

# REAL ID, Licenses & Legal Names Current Issues

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SENIOR CITIZENS' LAW OFFICE, INC.

# What is the goal?

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- Get an ID
  - Driver's License
  - Identification Card
- Birth Certificates
  - Correct information
  - Register a birth
- Get a passport
- Get a Social Security Card or Number

# Common Issues

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- MVD: Renewing License / ID Card
  - MVD won't accept certain documents
  - Names on documents don't match
- Vital Records: Birth certificates
  - Amending / correcting
  - Delayed registration

# Why is it *so hard* to get a license now?!

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## Real ID Act of 2005

- Limits what state-issued IDs can be accepted for “federal purposes” (REAL IDs).
- Sets stricter requirements for documentation used to issue REAL IDs
  - Prior state ID not acceptable for REAL ID
  - Names must match on documentation

# “Federal Purposes”

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- Federal Purposes Include:
  - Board a commercial airliner (TSA)
  - Enter a nuclear power plant
  - Enter federal facility that requires ID
  - Whatever DHS decides

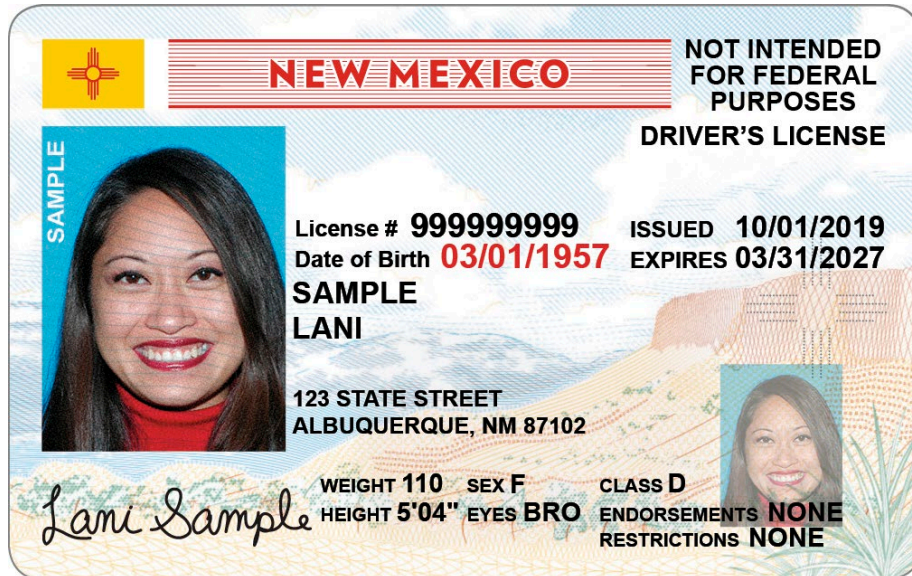
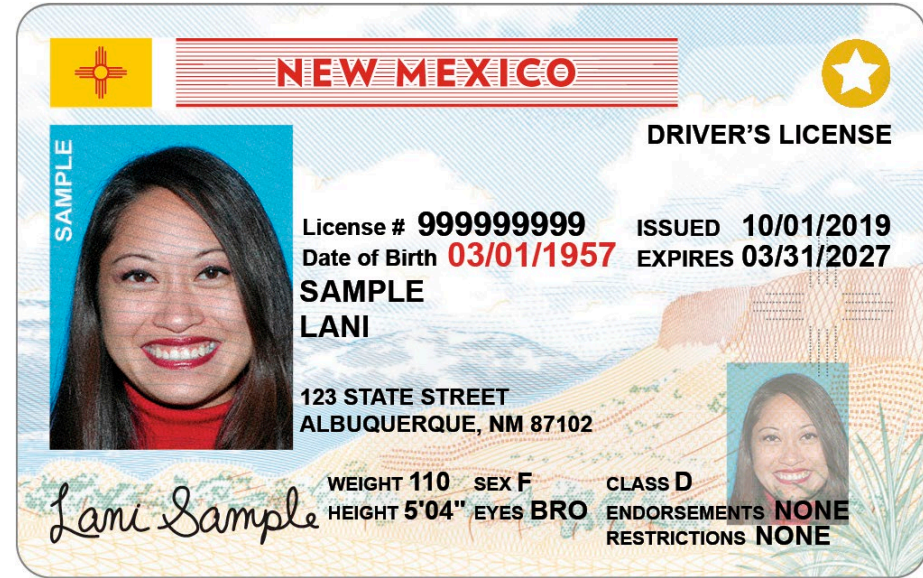
# Do I *have* to get a REAL ID?

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No.

- Can get “non-compliant” state ID:
  - Standard Driver’s License
  - Standard Identification Card
- Acceptable for non-federal purposes:
  - Driving
  - Voting
  - Buying Alcohol
  - Proving Identity to States

REAL ID



Standard ID

# Documentation Required: Real ID

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- Proof of Identification Number (1)
- Proof of Identity and Age (1)
  - Non-compliant state ID *not* accepted
- Proof of Residency (2)



# Documentation: Non-Compliant IDs

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- Proof of Identity and Age (2)
  - State-issued photo ID accepted if current or expired less than 1 year
- Proof of Residency (2)

# Proof of Identification Number

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- Social Security Card
- Tax Documents : W-2 or 1099
- Paystub w / SSN
- Foreign passport w / visa and I-9

# Proof of Identity & Age

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- For Non-Compliant ID: current or recently expired state ID
- REAL ID
- Birth Certificate
- Passport
- Certificate of Citizenship or Naturalization
- Consular report of birth abroad
- Immigrants:
  - Foreign Passport w/ I-551 stamp or unexpired visa
  - Employment authorization Document

# Proof of NM Residency

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- Lease, mortgage docs./ property tax statement
- Public Assistance card, letter, or profile printout w/ address
- Less than 6 months old:
  - Insurance documents/bill
- Less than 2 months old
  - Utility bill (no cellphones)
  - Bank or credit card statement
  - Paystub w/ name and address
  - Documents from school/college
- If under 18
  - Membership documents for religious or sports organization
  - Affidavit of NM Residency (MVD Form 10021)

# Issues with Proving Identity: Birth Certificates

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## ➤ Common Issues:

- Name on Birth Certificate doesn't match other documents
  - Ex: Known by middle name; anglicized version ("Joseph" instead of "Jose"); marriage, divorce, etc.
  - Solutions:
    - Use Passport with matching name to get REAL ID
    - Use current state ID to get non-compliant ID
    - Amend/Correct the Birth Certificate

- No birth certificate; Birth was never recorded
  - Solution: Delayed registration

Birth Certificates are restricted records. To obtain a copy from Vital Records, you need to prove your identity as the registrant, an immediate family member, or a person with a legal interest in the record.

# Amending Birth Certificates

## NMAC 7.2.2.17

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Contact: Bureau of Vital Records and Health Statistics

- Clients (18+), or parent/guardian can amend:
  - *Given name* – proof they've commonly used another name
  - *First & Middle Name* – Affidavit (BC is incorrect, should read \_\_\_\_), documentary evidence at least 5 years old (2 pieces)
    - *Or court order*
  - *Last name* – need a court order
  - *Other amendments* – at discretion of registrar
- Must have court order to amend same item more than once.
- Vital Records can also correct obvious minor errors on B.C.s during first year after birth.

# Name Changes

## NMSA 40-8-1 to -3

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- Forms available at:
  - District court websites
  - Law Access Website
  - SCLO website
- Requirements:
  - Filing fee (or Indigency Affidavit)
  - Hearing – no unlawful purpose
  - Certified copy of order

# Appeal Rights if MVD Denies License

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- Administrative – NMSA §66-2-17
  - File a “written protest”. Include:
    - Client’s name
    - Action they’re disputing (denial of license)
    - Grounds for protest (incl. summary of evidence in support; can supplement before hearing).
    - Relief sought
  - 30 days to file from date of denial (verbal, or date of mailing)
  - May get informal conference before hearing.
- **Must exhaust administrative remedy before going to court.**



# Appeal Rights if MVD Denies License (Cont.)

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- Judicial – NMSA § § 66-5-36, 39-3-1.1
  - To District Court, either:
    - In county where administrative hearing was held OR
    - Santa Fe County – First District Court (MVD's principal office)
  - 30 days to file from final administrative decision
  - Standard of Review: the court may set aside a decision that was:
    - Fraudulent, arbitrary, or capricious
    - Not supported by substantial evidence
    - Not in accordance with law
  - Can appeal District Court Decision to Court of Appeals, then Supreme Court
    - Discretionary at both levels – writ of certiorari