shows the name and address of the person, the address of which is not required to match the voter's certificate of registration; or
B. a verbal or written statement by the voter of the voter's name, registration address and year of birth; provided, however, that the statement of the voter's name need not contain the voter's middle initial or suffix.

2016 Response:

d. casting a ballot under UOCAVA;

☐ **No Change since 2014** ☒ **Changed since 2014**

2014 Response:	2016 Response:
The identification requirements for UOCAVA voters are the same as for other voters.	None

e. any other stage in registration or voting process in which identification is required (please specify).

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:	2016 Response:
New Mexico does not have an identification requirement other than voters who register by mail.	

D3. Please describe your state's laws regarding access to the polling place for election observers. Election observers are people allowed inside the polling place who are not poll workers, election officials or voters. If decisions on access to observers are left to local jurisdictions, please explain.

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

In order to observe what is occurring at individual precincts, it is required to have a written request from the organization that specifies the polling locations that will be observed, and the names of the persons who will be observing. The State law also limits the number of watchers from any organization to one per polling place. This includes the "absent voter precinct" (for early voting and mail ballots). In addition, to observe the canvassing of the votes in any counties, a similar request will need to be made.

NMSA 1978, §1.2.30
NMSA 1978, §1.2.31
NMSA 1978, §1.2.32

2016 Response:

State law allows for challengers and county canvass observers are appointed by the county political parties and names are submitted to the county clerks. Section 1-2-21, NMSA 1978.

Watchers may be appointed by election related organizations or any group of three candidates. Watchers must register with the Secretary of State prior to the election. Section 1-2-27, NMSA 1978

SECTION E: OTHER

E1. Under HAVA, Section 402, states are required to establish and maintain administrative complaint procedures to remedy grievances. Has your state revised its administrative complaint procedures since they were first implemented? If so, how?

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

Administrative complaints procedures are mandated. The secretary of state shall adopt rules for an administrative procedure for hearing complaints on violations of the provisions of Title III of the federal Help America Vote Act of 2002 [42 U.S.C. § 15481 et seq.], including provisions related to voting system standards, provisional voting procedures, voter registration procedures and operational standards of the statewide voter registration system. A person who determines that there is a violation or that a violation is about to occur pursuant to this section may file a complaint with the secretary of state. Complaints may be consolidated by the secretary. Complaints shall be in writing, signed and

2016 Response:

The administrative complaint procedures has not been amended since its adoption in 2004.

E2. Please add any additional comments or information about your state's election administration processes that would help to inform the EAC's interpretation of your data.

☐ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

N/A

2016 Response:

* The information collection associated with the Election Administration and Voting Survey is required for the EAC to meet its statutory requirements under the Help America Vote Act (HAVA) of 2002 (42 U.S.C. 15301), the National Voter Registration Act (NVRA) (42 U.S.C. 1973gg-1 et seq.), and the Uniformed and Overseas Citizens Absentee Voters Act (UOCAVA) (42 U.S.C. 1973ff-1). Respondent's obligation to reply to this information collection is mandatory as required under NVRA (42 U.S.C. 1973gg-1 et seq.) and UOCAVA (42 U.S.C. 1973ff-1). This part of the information collection is being requested to help the EAC to better understand state laws governing Federal elections. Respondents include the fifty states, the District of Columbia, and the U.S. Territories. This information will be made publicly available on the EAC website (www.eac.gov). According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is OMB Control No. 3265-0006 (expires 04/30/2017). The time required to complete this information collection is estimated to average 59 hours per state response. This estimate includes the time for reviewing the instructions, gathering information, and completing the form. Comments regarding this burden estimate should be sent the U.S. Election Assistance Commission – 2014 Election Administration and Voting Survey, 1335 East West Highway, Suite 4300, Silver Spring MD, 20910.

NOTES – please place longer responses below

Please delete/remove the attached appendix. Thank you.

C4. Yes, a local government may elect to have an all mail ballot election. As used in the Mail Ballot Election Act [1-23-1 to 1-23-7 NMSA 1978], "local government" means any county, school district or incorporated municipality. Pursuant to Section 1-23-3, NMSA 1978, notwithstanding any other provision of law and regardless of the number of eligible voters within its boundaries, a local government may, by resolution of its governing body, conduct by all-mailed ballot any bond election, any election on the imposition of a mill levy or a property tax rate for a specified purpose or any special election at which no candidates are to be nominated for or elected to office. Pursuant to Section 1-6-22.1, NMSA 1978, states:

A. Notwithstanding the provisions of Section 1-1-11 NMSA 1978, a board of county commissioners may designate a precinct as a mail ballot election precinct if, upon a written request of the county clerk, it finds that the precinct has fewer than fifty voters and the nearest polling place for an adjoining precinct is more than thirty miles driving distance from the polling place designated for the precinct in question.

B. If a precinct is designated a mail ballot election precinct, in addition to the notice required pursuant to Section 1-3-8 NMSA 1978, the county clerk shall notify by registered mail all voters in that precinct at least forty days before an election that each voter will be sent an absentee ballot twenty-eight days before the election and that there will be no polling place for the precinct on election day. The county clerk shall include in the notice a card informing the voter that if the voter does not want to receive an absentee ballot, the voter should return the card before the date the county clerk is scheduled to mail out absentee ballots. The card shall also inform the voter that a voting system equipped for persons with disabilities will be available at all early voting sites before election day and in the office of the county clerk on election day in case the voter prefers to vote in person and not by mail. C. The county clerk shall mail each voter in the mail ballot election precinct an absentee ballot on the twenty-eighth day before an election, unless the voter has requested otherwise, along with a notice that there will be no polling place in that precinct on election day.

D. The county clerk shall keep a sufficient number of ballots from a mail ballot election precinct such that if a voter from that precinct does not receive an absentee ballot before election day, the voter may vote on an absentee ballot in the office of the county clerk on election day in lieu of voting on the missing ballot.

E1. Pursuant to Section 1-2-2.1, NMSA 1978, the Administrative complaints procedures are mandated. The secretary of state shall adopt rules for an administrative procedure for hearing complaints on violations of the provisions of Title III of the federal Help America Vote Act of 2002 [42 U.S.C. § 15481 et seq.], including provisions related to voting system standards, provisional voting procedures, voter registration procedures and operational standards of the statewide voter registration system. A person who determines that there is a violation or that a violation is about to occur pursuant to this section may file a complaint with the secretary of state. Complaints may be consolidated by the secretary. Complaints shall be in writing, signed and sworn by the person filing the complaint and notarized. The hearing shall be on the record if the complainant requests. If the hearing officer determines that there is a violation, an appropriate remedy shall be provided. If there is no violation, the complaint shall be dismissed and the results of the hearing made available to the public. A final decision shall be made within ninety days of the filing of the complaint unless the complainant consents to extending the deadline. If the deadline is not met, the complaint shall be resolved within sixty days through alternative dispute resolution procedures established pursuant to the Governmental Dispute Resolution Act [12-8A-1 to 12-8A-5 NMSA 1978]. Records and materials from the hearing shall be available for use in an alternative dispute resolution procedure.

Attached , please review NMAC 1.10.18, Administrative Complaint Procedure. This administrative rule was promulgated to implement a procedure for hearing complaints on violations of Title III of the Help America Vote Act of 2002, including provisions relating to voting system standards, provisional voting procedures, voter registration procedures and operational standards of the statewide voter registration system in New Mexico.