

**STATE OF NEW MEXICO
COUNTY OF SANDOVAL
THIRTEENTH JUDICIAL DISTRICT COURT**

FILED
13th JUDICIAL DISTRICT COURT
Sandoval County
8/25/2026 4:26 PM
AUDREY GARCIA
CLERK OF THE COURT
Audrey Garcia

**GREGORY BENNETT, individually and as Chair of the
Central Committee of the Democratic Party of Sandoval
County, and MATTHEW WAYNE HERMAN,**

Petitioners,

v.

**ANNE BRADY-ROMERO, in her official capacity as
Sandoval County Clerk,**

Respondent,

and

**MAGGIE TOULOUSE OLIVER, in her official capacity
as New Mexico Secretary of State,**

Interested Party.

D-1329-CV-2026-01887

Perez, Christopher

VERIFIED PETITION FOR WRIT OF MANDAMUS

Petitioners Gregory Bennett and Matthew Wayne Herman, pursuant to NMSA 1978, Sections 44-2-1 to -14 (1884), and Rule 1-065 NMRA, petition this Court for a writ of mandamus commanding Respondent Anne Brady-Romero, Sandoval County Clerk, to place the name of Matthew Wayne Herman on the 2026 general election ballot as the Democratic Party's candidate for New Mexico House of Representatives District 23. Respondent must certify the general election ballot on or before September 4, 2026, and may certify it sooner. Petitioners therefore request expedited consideration. In support, Petitioners state:

I. PARTIES

1. Petitioner Gregory Bennett is a resident of Sandoval County, New Mexico, and a registered voter in New Mexico House of Representatives District 23 ("House District 23").

2. Mr. Bennett is the Chair of the Democratic Party of Sandoval County (“Central Committee”). He brings this Petition individually, as a registered voter of House District 23, and in his capacity as Chair.
3. Petitioner Matthew Wayne Herman is a resident of Sandoval County, New Mexico, a registered voter of Precinct 163 in House District 23, and the person the Central Committee appointed to fill the vacancy.
4. Mr. Bennett’s interest in the performance of the duty described below is particular to him and distinct from that of the public generally. He is the officer of the Central Committee who executed and filed the appointment Respondent has refused to accept, and he is a registered voter of House District 23 who, unless Respondent is compelled to act, will have no candidate of his own party to vote for at the 2026 general election.
5. Mr. Herman’s interest is likewise particular to him. He is the nominee whose name Respondent has refused to place on the general election ballot, and unless Respondent is compelled to act he will be excluded from candidacy for an office for which he is qualified.
6. Each Petitioner is accordingly a party beneficially interested in the performance of that duty within the meaning of NMSA 1978, Section 44-2-5 (1884). *See State ex rel. Coll v. Johnson*, 1999-NMSC-036, 128 N.M. 154, 990 P.2d 1277.
7. Respondent Anne Brady-Romero is the Sandoval County Clerk and is named in her official capacity as the public officer purporting to act in the discharge of her official duties.
8. Interested Party Maggie Toulouse Oliver is the Secretary of State of New Mexico and is named in her official capacity. She is the chief election officer of the state, NMSA 1978, Section 1-2-1(A) (2023), and prescribes the forms used in New Mexico elections, *id.* § 1-2-1(C).

II. JURISDICTION AND VENUE

9. This Court has jurisdiction over this proceeding. N.M. Const. art. VI, § 13; NMSA 1978, Section 44-2-3 (1884); NMSA 1978, Section 44-2-2 (1884).

10. Venue is proper in Sandoval County. Respondent holds office in Sandoval County, and both Petitioners reside in Sandoval County. NMSA 1978, Section 38-3-1(A)(1988).

III. FACTUAL ALLEGATIONS

A. The office, the primary election, and the filing officer

11. The 2026 general election will be held on Tuesday, November 3, 2026.

12. House District 23 lies entirely within the boundaries of Sandoval County. NMSA 1978, Section 2-7F-29 (2021).

13. Respondent is the proper filing officer for candidates for House District 23. NMSA 1978, Section 1-1-5.9(C) (2019).

14. Elise Falanga Taylor received the Democratic Party's nomination for House District 23 at the primary election held June 2, 2026.

B. The vacancy, and Respondent's written notice that it could be filled

15. On August 17, 2026, Ms. Taylor filed with Respondent a signed and notarized Statement of Withdrawal of Candidacy for House District 23. Ex. 1.

16. On August 17, 2026, Respondent confirmed the vacancy to Mr. Bennett and that a replacement candidate could be nominated to fill the resulting vacancy by August 25, 2026. Ex. 2.

17. August 17, 2026 was the seventy-eighth day before the general election.

18. Because the withdrawal was filed at least seventy days before the general election, Ms. Taylor's name will not be printed on the general election ballot. NMSA 1978, Section 1-10-6(D)(1) (2023).

19. The notice concluded: "Upon the timely filing of a valid appointment and all required accompanying documents, NMSA 1978, Section 1-8-8(E) provides that the nominee's name shall be placed on the General Election ballot as the Democratic Party's candidate for New Mexico House of Representatives, District 23." Ex. 2.

C. Respondent's reversal

20. On August 18, 2026, Respondent sent Mr. Bennett a second letter, captioned as a correction to the August 17 notice, stating: "Please disregard the portion of the notice advising that the Democratic Party of Sandoval County may appoint a replacement nominee for House District 23" concluding that because the vacancy arose fewer than ninety days before the general election, "the authority provided in Section 1-8-8(A)(2) for the county political party central committee to fill a vacancy is not applicable to this vacancy." Ex. 3.

21. By August 18, 2026, Ms. Taylor's withdrawal had been filed and could not be undone. Ex. 1.

22. Ms. Taylor's withdrawal created a vacancy in the list of the nominees of the Democratic Party for House District 23.

D. The appointment of Mr. Herman

23. On August 23, 2026, the seventy-second day before the general election, the Central Committee properly voted and appointed Mr. Herman to fill the vacancy. NMSA 1978, Sections 1-8-8(A)(2) and 1-8-8(C) (2023).

24. Pursuant to Section 1-8-8(B), Herman is eligible and legally qualified to hold the office at the beginning of its term. Ex. 5. His record of voter registration shows affiliation with the Democratic Party as of the date of the Secretary of State's general election proclamation, and he has not changed that affiliation since. NMSA 1978, Section 1-8-18(A)(1) (2019); Ex. 5. His record of voter registration shows residence in House District 23 as of that date. Section 1-8-18(A)(2).

E. The filing with Respondent

25. An appointment to fill a vacancy in a party's list of nominees "shall be made and filed with the proper filing officer on or before the seventieth day prior to a general election using the form prescribed by the secretary of state, along with the declaration of candidacy form subscribed and sworn by the selected nominee and the form for candidates pursuant to the Campaign Reporting Act." Section 1-8-8(D); Exs. 4, 5, and 7.

26. Computed as provided in NMSA 1978, Section 12-2A-7 (1997), the seventieth day before the 2026 general election is Tuesday, August 25, 2026, the same date Respondent identified in her August 17 notice. *See Hand v. Winter*, 2017-NMSC-005, ¶ 9, 388 P.3d 651 (computing the filing deadline under Section 1-8-8(D)).

27. On August 24, 2026, the seventy-first day before the general election, Mr. Bennett filed with Respondent the 2026 General Election Party Nomination Vacancy Form. Ex. 4.

28. On August 24, 2026, the seventy-first day before the general election, Mr. Herman filed with Respondent his 2026 General Election Declaration of Candidacy. Ex. 5.

29. The Central Committee appointment and filing of the Declaration of Candidacy was made before the seventieth day before the general election. Section 1-8-8(D).

F. Respondent's refusal

30. On August 24, 2026, Respondent refused to certify Mr. Herman's candidacy and advised him that his "candidacy cannot be certified and your name will not appear on the general election ballot." Ex. 6.

31. The sole ground Respondent gave for the refusal is that "[t]he withdrawal of your party's nominee fewer than ninety days before the general election means there is not a vacancy that can be lawfully filled." Ex. 6.

32. Respondent has raised no objection to the composition of the Central Committee, to the manner in which the appointment was made, to the timeliness or completeness of the filing, or to Mr. Herman's qualifications to hold the office.

G. The ballot deadlines and the absence of any other remedy

33. In a general election, the clerk shall certify "not less than sixty days before the election," and the certified ballot "shall be sent to the ballot printer or other person preparing the ballot for use by voters..." NMSA 1978, Section 1-10-4(B), (H) (2023).

34. The sixtieth day before the 2026 general election is Friday, September 4, 2026.

35. Once the House District 23 ballot is certified and sent to the printer, any remedy will require the correction or reprinting of ballots already prepared, at mounting cost and disruption to the conduct of the election. Absent relief, the ballot will bear the name of a single candidate, the voters of House District 23 will have no choice of candidate, and the identity of their next state representative will be determined without an election.

36. Petitioners have no plain, speedy, and adequate remedy in the ordinary course of law. Section 44-2-5.

IV. CLAIM FOR WRIT OF MANDAMUS

37. A writ of mandamus issues “to compel the performance of a ministerial act or duty that is clear and indisputable,” so long as there is no “plain, speedy and adequate remedy in the ordinary course of law.” *Hand*, 2017-NMSC-005, ¶ 7; *accord State ex rel. Riddle v. Toulouse Oliver*, 2021-NMSC-018, ¶ 23, 487 P.3d 815; NMSA 1978, Sections 44-2-4 and 44-2-5.

38. The Election Code provides: “When the name of a nominee is filed as provided in this section, the name *shall* be placed on the general election ballot as the party’s candidate for that office.” Section 1-8-8(E) (emphasis added).

39. Mr. Herman’s name was filed as provided in Section 1-8-8. Petitioners have a clear legal right to have Mr. Herman’s name placed on the 2026 general election ballot as the Democratic Party’s candidate for House District 23.

40. Respondent has a corresponding clear legal duty, ministerial and not discretionary, to place that name on the ballot. *See Hand*, 2017-NMSC-005, ¶ 7 (the Secretary of State “had a clear and indisputable duty under Section 1-8-8 to place [the appointed nominee] on the general election ballot”).

41. Respondent’s position rests on the premise that Subsection (D) of Section 1-8-8 reaches only appointments made pursuant to Subsection (A). The text does not say so. Subsection (B) applies to “[a]ppointments made pursuant to Subsection A of this section.” Subsection (C) applies to “committee members making the appointment pursuant to Subsection A of this section.” Subsection (D), by contrast, contains no such limitation; it applies to “[a]ppointments to fill vacancies in the list of a party’s nominees.” And Subsection (E) commands placement when a name “is filed as provided in this section,” not as provided in Subsection (A). The Legislature

used the limiting phrase twice and omitted it where Respondent needs it. That omission must be given effect.

42. No provision of the Election Code authorizes a county clerk to refuse to place on the ballot the name of a nominee whose appointment was made and filed within the time Section 1-8-8(D) allows. A candidate's name is omitted on qualification grounds only where "a judicial determination is made that the candidate does not qualify to be a candidate for the office sought." Section 1-10-6(D)(2); *see Morper v. Toulouse Oliver*, 2020-NMSC-012, 470 P.3d 245.

43. Read as Respondent reads it, Section 1-8-8 creates a period in which a vacancy on the general election ballot exists, cannot be undone, and may be filled by no one, although the political party satisfied every requirement and every deadline the Legislature imposed for filling it. A restriction in Section 1-8-8 whose enforcement "would result in unjust, absurd or unreasonable consequences" cannot stand. *Thompson v. Robinson*, 1984-NMSC-096, ¶ 15, 101 N.M. 703, 688 P.2d 21.

44. Respondent's construction is also contrary to Article II, Section 8 of the New Mexico Constitution, which provides that "[a]ll elections shall be free and open, and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage." That provision "is intended to promote—not restrict—citizen participation in New Mexico elections." *Crum v. Duran*, 2017-NMSC-013, ¶ 7, 390 P.3d 971; *see Charley v. Johnson*, 2010-NMSC-024, ¶ 11, 148 N.M. 246, 233 P.3d 775 ("every precaution must be taken to protect the right of New Mexico citizens to vote for the candidate of their choice").

45. Respondent's construction also burdens Mr. Herman's right under Article VII, Section 2(A) of the New Mexico Constitution, which provides that "[e]very citizen of the United States

who is a legal resident of the state and is a qualified elector therein, shall be qualified to hold any elective public office.”

46. The Supreme Court’s recent consideration of *Jaramillo v. Whitehead*, further reflects the policy against excluding candidates from the ballot. Although no written opinion has issued, the Court permitted the challenged candidate to remain on the ballot, and at oral argument members of the Court focused on the absence of bad faith, fraud, and prejudice.¹ *Jaramillo v. Whitehead*, No. S-1-SC-41374, Oral Argument (N.M. April, 2026) (non-precedential); see Rule 12-405 NMRA. Those considerations weigh equally against ballot exclusion here, where Respondent alleges none.

47. Where a statute is susceptible of more than one construction, the construction should be one that avoids constitutional questions. *Lovelace Med. Ctr. v. Mendez*, 1991-NMSC-002, ¶ 12, 111 N.M. 336, 805 P.2d 603; accord *State v. Radosevich*, 2018-NMSC-028, 419 P.3d 176. Section 1-8-8 should be construed to permit this vacancy to be filled.

48. Mandamus is also an appropriate means to restrain unlawful official action, and this Court may direct Respondent to refrain from certifying the House District 23 ballot until it has ruled. See *State ex rel. Taylor v. Johnson*, 1998-NMSC-015, 125 N.M. 343, 961 P.2d 768.

49. Petitioners are entitled to an alternative writ of mandamus and, upon hearing, to a peremptory writ. NMSA 1978, Sections 44-2-6 and 44-2-7 (1884); *id.* Section 44-2-12.

¹ During oral argument, Justice Thomson asked whether the governing principle should be that courts “will not deny a voter’s right to participate in an election absent bad faith, fraud or reasonable opportunity for fraud,” observing that the record appeared to contain “no bad faith, fraud or reasonable opportunity [for fraud].” *Id.* Later, counsel urged that, “[i]f there is a close question here, democracy should prevail,” to which Justice Thomson responded, “Well, I think we agree on that.” *Id.*

PRAYER FOR RELIEF

WHEREFORE, Petitioners respectfully request that this Court:

- A. Issue an alternative writ of mandamus pursuant to Sections 44-2-6 and 44-2-7, commanding Respondent to place the name of Matthew Wayne Herman on the 2026 general election ballot as the Democratic Party's candidate for New Mexico House of Representatives District 23, or to appear and show cause before this Court at a date and time certain why she has not done so;
- B. Direct in that writ that Respondent refrain from certifying the House District 23 general election ballot until this Court has ruled on the Petition;
- C. Set this matter for hearing on an expedited basis and in all events before September 4, 2026, the latest date on which Respondent may certify the general election ballot under Section 1-10-4(B);
- D. If the Court determines that Petitioners' right to require performance is clear and that no valid excuse can be given for not performing it, issue a peremptory writ of mandamus in the first instance pursuant to Section 44-2-7;
- E. Upon hearing, issue a peremptory writ of mandamus directing Respondent to place the name of Matthew Wayne Herman on the 2026 general election ballot as the Democratic Party's candidate for New Mexico House of Representatives District 23; and
- F. Grant Petitioners such other and further relief as this Court deems just and proper.

Respectfully submitted,

EGOLF + FERLIC + MARTINEZ, LLC

/s/ Kate Ferlic

Kate Ferlic

123 W. San Francisco Street, Second Floor

Santa Fe, New Mexico 87501

(505) 986-9641

Kate@EgolfLaw.com

and

LAW OFFICE OF DAYMON B. ELY

Daymon B. Ely

1228 Central Ave. S.W.

Albuquerque, New Mexico 87102

(505) 248-0370 (office)

(505) 610-6529 (cell)

(505) 248-0261 (fax)

daymon@daymonely.com

Attorneys for Petitioners

VERIFICATION OF GREGORY BENNETT

I, Gregory Bennett, state that I am a Petitioner in this proceeding and the Chair of the Central Committee of the Democratic Party of Sandoval County; that I have read the foregoing Verified Petition for Writ of Mandamus; and that the factual allegations contained in it are true and correct of my own personal knowledge, except as to those matters stated on information and belief, and as to those matters I believe them to be true.

I affirm under penalty of perjury under the laws of the State of New Mexico that the foregoing is true and correct.

Dated:

8/25/2026

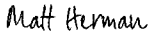

Gregory Bennett

VERIFICATION OF MATTHEW WAYNE HERMAN

I, Matthew Wayne Herman, state that I am a Petitioner in this proceeding; that I have read the foregoing Verified Petition for Writ of Mandamus; and that the factual allegations contained in it are true and correct of my own personal knowledge, except as to those matters stated on information and belief, and as to those matters I believe them to be true.

I affirm under penalty of perjury under the laws of the State of New Mexico that the foregoing is true and correct.

Dated: 8/25/2026 _____

Signed by:


Matthew Wayne Herman

CERTIFICATE OF SERVICE

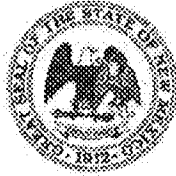
I certify that on August 25, 2026, I filed the foregoing through the Court's electronic filing system, which caused all parties entitled to notice to be served by electronic means as reflected in the notice of electronic filing. I further certify that the foregoing was emailed and mailed to:

Anne Brady-Romero
Sandoval County Clerk
P.O. Box 40
Bernalillo, New Mexico 87004
clerk@sandovalcountynm.gov

Michael Eshleman
Sandoval County Attorney
P.O. Box 40
Bernalillo, New Mexico 87004
meshleman@sandovalcountynm.gov

New Mexico Office of the Secretary of State
325 Don Gaspar Ave., Suite 300
Santa Fe, New Mexico 87501
Peter.auh@sos.nm.gov

EXHIBIT 1



STATE OF NEW MEXICO
MAGGIE TOULOUSE OLIVER
SECRETARY OF STATE

2026 GENERAL ELECTION
STATEMENT OF WITHDRAWAL OF CANDIDACY

I, Elise Falanga Taylor, being first duly sworn upon my oath do hereby
(Candidate's name or certificate of registration)
state that:

I withdraw as a candidate for the office of State Representative - D-23 in the election
(Office sought, including district or division number, if applicable)
scheduled for November 3, 2026; and that I hereby permanently revoke my Declaration of Candidacy filed
with my proper filing officer on August 17, 2026.
(Date Declaration of candidacy filed)

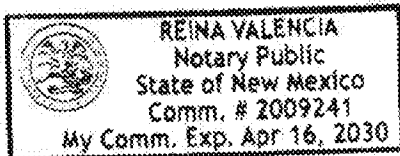
Elise Falanga Taylor
Signature of Candidate

State of: NEW MEXICO

County of: SANDOVAL

Signed and sworn to (or affirmed) before me on the 17 day of AUGUST, 2026

by ELISE FALANGA TAYLOR



My Commission Expires: APRIL 16, 2030

[Signature]
Signature of Notarial Officer

NOTARY PUBLIC
Title and Rank

Received in the office of the County Clerk at 9:45 A.M. / P.M. on the 17 day
of August, 2026.

[Signature]
Proper Filing Officer

EXHIBIT 2



Anne Brady Romero
Sandoval County Clerk

August 17, 2026

VIA EMAIL

Greg Bennet, Chair
Democratic Party of Sandoval County
Sandoval County, New Mexico

RE: Notice of Vacancy on 2026 General Election Ballot – New Mexico House of Representatives, District 23

Dear Chair Bennet:

Please accept this letter as official notice that a vacancy has occurred in the Democratic Party nomination for **New Mexico House of Representatives, District 23**, for the November 3, 2026, General Election.

On the morning of **August 17, 2026**, Elise Falanga Taylor filed a signed and notarized **Statement of Withdrawal of Candidacy** with the Sandoval County Clerk's Office, withdrawing her candidacy for State Representative, District 23. Her Statement of Withdrawal was received by the Sandoval County Clerk's Office on August 17, 2026.

Pursuant to **NMSA 1978, Section 1-10-6(D)(1)**, a candidate's name shall not be printed on the ballot when, at least seventy days before a general election, the candidate files with the proper filing officer a signed and notarized statement of withdrawal as a candidate in that election.

Accordingly, a vacancy now exists in the Democratic Party nomination for New Mexico House District 23.

Because **House District 23 is a legislative district located entirely within the boundaries of Sandoval County**, pursuant to **NMSA 1978, Section 1-8-8(A)(2)**, the **Central Committee of the Sandoval County Democratic Party** may fill the vacancy by selecting a nominee and filing the nominee's name with the proper filing officer.

Pursuant to **Section 1-8-8(C)**, the county central committee members making the appointment shall be as provided for in the rules of the Democratic Party; provided that, at a minimum, the committee shall include those members residing within the boundaries of **House District 23**.

Filing Deadline

Pursuant to **NMSA 1978, Section 1-8-8(D)**, the appointment and all required documents must be made and filed with the proper filing officer **on or before the seventieth day prior to the General Election**.

For the **November 3, 2026, General Election**, the deadline is:

Tuesday, August 25, 2026

Documents Required

To place the successor nominee on the 2026 General Election ballot, the Sandoval County Democratic Party Central Committee and the selected nominee must timely file the following:

1. **2026 General Election Party Nomination Vacancy Form (Notice of Appointment)**

The form identifies the office, the individual nominated to fill the ballot vacancy, the reason for the vacancy, the party central committee, and the date and location of the central committee meeting at which the nominee was selected.

The Central Committee Chair must sign the certification confirming that the committee met to make the appointment in accordance with party rules and the requirements of state law and that, to the best of the Chair's knowledge, the nominee meets the applicable qualifications for the office.

2. **2026 General Election Declaration of Candidacy**

The selected nominee must complete and execute the prescribed Declaration of Candidacy. The declaration requires, among other information, the nominee's registered residence, precinct, county, political party, and the office and district sought.

The nominee must further affirm that the nominee will be eligible and legally qualified to hold the office at the beginning of its term. The Declaration of Candidacy must be signed and sworn or affirmed before a notarial officer.

3. **Campaign Finance Registration Form**

The selected nominee must submit the applicable candidate form required pursuant to the **Campaign Reporting Act, NMSA 1978, Sections 1-19-25 through 1-19-36**, as required by **Section 1-8-8(D)**.

Candidate Name and Voter Registration

Please ensure that the selected nominee's voter registration information is accurate and current. Pursuant to **NMSA 1978, Section 1-10-6**, the candidate's name appearing on the General Election ballot is governed by the candidate's certificate of registration, subject to the statutory requirements for ballot names, including that the last name printed on the ballot match the candidate's legal last name and that academic, honorific, and elected titles are not printed.

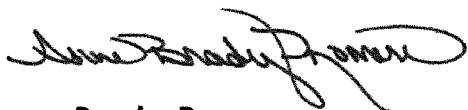
Upon the timely filing of a valid appointment and all required accompanying documents, **NMSA 1978, Section 1-8-8(E)** provides that the nominee's name shall be placed on the General Election ballot as the Democratic Party's candidate for New Mexico House of Representatives, District 23.

For your convenience, enclosed with this notice are the **2026 General Election Party Nomination Vacancy Form** and the **2026 General Election Declaration of Candidacy**.

Due to the statutory ballot preparation timeline, please ensure that the appointment and **all required documents are completed and filed with the Sandoval County Clerk's Office no later than Tuesday, August 25, 2026**.

Should you have any questions regarding the filing process or required forms, please contact Tina Dominguez at the Sandoval County Clerk's Office Bureau of Election at 505-867-7577.

In your service,



Anne Brady-Romero
Sandoval County Clerk

EXHIBIT 3



Anne Brady-Romero
Sandoval County Clerk

August 18, 2026

VIA EMAIL

Greg Bennett, Chair
Democratic Party of Sandoval County
Sandoval County, New Mexico

RE: CORRECTION TO AUGUST 17, 2026, NOTICE – New Mexico House of Representatives, District 23

Dear Chair Bennett:

The Sandoval County Clerk's Office is sending this letter to correct the notice transmitted on August 17, 2026, concerning the withdrawal of Democratic Party nominee Elise Falanga Taylor from the 2026 General Election for New Mexico House of Representatives, District 23.

Please disregard the portion of the notice advising that the Democratic Party of Sandoval County may appoint a replacement nominee for House District 23. Upon further review of the applicable provisions of the New Mexico Election Code, that information was incorrect. We consulted with the New Mexico Secretary of State's Office, and both offices hastily reviewed the statutes.

On August 17, 2026, Ms. Taylor filed a signed and notarized Statement of Withdrawal of Candidacy with the Sandoval County Clerk's Office.

Pursuant to **NMSA 1978, Section 1-10-6(D)(1)**, a candidate's name shall not be printed on the ballot if, at least seventy days before a General Election, the candidate files with the proper filing officer a signed and notarized statement of withdrawal. Accordingly, Ms. Taylor's timely withdrawal requires that her name not be printed on the 2026 General Election ballot.

However, the statutory requirements for **filling a vacancy in a political party's list of nominees** are separately governed by **NMSA 1978, Section 1-8-8**.

Section 1-8-8(A) provides, in pertinent part:

"If after a primary election, but ninety or more days before the general election, a vacancy occurs, for any cause, in the list of the nominees of a qualified political party for any public office to be filled in the general election..."

The 2026 General Election is scheduled for **November 3, 2026**. The withdrawal giving rise to this vacancy was filed on **August 17, 2026**, which is fewer than ninety days before the General Election.

Therefore, because the vacancy did **not** occur ninety or more days before November 3, 2026, the vacancy does not satisfy the timing requirement established by Section 1-8-8(A). Consequently, the authority provided in Section 1-8-8(A)(2) for the county political party central committee to fill a vacancy is not applicable to this vacancy.

The notice also referenced the seventy-day appointment deadline contained in Section 1-8-8(D). Upon further review, Subsection D applies to "**appointments made pursuant to Subsection A.**" The seventy-day filing deadline does not independently authorize an appointment when the vacancy itself does not meet the threshold requirement in Section 1-8-8(A) should it occur **ninety or more days before the general election**.

Accordingly, the Sandoval County Clerk's Office hereby **rescinds the portion of its August 17, 2026 notice advising the Democratic Party of Sandoval County that it could appoint and file a replacement nominee by August 25, 2026.**

Based upon the applicable statutory provisions:

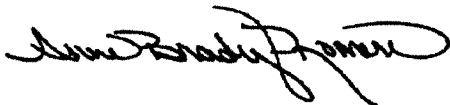
- Ms. Taylor's August 17, 2026, Statement of Withdrawal was filed within the timeframe prescribed by Section 1-10-6(D)(1), and her name shall not be printed on the General Election ballot; and
- because the resulting vacancy occurred fewer than ninety days before November 3, 2026, General Election, the vacancy may not be filled pursuant to the replacement-nominee procedure established by Section 1-8-8(A).

We apologize for the incorrect information contained in the initial notice and are providing this correction promptly to ensure that the Democratic Party of Sandoval County has accurate information regarding the applicable statutory requirements.

Please retain this letter as the corrected notice from the Sandoval County Clerk's Office regarding the withdrawal and resulting vacancy for New Mexico House of Representatives, District 23.

Should you have questions regarding this corrected notice, please contact the Sandoval County Clerk's Office Bureau of Elections at 505-867-7577.

In your service,



Anne Brady-Romero
Sandoval County Clerk

EXHIBIT 4



**2026 GENERAL ELECTION
PARTY NOMINATION VACANCY FORM**

Pursuant to NMSA 1978 §§ 1-8-7 and 1-8-8

REC/SANDOVAL CLERK
AUG 24 '26 4:34

POSITION TO BE ELECTED (include district or division number, if applicable):

New Mexico State Representative, District 23

NAME OF PERSON NOMINATED TO FILL BALLOT VACANCY:

Matthew Wayne Herman

Name as Registered

7192 Kodiak Rd NE, Rio Rancho, NM 87144

Residential Address

Mailing Address (if different)

505.331.4459

mat@mattform.org

Telephone #

Email Address

REASON FOR VACANCY:

- ☒ Death or withdrawal of a nominated candidate after the Primary Election
- ☐ Resignation or death of a person holding public office that must be filled in the next succeeding General Election
- ☐ New public office created and not included in Election Proclamation
- ☐ Other: _____

Name of Party Central Committee: Democratic Party of Sandoval County

Date and location of party central committee meeting to select nominee to fill vacancy: _____

Voting was conducted via online balloting on Sunday, August 23, 2026.

By completing this form, I certify that the political party central committee met to make the appointment to fill the vacancy on the ballot in the manner provided for in the rules of the party and the requirements of state statute, and that, to the best of my knowledge, the person being nominated to fill the vacancy on the ballot meets the applicable requirements of the office.

Signature of Central Committee Chair

August 24, 2026

Date

Greg Bennett

Print Full Name of Central Committee Chair

EXHIBIT 5



STATE OF NEW MEXICO
MAGGIE TOULOUSE OLIVER
SECRETARY OF STATE

REC/SANDOVAL CLERK
AUG 24 '26 AM 9:35

2026 GENERAL ELECTION DECLARATION OF CANDIDACY

I, Matthew Wayne Herman, being first duly sworn, say that I reside at
(Candidate's name on certificate of registration)
7192 Kodiak Rd NE, Rio Rancho ; as shown by my certificate of registration as a
(Candidate's address on registration)
voter of Precinct No. 183 of the county of Sandoval, State of New Mexico;
(Precinct #) (County of registration)

I am a member of the Democratic party as shown by my certificate of registration and I have not changed such party affiliation subsequent to the secretary of state's general election proclamation calling the election in which I seek to be a candidate;

I desire to become a candidate for the office of NM State Representative, District 23
(Office sought and District #, if applicable)
at the general election to be held on the date set by law for this year, and that I actually reside at the address designated on my certificate of voter registration;

I will be eligible and legally qualified to hold this office at the beginning of its term;

I make the foregoing affidavit under oath, knowing that any false statement herein constitutes a felony punishable under the criminal laws of New Mexico.

Matthew Herman

Signature of Declarant

7192 Kodiak Rd NE, Rio Rancho, NM 87144

Residence Address

Mailing Address (if different)

matt@mattformn.org

Email Address

505.331.4468

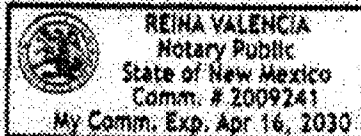
Phone Number

State of: NEW MEXICO

County of: SANDOVAL

Signed and sworn (or affirmed) before me on the 24 day of AUGUST, 2026

by MATTHEW HERMAN



My Commission Expires: APRIL 16, 2030

[Signature]

Signature of notarial officer

NOTARY PUBLIC

Title and Rank

EXHIBIT 6



Anne Brady Romero

Sandoval County Clerk

August 24, 2026

Mr. Matthew Wayne Herman
7192 Kodiak Road, N.E.
Rio Rancho, New Mexico 87144-8200

Via U.S. Mail and e-mail to matt@mattfornm.org

Re: Candidacy for House District 23

Dear Mr. Herman:

On August 24, 2026, you filed in my office your (1) "2026 General Election Party Nomination Vacancy Form" and (2) "2026 General Election Declaration of Candidacy." These documents seek to have your name placed on the 2026 general election ballot as the Democratic Party's candidate for New Mexico House of Representatives District 23. The withdrawal of your party's nominee fewer than ninety days before the general election means there is not a vacancy that can be lawfully filled. Therefore, the Election Code requires me to disqualify your candidacy.

The Election Code, at NMSA 1978, § 1-8-8(A) (2023), states:

If after a primary election, but ninety or more days before the general election, a vacancy occurs . . . in the list of the nominees of a qualified political party for any public office to be filled in the general election . . . the vacancy on the general election ballot may be filled by . . . the central committee of the county political party filing the name of its nominee for the office with the proper filing officer when the office is a . . . legislative district office where the district is entirely within the boundaries of a single county.

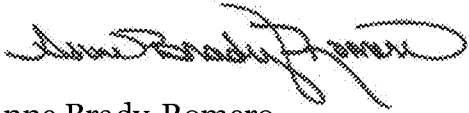
House District 23 lies entirely within Sandoval County. NMSA 1978, § 2-7F-29 (2021). Therefore, under the terms of NMSA 1978, § 1-8-8(A) (2023), the Democratic Party of Sandoval County would have been able fill a vacancy if it arose more than ninety days before the general election and I am the proper filing officer for candidates for this district.

In the June 2026 primary election, Elise Falanga Taylor received the Democratic Party's nomination for House District 23. On August 17, 2026, Ms. Taylor filed in my office her "2026 General Election Statement of Withdrawal of Candidacy." Because of her withdrawal, her name will not appear on the general election ballot.

August 17, the date of Ms. Taylor's withdrawal, was the seventy-eighth day before the general election, which will be held on November 3. As Ms. Taylor's withdrawal arose fewer than ninety days before the general election, the Democratic Party is ineligible to submit a new candidate for this year's election.

Your candidacy cannot be certified and your name will not appear on the general election ballot.

Sincerely yours,

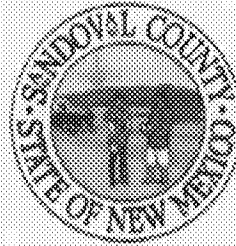
A handwritten signature in cursive script, appearing to read "Anne Brady-Romero".

Anne Brady-Romero,
Sandoval County Clerk

cc: Greg Bennett, Chairman, Democratic Party of Sandoval County
(chair25@sandovaldemocrats.org)
Daymon B. Ely, Esq. (daymon@daymonely.com)

EXHIBIT 7

OFFICE OF THE COUNTY CLERK



County of Sandoval

Date 8/24/2026

This is to verify that MATTHEW WAYNE HERMAN
(Name of Candidate)

7192 KODIAK RD NE BIO RANCHO
(Address) (City)

has submitted a Financial Disclosure Statement, a Declaration of Candidacy, and

Nominating Petitions (if required) consisting of 0
(Number of pages)

page(s) for the office of State Representative DISTRICT 23
(Name of Office)

of the DEMOCRATIC Party for the General Election to be held on November 3, 2026, in New Mexico.
(Party Affiliation)

By: Tina Dominguez

Anne Brady-Romero, County Clerk