

1 **6-302. Pleas allowed.**

2 A. **Pleas and defenses.** The plea shall be one of the following: guilty, not guilty, or no  
3 contest. No other pleas shall be permitted. A plea of not guilty shall not operate as a waiver of any  
4 defense or objection. Defenses and objections not raised by the plea shall be asserted in the form  
5 of motions to dismiss or for appropriate relief. In actions not within magistrate trial jurisdiction,  
6 no plea shall be entered.

7 B. **Failure or refusal of defendant to enter a plea.** If the defendant fails to enter a  
8 plea, or stands mute, the court shall enter a plea of not guilty on behalf of [~~such~~] the defendant.

9 C. **Rejection of pleas.** The court shall reject a plea of guilty or no contest if justice  
10 would not be served by acceptance of [~~such~~] the plea.

11 D. **Plea agreement deadline.** Except in non-attorney prosecutions, a plea agreement  
12 between the parties that would eliminate the need for a trial shall be submitted for the court's  
13 consideration by a deadline set in the court's discretion, but in any event, no plea agreement shall  
14 be entered into later than five (5) days before the scheduled date for jury selection or  
15 commencement of a bench trial. The court shall set a hearing within the plea deadline at which the  
16 defendant's presence is required and at which the defendant has an opportunity to consider any  
17 plea offer.

18 E. **Untimely plea agreements.** A request for the court to approve an untimely plea  
19 agreement less than five (5) days before the scheduled date for jury selection or commencement  
20 of a bench trial shall not be granted except on a written finding by the judge of extraordinary  
21 circumstances that excuse the untimely submission of the agreement. If the court denies a request  
22 to accept an untimely plea agreement, the case shall proceed to trial on the scheduled date.

1           Notwithstanding the denial of a request to accept an untimely plea agreement, a defendant  
2 may elect to plead guilty to all legally permissible charges leaving full sentencing discretion with  
3 the court, or the prosecution may elect to dismiss any and all charges any time before or during  
4 trial.

5 [As amended, effective January 1, 1987; as amended by Supreme Court Order No. 18-8300-023,  
6 effective for all cases filed on or after February 1, 2019; as amended by Supreme Court Order No.  
7 S-1-RCR-2024-00113, effective for all cases pending or filed on or after December 31, 2024.]

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9           **Committee commentary.** — A prosecutor’s dismissal of charges under Paragraph E of  
10 this rule does not change or alter the law on double jeopardy.

11           Use of the phrase “legally permissible” in Paragraph E of this rule is intended to alert both  
12 the courts accepting changes of plea and the parties entering into them to avoid potential  
13 illegalities. Defendants may raise legal challenges on appeal to convictions based on charges pled  
14 to that conflict with constitutional protections, statutes, or caselaw; for example, when there are  
15 double jeopardy concerns, conflicts with statutory intent, or issues with the underlying factual  
16 basis of the plea. See *State v. Jackson*, 1993-NMCA-092, 116 N.M. 130, 860 P.2d 772; NMSA  
17 1978, § 30-1-10 (1963); *State v. Gray*, 2016-NMCA-095, 384 P.3d 1083.

18 [Adopted by Supreme Court Order No. S-1-RCR-2024-00113, effective for all cases pending or  
19 filed on or after December 31, 2024.]