



## Hierarchy of Laws:

- I. Constitution of the United States (all laws and contracts must conform to constitutional principles and if found in conflict could be voided by a Court).
- II. Federal Statutes such as Safe Drinking Water Act, Clean Water Act, etc. are required to be met by all states and citizens unless found unconstitutional. So any state laws, contracts, or agreements in conflict with valid federal statutes can be voided by federal or state courts.
- III. Federal regulations promulgated to implement federal statutes are also superior to state laws because the constitution states that federal mandates are supreme over state promulgations.
- IV. State Constitution (all state laws, agreements, etc. must not violate the state constitution which has different provisions than the federal constitution).
- V. State Statutes such as the Open Meetings Act, Inspection of Public Records Act, etc., must conform to federal requirements and the state constitution principles.
- VI. State regulations (in New Mexico these are promulgated in the New Mexico Administrative Code or separately by the state agencies) and if not in conflict with state statutes, state constitution or federal laws are supreme to any agreements made by groups organized under state law.
- VII. For water associations the next step are the Articles of Incorporation, which must be consistent with items I to VI above. If the articles violate any of the above, that part of the articles is not valid and could be voided by a court or the Secretary of State. **This document is like the local constitution for the association.**
- VIII. Next are the Bylaws, **which is the contract with the members** about how the association will be governed and what powers the members give to the board and what powers they retain for themselves (**similar to a state statute**). The bylaws cannot create rules that are inconsistent with the articles or any of the laws in items I to VI above. If they do, that part of the bylaws would be void or disregarded and the court would move to the next higher document to determine what the association could do. In other words, if the bylaws are inconsistent with the articles, the articles would be enforced, NOT the bylaws and if the articles are inconsistent with the state regulations or statutes, the state laws would be enforced NOT the articles, and so on up the chain.
- IX. The final chain in the rule of law, would be the rules and regulations the association writes for itself **which details the principles laid out in the bylaws and articles**. It is approved by the Board of Directors. But **again, new requirements cannot be added here—only details of the authority granted in the superior documents**. Any inconsistent rule or regulation could be disregarded and the next higher document would be enforced.
- X. The association and the members enter into an agreement to provide and receive service. It must be signed by each member and attested by a board official. This agreement is commonly called the **Water Users Agreement or Certificate of Membership**