



STATE OF NEW MEXICO
MAGGIE TOULOUSE OLIVER
SECRETARY OF STATE

January 2, 2025

The Honorable Michelle Lujan Grisham
Governor of New Mexico
State Capitol, Room 400
Santa Fe, NM 87501

Dear Governor Lujan Grisham:

In response to your letter of December 31, 2024, regarding former Representative Harry Garcia's residency for purposes of consideration for an appointment to fill a vacancy in House District 6, it is the Secretary of State's view that the law on residency for purposes of holding office is clear in New Mexico. As noted in your letter, NMSA Section 1-1-7.1 states, "For the purpose of determining the residence of a person desiring to be a candidate for the nomination or election to an office under the provisions of the Election Code [Chapter 1 NMSA 1978] or for the purpose of determining the residence of any signer of a petition required by the Election Code, **permanent residence shall be resolved in favor of that place shown on the person's certificate of registration as his permanent residence, provided the person resides on the premises.**" Mr. Garcia's permanent residence is determined by the address listed on his voter registration, which he has signed under sworn attestation (see attached). NMSA 1978 Sec. 1-20-3.C provides that falsifying any information on the certificate of registration constitutes a fourth degree felony.

In *Apodaca v. Chavez*, 1990-NMSC-028, after recognizing that a person may have more than one residence, (a city home, a ranch home, a summer home, for example), the New Mexico Supreme Court stated "In deciding whether a candidate for political office qualifies under applicable residency requirements, the pivotal question remains....:

Does the candidate actually 'reside' at the place where the candidate registers to vote? In this sense, when we stated in *Williams* that a person may have only one place of residence for voting purposes, (citation omitted), we might have stated more accurately that a person may **register** only one place of residence for voting purposes. The contestant has the burden of showing that the residence relied upon by the candidate as his qualifying residence is a sham, e.g., "nothing less than a deliberate attempt to evade the fundamental eligibility requirements expressly provided by our constitution and statutes." (emphasis added) See *Thompson v. Robinson*, 101 N.M. 703, 705, 688 P.2d 21, 23-24 (1984) (by deceiving voters regarding his actual place of residence the candidate committed a fraud). *Apodaca*, at ¶ 13.



STATE OF NEW MEXICO

MAGGIE TOULOUSE OLIVER

SECRETARY OF STATE

The Secretary of State's office is neither authorized nor equipped to investigate the veracity of the address stated as "where you live now" on the registration form. As noted above, the sworn attestation of the registrant is accepted unless a contestant bears the burden of showing otherwise.

I hope this response sufficiently addresses the matters you raised. If I may be of further service, please let me know. Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Maggie Toulouse Oliver".

Maggie Toulouse Oliver
New Mexico Secretary of State