

**STATE OF NEW MEXICO
SUBSTITUTE JOINT POWERS AGREEMENT
FOR SHARED JURISDICTION UNDER THE VOTER ACTION ACT
BETWEEN
THE NEW MEXICO STATE ETHICS COMMISSION
AND
THE NEW MEXICO SECRETARY OF STATE**

THIS AMENDMENT NO. 1 is made and entered into by and between the New Mexico State Ethics Commission and the New Mexico Secretary of State.

WHEREAS, the parties previously entered a joint agreements agreement for shared jurisdiction for the Voter Action Act, NMSA 1978, §§ 1-19A-1 through -17 (2003, as amended 2021), effective December 20, 2019;

WHEREAS, Section IX thereof provides that the original Agreement shall not be amended except by written instrument executed by the parties; and

WHEREAS, after the enactment of Laws 2021, Chapter 109, the parties now agree that it is in their mutual interest to amend their previously made agreement,

NOW, THEREFORE, THE PARTIES DO AGREE TO AMEND their previous agreement by this Amendment No. 1 as follows:

1. Section I and Section II of the original agreement are deleted and are replaced with the language of Section I and Section II as contained within Exhibit 1 attached hereto.
2. All other terms and conditions of the parties' original agreement remain the same.
3. This Amendment No. 1 shall not become effective until approved by the Secretary of the New Mexico Department of Finance and Administration.

IN WITNESS WEREOF, the parties have executed this JPA which becomes effective as of the date of approval by the Department of Finance and Administration.

By: Maggie Toulouse Oliver
Maggie Toulouse Oliver
Secretary of State

Date: 8/17/2021

By: Jeremy D. Farris
Jeremy D. Farris
State Ethics Commission, Executive Director

Date: 8/17/2021

APPROVED:

Department of Finance and Administration

DocuSigned by:

Deborah K Romero

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Debbie Romero, Cabinet Secretary

Date: 8/30/2021

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NOW, THEREFORE, the Parties agree as follows:

I. DEFINITIONS: The following terms are defined as follows:

- A. Complainant: a person who files a written complaint alleging a violation of the Voter Action Act;
- B. Respondent: a person against whom a complaint alleging a violation of the Voter Action Act has been filed;
- C. Internal Compliance Violation: a violation of the Voter Action Act that the SOS identifies through its administration of the Voter Action Act and not through the filing or referral of an external complaint;
- D. External Complaint: a complaint alleging a violation of the Voter Action Act, which is not generated by the SOS and is filed by the Complainant. External complaints do not include appeals made pursuant to NMSA 1978, Section 1-19A-16.

II. PARTIES' SHARED JURISDICTION. The Parties' shared jurisdiction to investigate, adjudicate, and enforce the provisions of the Financial Disclosure Act will be administered according to the following provisions:

- A. External complaints filed with the SOS: Where an external complaint alleging a Voter Action Act violation is filed with the SOS, but not with the SEC, the following procedures will apply:
 - 1. If the SOS receives any written complaint alleging a violation of the Voter Action Act that is not also received by the SEC, the SOS shall review the complaint and, if the SOS perceives a violation of the Act, attempt to achieve voluntary compliance. In attempting to achieve voluntary compliance:
 - a. The SOS shall provide the respondent with ten days' notice either to correct the matter or to respond.
 - b. The SOS may extend the response deadline for good cause shown.

- c. A failure to either correct the matter or to respond is a failure to come into voluntary compliance with the Voter Action Act.
 - d. A respondent achieves voluntary compliance if they correct the matter the SOS's satisfaction.
 2. If the SOS achieves voluntary compliance, then the SOS will not refer the complaint to the SEC.
 3. If the SOS does not achieve voluntary compliance, the SOS will certify that it was not able to achieve voluntary compliance and will refer the complaint and any response received to the SEC, pursuant to Subsection 1-19A-15.1(B).
 4. Upon receiving a complaint referred from the SOS, a notice from the SOS that the SOS was unable to achieve voluntary compliance, and any other related materials, the SEC may:
 - a. Proceed with the complaint pursuant to the terms of the State Ethics Commission Act and the SEC's rules of procedure; or
 - b. Pursue a civil enforcement action in state district court pursuant Sections 10-16A-8(B) and 10-16G-9(F).
- B. External complaints filed with the SEC Where an external complaint alleging a Voter Action Act violation is filed with the SEC, but not with the SOS, the SEC will not refer the complaint to the SOS and will proceed with the complaint pursuant to the terms of the State Ethics Commission Act and the SEC's rules of procedure.
- C. Internal compliance violations. Where either the SEC or the SOS identifies an internal compliance violation, the following procedures will apply:
 1. The SOS shall notify the person responsible for the internal compliance violation and provide the person ten days to correct the matter.
 2. If a person responsible for the internal compliance violation does not correct the matter within ten days of receiving a notice from the SOS, the SOS shall notify the SEC and transmit to the SEC any documents related to the internal compliance violation.
 3. After receiving notification from the SOS, the SEC:

- a. shall notify the person of the violation; and
 - b. may either initiate a complaint under the terms of the State Ethics Commission Act and the SEC's rules of procedure or pursue a civil enforcement action in state district court pursuant to Subsection 10-16G-9(F).

- D. Appeals of SOS certification decisions under Section 1-19A-16: If the SEC receives any complaint, filing, or submission that the SEC interprets as an appeal pursuant to Section 1-19A-16 of an SOS certification decision or a decision regarding the distribution of matching funds, then the SEC shall promptly forward that appeal to the SOS. If the SOS revokes a candidate's certification or concludes, pursuant to Subsection 1-19A-16D) that an appeal was made frivolously or to result in delay or hardship, and, consequent to that conclusion, sanctions the moving party by requiring the party to pay costs of the administrative hearing, the court hearing and the opposing parties, and where the sanctioned party does not comply with the SOS-imposed sanction, then the SOS may refer the matter to the SEC for potential civil enforcement pursuant to Subsection 10-16G-9(F).

- E. Concurrent Jurisdiction: To facilitate concurrent jurisdiction over complaints that are separately or contemporaneously filed with the Parties, or to review internal compliance violations, the SEC and the SOS will confer at least monthly to review the list of complaints forwarded by the SOS to the SEC and those complaints jointly received by both Parties.