

New Rule Q&A

(revised rule 18.19.5.12 NMAC, effective July 31, 2009)

Please note:

All references in this Q&A to drivers' licenses or DLs refer to non-commercial drivers' licenses and permits, not to CDLs.

All references to ID refer to the "regular" ID, not the new Alternative Identification Card.

Note, too, that the documentation requirements of the revised rule are:

- now exactly the same for IDs as for permits and DLs; and
- apply to all new applications but not to renewals, for which no documentation is generally required.

General Questions and Answers

Q: Are the documentation requirements now the same for regular IDs as for non-commercial Drivers' Licenses and permits?

A: Yes.

Q: Are any documents required for routine renewals of Drivers' Licenses and IDs?

A: No.

Q: What documents are required when a customer who has a regular (not Alternative) New Mexico ID applies for a driver's license?

- A: 1) If the ID was issued before October 1, 2007, the same documentation will be required as for any other new DL application. The ID card may be used as the required proof of the applicant's identity.
- 2) If the ID was issued on or after October 1, 2007, the same proof of identification number, identity and New Mexico residency was required as for a driver's license, so no new documentation should be required for issuance of a DL.

Q: If an applicant has a state issued instruction permit and is now applying for a provisional license, must the applicant submit new proof of identification number, identity and New Mexico residency?

A: No. We accept exchange of a state-issued permit for a provisional license, or of a provisional for a regular, non-commercial license, as a renewal that does not require new documentation of identification number, identity and residency.

Q: Must we require new proof of identification number, identity and New Mexico residency from an individual who has a New Mexico (or other) driver's license, permit or ID card that expired more than a year ago?

A: Yes. The rule is clear that a license, permit or ID is only acceptable "as long as it has not been expired more than one year."

Questions and Answers re Proof of Identification Number and Identity

Q: A "Social Security Number Verification" printout available from the Social Security Administration (SSA) states affirmatively that a particular SSN is assigned to a particular individual. May we accept the verification printout instead of a Social Security card, as the only document required for proof of identification number, if the number is also verified by SSOLV?

A: Yes.

- Q: How many documents must an individual who is not eligible for a Social Security number produce as proof of identification number?
- A: One – a Matricula Consular or passport, as described in the chart, or an ITIN accompanied by a Matricula Consular or passport.
- Q: A customer has a current New Mexico ID card, with a created social security number, and wants to renew the ID or apply for a driver's license. Must the customer now provide proof of Social Security number?
- A: Yes. We will no longer issue regular ID Cards without a SSN except to a foreign national who presents a current, valid passport or Matricula Consular, or an ITIN accompanied by a Matricula Consular or passport.
- Q: Can we accept a current visa, authorizing a foreign national to travel to the United States, as proof of identification number or identity?
- A: Yes, as long as it has a photograph of the applicant, the visa would qualify as an identification card issued by the U.S. government.
- Q: Does a W-2 Form qualify as a statement from a federally regulated financial institution for proof of Social Security number?
- A: No. A W-2 Form is an income statement from an employer. It is not a statement from a federally regulated financial institution (i.e. a bank or insurance company). Even if the employer was a bank, the W-2 would not qualify, because the employer produces the statement as an employer, not as a financial institution.
- Q: A notarized English translation is required for a (other than English language) foreign birth certificate. If we have agents who are able to read Spanish, must we still require a notarized English translation of a Spanish-language birth certificate?
- A: Yes.
- Q: Can the translator and the notary public who notarizes the translation be the same person?
- A: No. It may be useful to refer to the Secretary of State's web pages for New Mexico notaries at <http://www.sos.state.nm.us/sos-notary.html> . It is specifically stated there that, "Notaries should not notarize documents on which they are a signer or in which they are named," and that, "A notary cannot notarize his own signature."
- Q: Does the notarized English translation of a foreign birth certificate have to be a full and complete translation, or may it include only the pertinent details?
- A: We cannot accept any translation that is not full and complete. It is not up to the customer, translator or MVD agent to determine what details are important.
- Q: Can we accept an "abstract" or "abstract translation" of a foreign birth certificate?
- A: No. The rule requires that the birth certificate be translated into English and notarized. In order to allow an abstract, we would need to amend the regulation allowing an abstract and then also defining what the abstract must contain.
- Q: Can you be clearer as to what constitutes a "full and complete" translation of a birth certificate?
- A: Yes. The presence and location of seals should be noted, as should all signatures, but the seals themselves need not be translated. All other language on the certificate must be translated.
- Q: To be acceptable as proof of identification number, must a foreign passport be stamped to show legal entry into the United States?
- A: No. Any current, valid passport is acceptable. We do not require proof of legal entry into the U.S.
- Q: Can we accept a hospital-issued birth record instead of a birth certificate?
- A: No. A hospital birth record is not a birth certificate.
- Q: Can we accept a form FS-240 Report of Birth Abroad as proof of identity?

- A: Yes. The FS-240 report is acceptable, as are similar reports numbered FS-545 and DS-1350, if they are in English or translated into English.
- Q: Customer has lost his DL and needs a replacement. Does he need to bring in his Social Security card to verify his SSN? We've been requiring proof of residency – what about that?
- A: As long as we can verify the individual's identity by looking at the EDL photo in his MVD 2.0 record, he doesn't have to bring in anything at all - not proof of residency, not SS card, no documentation at all.
- Q: Are we allowed any flexibility in determining what documents can be accepted as proof of identification number and identity?
- A: No. For proof of identification number and identity, MVD agents are directed to accept only those specific documents that are authorized by rule (18.19.5.12 NMASC), as revised effective July 31, 2009; in the chart that has been provided, with any future updates; in PQUs; and/or in the Driver Procedures Manual, including this Q&A.

Questions and Answers re Proof of New Mexico Residency

- Q: How recent do documents have to be to be acceptable as proof of residency?
- A: Residency documents must be no more than three months old.
- Q: Can two documents be used from the same source (e.g. the same utility or community agency) to satisfy the requirement for two proofs of New Mexico residency?
- A: No.
- Q: Can a lease and an Affidavit of Residency signed by the lessor be used to satisfy the requirement for two proofs of New Mexico residency?
- A: No.
- Q: Can we still use a marriage license with (otherwise acceptable) documents in the name of the applicant's spouse as proof of residency?
- A: Yes.
- Q: We may now accept documents from community and governmental organizations "attesting to the fact that the applicant is a NM resident." Does that mean any document that includes the applicant's name and physical residence address?
- A: No. To attest to the applicant's NM residency a document must make a positive statement to that effect – e.g. "Applicant's physical residence address is 123 Anyroad, Anytown, NM 8xxxx." Such a statement is commonly available, for example, from a county clerk or assessor for an applicant whose mailing address is a postal rural route and box number.
- Q: Is a Voter Identification card issued by the New Mexico Secretary of State, or a Wildlife Conservation License issued by the NM Department of Game and Fish, acceptable as proof of New Mexico residency?
- A: No. Neither is included on the list of acceptable documents, and neither "attests" to the residence address of the applicant.
- Q: Applicant has an envelope mailed to him at his residence address by a community or government organization, a utility or some other organization. Can the envelope be accepted as proof of NM residency?
- A: No.
- Q: Why can't we accept cell phone bills?
- A: Because the rule is very clear and very specific that a cell phone bill is not acceptable.
- Q: Can we use a print out from a utility or from a bank?

A: Is the "printout" a utility bill or a bank statement? If so, yes. If not, no.

Q: What is a bank statement?

A: A bank statement is the (usually) monthly statement that comes to an account holder from a bank as hardcopy either by mail or electronically via the internet. It is a regular, periodic statement of the account information, including beginning and ending balance and all transactions over a period of time (usually one month). It is not a computer screen printout of new account information or history or a statement on bank letterhead verifying the existence of an account.

Q: What is required as "proof of a minor child enrolled in a New Mexico public, private, or tribal school"?

A: Proof of enrollment generally consists of an affirmative statement, in the form of a letter or standard form issued by the school, that the individual is enrolled on a full-time basis for the current academic period (usually school year, semester or trimester).

Q: Can such proof of enrollment be used as proof of NM residency for the parent as well as for the child?

A: Yes, if the parent's name (as well as the child's name) and the residence address are included on the proof of enrollment document.

Q: Is an official school or college transcript, signed and dated by the registrar's office, acceptable as proof of enrollment?

A: No. Not unless it clearly states that the student's enrollment is both current and full-time. Transcripts generally present a past record of courses taken and are not affirmations of current enrollment.

Q: Is a school ID card (with or without photo) issued by a local school acceptable as proof of identity or residence?

A: No. Nor can it be accepted as proof of current enrollment.

Q: Can a parent-guardian Affidavit of Residency be used as one proof of New Mexico residency for an individual who is age 18 or older?

A: No.

Q: If a customer has a New Mexico ID that was issued before October 1, 2007, and is applying for a permit, can the ID be accepted as one proof of residence?

A: No. The rule specifically allows an ID card to be used as proof of identity, but does not include an ID on the list of documents that we accept as proof of residency. Remember, though, that if the ID was issued on or after 10/1/07, no proof of identification number, identity or New Mexico residency is required.

Q: If an individual acting as parent or guardian with regard to a child's application for a permit, DL or ID has a different last name from the child, should we require proof of parenthood or guardianship?

A: No. The individual's affirmation of parenthood or guardianship on the Affidavit of New Mexico Residency is sufficient.

Q: When can we accept the notarized friend-relative-employer-other Affidavit of Residency as proof of New Mexico residency?

A: The friend-relative-employer-other Affidavit of Residency is deliberately flexible. It can be accepted as one of two required proofs of New Mexico residency for anyone whose living situation makes it appropriate and useful. It is not in any way age-specific. Some examples: a ranch hand living in employer-provided quarters; a victim of domestic abuse living in a shelter; an adult child living at home; a recently relocated individual living with a friend until he gets established in more permanent quarters.

- Q: With regard to the friend-relative-employer-other Affidavit of New Mexico Residency and other MVD documents that require notarization, can we allow the agents or an MVD employee to witness the signature instead of a Notary?
- A: **NO!** A Notary Public is a public servant specifically authorized by the state to witness the signing of important documents. Documents are notarized to deter fraud and to ensure they are properly executed. An MVD agent witnessing a signature is NOT the same as (or as good as) a notarized signature.
- Q: Are we allowed any flexibility in determining what documents can be accepted as proof of New Mexico residency?
- A: No. Exceptions to the residency documents rules can only be made by the MVD Director's Office (Mike Sandoval, Paul Montoya, Alicia Ortiz or Raul Alvarez).
- Q: Are there other exceptions available to a field office manager who is convinced that the customer and all documents presented are legitimate, when there is a strong and reasonable argument that additional, acceptable documents are not available.
- A: As noted above, exceptions to the residency documents rules can only be made by the MVD Director's Office. However, if a field office manager or supervisor is convinced that an exception should be made in a particular situation, he or she may ask the Bureau Chief to seek approval from the Director's Office (Mike Sandoval, Paul Montoya, Alicia Ortiz or Raul Alvarez). If such approval is given, field office staff must thoroughly document the basis for the exception, the date and time, and by whom it was approved.
- Q: Are photocopies of residency documents acceptable?
- A: No. All documents must be original. However, there are two exceptions - MVD will accept copies that are certified or sent directly to MVD by the agency that issues or holds the documentation.