

1 **23-106.2. Supreme Court rule-making procedures for local rules.**

2 A. **Definition.** A “local rule” whether called a rule, order, or other directive, is a rule
3 which governs the procedure in a judicial district in suits of a civil or criminal nature. An order,
4 which is consistent with local rules, statewide rules and forms, and the laws of New Mexico, that
5 is entered in an individual case and served on the parties shall not be considered a local rule.

6 B. **Requests for rule changes to local rules.** For purposes of this rule, a rule change
7 includes amendments to, or the withdrawal of, existing local rules and forms as well as the adoption
8 of new local rules or forms. All requests for rule changes shall be filed with the Supreme Court
9 clerk. No docket fee shall be charged for filing a rule change request. Rule change requests filed
10 on behalf of a district court shall be submitted by the Chief Judge of that district. All other rule
11 change requests shall be forwarded by the clerk to the Chief Judge of the appropriate district for
12 consideration and recommendation without the need for prior review or approval by the Court.
13 Rule change requests shall be submitted in the form of a petition and conform with the
14 requirements of Rule 23-106.1(A) NMRA.

15 C. **Local rulemaking schedule.** Rulemaking for local rules shall proceed under the
16 annual cycle outlined in Rule 23-106.1(B)(1)-(3), (5)-(6) NMRA, unless the Court declares
17 emergency circumstances to exist under Paragraph D of this rule. The Chief Judge of the district
18 court shall be responsible for the recommendations required.

19 D. **Out-of-cycle local rulemaking; emergency circumstances defined.** Emergency
20 circumstances for varying from the time deadlines set forth in Paragraph C of this rule may include,
21 with prior approval of the Court, the following:

- 22 (1) rule changes needed because of new case law;
23 (2) rules changes needed because of statutory changes;

1 (3) rule changes needed because of changes to ABA model rules or other model
2 rules upon which a New Mexico rule is based;

3 (4) rule changes needed to address imminent threats to the efficient
4 administration of justice; or

5 (5) other emergency circumstances as determined by the Court.

6 E. **Requirements for Chief Judge recommendations.** The Chief Judge of the
7 relevant district shall make rule change recommendations to the Court in accordance with the
8 following procedure:

9 (1) When the district court seeks to reject a request for a rule change submitted
10 by anyone other than that court, the Chief Judge shall prepare a report for submission to the Court
11 explaining the reasons why the district court recommends against the requested rule change. The
12 Court may accept the Chief Judge’s recommendation to take no action on the requested rule change
13 or direct the district court to draft a proposed rule change for the Court’s consideration.

14 (2) When the district court seeks to recommend a proposed rule change, the
15 proposed rule change recommendation shall be submitted to the Court in proper format under
16 Subparagraph (E)(3) of this rule with the report required under Subparagraph (E)(4) of this rule.
17 Local rules and forms shall not conflict with, duplicate, or paraphrase statewide rules or statutes.

18 (3) The district court shall format all proposed rule changes to conform to the
19 Supreme Court Rules Drafting Manual, and gender-neutral language shall be used unless the use
20 of gender-neutral language would alter the meaning of the rule change or compromise its clarity.
21 For purposes of this subparagraph, “gender-neutral language” means language that does not
22 explicitly or implicitly refer to one gender or to the real or apparent exclusion of any other gender.

1 (4) The Chief Judge shall prepare a report that submits the proposed rule change
2 to the Court for consideration. The report shall be filed with the Supreme Court clerk, who shall
3 submit it to the Court for consideration in accordance with the applicable deadlines in Paragraph
4 C of this rule or immediately upon filing if submitted as an out-of-cycle rule change request under
5 Paragraph D of this rule. The report shall address the following matters:

- 6 (a) who initiated the request for the rule change;
- 7 (b) the purpose of the proposed rule change;
- 8 (c) the district court’s reasoning for the proposed rule change;
- 9 (d) whether the district recommends publishing the proposed rule
10 change for comment before adoption; and

11 (e) whether the district court recommends that the proposed rule change
12 apply to future cases only or to pending cases as well.

13 (5) Upon submission of the report and proposed rule change to the Court, it
14 may take the following actions:

- 15 (a) publish for comment the proposed rule change;
- 16 (b) adopt the proposed rule change without publication for comment;
- 17 (c) reject the proposed rule change; or
- 18 (d) return the proposed rule change to the district court for further
19 review.

20 (6) If the Court decides to publish for comment the proposed rule change, the
21 proposed rule change shall be posted on the Court’s website and send notice of the publication for
22 comment by email to all judges and to all members of the bar who have provided an email address
23 for the Court’s Roll of Attorneys and may also publish the proposed rule change in the Bar Bulletin.

1 The comment period shall be thirty (30) days, unless otherwise ordered by the Court, and may be
2 extended at the discretion of the Court. All comments received may be posted on the Court's
3 website for public viewing.

4 (7) If a proposed rule change is published for comment, after the comment
5 deadline, the Court may direct the district court to review any comments received by the Court and
6 provide a follow-up recommendation in light of the comments received. The Chief Judge shall
7 submit a report to the Court setting forth the district court's recommendation. The report shall,

8 (a) specifically address each comment that was received and explain
9 why the district court did or did not revise the proposed rule change in light of the comment;

10 (b) state whether the district court recommends republication of any
11 revisions to the proposed rule change that the district court recommends, and

12 (c) state the basis for the district court recommending whether the
13 proposed rule change should apply to future cases only or to pending cases as well.

14 (8) Upon receipt of the report after the publication for comment period, the
15 Court shall do one of the following:

16 (a) adopt the district court's recommendation on the proposed rule
17 change;

18 (b) reject the district court's recommendation on the proposed rule
19 change;

20 (c) meet with the Chief Judge to discuss the recommendations;

21 (d) modify the district court's recommendation on the proposed rule
22 change; or

1 (e) send back the district court’s recommendation on the proposed rule
2 change for further drafting or revising.

3 (9) Upon final approval by the Court of a proposed rule change, the Supreme
4 Court clerk shall issue an order adopting the proposed rule change. The order shall include the
5 effective date for the rule change. At least forty-five (45) days prior to the effective date, the
6 approved rule change and Court order shall be posted on the New Mexico Compilation
7 Commission’s website, and notice of the approved rule change shall be sent by email to all judges
8 and to all members of the bar who have provided an email address for the Court’s Roll of
9 Attorneys, unless the Supreme Court determines that it is necessary for the rule change to become
10 effective immediately upon adoption.

11 (10) After any rule change has been approved by the Court, arrangements shall
12 be made for publication by the Compilation Commission in the New Mexico Rules Annotated. An
13 approved rule change also may be published in the Bar Bulletin at the Court’s discretion.

14 F. **Applicability.** This rule shall not apply to technical specifications for electronic
15 transmission adopted by a district court to permit electronic transmission of documents to the court
16 if the technical specifications are limited to the form of the documents to be transmitted and are
17 consistent with any technical specifications approved by the Supreme Court and the provisions of
18 Rule 1-005.2 NMRA and Rule 5-103.2 NMRA.

19 G. **Failure to comply.** Failure to comply with any or all of the provisions of this rule
20 by the Supreme Court shall not affect the validity of any rules adopted by the Supreme Court.

21 [Adopted by Supreme Court Order No. S-1-RCR-2024-00078, effective July 1, 2024.]

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