



Name of Country and Jurisdiction:

## New Mexico, United States

- 1. What forms of legally recognized relationships are available?
- 2. What are the requirements to be able to enter into the above relationships?
- 3. Differences between marriage and civil unions and how the two sets of laws interact.
- 4. What kinds of pre-existing relationships make you ineligible to enter each kind of relationship?
- 5. When a couple comes to New Mexico, is their pre-existing relationship recognized? If not, is there any formalized avenue for obtaining recognition?
- 6. How can each form of relationship be dissolved? What is the residency requirement or other link to New Mexico for an authority to grant a divorce/ dissolution?



### 1. What forms of legally recognized relationships are available?



LEGAL RECOGNITION FOR OPPOSITE-SEX COUPLE	GEOGRAPHY	LAW	AVAILABLE TO SAME-SEX COUPLE?
Marriage, registered	New Mexico	<i>Griego v. Oliver</i> , 316 P.3d 865 (N.M. 2013).	Yes

**NOTE:** On June 26, 2015, the United States Supreme Court issued a decision in four consolidated cases from the Sixth Circuit Court of Appeals under the name *Obergefell v. Hodges*, 576 U.S. \_\_\_\_\_ (2015), regarding same-sex marriage. The appeals arose from federal district court decisions in Michigan, Kentucky, Ohio, and Tennessee, which struck down as unconstitutional laws that denied the 14 petitioners the right to marry or refused to give full recognition to marriages lawfully performed in another state. The laws at issue in those states define marriage as a union between one man and one woman. The Sixth Circuit had reversed those decisions (in *DeBoer v. Snyder*, 772 F.3d 388 (2014)), holding that a state had no constitutional obligation to allow same-sex marriages or to recognize those performed in another state. In a 5-4 majority opinion, the U.S. Supreme Court held that the Fourteenth Amendment requires a state to license marriages between same-sex couples and to recognize lawfully performed same-sex marriages from another state. The Court held that the right to marry is protected under both the Due Process Clause and the Equal Protection Clause of the Fourteenth Amendment. Because the Court found that state laws at issue burden the liberty and abridge the equality of same-sex couples, they must be struck down. Earlier, the New Mexico Supreme Court had reached the same conclusion under the constitution of the State of New Mexico in *Griego v. Oliver*, 316 P.3d 865 (2013). Accordingly, the *Obergefell* decision did not change the law regarding same-sex relationships in New Mexico.

**Q**

**2. What are the requirements to be able to enter into the above relationships?**

**A**

(i) Geographic requirements:

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	There is no geographic requirement.

(ii) Other substantive eligibility requirements:

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	<p>To be legally married, a couple must:</p> <ul style="list-style-type: none"> <li>• obtain a marriage license from any county in the state. Both individuals must be present and show legal identification. If either party is under 18 years of age, they must have parental consent to marry; if under 16, they must also have a court order authorizing the marriage.</li> <li>• the marriage license must be signed by two witnesses and a wedding officiant. A wedding can be officiated by a clergyman, a judge, justice, or state court magistrate, or an authorized representative of a federally-recognized Indian tribe.</li> </ul>

**Q**

**3. If both marriage and civil unions exist:**

- (a) Identify any significant differences in eligibility; and
- (b) Briefly highlight how they interact if both are in effect (e.g., in some countries entering into a marriage with the same or a different person automatically dissolves any civil union that the two parties were previously party to making the latter vulnerable and potentially circumventing separation laws).
- (c) If both marriage and civil unions are available to same-sex couples, briefly highlight areas where major differences exist between marriage and civil unions (e.g., taxes, adoption, immigration, etc.).

**A**

(a)–(c)	Not applicable. Civil unions do not exist in New Mexico.
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Q

**4. What kinds of pre-existing relationships make you ineligible to enter each kind of relationship?**

A

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	If you are already married with the same or a different person you cannot marry again, but otherwise anyone can marry, provided he or she meets the legal requirements.

Q

**5. When a couple comes to New Mexico, is their pre-existing relationship recognized? If not, is there any formalized avenue for obtaining recognition?**

A

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	All foreign marriages that are lawful in the state or country in which they were contracted are recognized.

Q

**6. How can each form of relationship be dissolved? What is the residency requirement or other link to New Mexico for an authority to grant a divorce/ dissolution?**

A

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	<p>A court can grant a dissolution of marriage if, at the time of filing the petition, either party has resided in New Mexico for at least six months and is domiciled there.</p> <ul style="list-style-type: none"> <li>• An individual is domiciled in the state if he is physically present, has a place of residence, and has a present intention in good faith to reside in the state permanently.</li> <li>• Any person serving in the military who has been continuously stationed in New Mexico for six months meets this requirement.</li> <li>• On the petition of either party to a marriage, a court may decree the dissolution of the marriage on any of the following grounds: incompatibility; cruel and inhuman treatment; adultery; or abandonment.</li> </ul>

**Sources:**

- N.M. Const. art. II, § 18.
- N.M. Stat. § 40-1 *et seq.* (2014).
- N.M. Stat. § 40-4-5 (2014).
- *Obergefell v. Hodges*, 576 U.S. \_\_\_\_\_ (2015).
- *Griego v. Oliver*, 316 P.3d 865 (N.M. 2013).

