



New Mexico

Immigrant Safety Plan

for Youth and Children

See Appleseed's **Deportation Preparation Manual for Immigrant Families: Make a Plan to Protect Your Kids and Finances in the Face of Deportation** for more, available at www.deportationpreparation.org.

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To see the most current version of Appleseed's deportation preparation resources, as well as translations, visit deportationpreparation.org.

Custodial Options for Family Planning in New Mexico¹

If you live in New Mexico and need someone else to have the authority to care for your child when you cannot be there, you have three main choices. Each choice gives the person caring for your child different rights and responsibilities. Here's a guide to help you understand your options:

Option 1: Kinship Guardianship

When should this option be considered?

This option is best if you expect to be gone or cannot care for your child for an extended period of time.

What is it and what powers will it give the caregiver?

A kinship guardianship suspends most of the rights and duties of a child's parents and transfers those rights and duties to another adult, who is called the "legal guardian." There are some things the legal guardian cannot do, like agree to the child's adoption or take over any parental rights or duties that a court orders the parents to keep.

How does this option affect my parental rights and authority?

So long as the kinship guardianship remains in effect, all parental rights and duties are suspended, except for the right to consent to adoption of the child and any other rights and duties that the court orders retained by a parent. Unless otherwise ordered by the court, the guardian has authority to make all decisions regarding visitation between a parent and the child.

¹ New Mexico Legal Aid, Inc., Kinship Caregivers' Legal Guide (rev. Aug. 22, 2022), available at <https://fosteringfamily.com/wp-content/uploads/2022/09/NMLA-Kinship-Caregivers-Guide.pdf>; New Mexico State Bar Foundation - Legal Resources for the Elderly Program, Senior Supplement: Kinship Guardianships (May 2014), available at <https://www.sbnm.org/Portals/NMBAR/forPublic/LREP/2021%20Updated%20Logo%20Files/Kinship.pdf>.



Who needs to sign the form? Does it need to be notarized?

A written petition (form linked below) must be signed by the caregiver(s) and filed in court. A separate consent (form linked below) must be signed by the parent(s) and notarized. There will be a court hearing where the judge will review the petition and make a decision as to whether to order the appointment of the caregiver(s) as kinship guardian(s). The court will not appoint the caregiver(s) as guardian(s) if the child is 14 years of age or older and objects to the appointment.

How can parents and caregivers use the form?

After the judge signs the order and issues letters of guardianship, you can give certified copies to the school, doctors, insurance company, and anyone else who needs proof. Keep the original court papers in a safe place.

For how long is the form valid?

Until the child turns 18 or until further order of the court, whichever comes first.

Can this option be revoked or changed by the parent?

This option can only be revoked or changed by returning to court and obtaining a new order. This is not an instantaneous process.

Are there any costs associated with this option?

Court filing fees, possible attorney fees, and costs for certified copies may apply to this option.

Any other considerations?

Because it is a court order, schools and agencies must accept it.

Link to forms: [Form 4A-501 NMRA - Petition to appoint kinship guardians](#); [Form 4A-505 NMRA - Parental consent to appointment of kinship guardian and waiver of service of process](#)

Option 2: Parental Power of Attorney

When should this option be considered?

This option should be used if you expect to be gone or cannot care for your child for a temporary period of time.

What is it and what powers will it give the caregiver?

A parental power of attorney allows a parent to temporarily authorize another adult to act in the parent's place. It does not give the caregiver legal custody. It can specifically limit which rights are delegated (school, health, etc.); any parental rights may be delegated except power to authorize marriage or adoption.

How does this option affect my parental rights and authority?

The parent retains all legal rights. The rights that are delegated via the power of attorney are effectively shared between the parent and the caregiver.

Who needs to sign the form? Does it need to be notarized?

At least one legal parent signs. It must be notarized.

How can parents and caregivers use the form?

Give copies to the child's school, doctor, dentist, and anyone else who needs proof of the caregiver's authority to make decisions. Keep extra copies in a safe place. There is no need to file it with the court.

For how long is the form valid?

Up to six months from the date it is signed.

Can this option be canceled or changed by the parent?

Yes. You may revoke it at any time in writing and tell everyone who has a copy.

Are there any costs associated with this option?

Notary fees may apply.

Any other considerations?

Because it is not a court order, some schools, doctors or other institutions may not accept this type of form.

Link to form: [Pegasus Law - Power of Attorney](#)

Option 3: Caregiver's Authorization Affidavit

When should this option be considered?

This option should be used when you are unavailable due to an emergency or for a short period of time and need another adult to handle everyday school and health matters for your child. The child must be living with the caregiver for this option.

What is it and what powers will it give the caregiver?

A caregiver's authorization affidavit lets the caregiver make basic decisions about school and school-related medical services. Only "classified relatives," including adults with whom the child has a significant bond, can authorize any other medical care. It does not give the caregiver legal custody.

How does this option affect my parental rights and authority?

Your rights stay the same. You can return at any time and override any decisions made by the caregiver.

Who needs to sign the form? Does it need to be notarized?

The caregiver signs, but no parent signature is required. It must be notarized.

How can parents and caregivers use the form?

Give a copy to the child's school, doctor, or clinic. Keep a copy with you and give one to anyone else who needs to trust the caregiver's decisions.

For how long is the form valid?

Up to one year from the date it is signed.

Can this option be canceled or changed by the parent?

Yes. Because you never gave up legal custody, you can end it at any time.

Are there any costs associated with this option?

Notary fees may apply.

Any other considerations?

Because it is not a court order, some schools, doctors or other institutions may not accept this type of form.

Link to form: [S.F. 40-10B-15 - Caregiver's Authorization Affidavit](#)



Sample Forms and Petitions

Samples of the form or petition for each of these custodial arrangements appear on the following pages.

Petition to Appoint Kinship Guardians Template

4A-501. Petition to appoint kinship guardians.

STATE OF NEW MEXICO
COUNTY OF
JUDICIAL DISTRICT

, Petitioner(s)

No.

IN THE MATTER OF THE KINSHIP GUARDIANSHIP OF
(a) Child(ren), and concerning
Respondent(s).

PETITION TO APPOINT KINSHIP GUARDIAN(S)2

Petitioner(s), request(s) the Court to grant an Order
Appointing Kinship Guardian(s) of the minor child(ren),

The Court has jurisdiction of the parties and the subject matter of the cause of action.

A. INFORMATION ABOUT THE PETITIONER(S)3

1. Petitioner #1 Name and address:

Four horizontal lines for entering information for Petitioner #1.

2. Petitioner #2 Name and address:

Four horizontal lines for entering information for Petitioner #2.

3. Petitioner(s) are currently providing adequate care, maintenance, and supervision

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(names of minor

for
child(ren)).

B. INFORMATION ABOUT THE CHILD(REN)⁴

1. Child's Name

a. Address

b. Place and year of birth

City

State

Year of birth

c. Are Petitioner(s) related to the child? _____ Yes _____ No

d. If yes, what is the relationship?

If no, describe Petitioner(s)'s connection with the child.

e. Is the child fourteen (14) years of age or older? _____ Yes _____ No
If yes, has the child stated that he/she wants the named Petitioner(s) as the

guardian(s)? _____ Yes _____ No

f. Is the child a Native American child? _____ Yes _____ No

⁶
If yes, what tribe is the child enrolled with or eligible to be enrolled with?



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Have you contacted/informed the tribe of this Petition? _____ Yes
_____ No

If yes, who did you contact and how did you make contact?

Tribal contact information (address and phone number):

2. Child's Name

a. Address

b. Place and year of birth

City

State

Year of birth

c. Are Petitioner(s) related to the child? _____ Yes _____ No

d. If yes, what is the relationship?

If no, describe Petitioner(s)'s connection with the child.



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- e. Is the child fourteen (14) years of age or older? _____ Yes _____ No
If yes, has the child stated that he/she wants the named Petitioner(s) as the guardian(s)? _____ Yes _____ No

- f. Is the child a Native American child? _____ Yes _____ No

If yes, what tribe is the child enrolled with or eligible to be enrolled with?

—

Have you contacted/informed the tribe of this Petition? _____ Yes
_____ No

If yes, who did you contact and how did you make contact?

—

—

—

Tribal contact information (address and phone number):

—

—

—

C. INFORMATION ABOUT CHILD'S PARENTS (RESPONDENTS)⁷

1. Respondent #1

a. _____ (name of Respondent-parent) is the parent of _____.

b. This Respondent-parent is _____ alive _____ deceased (if deceased, provide proof of death)

c. If alive, list address (include physical street address, city, state, and zip code):

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- d. Upon information and belief, *(complete only one choice below)*
- i. Respondent-parent _____ *(name)* consents to the appointment of Petitioner(s) as Kinship Guardian(s).⁸
- Or
- ii. This legal parent is unable or unwilling to provide adequate care, maintenance, and supervision for the minor child(ren) named in this petition *(explain why you think this parent is unable or unwilling to provide care)*:
- _____
- _____
- _____
- _____
- _____

2. Respondent #2

- a. _____ *(name of Respondent-parent)* is the parent of _____.
- b. This Respondent-parent is _____ alive _____ deceased *(if deceased, provide proof of death)*
- c. If alive, list address *(include physical street address, city, state, and zip code)*:
- _____
- d. Upon information and belief, *(complete only one choice below)*
- i. Respondent-parent _____ *(name)* consents to the appointment of Petitioner(s) as Kinship Guardian(s).⁸
- Or
- ii. This legal parent is unable or unwilling to provide adequate care, maintenance, and supervision for the minor child(ren) named in this petition *(explain why you think this parent is unable or unwilling to provide care)*:

D. FACTS REGARDING REQUEST FOR GUARDIANSHIP

1. Consent to Guardianship

a. Does Respondent #1 consent to the guardianship? ____ Yes ____ No

If no, has the child(ren) lived with Petitioner(s) without Respondent #1 in the home for ninety (90) days immediately prior to filing this petition?

Yes No

b. Does Respondent #2 consent to the guardianship? ____ Yes ____ No

If no, has the child(ren) lived with Petitioner(s) without Respondent #2 in the home for 90 days immediately prior to filing this petition?

____ Yes ____ No

2. Describe how the child came to reside with you and why you want guardianship.

3. If a Respondent-parent is willing and able to parent the child(ren), are there extraordinary circumstances that justify granting the guardianship?⁹

____ Yes (*please explain*) ____ No.

E. OTHER INFORMATION

1. Are there any other court cases involving these children? ____ Yes ____ No

If yes, please provide:

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Case Number

Type of case

2. Is there current Children, Youth, and Families Department (CYFD) involvement?
_____ Yes _____ No

a. If yes, what is the contact information for the CYFD case worker?

b. If yes, does CYFD consent to this guardianship?
_____ Yes _____ No _____ Don't know (*please explain*):

3. Is there a CYFD court case filed? _____ Yes _____ No (*If the children are in the custody of CYFD there is a CYFD court case filed*)

4. Do any other person(s) have or claim to have court ordered custody of the child(ren)? _____ Yes _____ No

10

If yes, the name(s) and address(es) are:

5. Do any other person(s) have court ordered visitation with the child(ren)?¹⁰
_____ Yes _____ No

If yes, the name(s) and address(es) are:

6. Petitioner(s) are requesting child support from Respondents.¹¹ _____ Yes _____
No

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7. Petitioners accept the duties and responsibilities of guardianship, including providing for the care, maintenance, and supervision of the child(ren).
8. No guardian of the child(ren) is currently appointed pursuant to a provision of the Uniform Probate Code, NMSA 1978, Section 45-1-101.
9. It is in the best interests of the child(ren) that the Petitioner(s) be appointed as kinship guardian(s).

WHEREFORE, Petitioner(s) respectfully request(s) an Order Appointing Kinship Guardian(s) of the minor child(ren).

VERIFICATION

Petitioner #1:

I, _____, the Petitioner, affirm under penalty of perjury under the laws of the State of New Mexico that I am the Petitioner in the above-entitled cause; that I have read the Petition to Appoint Kinship Guardian(s); and that the contents of the petition are true and correct to the best of my information and belief.

Date

Signature of Petitioner #1

Petitioner #2:

I, _____, the Petitioner, affirm under penalty of perjury under the laws of the State of New Mexico that I am the Petitioner in the above-entitled cause; that I have read the Petition to Appoint Kinship Guardian(s); and that the contents of the petition are true and correct to the best of my information and belief.

Date

Signature of Petitioner #2

USE NOTE

1. Enter the initials of each child. Each child should be listed in the petition under Section A.
2. Forms 4A-501 to 4A-513 NMRA are required to be used by persons representing themselves in kinship guardianship proceedings. Parties represented by an attorney may use other forms that serve the same purpose.
3. A petitioner must be an adult with whom the child has a significant bond. *See* NMSA 1978, Section 40-10B-5 for persons who may file as a petitioner under the Kinship Guardianship Act.
4. Fill out Section B for each child you are seeking guardianship over. If you are applying for guardianship of more than two children, repeat the sections as necessary for each child.
5. Any minor child fourteen (14) years of age or older must be served with a copy of this petition. If a child is fourteen (14) years of age or older and does not want the petitioner(s) to be the child's guardian, the Court will not appoint the petitioner(s). *See* NMSA 1978, § 40-10B-11(B). If the child is fourteen (14) years of age or older and consents to the petitioner(s) as guardian(s), please use the Nomination of Kinship Guardian Form, Form 4A-506 NMRA.
6. The Indian Child Welfare Act defines "Indian child" as "any unmarried person who is under age eighteen and is either (a) a member of an Indian tribe or (b) is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe." *See* 25 U.S.C. § 1903(4).
7. If there are more than two parents for the children involved, repeat the information for each additional parent. Unless the child's parent is deceased or the parent's parental rights have been terminated, use Form 4-206 NMRA for service of process on each parent named in the petition unless (a) the parent has waived service in writing; (b) the parent is deceased; or (c) the parent's rights as a parent have been terminated by a court order.
8. Form 4A-505 NMRA must be signed, notarized, and filed with the court for each respondent-parent who consents to the guardianship.
9. For example: Has the child lived with the petitioner(s) for so long that removing the child would cause anguish or harm to the child? Are there other reasons why the child should not be with the parent?

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10. If there are other people claiming to have court-ordered custody or court ordered visitation of the child(ren), they must also be served with a copy of the petition and notice of the hearing.

11. Both parents may be ordered to pay child support. The petitioners' income should not be used for calculation of child support.
[Provisionally approved, effective August 15, 2003 until August 31, 2004; approved, effective January 20, 2005; 4-981 recompiled as amended as 4A-501 by Supreme Court Order No. 168300-020, effective for all pleadings and papers filed on or after December 31, 2016.]



Parental Consent to Appointment of Kinship Guardian and Waiver of Service of Process

4A-505. Parental consent to appointment of kinship guardian and waiver of service of process.

STATE OF NEW MEXICO
COUNTY OF
JUDICIAL DISTRICT

, Petitioner(s)

No.

IN THE MATTER OF THE KINSHIP GUARDIANSHIP OF

,1 (a) Child(ren) (use initials only), and concerning
, Respondent(s).

PARENTAL CONSENT TO APPOINTMENT OF KINSHIP GUARDIAN AND WAIVER OF SERVICE OF PROCESS

1. I, (name of parent), am the adoptive or biological parent of (name(s) of child(ren)). I do hereby knowingly and voluntarily consent to the following: (select all that apply)2

- [] The appointment of Petitioner(s) as TEMPORARY kinship guardian(s) for no more than one hundred eighty (180) days.
[] The appointment of Petitioner(s) as PERMANENT kinship guardian(s).3

2. I understand that the purpose of the guardianship is to establish a legal relationship between (child(ren)) and (Petitioner(s)).

3. I agree that it is in the child(ren)'s best interests that Petitioner(s) be named as the child(ren)'s Kinship Guardian(s).

4. I understand that while the guardianship is in effect, Petitioner(s) will have the right to make all decisions about visitation and the health, education, and welfare of the child(ren) unless otherwise ordered by the court.



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2. You may select either option or both options, depending on whether you consent to the appointment of a temporary kinship guardian or a permanent kinship guardian or both.

3. As used in this form, a permanent kinship guardian is a guardian whose appointment continues until the child's eighteenth birthday or until the guardianship is revoked based on proof that the circumstances justifying the appointment have changed and that revocation is in the child(ren)'s best interests.

[Provisionally approved, effective August 15, 2003 until August 31, 2004; approved, effective January 20, 2005; 4-985 recompiled and amended as 4A-505 by Supreme Court Order No. 168300-020, effective for all pleadings and papers filed on or after December 31, 2016; as amended by Supreme Court Order No. 22-8300-020, effective for all pleadings and papers filed on or after December 31, 2022.]



Parental Power of Attorney Template

STATE OF NEW MEXICO)
) SS
COUNTY OF)

POWER OF ATTORNEY TO
CREATE A TEMPORARY GUARDIANSHIP
§45-5-104 (NMSA)

Pursuant to Probate Code §45-5-104 (NMSA 1978), I, being
the custodial parent, do hereby delegate to, my
of New Mexico, as my attorney and agent to act as guardian for my
child/ren, ,DOB: and
,DOB: .

, shall have the authority and power necessary for the
care, custody and property of said children for a period not exceeding six (6) months excepting
any power to consent to marriage or adoption of said child.

This power of attorney shall expire _____

ACKNOWLEDGMENT

STATE OF NEW MEXICO)
) SS
COUNTY OF)

The foregoing instrument was acknowledged before me this day of
20__,
by

Notary Public

My commission expires:

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www.deportationpreparation.org

Caregiver's Authorization Affidavit Template

S.F. 40-10B-15 Caregiver's Authorization Affidavit/Kinship Guardianship. (2001)

"Caregiver's Authorization Affidavit

Use of this affidavit is authorized by the Kinship Guardianship Act.

Instructions:

- A. Completion of Items 1-4 and the signing of the affidavit is sufficient to authorize enrollment of a minor in school and authorize school-related medical care.
- B. Completion of Items 5-8 is additionally required to authorize any other medical care.

Print clearly:

The minor named below lives in my home and I am 18 years of age or older.

- 1. Name of minor:
- 2. Minor's birth date:
- 3. My name (adult giving authorization):
- 4. My home address:
- 5. () I am a grandparent, aunt, uncle or other qualified relative of the minor (see back of this form for a definition of "qualified relative").
- 6. Check one or both (for example, if one parent was advised and the other cannot be located):
 - () I have advised the parent(s) or other person(s) having legal custody of the minor of my intent to authorize medical care, and have received no objection.
 - () I am unable to contact the parent(s) or other person(s) having legal custody of the minor at this time, to notify them of my intended authorization.
- 7. My date of birth:
- 8. My NM driver's license or other identification card number:

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WARNING: Do not sign this form if any of the statements above are incorrect, or you will be committing a crime punishable by a fine, imprisonment or both.

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

Signed:

The foregoing affidavit was subscribed, sworn to and acknowledged before me this day of _____ 20____, by _____.

My commission expires:

Notary Public:

Notices:

1. This declaration does not affect the rights of the minor's parents or legal guardian regarding the care, custody and control of the minor, and does not mean that the caregiver has legal custody of the minor.
2. A person who relies on this affidavit has no obligation to make any further inquiry or investigation.
3. This affidavit is not valid for more than one year after the date on which it is executed.

Additional Information:

TO CAREGIVERS:

1. "Qualified relative", for purposes of Item 5, means a spouse, parent, stepparent, brother, sister, stepbrother, stepsister, half-brother, half-sister, uncle, aunt, niece, nephew, first cousin, godparent, member of the child's tribe or clan, an adult with whom the child has a significant bond or any person denoted by the prefix "grand" or "great", or the spouse or former spouse of any of the persons specified in this definition.
2. If the minor stops living with you, you are required to notify any school, health care provider, mental health care provider, health insurer or other person to whom you have given this affidavit.
3. If you do not have the information requested in Item 8, provide another form of identification such as your social security number or medicaid number.

TO HEALTH CARE PROVIDERS AND HEALTH CARE SERVICE PLANS:



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1. No person who acts in good faith reliance upon a caregiver's authorization affidavit to provide medical, dental or mental health care, without actual knowledge of facts contrary to those stated on the affidavit, is subject to criminal liability or to civil liability to any person, or is subject to professional disciplinary action, for such reliance if the applicable portions of the form are completed.
2. This affidavit does not confer dependency for health care coverage purposes."



Obtaining Birth Certificates²

New Mexico birth certificates are restricted access records. Birth certificates become public records one hundred (100) years after the date of birth.

Who can order a birth certificate?

- The registrant’s “immediate family” members:
 - Mother
 - Father (if listed on the certificate)
 - Sibling
 - Child
 - Grandchild
 - Current spouse
 - Maternal grandparent
 - Paternal grandparent (if father is listed on the certificate)
- Someone else (e.g., a legal guardian or law enforcement personnel) who can provide “tangible proof of legal interest” to obtain the certificate.³

Where can you obtain a birth certificate?

- In Person
 - **Bureau of Vital Records & Health Statistics**
2554 Camino Entrada
Santa Fe, NM 87505
(505) 827-0121 / toll free: (866) 534-0051
(open Monday-Friday 8:30am-4:00pm)
 - **Midtown Public Health Office**
2400 Wellesley Dr NE
Albuquerque, NM 87107
(505) 841-4100 / toll free: (866) 534-0051
(open Monday-Friday 8:30am-3:30pm)

² New Mexico Department of Health – Epidemiology & Response Division, Vital Records and Health Statistics, Birth Certificates, <https://www.nmhealth.org/about/erd/bvrhs/vrp/birth/>

³ N.M. Admin. Code § 7.2.2.20

- **Socorro County Public Health Office**
214 Neel Avenue NW
Socorro, NM 87801
(575) 835-0971
(call to verify hours)
- **McKinley County Public Health Office**
1919 College Drive
Gallup, NM 87301
(505) 722-4391
- Mail
 - **New Mexico Vital Records**
Post Office Box 26110
Santa Fe, NM 87502
 - [Birth Record Search Application Form](#)
- Internet / Telephone
 - [VitalChek Express Certificate Service](#)
 - (877) 284-0963

Immunizations⁴

- New Mexico utilizes the New Mexico Statewide Immunization Information System (NMSIIS) as a statewide registry that tracks and records immunizations, generates immunization history and recommendations, and maintains detailed patients records throughout the state. NMSIIS is a confidential and secure computer database designed to collect and maintain vaccination records of children and adults.
- The [VaxView](#) public portal enables individuals, parents, and guardians to access, save and/or print official immunization records. The [VaxView](#) public portal is mobile friendly and uses two-factor authentication.

⁴ New Mexico Department of Health, Statewide Immunization Information System,
<https://www.nmhealth.org/about/phd/idb/imp/siis/>

Consulates in New Mexico⁵

Country	Address	Contact Information
Azerbaijan	2220 Wilderness Meadow Road Santa Fe, NM 87505	(505) 986-6074 ermchaffie@msn.com
Germany	625 Silver Ave SW, Suite 185 Albuquerque, NM 87102	(505) 259-2377 albuquerque@hk-diplo.de
Italy	102 West San Francisco Street Suite 14 Santa Fe, NM 87501	(505) 577-5353 santafeusa.onorario@esteri.it
Mexico	1610 4th Street, NW Albuquerque, NM 87102	(505) 247-2147 / 4177 (877) 639-4835 consulmex@consulmexalb.net infoalb@sre.gob.mx
Spain	4424, Glenwood Hills Drive Albuquerque, NM 87111 211 Brillante Santa Fe, NM 87505	(505) 293-1572 mondragon505@comcast.net (505) 471-6131 ajgsantafe@aol.com
Tanzania	7901 Mountain Road, Suites A and B Albuquerque, NM 87110	(505) 908-5060
Zambia	Albuquerque, NM	pmapalo@zambiaembassy.org patrickmapalo@gmail.com

⁵ EmbassyPages, New Mexico foreign consulates, [Consulates in New Mexico, United States](#)

