

## VOTER PROTECTION 2006 POLL CHALLENGERS / ALTERNATES

### QUALIFICATIONS<sup>1</sup>

- One challenger; one alternate for each precinct
- Appointed in writing (usually by county chair)
- Registered voter of any precinct in the county
- No law enforcement, candidates (or spouses/children)

### RIGHTS / PERMITTED ACTIVITIES<sup>2</sup>

- Be present at polls from time the poll workers arrive (6:00a.m.) until all counting and tallying of ballots is completed and the polling place closes (after 7:00 p.m.)
- For the purpose of making challenges:
  1. *Inspect* (not handle) the registration book or signature rosters to decide whether to challenge
  2. *Inspect* (not handle) the pollbooks, register book or signature rosters to determine whether entries are being made in accordance with the Election Code. [*very important function!*]
  3. See that the voting machine is ready for voting when the polls open and confirm that the voting machine printout shows "0" votes.<sup>3</sup>
  4. Inspect the ballot for accuracy to ensure the correct candidates are listed for the correct races.  
[NOTE: The *basic principle is that Challengers/alternates are entitled to access sufficient to ensure that proper procedures are being followed.*]
  5. Make and preserve written memos of any act or omission on the part of any member of the precinct board (Presiding Judge; Judge; Clerk) [*Cell phone calls should be made in a manner which does not in any way disrupt the polls.*]

### DUTIES<sup>4</sup>

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<sup>1</sup> New Mexico Statutes Annotated (1978)/ Election Handbook of the State of New Mexico (2005 Ed.) §§ 1-2-21 and 1-2-22. Every effort has been made to ensure that this informal guide follows the law, current as of August 2006. In the event of conflict, follow the law.

<sup>2</sup> Section 1-2-23.

<sup>3</sup> Items 3 and 4 are not covered in the Election Code which was written for electronic voting machines.

Wording provided by Doña Ana County Elections Supervisor Lynn Ellins on 23 Aug 06.

<sup>4</sup> Sections 1-2-24 and 1-2-25.

- Present written appointment as Democratic Challenger / Alternate to the Presiding Judge at the polling place
- Wear identification badges at all times in the polling place (To be provided by the Presiding Judge at the polling place?)
- Not wear any other form of identification, party or candidate pins
- Not perform any duty of any precinct board member
- Not *handle* ballots, pollbooks, signature rosters or voting machines [INSPECT (Look), as permitted under rights/permitted above, but don't touch!]
- Not take any part in the tallying or counting of the ballots
- Not be in the room where the voting is actually taking place while another Democratic challenger/alternate is present (being with poll watchers is ok)
- Not interfere with "the orderly conduct of the election"

### CHALLENGES TO VOTERS<sup>5</sup>

The *only* reasons a member of the Precinct Board, Challenger, or Alternate may challenge are:

- The person presenting himself to vote is not registered
- The person presenting himself is on the purge list placed with the signature roster
- The person is on the list of persons in that precinct from whom an absentee ballot has already been received (already voted absentee)
- The person presenting himself to vote is improperly registered because s/he is not a qualified elector

[NOTE: This is the most likely reason to be given for frivolous challenges actually designed to intimidate voters in line and bog down the voting process. Do Not Permit frivolous challenges based on attempts to require other/additional voter identification than required under the Help America Vote Act for those few first-time voters identified by "ID" on the signature roster (photo ID is required) or under New Mexico law, section 1-1-24 (see last page) for most voters – voter gets to chose whether to give verbal identification of name, year of birth and last four digits of Social Security number or any of several forms of written/physical identification, none of which require that the address on the ID be the same as on the signature roster

- In the case of an absentee ballot, the official outer envelope of the absentee voter has been opened prior to the counting of the ballots.

### RESOLUTION OF CHALLENGES<sup>6</sup>

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<sup>5</sup> Section 1-12-20.

- Once a challenge is made, the election clerk shall enter “CHALLENGED” under the notations headings in the signature rosters (*sic* should be signature roster and checklist of registered voters?)
- The presiding Judge and the two election judges discuss and vote whether to affirm or deny the challenge
- If the challenge is unanimously affirmed by the three judges:
  1. the person still is furnished a paper ballot and allowed to mark it
  2. the ballot is returned to the Presiding Judge who shall announce the voter’s name, audibly
  3. the Presiding Judge shall, in the voter’s presence, place the ballot in an envelope marked “Rejected”
  4. the Presiding Judge shall seal the envelope and write the voter’s name on it
  5. the Presiding Judge shall deposit the envelope containing the rejected ballot in the ballot box – and the ballot shall not be counted
  6. The Election Clerks shall enter the voter’s name on the signature roster [*sic* should be checklist of registered voters?] to be sent to the Secretary of State
  7. The voter shall sign his/her name in the other signature roster.
  8. “Affirmed” and the number of the paper ballot shall be written opposite the voter’s name under the “Challenged” notation in both rosters
- If the challenge is not unanimously affirmed:
  1. the voter shall be allowed to vote (in the same manner as other voters)
  2. the Election Clerks shall enter “Not Affirmed” under the “Challenged” notation after the voter’s name in the signature roster and the checklist of registered voters.

## PENALTIES<sup>7</sup>

***Because the Presiding Judge is charged with the authority and responsibility to preserve order in the polling place,<sup>8</sup> he/she arguably can exclude anyone disrupting the election process. However, exclusion or the threat of it can NOT be used to deny a challenger/alternate his/her rights permitted duties under the law:***

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<sup>6</sup> Sections 1-12-21 and 1-12-22.

<sup>7</sup> Section 1-2-26

<sup>8</sup> Section 1-12-4

The act of denying a challenger/alternate, who has presented his/her written appointment to the Precinct Board, the right to be present at the polling place, to challenge voters, or to inspect the registration books, signature rosters or pollbooks – or the right to witness the counting and tallying of ballots is a petty misdemeanor.

**[REPORT ANY SUCH CONFLICTS IMMEDIATELY!]**

**Date:**

**Time:**

**Precinct:**

**Polling location:**

**Presiding Judge:**

**Other Judges/witnesses:**

**SPECIFIC PROBLEM (AND ACTIONS TAKEN):**

**QUESTIONS?? PROBLEMS??**

**CALL Doña Ana County Clerk's Office, Bureau of Elections**

**AT: (505) \_To Be Determined\_\_\_\_\_**

**THEN CALL \_Democratic Party of DAC Voter protection\_\_**

**AT: (505) \_\_\_TBD\_\_\_\_\_**