



POLICY NUMBER: 1

POLICY: SALARY AND COMPENSATION

EFFECTIVE DATE: 08/09/2017

PURPOSE

The purpose of this policy is to provide a uniform system of pay administration guidelines that support the appropriate compensation for classified employees of the Public Regulation Commission (PRC). Employees covered by the State Collective Bargaining Agreement may have other rights. See, CBA, Article 12.

POLICY

It is the policy of the PRC to provide an equitable system of compensating employees commensurate with performance and job competency, within the constraints of the PRC's financial capabilities, which is consistent with the compensation philosophy established in the Classified Service Pay Plan.

APPLICABILITY

This policy applies to all current classified employees of the PRC.

Any employment and/or salary commitment by a Director, Bureau Chief, or Supervisor to hire someone without all prior approvals is null and void and outside of his/her scope of authority. Additionally, applicants shall not be allowed to begin work until all required approvals are obtained. Failure to comply with these requirements may be cause for disciplinary action.

DEFINITIONS

1. "Appropriate Placement" means those elements to be considered in determining pay upon hire, promotion, transfer or reduction including the employee's education, experience, training, certification, licensure, internal pay equity, budgetary availability and, when known and applicable, employee performance. A value, established or anticipated, of an individual employee's contribution relative to the value of the full scope of duties and responsibilities of the job as represented by the midpoint of pay of the job.
2. "Classification" means a job that is occupationally and quantifiably distinct.
3. "Compa-Ratio" means the salary paid to an employee expressed as a percentage of the mid- point value of the salary pay band or pay opportunity. Therefore, the mid-point of the salary pay band or pay opportunity has a compa-ratio of 100.0%.
4. "In-Grade Hire" means the hiring of an individual from outside of the classified service at a salary which exceeds the minimum salary level of the salary pay band of the classification in which they are hired.

5. “Lead Worker” (for Bargaining Unit Eligible Employees means an employee in a Technical Occupation Group classification who has mastered full-performance level and provides work direction to one or more employees. This may include duties such as: the distribution of work, employee training, and assisting and/or advising lower level employees. However, once a lead worker has executed these techniques and instructions the responsibility ends, and responsibility for work performance and evaluation rests ultimately with the supervisor.
6. “On-Call Pay” means compensation for employees directed to remain on-call after their normal or alternative work schedule.
7. “Pay Band” means the range of pay rates, from minimum to maximum for a Technical Occupation Group Role.
8. “Pay Plan” means the document developed by the State Personnel Director and reviewed annually by the State Personnel Board (SPB) that provides guidance to agencies on the application of the SPB Rules and serves as a tool for effective compensation management.
9. “Reduction without Prejudice” means a voluntary (non-disciplinary) change of an employee from a classified position to a classified position with a lower salary pay opportunity.
10. “Role” means a representation of the continuum of job levels within a non-management classification (Technical Occupation Group) that an agency utilizes to carry out a part of its mission and contains relative complexity (Know-how, Problem Solving, and Accountability) factors which are measured by the Hay system to determine job size and relative worth.
11. “Salary upon Reduction” means the salary of employees who take a reduction may be reduced by up to fifteen percent (15%) unless the reduction is made in accordance with Paragraph (2) of Subsection F of 1.7.4.12 NMAC. An employee’s salary should reflect Appropriate Placement within the Pay Band or Pay Opportunity. The Director may approve a salary reduction greater than fifteen percent (15%) due to special circumstances that are justified in writing.
12. “SPO” and “SPB” means the New Mexico State Personnel Office and State Personnel Board respectively.
13. “Transfer” means the movement of an employee from one position to another in the same Pay Band or Pay Opportunity without a break in service.



POLICY NUMBER: 1

POLICY: SALARY AND COMPENSATION

EFFECTIVE DATE: 08/09/2017

GENERAL GUIDELINES

In general, salary decisions should reflect consideration of the employee's appropriate placement within the salary pay band or pay opportunity relative to the midpoint salary of the Pay Band or Pay opportunity (Compa-Ratio 100.0), internal equity, budgetary limitations, market competitiveness, level of contribution to agency mission and agency business need.

As further guidance, each pay band for a non-management position is divided into three contributor proficiency "zones" which represent varying levels of pay in relation to demonstrated skills, competency and performance. The zones are:

Associate Zone, (as defined and determined by SPB on an annual basis): Pay in this zone should reflect the fact that the employee is still learning the job and has not yet achieved full competency in the job; receives close supervision and is expected to seek instruction and guidance before taking on new tasks;

Independent Zone, (as defined and determined by SPB on an annual basis): Pay in this zone should reflect that fact that the employee is fully developed and capable of performing the full scope of job duties and responsibilities; rarely needs instruction and guidance to perform routine duties and is expected to assume full accountability for successful completion of tasks;

Principal Zone, (as defined and determined by SPB on an annual basis): Pay in this zone should reflect the fact that the employee has demonstrated mastery of the job; regularly performs the most complex and demanding work associated with the job role; supervisor spends relatively little time coaching in technical competencies and skills. An employee in this zone consistently functions as team leader.

Placement and progression of an employee's salary should be reflective of his/her demonstrated knowledge, skills, abilities, competency and performance in the classification. No employee will be paid at a salary below the minimum or above maximum of the salary pay band unless provided for in SPB Rule or statute and approved by the PRC Chief of Staff.

SPECIFIC PAY GUIDELINES

All Entrance Salary placement requests must receive approval of the Chief of Staff prior to implementation.

All newly appointed employees' salary, subject to budget availability, should reflect appropriate placement within the pay band. "Any entrance salary in the principal contributor zone must receive SPO approval from the SPO Director prior to appointment."

Under no circumstances shall supervisors commit to hiring anyone until the PRC Personnel Action Request (PAR) has all required signatures including the Division Director, Human Resource Manager, Administrative Services Division Director and the Chief of Staff.



POLICY NUMBER: 1

POLICY: SALARY AND COMPENSATION

EFFECTIVE DATE: 08/09/2017

Pay for Performance Increase

Subject to specific statutory authorization for each state fiscal year and subject to agency budget availability, employees who fulfill established performance criteria, shall be eligible for a salary increase within their assigned Pay Band or Pay Opportunity in compliance with SPB Rule.

Employees with a salary at or above the maximum of the position's Pay Band or Pay Opportunity shall not be eligible for a salary increase unless authorized by statute or State Personnel Board.

In-Pay Band

In-Pay Band adjustment provides a mechanism, which can move an employee's salary within his/her current Pay Band, without a change in the position classification. Progression of an employee's salary should be reflective of his/her demonstrated skill, competency and performance in the classification.

Specific provisions

Requests for In-Pay Band adjustments must be submitted by the Division Director for approval by the Chief of Staff, or designee.

An employee's pay rate may be increased up to 10% per fiscal year within the Pay Band (more than 10% if required to bring the employee to a new minimum of pay band). The increase cannot exceed the top of the pay band.

The new placement of the employee's salary with the increase must be determined and documented as described in the contributor proficiency zones.

Any request for a Compa-Ratio > 105% must include the specific "value added" performance examples.

Requests for all In-Pay Band adjustments must be approved by the Chief of Staff, or designee.

No In-Pay Band adjustment may be granted until all governing agencies have approved the paperwork and notified the agency.

Promotion

Each salary upon promotion will be determined utilizing the criteria established above.

All salary increases must be approved by the Chief of Staff, or designee.

Requests for salary increase, upon promotion, for less than 5% or more than 15% must be approved by the State Personnel Director, unless:

An increase of less than 5% is required to keep the salary from exceeding the maximum of the new salary pay band or pay opportunity; or

An increase of more than 15% is required to bring the salary up to the minimum of the new salary pay band or pay opportunity.

Temporary Promotion

The PRC may grant a temporary promotion of no less than 5% and no more than 15% for a period not to exceed one year. Employees may be eligible to receive a temporary promotion upon acceptance of the duties normally assigned to a vacant position with a higher salary pay band or pay opportunity. Employees receiving temporary promotions will receive the same increase due to them had the promotion been permanent. At the end of the temporary promotion, the employee's salary shall revert back to a salary equal to that which would have been attained had the temporary promotion not taken place.

Pay Allowance for Performance of Supervisory Duties

The PRC may grant a supervisory pay allowance for up to one year to an employee in a Technical Occupation Group who accepts and consistently performs additional duties, which are characteristic of a supervisor, including work direction and performance evaluation of at least 2 FTE's. The pay allowance will not become a part of the employee's base pay rate.

The amount of the supervisory pay allowance shall reflect the supervisory responsibilities, which transcend the technical responsibilities inherent in the Technical Occupation Group Role and shall be between 0% and 20% above the employee's base pay rate.

At the time of acceptance of the supervisory pay allowance, supervisors must sign a SPO approved form evidencing their agreement to the terms and conditions of the supervisory pay allowance. It is required that supervisors sign this document upon receipt of the supervisory pay allowance.

When the supervisory duties are no longer being performed, the PRC will remove the supervisory pay allowance.

The following is a guideline used in determining the percentages of supervisory pay allowance based on number of FTE's to be supervised:

- 2-4 FTE, 10% of base pay
- 5-8 FTE, 15% of base pay
- 9 or more FTE, 20% of base pay



POLICY NUMBER: 1

POLICY: SALARY AND COMPENSATION

EFFECTIVE DATE: 08/09/2017

Employees in a designated supervisory classification as of 7/6/01, 0-10% of base pay, in consideration of previous promotion to supervisory position will have already received this as a part their base pay.

Special circumstances (scope, complexity etc.) related to the nature of the supervisory duties will be considered that either significantly increase or decrease the difficulty of the supervisory responsibilities

Lead Worker Pay (for Bargaining Unit Eligible Employees)

An employee assigned to Lead Worker duties shall receive the pay applicable to the greater responsibility/accountability in an amount not less the 5% but not to exceed 15% of the employee's base pay for the entire period of the assignment provided employees who, in connection with voluntary participation in supervisor training are assigned to perform duties normally assigned to the supervisor shall not receive lead worker pay.

The following is the process for Lead Worker Pay:

- All Lead Worker increases must be approved through the chain of command.
- All salary increases must be approved by the Chief of Staff, or designee.
- All paperwork must be completed and processed prior to implementation of the salary increase.

Classification Reduction

- Classification reductions without prejudice will be granted under the following circumstances:
- An employee who has requested a voluntary transfer which results in a classification reduction and has agreed in writing to accept the new classification typically or normally at a minimum of a 5% and maximum of 15% reduction of their current base pay, or
- The position occupied by an employee has been assigned a classification at a lower salary pay band or pay opportunity. Under this circumstance, the employee may elect to accept the classification reduction, or overfill the position in their current classification.
- The Chief of Staff, or designee, must approve requests for less than a 5% reduction in pay upon classification reduction in pay.
- Requests for salary decreases greater than 15% can be requested under special circumstances. The Chief of Staff, or designee, and the State Personnel Office must approve such requests.

- Salary may not exceed the maximum of the pay band or pay opportunity unless authorized by statute or State Personnel.

Transfer

The salary of an employee who is transferred laterally either intra-agency or inter-agency may be approved for up to a 10% salary increase. Anything greater than 10% requires written justification and SPO Director's approval.

Temporary Salary Adjustments

Temporary salary adjustments may be approved for a period not to exceed one year.

The salary of an employee may be increased when the employee has accepted additional job duties and responsibilities which are characteristic of a classification assigned to a higher salary pay band or pay opportunity.

Temporary salary increase may be up to 15%, when the demands placed upon the employee in accepting the new duties warrant such an increase.

Requests for temporary salary adjustments up to the maximum salary of the pay band or pay opportunity must be approved by the Chief of Staff, or designee, and the SPO Director.

Bargaining Unit Eligible employees must be compensated in conjunction with Article 12, Section 9 of the ASFME contract.

Temporary salary adjustments requests which will result in a salary above the maximum of the pay band must be approved by the SPO Director.

All requests for temporary salary adjustments must be made in writing and address the following:

- the specific additional duties of a higher salary pay band or pay opportunity the employee has been assigned; identification of the classification these duties are characteristic of;
- the employee's education and/or experience related to the additional duties being performed;
- why these duties have been assigned to the employee; and
- the anticipated duration of the assignment (start date and ending date).

Temporary Recruitment/Retention Differential

A temporary recruitment/retention differential of up to 15% of the employee's base pay of an employee who fills a position which has been documented as critical to the effective operation of the agency and has been demonstrated and documented to be a severe recruitment problem for the agency, based on the agency's documented inability to effectively recruit for a position. Payment of the differential shall be separate from the employee's base salary.

Temporary Recruitment Differential

Requests for an amount up to 15% of the employee's salary must be approved by the Chief of Staff, or designee, and the State Personnel Director.

Requests for temporary recruitment/retention differentials in excess of 15% of the employee's salary, or requests that will place the employee's base pay plus differential above the maximum pay must be approved by the Chief of Staff, or designee, and the State Personnel Director.

Temporary recruitment differentials are tied to the position for which justification of the recruitment problem has been made. The differential may not transfer with the employee should the employee leave that position.

Recruitment differentials may be approved for up to 2 years at a time and must be re-justified biennially for continuance.

In addition to the documentation and consideration requests outlined above, requests for recruitment differentials must address the following:

The condition causing the recruitment difficulties, e.g. geographic location, unusual or extreme working conditions, pay, etc;

Documentation supporting the assertion of recruitment difficulties, e.g. turnover, unsuccessful recruitment attempts, etc., during the last 12 months;

An explanation as to how the specific differential percentage being requested was determined.

Temporary Retention Differential

A temporary retention differential may be requested based upon the need to retain an employee in a position which has been designated as essential to the effective operation of the agency and with certification that the employee's departure would disrupt the agency's ability to fulfill its goals and mission or that the employee is in a position which has a documented history of severe retention difficulties.

The following is the process for Temporary Retention Differential:

- An explanation as to why the person and/or position is critical to the agency;
- Proof of the employee's impending separation (letter of resignation or verified letter of employment offer and salary) or information indicating foreseeable recruitment/retention difficulties in replacing the employee;
- The training and/or transition difficulties which will be incurred by hiring a new employee; and
- An explanation as to how the specific differential percentage being requested was determined.

In addition, each request must provide a detailed plan that outlines how the agency intends to resolve the problems associated with the retention difficulties.

Payment of the differential shall be separate from the employee's base salary. Temporary Retention differentials may not exceed one year, shall be specific to the position, and may not transfer with the employee.

Out-of-State Differentials

An out-of-state differential may be provided to an employee if the agency is able to substantiate that the employee's current salary is insufficient to adequately compensate an employee while working or residing out-of-state on agency business. The differentials may provide compensation above the maximum of the salary pay band or pay opportunity and must be approved by the Chief of Staff, or designee, and the SPO Director. This pay will not be counted as a part of the employee's base pay.

Legislative Restrictions

Salary increases must conform to any existing legislative guideline, if applicable.

On-Call Pay

An employee assigned to "On-Call" status in circumstances where the time expended will not constitute compensable hours worked under the Fair Labor Standards Act shall be paid "On-Call" Pay in an amount equal to one eighth (1/8) hour of pay at their regular straight time hourly rate of pay or \$1.70 per hour, whichever is greater, for each hour of assigned "On Call" status.

Unrestricted Call-Back Status

On-Call Pay shall not be paid to employees who are placed on standby status and who are provided with a pager, cell phone or other electronic communication device and required to return to the work site as soon as practical from the time contact is made, so long as the employee is not required to remain in any specific geographical area or required to return to work within a specific time



POLICY NUMBER: 1

POLICY: SALARY AND COMPENSATION

EFFECTIVE DATE: 08/09/2017

period. Employees on such status may decline to return to work if contacted, without penalty, discipline or other reprisal if they acknowledge that they are not fit to report to duty.

The following is the process for On Call Pay:

- The Chief of Staff and Division Directors will define the departments and job titles eligible for on-call pay, based on operational needs.
- The Bureau Chief of each designated department with approval of the Division Director will decide specifically which employee(s) in each job classification will be assigned to take call and receive the additional compensation. These decisions shall be made fairly and equitably using work and skill related factors. All of these actions will follow PRC HR Policy # 5 Overtime Compensation and # 11 Alternative Workweek Scheduling.
- Each job classification that the agency classifies as exempt (under the Fair Labor Standards Act) will not be eligible to receive call pay unless approved in advance by the Chief of Staff.
- On-Call status begins after the completion of the workday and continues until resuming work the following workday, unless a defined length of time is determined prior to the time the call commences. An employee will be notified in writing of the specific times of the On-Call schedule.
- Employees are to follow all PRC Policy No. 15 Vehicle Operations and any other rules and regulations in the operation of a State Vehicle.
- Employees will be considered engaged by the Agency from the time they leave home (or when they receive the call if they receive the call when not at home) until the work is completed. This time will be considered worked time and will be recorded as such on the time record by the employee. Circumstances causing an increase in travel time should not be included in the time worked.

An employee may not be placed On-Call when the employee is:

1. Scheduled and taking on annual leave or personal day.
2. Absent for illness and taking sick leave.
3. Absent for funeral leave and taking bereavement leave.
4. On a leave of absence and taking leave.
5. Not available for work, this includes but is not limited to utilizing flex or compensatory time, (any time when the employee is unable to work).



POLICY NUMBER: 1

POLICY: SALARY AND COMPENSATION

EFFECTIVE DATE: 08/09/2017

An employee's compensation for On-Call Pay will be rounded up to the whole hour that the employee makes him/her available during off-duty hours and will be paid at the rate approved by the Agency.

An employee who is on-call must meet the following criteria to receive On-Call Pay:

- It is the responsibility of the employee to ensure that all means of communication devices are on and operational.
- When notified the employee must respond within five minutes.
- Arrive at the site within 60 minutes or less as safety standards permit after receiving the call.
- Arrive in "fit" condition for the working environment.

Forfeit of On-Call Pay

If an employee does not meet the criteria stated above, he/she will forfeit the On-Call Pay from the time of the first attempt to contact him/her to the end of the call period.

When an employee is called back to work and is no longer on-call, this work time will be paid at the employee's regular rate of pay or at his/her overtime rate if she/he has already worked the required hours.

The Commission reserves the right to validate the availability of an employee receiving On-Call Pay. If the employee is unreachable Forfeit of On-Call Pay will apply and the employee may be subject to disciplinary action if this situation continues.

Employees will not receive On-Call Pay for time worked.

An employee will receive a minimum of one hour's pay for each time the employee is called-out.

Each employee will be responsible for completing a card documenting each time he/she is on call and forward to his/her supervisor to approve the On-Call Pay time. Cards must be submitted to the supervisor by Friday morning of each week.

Any exceptions to the procedures set forth herein must be justified and receive approved in writing, prior if at all possible, by the Chief of Staff or designee.

Holiday Pay

When an authorized holiday falls on an employee's regularly scheduled work day and the employee is not required to work, the employee shall be paid at their hourly rate of pay for the number of hours they would have normally worked.



POLICY NUMBER: 1

POLICY: SALARY AND COMPENSATION

EFFECTIVE DATE: 08/09/2017

Full-time employees, whose normal work schedule does not include the day observed as a holiday, shall be entitled to time off equal to the employee's normal workday, once the holiday leave has accrued.

Employees required to work on the day a holiday is observed shall be compensated at straight time for all hours actually worked and additional compensatory time at one and one half times their usual hourly rate of pay.

Part-time employees whose normal work schedule does not include the day a holiday is observed shall not be compensated for the holiday.

Employees who have been charged absence without leave (AWOL) on the workday prior to or directly following a holiday shall not be paid for the holiday.

Demotion

The salary of an employee who has been demoted in accordance with the PRC's Discipline Policy shall be decreased to an hourly rate of pay which does not result in more than a 15% decrease from the previous salary, unless a greater decrease is required to bring the salary to the maximum of the new pay band or pay opportunity.

References

1.7.3 NMAC, Classification; 1.7.4 NMAC 1978, Pay.

APPROVED:

DATE:

COMMISSION APPROVED

08/09/2017



POLICY NUMBER: 2

POLICY: EMPLOYEE PERFORMANCE APPRAISAL

EFFECTIVE DATE: 08/09/2017

PURPOSE

The purpose of this policy is to provide for effective and timely appraisal and documentation of each employee's performance and the development of the skills, knowledge and abilities to attain the employee's and the Public Regulation Commission's (PRC) goals and mission. Employees that are covered by the State Collective Bargaining Agreement may have other rights. See, CBA, Article 25.

POLICY

This policy is developed in accordance with 1.7.9 NMAC. Performance Appraisals. The PRC will use the form and rating system approved by the State Personnel Office (SPO). All provisions of this policy shall be modified/amended or superseded by any State Personnel Board (SPB) Rule changes. Agency Division Directors, Supervisors, and Bureau Chiefs who fail to comply with this policy may be subject to disciplinary action.

APPLICABILITY

This policy applies to all classified employees who are in probationary, career or term status.

DEFINITIONS

1. **"EE"** means Employee Evaluation on a SPO approved form.
2. **"ME"** means Manager Evaluation on a SPO approved form.
3. **"Supervisor"** or **"Manager"**: An employee who is charged with the responsibility of directing the work of others within a bureau and has authority in the interest of the PRC to make recommendations for hiring, promoting, evaluating the performance of, and disciplining employees, and/or approving leave.
4. **"Rater"** means an employee's immediate supervisor.
5. **"Reviewer"** means the supervisor's supervisor. The reviewer's role is to assure supervisor compliance with applicable rules and policies and to monitor the accuracy, quality, equity and integrity of the process.
6. **"Anniversary Date"** means the date of appointment or reemployment and is changed as of the date of promotion, demotion, reduction, or change of classification.

PROCEDURES



A. Manager Performance Evaluation Training

1. All Managers and/or employees acting in a supervisory capacity (Supervisor) shall successfully complete SPO approved training on employee performance appraisal within 90 days of their appointment.

B. Development/Implementation

1. The Supervisor shall ensure that the EE is accurate and completed on a timely basis. The immediate Supervisor and the employee shall work together in the development and implementation of the appraisal form as well as any evaluation of the employee. The supervisor must confer with the reviewer when identifying the Job Assignments and Applicable Skills. The reviewer is required to be involved twice during the process: 1) when the EE is created and 2) when the immediate Supervisor/Division Director has determined the final ratings. The immediate Supervisor and the Reviewer are responsible for ensuring that the EE is in compliance with PRC policies.
2. Utilizing SPO approved forms; the Supervisor shall develop and initiate the EE within ninety (90) calendar days of appointment, reassignment, promotion, demotion, classification reduction, and transfer of the employee or change of assignment. The completed EE will be submitted to the HR Office for recording in the employee's personnel file. The employee's EE shall become a part of the employee's employment history filed with the State Personnel Office and PRC Human Resource Bureau.
3. The performance and development of a classified employee shall be appraised by the immediate Supervisor/Division Director at least semi-annually and annually. If one of the interim reviews contains a "does not achieve" on any job assignment, a Performance Development Plan will be initiated along with a Work Improvement Plan. This process will continue until the employee achieves performance standards.
4. The performance and development of a probationary employee, a newly appointed Bureau Chief, and a newly promoted employee shall be appraised by the immediate Supervisor/Division Director through at least two interim reviews and a final annual evaluation prior to the completion of a one-year period.
5. Employees who have not been in their current position for a minimum of 90 days will not be eligible for an annual performance evaluation. The EE implemented when the employee began their new job will be used to evaluate their performance at the next anniversary date. Appraisals may be performed whenever an immediate



Supervisor/Division Director wishes to make an employee's performance a matter of record, upon change of an immediate Supervisor/Division Director or when deemed appropriate by the immediate Supervisor/Division Director.

6. The Rater will schedule a time to meet with the employee for final discussion and to obtain signatures on the form. The meeting itself should be private and allow enough time to address all issues. If the employee refuses to sign the final Performance and Development Evaluation, the Rater will note the refusal and shall provide a copy of the final EE/ME to the employee.
7. The immediate Supervisor/Division Director will submit the EE to the reviewer for signature prior to finalization. The Reviewer and the Supervisor should agree on the Employee rating before the supervisor meets with the employee. Although it is not the Reviewer's role to change the ratings, it must be confirmed by the Reviewer that the EE/ME is in compliance with applicable policies, regulations and rules.
8. The finalized EE must be submitted to the PRC Human Resource Bureau no later than 15 days of the employee's anniversary date.

C. Rebuttals

Performance appraisals are not subject to complaint under the PRC Complaint Policy or any other PRC policy. The rebuttal is a matter of record only and does not initiate action to change the evaluation rating. However, employees may submit a rebuttal as part of the EE to performance appraisals, which shall become a part of the EE.

REFERENCES

1.7.9 NMAC, Performance Appraisals

APPROVED:

COMMISSION APPROVED

DATE:

08/09/2017

I. PURPOSE

The purpose of this policy is to establish the Public Regulation Commission's (PRC) policy for requesting, granting, and donating leave; to define general conditions for receiving and reporting the various types of leave; and to ensure compliance with State and Federal law.

II. POLICY

This policy governs absence and leave and ensures fair and equitable treatment of all PRC employees.

III. APPLICABILITY

This policy applies to all PRC employees, classified and exempt.

IV. DEFINITIONSⁱ

1. **"Employee"** means a person employed by the PRC, classified and exempt.ⁱⁱ
2. **"Eligible Employee"** means, for FMLA purposes, is a FMLA covered employee of a FMLA covered employer who is in the classified service for at least 12 months (which need not be consecutive) and who have worked, as defined by Section 7 of the Fair labor standards act, at least 1250 hours during the 12 month period immediately preceding the start of FMLA leave.
3. **"Family Medical Leave Act"** ("FMLA") means the Family and Medical Leave Act of 1993.
4. **"Intermittent Leave"** means, for FMLA purposes, leave taken in separate blocks of time due to a single qualifying reason.
5. **"Probationer"** means a person in the classified service who has not completed their one-year probationary period.
6. **"Household Member"** means a person residing in the employee's household.
7. **"Immediate Family Member"** for purposes of FMLA, means a spouse, parent or child (foster, adopted or biological, or a child for which the employee is acting in loco parentis).

8. **“In loco parentis”** for purposes of FMLA, means persons with day-to-day responsibilities to care for and financially support a child. A biological or legal relationship is not necessary.
9. **“Relation by blood or marriage within the third degree”** includes spouse, domestic partner, parent, mother-in-law, father-in-law, step-parent, children, domestic partner children, son-in-law, daughter-in-law, step-child, brother, step-brother, brother-in-law, sister, step-sister, sister-in-law, grandparent, grandchild, uncle, aunt, nephew, niece, great-grandchild, great-grandparent.
10. **“Serious Health Condition”** means, for FMLA, purposes, an injury, illness, impairment, or physical or mental condition, that involves inpatient care in a hospital, hospice or residential medical care facility; or requires continuous treatment by a health care provider. and which, if left untreated, would likely result in an absence from work of more than three consecutive calendar days and requires two or more treatments (visits) to the health care provider, or requires at least one visit to the health care provider followed by a regiment of continuing treatment under the supervision of the health care provider, or involves prenatal care.

V. GENERAL PROCEDURES

- A. Employees shall request all types of leave in writing to their direct Supervisor or designee if the Supervisor is unavailable, at least one work day in advance.
- B. Employees taking sick leave must use all reasonable efforts to contact their immediate supervisor within fifteen (15) minutes of the beginning of the business day, requesting approval of sick leave use. If the supervisor is not available at the designated phone number, the employee shall leave a message for the supervisor. In the event an employee is incapacitated, a family member may call on behalf of the employee.
- C. If the employee is at work when he/she gets ill, the employee shall notify their immediate supervisor prior to leaving work and obtain leave approval. When possible (i.e. medical appointments), prior approval should be obtained before leave is taken.
- D. In emergency situations only, when employees are unable to notify the employer in advance, supervisors shall consider the situation and use discretion in approving the delayed leave request or to consider the employee absent without leave.
- E. Supervisors cannot approve leave which has not been earned or authorized under SPB rules, agency policy, state or federal law.
- F. Supervisors shall consider the operational needs of the PRC when requests for leave are made. The supervisor may deny a leave request for specific operational need(s) which will be explained by the supervisor if requested in writing by the employee.
- G. Previously approved leave requests may be cancelled only in the case of a reasonably unforeseen circumstance.
- H. It is the employee’s responsibility to verify approval or denial of the request for leave prior to taking the leave.



- I. Leave taken without prior approval may be considered absent without leave and cause for disciplinary action.
- J. Employees who fail to appear for work without authorized leave may be considered absent without leave.
- K. Employees absent without leave for five consecutive work days are considered to have abandoned their jobs and are subject to disciplinary action including dismissal.
- L. Leave and work time reported into Share or that are in other records must accurately reflect the leave status of Employees and actual hours worked. Employees shall be responsible for timely and accurately entering their time in the Share reporting system. Failure to report leave into Share may result in disciplinary action up to and including dismissal.
- M. Supervisors may not adjust an employee's work day or week to avoid the payment of overtime or accrual of comp-time by non-exempt employees without the employee's written consent.

Persons affected by pregnancy, childbirth and related medical conditions, must be treated the same as persons affected by other medical conditions.

VI. ANNUAL LEAVE

- A. Employees except those on full-time educational leave with pay, absence without leave, leave without pay, unpaid FMLA or suspension without pay, shall accrue annual leave at the rate of:
 - a. 3.08 hours per pay period if less than 3 years of cumulative employment;
 - b. 3.69 hours per pay period if 3 years or more but less than 7 years of cumulative employment;
 - c. 4.61 hours per pay period if 7 years or more but less than 11 years of cumulative employment;
 - d. 5.54 hours per pay period if 11 years or more but less than 15 years of cumulative employment; and
 - e. 6.15 hours per pay period if 15 years or more of cumulative employment.ⁱⁱⁱ
- B. Annual leave shall not be used before it is accrued and must be authorized before it is taken in accordance with this policy. Annual Leave is accrued at the end of the pay period and cannot be used until after the pay period in which it was accrued.
- C. Employees employed on a part-time basis and employees on furlough who work at least eight (8) hours in a pay period shall accrue annual leave on a prorated basis.
- D. For purposes of annual leave accrual, any employment in the classified or exempt service and judicial or legislative branches of New Mexico state government shall count as cumulative employment in the classified service.

- E. For purposes of annual leave accrual, employment in programs transferred into the classified service by legislation or executive order shall be counted in determining years of cumulative employment in the classified service.
- F. A maximum of 240 hours of annual leave shall be carried forward to the next year after the last pay period in December of the previous year.
- G. Employees separating from the classified service, except by a reduction in force, shall be paid for accrued annual leave, as of the date of separation, up to a maximum of 240 hours, at their current hourly rate. Employees separating from the classified service, as the result of a reduction in force shall be paid for all accrued annual leave, as of the date of separation, at their current hourly rate.
- H. The estate of an employee who dies while in the classified service shall be paid for the employee's total accrued annual leave.

VII. SICK LEAVE

- A. All PRC employees, except those on full-time educational leave with pay, absence without leave, leave without pay, unpaid FMLA leave, suspension without pay, shall accrue sick leave at the rate of 3.69 hours per pay period. There is no limit to the amount of sick leave that may be accrued.
- B. Sick leave shall not be used before it is accrued and must be authorized before it is taken in accordance with this policy. Sick leave is accrued at the end of each pay period and cannot be used until after the pay period in which it was accrued.
- C. Employees employed on a part-time basis and employees on furlough who work at least eight (8) hours in a pay period shall accrue sick leave on a prorated basis.
- D. No payment shall be made for accrued sick leave at the time of separation from the classified service except as provided by law and by Rule 1.7.7.10(I) NMAC.
- E. Employees may use sick leave for personal medical treatment or illness or for medical treatment or illness of a member of a relation by blood or marriage within the third degree, or person residing in the employees' household.
- F. A supervisor may authorize the employee to use accrued sick leave to attend the funeral of a relation by blood or marriage within the third degree, or of a person residing in the employee's household.

- F. Supervisors may require an employee to furnish a doctor's certificate for sick leave taken.
- G. An employee may be required to provide medical documentation or certification to return to work after medical leave.
- H. Annual leave may be used in lieu of sick leave with the employee's supervisor or the supervisor's designee's approval.

VIII. FAMILY AND MEDICAL LEAVE ACT (FMLA)^{iv}

- A. The FMLA entitles eligible employees up to twelve (12) weeks of unpaid leave in a twelve (12) month period for qualifying reasons, generally the following:
 - a. At the time of the birth or placement of a child for adoption or foster care;
 - b. At the time of the employee's serious health condition that makes the employee unable to perform the functions of the employee's job;^v
 - c. At the time of the employee's Immediate Family Member's serious health condition;
 - d. Because of any qualifying exigency arising out of the fact that the employee's Immediate Family Member is a military member on covered active duty (or has been notified of an impending call or order to covered active duty status); or
 - e. Up to twenty six (26) weeks of unpaid leave in a twelve month period to care for the covered service member with a serious injury or illness if the employee is the Immediate Family Member or next of kin of the service member.
- B. To request FMLA leave, an employee must submit the request to their supervisor, in writing and on the appropriate Family Medical Leave form. When the leave request is foreseeable, then the employee shall provide thirty (30) days advance notice to their supervisor. When the leave is not foreseeable, the employee must provide notice as soon as possible given the circumstances prompting the FMLA leave request. With the Family Medical Leave form, employees must provide medical documentation from a physician or other legally qualified health care provider, that the employee's condition, the condition of the Immediate Family Member, or service member necessitates the employee's absence.
- C. The supervisor shall obtain all documentation for the FMLA leave request and then submit the same to the Human Resources Bureau Chief. The supervisor shall not grant to the FMLA leave request until they obtain approval from HR Bureau Chief and Chief of Staff.
- D. The PRC has the right to place an employee on FMLA. Employees placed on FMLA by the PRC shall be notified in writing.
- E. An employee may elect, or the PRC may require the employee, to use the employee's accrued annual leave, accrued sick leave, accrued personal leave day, accrued compensatory time, or donated leave for any or all of the approved FMLA leave period. When accrued leave is concurrent with FMLA leave, then the leave is FMLA protected.
- F. On return from FLMA leave, an employee is entitled to be returned to the same position the

employee held when the leave commenced, or to an equivalent position with equivalent benefits, pay and other terms and conditions of employment. An Employee Employees shall return to the same worksite and job classification after conclusion of the applicable FMLA leave period. If a position in their job classification is unavailable at their former worksite, they shall return to a position of like status and pay at another worksite in the same city or geographic area within 35 miles. Unpaid FMLA shall not change the employee's anniversary date.

- G. Leave greater than what is annually allowable for FMLA, must be approved by the Chief of Staff (COS). Extended leave approved and not covered by accrued sick or annual leave will be considered leave without pay. When FMLA leave is extended into leave without pay, the employee's anniversary date may be affected.
- H. FMLA can be taken intermittently when medically necessary for treatment, recovery from treatment or recovery from illness, or when the employee is needed only intermittently in the case of a household member's illness. Leave can be taken in blocks of time from one hour to several days or weeks.
- I. An employee shall not accrue annual and sick leave, nor be compensated for "observed" holidays while on unpaid FMLA leave.
- J. While on unpaid FMLA leave, the employee shall be responsible for payment of his/her share of the cost of the insurance premiums or other benefits for which the employee typically pays.

IX. DONATION OF ANNUAL AND/OR SICK LEAVE

- A. The employee requesting donated leave must request for donated leave in writing through their supervisor who will provide the request to the Human Resources Bureau Chief and to the Chief of Staff. The recipient of donated leave may not use such leave until first exhausting all of the employee's own accrued annual, sick leave, compensatory time leave, administrative leave, and personal leave day.
- B. The donated leave request from the employee must include the employee's name, position title, and hourly rate of pay. The donated leave request must include a copy of the employee's licensed health care provider's description of the nature, severity and anticipated duration of the emergency that has caused the employee to be unable to work all or a portion of their work hours with the health care provider's statement that the recipient is unable to work all or a portion of their work hours.
- C. All documentation provided by the employee for the donated leave request for the request shall be kept confidential and not subject to public inspection without the written consent of the employee.
- D. Agency employees may donate leave to another PRC employee for a medical emergency with approval of the Chief of Staff. Employees may donate annual leave to the full amount of their accumulated hours.
- E. Only employees who have accumulated more than 600 hours of sick leave can transfer the additional amount over 600 hours to another employee, and no more than 120 hours of sick leave may be transferred by the donor in one fiscal year, with the exception of the year in which the employee retires, when an employee may donate up to 400 hours of sick leave.
- F. Donation of sick leave may only be made once per fiscal year on either the pay date immediately following the first full pay period in January or the first full pay period in July, unless the employee is retiring. The dollar value of transferred sick leave shall equal 50% of the monetary

- value of the total hours transferred by the donor employee.
- G. Human Resources Bureau will notify all PRC employees of other employee's need for donated leave, will collect and will transfer leave. The Human Resources Bureau will transfer donated annual leave to the leave account of the employee converting the dollar value of the donor's leave based on the donor's hourly rate of pay to hours based on the recipient's hourly rate of pay.
 - H. Donated leave shall revert to the employees who donated the leave on a prorated basis when the medical emergency ends or the employee separates from the PRC.
 - I. The Chief of Staff may authorize a leave of absence for an employee for the purpose of donating an organ or bone marrow. If the employee requests donations of annual or sick leave the same is governed by Rule 1.7.7.19 NMAC.

X. LEAVE WITHOUT PAY

- A. Leave without pay may be approved only when the PRC can assure a position of like status and pay, at the same geographic location, upon the return of the person from leave without pay or when the employee agrees in writing to waive these requirements.
- B. Leave without pay may not exceed thirty (30) consecutive days for a probationary employee, or those employees in emergency or temporary status. Any leave without pay in excess of thirty (30) consecutive calendar days shall not be credited toward the probationary period, unless the employee was called to active military duty.
- C. Leave without pay for employees in career status and term status with more than one year of employment shall not exceed twelve (12) consecutive months for a permanent employee.
- D. Employees shall not accrue sick or annual leave while on leave without pay.
- E. Failure to report for work upon the expiration of approved leave without pay may be grounds for disciplinary action.
- F. Leave without pay shall be requested and approved in advance with a letter indicating the reason(s) for the request. The HRB must be notified no later than noon on Thursday prior to the end of a pay period of any approved leave without pay.
- G. Any request by an employee for leave without pay to exceed three (3) days within a pay period or six (6) days within a calendar month must be submitted to the employee's direct supervisor and approved by the Chief of Staff. When leave without pay is requested for a medical emergency or medical condition, the employee's supervisor may require the employee to furnish a doctor's certificate prior to submission of the request to the Chief of Staff.
- H. Leave without pay may be approved only when the PRC can assure a position of like status and pay, at the same geographic location, upon the return of the person from leave without pay or when the employee agrees in writing to waive these requirements.
- I. Leave without pay may not exceed thirty (30) consecutive days for a probationary employee, or those employees in emergency or temporary status. Any leave without pay in excess of thirty (30) consecutive calendar days shall not be credited toward the probationary period, unless the employee was called to active military duty.
- J. Leave without pay for employees in career status and term status with more than one year of employment shall not exceed twelve (12) consecutive months for a permanent employee.
- K. Employees shall not accrue sick or annual leave while on leave without pay.

- L. Failure to report for work upon the expiration of approved leave without pay may be grounds for disciplinary action.
- M. Leave without pay shall be requested and approved in advance with a letter indicating the reason(s) for the request. The HRB must be notified no later than noon on Thursday prior to the end of a pay period of any approved leave without pay.
 - a. Long-term disabilities to those persons affected by pregnancy, childbirth, or other medical conditions. Such leave may be approved for a period not to exceed twenty (20) weeks in excess of annual and sick leave used for this purpose. An extension may be granted by the Chief-of-Staff. The employee may be required to furnish a physician's statement in support of a request for an extension.
 - b. Leave without pay may be authorized for up to twenty (20) weeks. In order to be eligible for leave without pay, an employee must have worked for the PRC for no less than one (1) full year. Leave without pay may be authorized only once every (5) five years.
 - c. Extensions beyond twenty (20) weeks may be authorized by the Chief of Staff for up to one (1) year, but only once every five (5) years. Extensions beyond twenty (20) weeks will require that the employee agree to the following conditions:
 - a. To advise the PRC Human Resource Bureau Chief at least two (2) months prior to the return date;
 - b. The availability of a position at the time the employee wishes to return; and
 - c. That when the employee returns a position of like status and pay may not be offered and, consequently, must meet the job qualifications for the position offered.

XI. ABSENCE WITHOUT LEAVE

- A. Employees who fail to appear for work without authorized leave or who appear for work but are in violation of PRC policies governing their readiness for work shall be considered to be absent without leave.
- B. Employees shall not be compensated and shall not accrue sick or annual leave for any period of absence without leave.
- C. Absence without leave constitutes just cause for discipline, up to and including dismissal.

XII. MILITARY LEAVE

- A. Members of organized reserve units or the National Guard ordered to active duty training shall be given up to fifteen (15) working days of paid military leave per federal fiscal year. These fifteen (15) working days are in addition to other authorized leave. This rule does not apply to employees in temporary or emergency status.
- B. The Governor may grant members of the National Guard paid military leave for active duty training, in addition to the fifteen (15) working days allowed above per federal fiscal year. Such additional leave must not exceed fifteen (15) working days per federal fiscal year.

- B. Members of the State Defense Force shall be granted paid military leave to attend officially authorized training or instruction courses. Such leave applies only to full-time employees and must not exceed fifteen (15) working days per federal fiscal year.
- C. Members of the Civil Air Patrol shall be granted military leave not to exceed fifteen (15) working days per calendar year for search and rescue missions.
- D. Employees on military leave with pay shall accrue annual and sick leave during the military leave with pay period.
- E. Employees who are members of a reserve component of the United States Armed Forces shall, upon request, be granted unpaid leave for the period required to perform active duty for training or inactive duty training in the United States Armed Forces.
- F. Section XII, Military Leave, of this policy does not apply to employees in temporary or emergency status.

XIII. EDUCATIONAL LEAVE

See PRC Educational Leave Policy No. 14

XIV. ADMINISTRATIVE LEAVE

- A. While on administrative leave, the employee, though paid, is on his/her own time, not on official business or "work time". Time spent on administrative leave must be indicated as such on the employee's timesheet.
- B. Administrative leave may be granted under the following circumstances:
 - a. **Voting:** Employees who are registered voters may be absent themselves from work for two (2) hours for the purpose of voting between the time of the opening and the time of the closing of the polls. These provisions do not apply to any employee whose work day begins more than two (2) hours after the time of opening the polls or ends more than three (3) hours prior to the closing of the polls or who take annual leave, sick leave, administrative leave, or compensation time which results in his/her reporting to work more than two (2) hours after the opening of the polls, or his/her leaving work more than three (3) hours prior to the closing of the polls. Direct supervisors shall determine what time of the day employees may take their voting leave to ensure adequate staff coverage.
 - b. **Jury Duty/Witness Duty:** When in obedience to a subpoena, an employee appears as a witness before a federal or state grand or petit jury or court, or before a federal or state agency, the employee shall be entitled to leave with pay for the required period.
 - i. Fees received, as a witness, excluding reimbursement for travel, shall be remitted to the PRC.
 - ii. Fees received, as a juror, excluding reimbursement for travel, shall be remitted to the PRC.
 - c. **State Board or Commission:** PRC employees who are members of a state board or



commission may be entitled to leave with pay to attend meetings or transact business of the board or commission.

- d. **Commission Authorized:** When the PRC Commissioners have granted PRC employees administrative leave, such leave will be implemented in accordance with instructions provided in the announcement by the Commission or their designee.
- e. **Emergencies:** The Chief of Staff or his/her designee may grant administrative leave when he/she declares an emergency and closes the PRC. Announcements concerning emergency delays or closures will be made on the PRC website at <http://nmprc.state.nm.us/>. Any employee who wishes to depart prior to the PRC's designation of administrative leave will be required to take annual leave for the interim period.
- f. **Inclement Weather:** Announcements concerning delays or closures will be made on the PRC website at <http://nmprc.state.nm.us/>. The PRC offices, located at 1120 Paseo de Peralta, will follow the inclement weather delays or closures of the Santa Fe public school district. The Fire Training Academy building, located at 600 Aspen Road in Socorro, will follow the inclement weather delays or closures of the Socorro Consolidated School District. Even if there is no delay or closure to the employee's duty station, but the employee's primary residence school district is delayed or closed, the employee may follow the inclement weather delays or closures of the school district where their primary residence is located and will be granted administrative leave. If there is a delay or closure of the PRC offices or Fire Training Academy, but the employee's primary residence school district is not delayed or closed, the employee shall follow the delay or closure of their duty station and will be granted administrative leave. The employee's primary residence is the residence designated as such by the employee in their personnel file. If school is not in session, then the PRC offices, the Fire Training Academy and all employees shall follow inclement weather announcements on the PRC's website
- g. In the event that inclement weather is a factor during the normal business hours of the PRC, the Chief of Staff or his/her designee may dismiss employees early. Any delays and/or closures will be announced by the Chief of Staff or his designee and posted on the PRC website. The granting of administrative leave is intended for safe travel for employees whose work location is affected by inclement weather. Therefore, employees whose work location is not affected by the inclement weather are to report to, or remain at, their work locations regardless of media or PRC management announcements. Employees who were scheduled to be off or had requested leave on inclement weather days are not entitled to the administrative leave and must utilize the type of leave previously requested. Employees, who decide to report to work, or remain at work when delays, closures or early dismissals are announced, do so at their own risk.
- h. Employees who want to depart prior to the PRC's designation of administrative leave must obtain their supervisor's approval and will be required to take annual leave, compensatory time, or Leave Without Pay. Employees may use annual leave, compensatory time, or Leave Without Pay to avoid travel that the employee determines is dangerous, but is not subject to office delay or closure.
- i. **Bereavement:** When an employee requests such leave for bereavement purposes, the Chief of Staff or his/her designee, may authorize up to three (3) days of administrative leave for bereavement of relatives up to third degree relatives. All requests for bereavement leave shall be submitted to the employee's direct supervisor who will provide



the same to the HR Manager. The request for bereavement shall include the name and relationship of the deceased for policy review and recommendation to the Chief of Staff. All requests for bereavement leave shall be processed with an approval or disapproval within a 24-hour period. Administrative leave authorized for bereavement purposes must be used within one (1) week of the death and for different requests may be authorized for up to a maximum of nine (9) days within a calendar year. The approved bereavement administrative leave may be increased at the discretion of the Chief of Staff. Employees may request other types of leave (i.e., sick, annual comp-time, leave without pay) if additional days are needed, these requests are subject to the discretion of the employee's direct supervisor.

- j. **Education-Related:** When an employee requests leave for the purposes of attending an education-related school function for the employee's immediate family member, an employee may request up to two (2) hours of administrative leave per quarter on a calendar year basis. Such leave shall be requested from the employee's supervisor and if approved, shall be granted subject to agency needs. Leave will not accrue for use during future quarters. Employees are allowed to utilize this type of leave for education-related school functions only, including but not limited to, parent teacher conferences, school sporting events, science fairs, school programs, school orientation, field trips and other similar activities.
- k. **Employee Assistance:** An employee may request leave for the purpose of attending counseling through the State of New Mexico's Employee Assistance Program (EAP) up to a maximum of four (4) one-hour sessions per calendar year. Such leave shall be requested from the employee's direct supervisor and if approved, shall be granted subject to agency needs. This type of leave will not be accrued. Employees must attach a copy of an EAP attendance verification form with the timesheet when the leave is taken.
- l. **Admin. Leave in the Best Interest of the PRC:** The Chief of Staff may grant administrative leave for a period not to exceed five (5) consecutive workdays without prior approval of the State Personnel Director for purposes that are considered in the best interests of the PRC.
- m. **Admin. Leave Pending Disciplinary Action or Investigation:** An employee may be placed on administrative leave for a period up to 160 consecutive work hours during a disciplinary action proceeding or investigation. An employee who is on authorized administrative leave pending disciplinary action or during an investigation will be required to call in to the supervisor or designee at a specified time daily for direction as to when to return to work. Failure to call in at the designated time may result in being placed on Absence Without Leave.

XV. PERSONAL LEAVE DAY

- A. Employees in career status are entitled to one (1) personal leave day each calendar year. The personal leave day will be consistent with the employee's normal workday. Such leave must be requested and approved in advance.

- B. The personal leave day must be taken during consecutive hours.

- C. The personal leave day must be taken before the end of the last pay period in December or it will be lost.
- D. Employees who do not take the personal leave day shall not be paid for it upon separation from service.

XVI. TRANSFER OF LEAVE

- A. Employees who transfer from one agency to another shall retain all accrued leave.
- B. All accrued leave shall be transferred when persons change status from a position in the exempt service to a position in the classified service without a break in employment.
- C. The PRC will accept all accrued sick leave from persons who separate from the judicial or legislative branches of state government and are employed in the classified service without a break in employment of such separation.

XVII. REFERENCES

All provisions of this policy shall be modified/amended or superseded by any changes to the FMLA or regulations.

Rule 1.7.7 NMAC, Absence and Leave; Family and Medical Leave Act of 1993, 29 U.S.C.A. Section 2611, Definitions, See Section 825.113 Serious Health Condition.

ⁱ 29 U.S.C.A. Section 2611, Definitions

ⁱⁱ Rule 1.7.8 NMAC

ⁱⁱⁱ Rule 1.7.7.8(A) NMAC

^{iv} All provisions of this policy shall be modified/amended or superseded by any changes to the FMLA or regulations.

^v See Section 825.113 Serious Health Condition.



POLICY NUMBER: 03

POLICY: ABSENCE AND LEAVE

EFFECTIVE DATE: MARCH 2019

COMMISSION APPROVED:

Effective: August 2000
Revised: January 2001
Revised: September 2003
Revised: August 2004
Revised: September 2018
Revised: March 2019



PURPOSE

The purpose of this policy is to protect the health and health concerns of the employees and public by prohibiting smoking in Public Regulation Commission (PRC) owned or leased vehicles or building areas and requiring designated areas for smoking. Environmental tobacco smoke products are a major contributor to indoor air pollution and are classified by the EPA as a Class A carcinogen. Breathing secondhand smoke can cause heart disease, lung cancer, respiratory infection and a loss of respiratory function in nonsmokers. Nonsmokers who suffer ill effects from secondhand smoke may experience a drop in productivity and an increase in sick leave. The separation of people and tobacco smoke within the same air space may reduce exposure to environmental tobacco smoke. The Commission finds, for these reasons, that it is necessary to restrict smoking in areas not covered by the 1995 New Mexico State Clean Indoor Air Act, which calls for no smoking in state, county and city-owned buildings except in certain designated areas.

POLICY

On February 1, 2000, the PRC became a smoke-free environment and encourages a smoke-free environment with support for employees who decide to quit smoking and wish to maintain that status. This policy adheres to requirements for a smoke free work environment in accordance with standards established in the New Mexico Administrative Code, Section 1.5.3. NMAC (Administration and Use of State Vehicles) and 1.5.17 NMAC (Clean Indoor Air Regulation: Use of Property Control Division) and the Santa Fe Smoke Free Ordinance, SFCC 10-6.1 (2006) and the Dee Johnson Clean Indoor Air Act (1995).

The Chief of Staff or his/her designee will be in charge of compliance with this policy and will make reasonable efforts to secure compliance with this policy, SFCC 10-6.1 and the Dee Johnson Clean Indoor Air Act.

APPLICABILITY

This policy applies to all PRC employees.

DEFINITIONS

1. “Dee Johnson Clean Indoor Air Act” means 24-16-1, et seq., NMSA 1978.
2. “Designated outdoor smoking area” means an area where smoking may be permitted, designated by an employer outside an indoor workplace or indoor public place providing that the following conditions are maintained smoking shall not be permitted near any building entrance, including a door, window or ventilation system of any facility where smoking is prohibited under the provisions of the Dee Johnson Clean Indoor Air Act, so as to prevent secondhand smoke from entering the indoor workplace or indoor public place; and



3. Employees or members of the general public are not required to walk through the smoking area to gain entrance to the indoor workplace or indoor public place;
4. “Enclosed” means any interior space predominantly or totally bounded on all sides and above by physical barriers, regardless of whether such barriers consist of or include uncovered openings, screened or otherwise partially covered openings or open or closed windows.
5. “Fumes” means any smoke-like or vaporous exhalation from matter or substances, especially of an odorous or harmful nature.
6. “Indoor public place” means the enclosed area within any governmental place to which the public is invited or in which the public is permitted regardless of whether work or public business, meetings or hearings occur at any given time.
7. “Indoor workplace” means any enclosed place where one or more persons engage in work, including, but not limited to, lobbies, reception areas, offices, conference and meeting rooms, employee cafeterias and lunchrooms, break rooms and employee lounges, classrooms, auditoriums, hallways, stairways, waiting areas, elevators, and restrooms and includes all indoor workplaces and enclosed parts regardless of whether work occurs at a given time.
8. “Reasonable distance” means a distance sufficient to ensure that persons entering or leaving the building or facility shall not be subjected to breathing tobacco smoke and to ensure that tobacco smoke does not enter the building or facility through entrances, windows, ventilation systems or any other means. For purposes of this policy a reasonable distance is 25 feet as it is the Smoke Free Ordinance.
9. “Secondhand smoke” means vapors or fumes emitted from the lighted, smoldering, heated or burning products when the smoker is not inhaling, fumes emitted at the mouthpiece during puff drawing and fumes exhaled by the smoker.
10. “Smoke free area” means any building or other enclosed space where smoking is prohibited.
11. *Smoke* or *smoking* means inhaling, exhaling, burning, holding or carrying any lighted or activated cigarette, cigar, cigarillo, pipe, or other lighted or activated tobacco product in any manner or in any form. “Smoke” also means the gaseous products, vapor or particles created by the use of a lighted cigarette, cigar, cigarillo, pipe or any other kind of smoking equipment.
12. *Tobacco product* means any product that is made from or derived from tobacco or contains nicotine or any substance intended to be inhaled or ingested in a way that simulates smoking, and is intended for human consumption or is likely to be consumed, whether smoked, heated, chewed, absorbed, dissolved, inhaled or ingested by any other means, including, but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco, snuff, or an electronic smoking device.



SMOKING PROHIBITED AREAS

1. It is unlawful for a person to smoke in any indoor workplace or indoor public place or in buses, taxicabs or other means of public transit not specifically exempted pursuant to the Dee Johnson Clean Indoor Air Act.
2. Smoking shall occur only at a reasonable distance of twenty-five (25') feet in radius from the entrance to any enclosed area where smoking is prohibited to insure that tobacco smoke does not enter the area through entrances, windows, ventilation systems or any other means.
3. Smoking is prohibited within twenty-five feet (25') of an opening into any enclosed area where smoking is prohibited to ensure that persons entering or leaving the building or facility are not subjected to breathing tobacco smoke and that tobacco smoke does not enter the area through entrances, windows, ventilation systems or any other means
4. Smoking and the use of smokeless products of any type is prohibited in all State owned or operated vehicles.
5. Smoking shall not be permitted in any State owned or PRC leased building or near any building entrance, including a door window or ventilation system so as to prevent secondhand smoke from entering the indoor workplace or indoor public place regardless of whether work or public business, meetings or hearings occur at any given time.
6. Employees or members of the public shall not be required to walk through the smoking area to gain entrance to the indoor workplace or indoor public place.

SMOKING BREAKS

1. Smoking breaks are to be limited to the regular break and lunch periods afforded to all employees; which includes one 15 minute break in the morning, one 15 minute break in the afternoon, and a lunch period, which is at minimum a half hour, but not to exceed one hour. Employees shall take their 15 minute break at a time that does not interfere with work assigned duties. Managers shall be able to request employees take their 15 minute break at particular time on a particular day if it is in the best interest of the agency.

RESPONSIBILITIES OF PRC MANAGEMENT

1. The PRC Managed Facilities or PERA Property Management will provide appropriate signs which are clear, conspicuous and easily legible to advise persons of the existence of the PRC smoke-free policy as outlined in the Dee Johnson Clean Indoor Air Act.
2. The owner and local office management of any PRC premise shall work together to establish a smoke free area that extends a reasonable distance from any entrances, windows, and ventilation systems to any enclosed areas where smoking is prohibited.
3. Employees or members of the public shall not be required to walk through the smoking area



to gain entrance to the indoor workplace or indoor public place.

ENFORCEMENT

1. Complaints of possible violations may be made to PRC managers who will report to the PRC Human Resources Bureau or made be made directly to the PRC Human Resources.
2. PRC managers are responsible for ensuring this Policy is implemented and enforced.
3. Violation(s) of this policy are cause for disciplinary action, including but not limited to, progressive discipline of verbal and written warnings, suspension and termination.
 - a. The local fire, police or sheriff's departments are authorized to enforce the Dee Johnson Clean Indoor Air Act by issuance of citation and penalties in accordance with the Act.

REFERENCES

NMAC 1.5.3, Authorization and Use of State Vehicles; The Dee Johnson Clean Indoor Air Act, NMSA 1978 Sections 24-1-1, et seq.

APPROVED:

COMMISSION APPROVED

DATE:

03/21/2018



POLICY NUMBER: 05
POLICY: OVERTIME COMPENSATION
EFFECTIVE DATE: AUGUST 2004

PURPOSE

The purpose of this policy is to provide procedures by which the Public Regulation Commission (PRC) will comply with the Fair Labor Standards Act (FLSA), State Personnel Board (SPB) Rules and Department of Finance and Administration Regulations relative to overtime.

POLICY

The PRC in accordance with SPB Rule 1. 7.4.15 H. NMAC confirms its right to determine the need for employees to work overtime, and prevent unauthorized overtime work.

REFERENCE

State Personnel Board Rules and Regulations 1. 7.4.15 NMAC.

Policies for Governors Exempts FY 04 Policy No. ESPP 20.h and Policy No. ESPP 20.g

APPLICABILITY

This Policy applies to all PRC employees.

DEFINITIONS

1. **Normal workweek:** Forty (40) hours, which shall begin at 12:01 a.m. on Saturday and end at midnight on the following Friday. Normal workdays are Monday through Friday.
2. **Normal work hours:** Normal work hours are 8:00 a.m. to 5:00 p.m., Monday through Friday. Division Directors may approve work hours that begin no earlier than 7:00 a.m. and conclude no later than 6:00 p.m. Each workday will not exceed eight (8) hours, unless employee is on a approved compressed work schedule (see Alternative Work Schedule Policy No 11.)
3. **Lunch periods:** Normally one (1) hour in length and no less than one-half (1/2) hour for all employees. Bureau Chiefs are granted authority to allow employees to take less than the normal one (1) hour lunch period as long as it does not interfere with PRC operations.
4. **Overtime:** Time worked in excess of a 40-hour workweek.
5. **Time worked:** In addition to normal work hours, the PRC will count all time spent driving a vehicle or other conveyance on official business outside an employee's normal work hours; all time spent as a passenger in a vehicle or other conveyance outside an employee's normal work hours; paid holiday leave; and administrative leave for voting when taken in accordance with SPB Rule 1 7.4.18 NMAC.
6. **Time not counted as time worked:** Time normally required to travel from home or temporary residence to work and return; meal periods and time after normal duty hours not spent in work activities; absence without leave, administrative leave (except for voting), annual leave,



POLICY NUMBER: 05
POLICY: OVERTIME COMPENSATION
EFFECTIVE DATE: AUGUST 2004

compensatory time off, educational leave, leave without pay, military leave, periods of suspension, personal leave day and sick leave.

7. **FLSA Non-exempt Employees:** Employees who are covered by the overtime provisions of the FLSA. These employees are eligible to receive overtime compensation at one and one-half times their regular rate of pay in cash or comp time once they have worked the required number of hours.
8. **FLSA Exempt Employees:** Employees who are not covered by the overtime provisions of the FLSA.
9. **FLSA Non-Covered Employees (Governor's Exempt):** Employees who are not covered by the FLSA, are exempt from the classified service, and/or are appointed by the Governor.

REFERENCES

Fair Labor Standards Act (FLSA)

State Personnel Board Rule 1. 7.4. NMAC PAY.

GENERAL PROVISIONS

1. The Agency considers it to be the duty of all employees, unless excused, to comply with all directives to work overtime. Failure to work overtime as directed may be grounds for disciplinary action. Each request to be excused from overtime work shall be justified in writing. The signature of the employee's Bureau Chief on the request for excuse shall constitute approval.
2. Compensatory time may not be used prior to being earned. Compensatory time is officially earned after the end of the pay period in which it is worked.
3. In accordance with State Personnel Board Rule 1. 7.4.18NMAC, all FLSA covered employees who are required to work on a day that is a state observed holiday, shall be compensated at the rate of two and one-half times their hourly rate. However, employees are not to work on a holiday unless they have prior approval from their immediate supervisor utilizing the Request to Work Overtime, or on a Holiday, Saturday and/or Sunday Form (PRC-ADM #102). Only under extenuating circumstances should employees be required, or allowed, to work on a holiday.
4. The Agency will maintain a record for three years for each employee, which includes: the employee's full name and identifying symbol or number if such is used in place of name on any payroll records; time and day of week on which employee's work week begins; regular hourly rate of pay; hours worked each day and total hours worked each work week; total overtime compensation for each work week; and an agreement to accept compensatory time in lieu of pay, if appropriate.

OVERTIME FOR EMPLOYEES COVERED BY FLSA OVERTIME PROVISIONS

Employees who are covered by the overtime provisions of the FLSA shall be governed for overtime compensation as mandated by FLSA.



POLICY NUMBER: 05
POLICY: OVERTIME COMPENSATION
EFFECTIVE DATE: AUGUST 2004

1. All employees covered under FLSA must complete and have required approvals on the (PRC-ADM #102) Form PRIOR to the individual working overtime. The original form must be submitted with the Time and Attendance Report for the period in which the overtime was worked, to the PRC Human Resource Bureau.
2. Prior to working required overtime, the employee will choose whether compensation will be in the form of compensatory time off or monetary. Because of the budgetary impact of this Policy, requests for paid overtime should be permitted only in emergency situations as determined by the Chief of Staff.
3. The Agency will compensate the employee at one and one-half times his/her hourly rate in cash or compensatory time. If the employee chooses compensatory time in lieu of cash, he/she must negotiate when the time will be taken off with the approving supervisor. An employee **covered by FLSA** may not accrue more than 80 hours of compensatory time at any time unless otherwise approved by the Chief of Staff.
4. During new employee orientation, the Agency's Human Resource Bureau will advise employees of their status under FLSA, and their right to appeal under the PRC appeal process and the SPB appeal process. If an employee is unsure of his/her status under FLSA, he/she should contact the Agency's Human Resource Bureau.
5. Employee's daily work schedules may be adjusted by his/her supervisor as allowed under FLSA so that the total time worked per week does not exceed forty (40) hours, and equal time off may be given within the same work week to maintain a forty (40) hour work week. **Every effort should be made to adjust the workweek.**
6. The FLSA uses a single workweek as its standard and does not permit the averaging or the carrying forward of hours over a two (2) week period.
7. All requests for employees to work on a Saturday and/or Sunday must be approved in advance by the Division Director utilizing PRC-ADM #102 Form.
8. Supervisors have the authority to require overtime, determine the need for overtime, determine employees who will work overtime and prevent unauthorized overtime. When overtime is required, supervisors should give employees an opportunity to volunteer for necessary overtime when possible. Supervisors should ensure that overtime is distributed in a fair and equitable manner.
9. Employees are not permitted to perform work-related activities outside their regularly scheduled work hours unless they have received prior approval from their Division Director. Employees who fail to adhere to this requirement may be subject to disciplinary action.
10. Before overtime can be performed, the request must have been approved on the PRC-ADM #102 Form.



POLICY NUMBER: 05
POLICY: OVERTIME COMPENSATION
EFFECTIVE DATE: AUGUST 2004

11. Agency supervisors are to exercise their authority to ensure that employees do not work overtime or on a holiday unless it has been authorized in advance. Failure to do so may be cause for disciplinary action. An individual's failure to comply with a supervisor's directive to **not** work overtime or on a holiday may also be cause for disciplinary action.
12. Any accrued compensatory time will be paid upon termination or transfer to another state agency.

OVERTIME FOR EMPLOYEES EXEMPT FROM FLSA OVERTIME PROVISIONS

Employees exempt from FLSA overtime provisions are expected to work all hours necessary to perform their duties. However, overtime compensation may be granted for time worked in excess of 40 hours in a workweek in accordance with the following:

1. All employees exempt under FLSA **should** complete and have required approvals on the PRC-ADM #102 Form **PRIOR** to the individual working overtime. The original form must be submitted with the Time and Attendance Report, for the period in which the overtime was worked, to the PRC Human Resource Bureau.
2. Compensation shall be in the form of compensatory time off unless otherwise approved by the Chief of Staff.
3. Before overtime can be compensated, the request must have been approved on the PRC-ADM #102 Form.
4. Overtime compensation is earned on a one-for-one ratio.
5. Employees in the classified system and exempt from FLSA may not accrue more than 40 hours of compensatory time unless otherwise approved by the Chief of Staff.
6. Employees exempt from the classified system and are governed by the Governor's Exempt Policy Plan Policies may not accrue more than 80 hours of compensatory time unless otherwise approved by the Chief of Staff.
7. Employees should be allowed and encouraged to use the compensatory time they earned as soon as possible. Every attempt should be made to lower compensatory time balances within a reasonable amount of time.

Effective: August 1, 2000
Revised: June 11, 2002
Revised: November 2003
Revised: August 2004

I. PURPOSE

The purpose of this policy is to establish the Controlled Substance/Alcohol requirements and procedures to ensure the health, safety and well-being of PRC employees and the public; to ensure compliance with New Mexico statutes and regulations concerning Controlled Substance or Alcohol use; and to maintain a Controlled Substance and Alcohol-free workplace and work related activities.

I. POLICY

A copy of this policy is provided to each employee at its new employee orientation and is available to the employees or potential employees on the website at the following link: <http://nmprc.state.nm.us/>. Employees also acknowledge receipt upon future revision to this policy.

III. APPLICABILITY

This policy applies to all candidates for employment with the PRC in exempt or classified Safety-sensitive Positions.

This policy also applies to all employees with the PRC in exempt, classified and elected or appointed positions.

IV. DEFINITIONS

- A. "Alcohol" means an intoxicating agent in beverage Alcohol, ethyl Alcohol, methyl Alcohol or isopropyl Alcohol. This includes all consumable non-prescription substances which contain Alcohol, specifically including but not limited to spirits, wine, malt beverages, and intoxicating liquors.
- B. "Controlled Substance" means those substance(s) or controlled substance(s) (metabolites or target analysis thereof) for which testing is performed, including but not limited to marijuana, cocaine, amphetamines, opiates, 6-Acetylmorphine, MDMA, and phencyclidine.ⁱ
- C. "Medically Prescribed Controlled Substance" means Controlled Substance that is obtained either directly from a doctor, nurse practitioner, or physician assistant through a valid prescription. Medical marijuana/cannabis is a Controlled Substance and can subject an employee to criminal prosecution, civil penalty and violation of this policy for possession or use of medical marijuana/cannabis in the workplace.ⁱⁱ
- D. "Medical Review Officer" means a New Mexico based and licensed physician knowledgeable in the medical use of prescriptions Controlled Substance and Alcohol and the pharmacology and toxicology of illicit Controlled Substance and Alcohol.ⁱⁱⁱ
- E. "On Duty" means any time during an employee's regular workday or other period during which the employee is required to work by the employer, including overtime, lunch, breaks, and anytime while operating or riding in a state vehicle.
- F. "Over the Counter Controlled Substance" means nonprescription Controlled Substance that can be

readily purchased from legitimate sources such as a pharmacy, grocery store, etc.

- G. “Reasonable Suspicion” means a belief drawn from specific objective and articulable facts and the reasonable inferences drawn from those facts.^{iv}
- H. “Refusal to Submit” means that an employee 1) fails to provide an adequate breath sample to allow for testing without providing a valid medical explanation; 2) fails to provide an adequate urine sample for Controlled Substances testing without providing a valid medical explanation; or 3) employee engages in conduct that clearly obstructs the testing process.
- I. “Safety-sensitive Position” means a position approved as such by the State Personnel Board (SPB), or designated as such by the State Personnel Board. Safety-sensitive Positions include but are not limited to a supervisory or managerial position.
- J. “Substance Abuse” means the use of Controlled Substances or Alcohol in violation of any State or Federal law, including but not limited to, ingestion to the point of individual impairment or exceeding the legal limits of State or Federal law.
- K. “Substance Abuse Coordinator”^v (SAC) means the Human Resources Bureau Chief who is responsible for the agency's Controlled Substance and Alcohol abuse program.
- L. “Workplace” means State owned or State-leased PRC facilities, property or the location of work-related events, State owned or State-leased PRC vehicles, and the location in which the employee performs their official duties during the employee’s employment with the PRC.

V. CONDITION OF EMPLOYMENT

It shall be a condition of employment that candidates or employees covered by this policy abide by the terms and procedures in this policy. The PRC will not allow an employee who refuses to submit to an Alcohol or Controlled Substance test to perform safety-sensitive functions. An employee’s refusal to submit shall subject the employee to disciplinary action including dismissal.

An employee is prohibited from the unlawful manufacture, selling, distribution, dispensing, possession or use of a Controlled Substance or Alcohol in the Workplace. Employees are prohibited from possessing or consuming Alcohol while On Duty. No employee shall report to work under the influence of Alcohol or a Controlled Substance. An employee who reports to work under the influence of or whose performance is impaired through the use of Alcohol or Controlled Substances is subject to disciplinary action in accordance with PRC policies and procedures, including dismissal.

An employee is permitted to use or possess Over the Counter Controlled Substance or Medically Prescribed Controlled Substance in the Workplace. Should an employee have reason to believe, or have been informed by his/her physician or pharmacist, that the use of such Controlled Substance may affect his/her ability to perform job duties, the employee shall notify his/her supervisor. The employee shall not be required to reveal to the supervisor any medical information relating to the use of such Over the Counter or Medically Prescribed Controlled Substance. The supervisor shall assure that the confidentiality of any information and privacy of the employee as well as the safety of the employee and others are maintained. The intentional use of a Over the Counter or Medically Prescribed Controlled Substance for other than prescribed medicinal purposes or accepted Over-The-Counter use that impairs an employee’s ability to perform his/her duties will be considered a violation of policy.

VI. VOLUNTARY COUNSELING

The PRC is committed to protecting each employee's right of privacy, to the extent allowable under Federal and state law. It is the goal of the PRC that, prior to being selected for an Alcohol or Controlled Substance test, employees self-identify and request referral by voluntarily seeking help through the State's Employee Assistance Program (EAP) or other professional programs to resolve Controlled Substance and/or Alcohol issues. EAP is a free, confidential counseling service, which is available to state employees and their families. The Substance Abuse Coordinator shall refer to an employee assistance program, the EAP, counseling service or Controlled Substance or Alcohol rehabilitation program any employees who request such a referral prior to Controlled Substance or Alcohol testing. Employees are subject to drug, alcohol testing or both at the discretion of the SAC at any time between thirty (30) and one hundred (180) calendar days of requesting referral. Employees who test positive during this time period or fail to successfully complete such program may be dismissed.

In addition, employees may be eligible for other referral, treatment and rehabilitation through health insurance and other available programs. The PRC reserves the right require an employee to successfully complete a professional program or EAP as part of a work or performance improvement plan, disciplinary action, or other recommended action to meet operational needs. Costs incurred by an employee for any type of counseling or other services shall be solely borne by the employee.^{vi}

Employees in non-safety sensitive positions who have not requested referral to an employee assistance program, counseling, or Controlled Substance or Alcohol rehabilitation program and who based upon Reasonable Suspicion test positive on a Controlled Substance or Alcohol test and do not have a satisfactory explanation for the positive test results shall be referred to an employee assistance program, the EAP, counseling or Controlled Substance/Alcohol rehabilitation program and may be subject to disciplinary action. Employees who test positive are then subject to additional Controlled Substance or Alcohol testing at the discretion of the SAC at any time between thirty (30) calendar days and one hundred eighty (180) calendar days of the first positive test. An employee who tests positive for Controlled Substance or Alcohol between thirty (30) calendar days and one hundred eighty (180) calendar days of the first positive test without a satisfactory explanation or failure to enter and successfully complete a program may be dismissed.

VII. PENALTIES

Penalties for violation of this policy may include disciplinary action in accordance with Rule 1.7.8 NMAC and the Criminal Offender Employment Act, NMSA 1978, Section 28-2-4 (1997). The PRC reserves the right to take any disciplinary action which may include, but is not limited to, a verbal warning, a written reprimand, the requirement to complete a course of treatment and rehabilitation, referral to EAP, suspension, dismissal, referral for prosecution, and any other sanctions made available pursuant to applicable law, statutes and regulations.

VIII. SUBSTANCE ABUSE COORDINATOR

The SAC shall refer any employee who requests referral to an EAP. The SAC shall provide Controlled Substance and Alcohol abuse awareness information to employees including but not limited to the:

- (1) dangers of Controlled Substance and Alcohol abuse;
- (2) availability of counseling, rehabilitation, and employee assistance programs; and,
- (3) sanctions that may be imposed upon employees as provided in Rule 1.7.8.19 NMAC.

The SAC shall receive Reasonable Suspicion Controlled Substance or Alcohol test memoranda from the requesting supervisor. The SAC shall advise candidates and employees in writing of positive test results for Controlled Substances, Alcohol or both. The SAC shall refer to the Medical Review Officer all employees who test positive for Controlled Substances, Alcohol or both.^{vii} The SAC shall coordinate as necessary with the Medical Review Officer. The SAC shall treat laboratory reporting and test results as confidential and place laboratory reports or test results in a locked file. The reports or test results shall be kept separate from the employee's personnel file unless the employee is subject to discipline relating to this policy.

IX. AUTHORIZED ALCOHOL and/or CONTROLLED SUBSTANCE(S) TESTS:

All candidates for Safety Sensitive Positions shall submit to testing after an offer of employment is made by the PRC and prior to final selection.^{viii}

All employees in Safety Sensitive Positions, who as part of their duties undergo regular physical examinations, shall also undergo Controlled Substance testing as part of those physical examinations.^{ix} At least ten percent (10%) of employees in Safety-sensitive Positions, selected on a random basis, shall undergo controlled substance on a yearly.^x At the discretion of the Chief of Staff, Safety-sensitive Position employees may be excused from random controlled substance testing upon establishing one or more of the criteria for excusal are stated in Rule 1.7.8.11(E) NMAC.

The PRC requires employees to undergo Controlled Substance or Alcohol testing or both when there is a Reasonable Suspicion. Refer to Section X of this policy concerning what constitutes a Reasonable Suspicion. Before an employee is required to submit to Reasonable Suspicion Controlled Substance and/or Alcohol testing, a requesting supervisor must secure the approval of the next level supervisor unless the supervisor is the Chief of Staff.^{xi} The requesting supervisor shall prepare and submit a memorandum to the SAC within 24 hours of the request with the details leading up to the Reasonable Suspicion request.^{xii} The requesting supervisor shall maintain contact the PRC's designated SAC for further instructions.

X. REASONABLE SUSPICION

Reasonable Suspicion testing is designed to provide management with a tool to identify Controlled Substance or Alcohol-affected employees who may pose a danger to themselves and others in the performance of their duties. The totality of the circumstances will be evaluated in making a determination of Reasonable Suspicion. The standard for Reasonable Suspicion testing does not require an overwhelming burden of proof. This conclusion may be reached through personal observation and/or information based on a report from another employee, supervisor or other reliable source. Hunches and “gut feelings” are not valid in making a Reasonable Suspicion determination. In other words, the decision should pass the “reasonable prudent person” test. That test simply requires that a similarly trained and experienced employee, being reasonable and prudent, having observed and noted the same facts, signs, and circumstances would come to the same conclusion.

All employees covered by this policy are subject to Reasonable Suspicion Controlled Substance/Alcohol testing if the PRC has a Reasonable Suspicion that the employee has committed controlled or Alcohol use, based on, but not limited to:

- Direct observation of the physical symptoms or manifestations of being under the influence of a Controlled Substance or Alcohol while On Duty;
 - For example, liquor on the breath, slurred speech, unsteady walk, or impaired coordination.
- Direct observation of the use possession of Controlled Substances or Controlled Substance paraphernalia;
- Direct observation of the use of Alcohol while On Duty;
- Abnormal conduct or erratic behavior while at work or a significant deterioration in work performance;
- After a work-related accident or was operating or helping to operate machinery, equipment, or vehicles involved in a work-related accident;
- A change in an employee’s prior patterns of work performance, especially where there is evidence of Controlled Substance/Alcohol-related behavior on or off the work site;
- Physical signs and symptoms consistent with substance abuse;
- Sale or delivery of Controlled Substances while On Duty;
- Occurrence of a serious or potentially serious accident that may have been caused by human error, or flagrant violations of established safety, security, or other operating procedures;
- Fighting (to mean physical contact) and assaults, or erratic, aggressive, or violent behavior;
- Past statements or admissions made by the employee;
- Excessive absenteeism/tardiness, unaccounted for or suspicious time lapse(s) of availability, arguments with customers/citizens and supervisors, aberrant behavior, sleeping on the job;
- Criminal charges/convictions or findings resulting from an investigation of a tip/police report; and
- Other physical, circumstantial, or contemporaneous indications of Impairment.

XI. NOTIFICATION BY EMPLOYEE/EMPLOYER OF CONTROLLED SUBSTANCE/ALCOHOL CHARGE

If an employee operates a state vehicle or their personal vehicle as part of their job duties, and the employee receives a driving under the influence charge for Alcohol or Controlled Substances, the employee must notify their Supervisor and Substance Abuse Coordinator in writing the next working day. This includes charges occurring in or outside of the Workplace. The NMPRC randomly checks employees for DWI charges through publicly General Services Department Systems.

If the employee does not operate a state vehicle or their personal vehicle as part of their job duties, and the employee receives any charge for Alcohol or Controlled Substances the employee must notify the HR Bureau Chief, in writing, no later than five (5) working days after such charge. This includes charges occurring in or outside of the Workplace.

Employees who are charged with the illegal sale, purchase, or transfer of Controlled Substance must notify their Supervisor and HR Bureau Chief no later than five (5) working days after such charge. The Employee may be subject to disciplinary action, and may be placed on administrative leave pending an investigation.

Employees who, while On Duty or in the Workplace, possess Controlled Substance without a valid prescription, or as otherwise authorized by law, may be subject to disciplinary action, may be placed on administrative leave pending an investigation, and shall be reported to local law enforcement.

The employee is responsible for notifying the HR Bureau Chief of the outcome of the charge no later than five (5) working days after case resolution or a plea of guilty or no contest, whichever occurs first.

XII. REPORTING TO AND NOTIFICATION BY SAC OF TEST RESULTS

Controlled Substance and/or Alcohol test results shall be reported only to the SAC or SAC designee. The Controlled Substance and Alcohol test report shall contain the specimen number assigned by the PRC, the laboratory accession number and results of the Controlled Substance tests. Results may be transmitted to the SAC by various means including certified mail with return receipt requested, courier service, and/or electronic mail in a secure area (facsimile or computer). Certified copies of all analytical results and chain-of-custody forms shall be available from the laboratory when requested by the PRC, SAC or SAC designee.^{xiii}

All specimens negative on the initial test or negative on the confirmatory test shall be reported as negative. Only specimens confirmed positive shall be reported positive for a specific Controlled Substance and/or Alcohol.^{xiv}

The SAC shall notify candidate for Safety-sensitive Positions and employees in writing of the positive tests results.^{xv}

XIII. EXPLANATION OF POSITIVE TEST RESULTS

The PRC shall determine if explanations or challenges of confirmed positive test results are sufficient, based upon the Medical Review Officer's report and such other inquires or facts as the PRC may deem necessary.^{xvi} If the explanation is either satisfactory or unsatisfactory to the PRC, then the PRC will provide a written explanation to the candidate or employee within eleven (11) calendar days of the PRC's determination.^{xvii}

Candidates for a Safety-sensitive Position who test positive for Controlled Substances, Alcohol or both may, within two (2) working days of being notified of the positive test results, submit a written request to the SAC for review of the results by the Medical Review Officer.^{xviii} In the written request for review, the candidate may provide medical or dental records when the positive test could have resulted from a Medically Prescribed Controlled Substance. The positive test results will then be provided by the SAC to the Medical Review Officer. Before making a final decision to verify test results, the Medical Review Officer shall give the candidate an opportunity to discuss the test results.^{xix} The discussion between the Medical Review Officer and the candidate or employee may be in person or by telephone.^{xx} If the candidate does not request review in this timeframe, then the candidate waives review by the Medical Review Officer, resting of the sample, and consents to rejection for the position.^{xxi}

The test results of all employees who test positive for Controlled Substances, Alcohol or both, shall be referred by the SAC to the Medical Review Officer.

XIV. ALCOHOL TESTS

A test for Alcohol must be administered by a legally recognized and approved method.^{xxii} Such a test may be performed by urinalysis. A test that results in a blood Alcohol content (BAC) level of .04 or more shall be deemed positive for Alcohol.^{xxiii} For employees who have undergone Alcohol rehabilitation, and test positive for Alcohol during the thirty (30) to one-hundred and eighty (180) calendar days following the first positive test shall subject an employee to disciplinary action.

XV. RETESTING

Candidates who have sought review of their positive Controlled Substance or Alcohol urine tests by the Medical Review Officer and all employees who tested positive for Controlled Substance or Alcohol urine tests may elect to have, at their expense, an aliquot of the original urine specimen retested by another laboratory that meets applicable provisions of any state licensure requirements and is certified in forensic urine Controlled Substance testing by either the substance abuse and mental health services administration or the college of American pathologists. The Controlled Substance testing laboratory shall

arrange for the shipment of the aliquot to the laboratory of the candidates' or employees' choosing. The agency shall pay for the retest if the retest is negative.

XVI. CONFIDENTIALITY

No laboratory reports or test results shall appear in the employee's personnel file unless he or she is subject of a disciplinary action. The SAC shall treat laboratory reporting and test results as confidential and place laboratory reports or test results in a locked file. The reports or test results shall be kept separate from the employee's personnel file unless the employee is subject to discipline relating to this policy.

XVII. RECORDS

All records pertaining to a given urine specimen shall be retained by the laboratory for a minimum of two years. However, Controlled Substance and Alcohol testing records including those relating to pre-employment screening are required to be maintained for five (5) years from the date the file is closed.

APPROVED:

COMMISSION APPROVED

DATE:

03/21/2018

ⁱ Controlled Substances Act, 21 U.S.C. § 812 (Schedule I and Schedule II) (2012) and 21 C.F.R. Schedules I and II of the Controlled Substances Act Schedules I through V of Section 202 of the Controlled Substances Act (21 U.S.C. 812) and as further defined in Regulation at 21 CFR 1308.11 – 1308.15.

ⁱⁱ NMSA 1978, 26-2b-5(A)(3)(c).

ⁱⁱⁱ Rule 1.7.8.7(G) NMAC.

^{iv} Rule 1.7.8.7(L) NMAC.

^v Rule 1.7.8 NMAC.

^{vi} Rule 1.7.8.19(B)(1) NMAC.

^{vii} Rule 1.87.8.15(C) NMAC

^{viii} Rule 1.7.8.11(A) NMAC

^{ix} Rule 1.7.8.11(B) NMAC

^x Rule 1.7.8.11(E) NMAC

^{xi} Rule 1.7.8.11(D) NMAC

^{xii} Rule 1.7.8.11(D) NMAC

^{xiii} Rule 1.7.8.15(B) NMAC

^{xiv} Rule 1.7.8.15(B) NMAC

^{xv} Rule 1.7.8.15(C) NMAC

^{xvi} Rule 1.7.8.16(B) NMAC

^{xvii} Rule 1.7.8.16(B)(1) NMAC

^{xviii} Rule 1.7.8.16(A) NMAC

^{xix} Rule 1.7.8.16(A)(2)(b) NMAC

^{xx} Rule 1.7.8.16(A)(2)(c) NMAC

^{xxi} Rule 1.7.8.16(A)(1) NMAC

^{xxii} Rule 1..7.8.14(A)NMAC



POLICY NUMBER: 06

POLICY: CONTROLLED SUBSTANCE/ALCOHOL

EFFECTIVE DATE: OCTOBER 2018

^{xxiii} Rule 1.7.8.14(B) NMAC

Effective: August 2000
Revised: November 2003
Revised: August 2004
Revised: October 2018

PURPOSE

The purpose of this policy is to encourage all employees of the Public Regulation Commission (PRC) to maintain proper physical fitness and to establish guidelines whereby employees may request Administrative Leave for the purpose of engaging in physical fitness activities.

APPLICABILITY: All full-time PRC employees

REVISIONS: This policy supersedes PRC Policy 7 Physical Fitness.

REFERENCES: State Personnel Board Rule 1.7.7.14A NMAC Administrative Leave

PROCEDURES:

- I. Policy
- II. Definition
- III. Eligibility
- IV. Procedures
- V. Status during Physical Fitness

POLICY

- A. This Policy is offered as either an accommodation to Agency employees who wish to engage in physical fitness activity(ies) and shall not be construed to imply a requirement of participation in physical fitness activity(ies) or an endorsement of participation in particular physical fitness activity (ies) by employees
- B. Engaging in physical fitness activity (ies) may pose a threat to the health or well-being of an individual and should be engaged in only upon the advice of an appropriate health care professional.
- C. Administrative Leave will be granted pursuant to this Policy subject to agency needs. Administrative Leave granted pursuant to this Policy may not exceed three (3) one-half hour leave periods per week.
- D. An employee may request up to three (3) one-half hour administrative leave periods per week for the purpose of extending the employee's lunch hour to enable the employee to engage in physical fitness activity(ies) as defined in the Definition section of this Policy. Such leave shall be requested from the employee's immediate supervisor and division director, and if approved, shall be granted subject to agency needs. The immediate supervisor's and division director's approval will be valid for a period of six (6) months, or until such time as the employee notifies the immediate supervisor, in writing that he/she will no longer engage in physical fitness activity (ies) pursuant to



this Policy, whichever occurs first; provided however, that the immediate supervisor's and division director's approval may be withdrawn at any time subject to agency needs. It is the employee's responsibility to initiate a new agreement before the existing one expires.

- E. No more than one (1) one-half hour fitness period may be taken during any one day. An employee may elect to forego a scheduled period of physical fitness activity; however, missed fitness periods may not be accumulated and taken during subsequent weeks. A missed fitness period may be made up at another time during the same workweek provided approval from the employee's immediate supervisor is obtained.
- F. The physical fitness agreement shall provide for the employee's acceptance of administrative leave status constituting his/her own time and not official business.
- G. As a condition of using Administrative Leave under this Policy, the employee irrevocably agrees to hold the PRC and the State harmless from any, and all liability and waive any claims, including but not limited to workers' compensation, for any and all injuries or illnesses caused by or aggravated by any activity undertaken pursuant to this Policy.

2. DEFINITIONS

Physical fitness activities: Include but are not limited to, the following: aerobic activities such as brisk walking, jogging, swimming, bicycling; flexibility and/or muscular strength activities such as callisthenic exercises, yoga, water exercise and stretching; and recreational sports such as tennis, basketball, volleyball, softball/mush ball, racquetball, or physical therapy.

3. ELIGIBILITY

All full-time PRC employees are eligible for participation in physical fitness under this policy adoption of a child.

4. PROCEDURE

Employees requesting physical fitness leave pursuant to this Policy shall complete an Employee Physical Fitness Agreement (PRC- Admin Form #100) as follows:

- A. The agreement will specify the days of the week and the time of day requested the type of physical activity to be undertaken, and the location of said activity.
- B. The agreement must be signed and dated by the employee and his/her immediate supervisor and division director.

- C. The immediate supervisor is responsible for keeping the original signed agreement on file.
- D. The immediate supervisor is responsible for providing a copy of the signed contract to the employee and the Human Resource Bureau.
- E. The physical fitness periods taken by the employee are to be recorded on timesheets as Administrative Leave.

STATUS DURING PHYSICAL FITNESS PERIOD

- A. During the physical fitness period, the employee, though paid, is considered to be on his/her own time, (the same as if on annual leave), not on official business or "work time" and will not be considered for workers compensation. Time spent on Physical Fitness must be indicated as such on the employee's timesheet. Physical fitness time does not, in any manner, count as "time worked" for overtime purposes.
- B. Even though an employee is on Administrative Leave, such time is granted only pursuant to the provisions and conditions of this Policy. Administrative Leave taken for physical fitness should be deleted if the employee is on Annual Leave or Sick Leave.
- C. Employees may not use physical fitness periods for other personal business. Should it be discovered that an employee is using the physical fitness periods for personal business that time may be charged as leave without pay. Further, any misuse of such time will result in revocation of privileges granted under this Policy and will be grounds for disciplinary action.
- D. Time for changing clothes, showers, travel to and from the exercise area, or any other task associated with the physical fitness program, or for eating lunch, will be included as part of the official time allowed for exercise. Additional time will not be allowed for these activities
- E. The employee is responsible for ensuring that fitness activities are safe.
- F. Time for physical fitness exercise must be coordinated with the immediate supervisor to insure adequate support for the agency's mission requirements and work scheduling.
- G. Physical fitness is a personal responsibility; however, it is a recognized fact that physically fit employees are healthier, have higher morale and are more productive. Participants are personally responsible for educating themselves concerning health and physical fitness issues before starting the program. If you are not already in a physical fitness program, it is recommended you consult with your personal physician to obtain advice on a fitness program that will meet your personal goals and physical abilities.



NEW MEXICO
**PUBLIC REGULATION
COMMISSION**

POLICY NUMBER: 07

POLICY: PHYSICAL FITNESS

EFFECTIVE DATE: APRIL 2011

- H. Any requests for exceptions to this policy must be submitted in writing to Human Resource Bureau for approval.

- I. Note: At no time does the existence of a completed and signed physical fitness agreement supersede the needs of the agency or the assignments and responsibilities of the employee's duties.

COMMISSION APPROVED

Date APRIL 2011

PURPOSE

This policy is to offer Public Regulation Commission (PRC) employees a fair and systematic method to address complaints, to ensure that employees receive prompt consideration and to meet the requirements of State Personnel Board Rules and State and Federal law.

POLICY

This policy outlines dispute resolution processes for PRC employees regarding working conditions.

REFERENCE

This policy is promulgated pursuant to State Personnel Board (SPB) Rule 1. 7.6.13.NMAC.

DEFINITIONS

1. **Complaint:** A complaint may concern a claimed misinterpretation, claimed violation or misapplication of State Personnel Board Rules, existing PRC Human Resource Policy, or any combination of circumstances within the control of the PRC which materially affect an employee's working conditions, and are beyond the employee's control, but which may be subject to remedy by the employee's supervisors. Employee Development and Appraisal (EDA) issues are not subject to complaint under this or any other PRC policy.
 2. **Affirmative Action/Equal Employment Opportunity Officer (AA/EEO):** The individual within the Agency who has the responsibility for the development, implementation and maintenance of the Agency's Affirmative Action Program. The AA/EEO monitors programs and assures compliance with organizational, state and national EEOC policies.
 3. **Informal Complaint:** A discussion with an employee's immediate supervisor, second-level supervisor, the agency AA/EEO Officer, or the Human Resource Bureau Chief, for the purpose of attempting to resolve the issue without formally filing a written complaint.
 4. **Formal Complaint:** A written complaint made to an employee's immediate supervisor, next level supervisor, the Agency's AA/EEO Officer, or to the Human Resource Bureau Chief for the purpose of resolving an issue within the scope of this policy.
- 8-1
5. **Mediation:** The process of having a neutral party assist to resolve disputes or conflicts between the parties. Mediation is an option for resolving issues.

JURISDICTION

This policy applies to persons employed by the Agency at the time of the complaint.



POLICY NUMBER: 08

POLICY: COMPLAINT POLICY

EFFECTIVE DATE: AUGUST 2004

Complaints relating to sexual harassment, discrimination, and/or disability are addressed in other policies of the PRC. Information pertaining to those policies may be obtained from the agency's Human Resource Bureau.

The complaint procedure must be initiated by the complaining party within **30 calendar days** of a particular incident if the complaint is related to that incident, or may be initiated at any time if the incident(s) leading to the complaint is (are) of a continuous nature. This Compliant Policy is separate from grievance procedures specific to deadlines and procedures relating to discipline as referenced in (SPB) Rule 1. 7.11. NMAC Discipline.

All Agency complaints filed shall be documented and maintained by the Human Resource Bureau. All complaints informal or formal shall be kept *confidential* and separate from the employee's personnel file.

MEDIATION PROCESS

Mediation may be requested by the employee or referred by the immediate supervisor, Division Director or Human Resource Bureau Chief during any stage of the Complaint Policy in an effort to reach resolution. All mediation processes shall be coordinated through the Human Resource Bureau.

Parties shall agree on Risk Management Division trained mediator(s), who shall be selected from the State of New Mexico mediator list.

Mediation topics are restricted to the original complaint filed. The parties shall sign an agreement if mediation resolves the complaint, the complaint is considered closed at that time. If the complaint is not resolved through mediation, returning to the previous level or beginning at level 1 of the formal Complaint Policy must be requested in writing within three (3) working days.

INFORMAL COMPLAINT PROCESS

The Public Regulation Commission encourages its employees to attempt to resolve their complaints at an informal level. An informal resolution may be attempted by first speaking with the immediate supervisor.

If the issue is urgent and the immediate supervisor is not available, or if the employee has reasons for not bringing the matter to his/her immediate supervisor, the employee may informally discuss their complaint with the next level supervisor for resolution or the HR Bureau Chief during any stage of the process.

8-2

FORMAL COMPLAINT PROCESS

The complaint becomes formal when it is presented in writing to the immediate supervisor and copied to the Agency Human Resource Bureau Chief and the agency's AA/EEO Officer. The immediate supervisor shall respond in writing to the employee within 10 working days, with copies of the response to the agency's AA/EEO Officer and Human Resource Bureau Chief. If the complaint is urgent and the immediate supervisor is not available, or if the employee has reasons for not bringing the matter to his/her immediate supervisor, the employee may bring his/her complaint to the next level supervisor for resolution.

If the employee is dissatisfied with the immediate supervisor's decision or plan of action, or, if the immediate supervisor does not respond within 10 working days, the employee may present the complaint in writing to the next level supervisor if applicable, within five (5) working days of the date of the supervisor's decision or plan of action, or after the expiration of 10 working days, whichever comes first. If the employee is dissatisfied with the next level supervisor's decision or plan of action or if the next level supervisor does not respond within 10 working days, the employee may present the complaint in writing to the Division Director within five (5) working days of the date of the next level supervisor's decision or plan of action, or after the expiration of 10 working days, whichever comes first.

If the employee is dissatisfied with the Division Director's decision or plan of action, or if the Division Director does not respond within 10 working days, the employee may present the complaint in writing to the Chief of Staff within five (5) working days of the date of the Division Director's decision or plan of action, or after the expiration of 10 working days, whichever comes first.

The Chief of Staff will render a decision within 20 working days from his/her receipt of the complaint. The Chief of Staff may direct an investigation be conducted prior to the rendition of any decision, in which event the Chief of Staff shall extend the deadline for a decision accordingly.

COMPLAINTS AGAINST CHIEF OF STAFF

Complaints against the Chief of Staff shall be filed in writing and submitted to all Commissioners.

PROTECTION AGAINST RETALIATION

Employees of the Agency have the right to present or make known their complaints and be free from retaliation. Neither the Agency nor its employees will retaliate against an individual who utilizes the complaint process. Retaliation is a violation of this policy and should be reported immediately to the Chief of Staff. Any employee found to have retaliated against another employee for utilizing the complaint process will be subject to disciplinary action.

8-3

MISCELLANEOUS

1. The Chief of Staff may extend in writing any of the deadlines set forth for cause in this policy.
2. In the event either party is away from work due to leave or travel, the time limits set forth in this policy are automatically extended for that period of time.
3. The employee has the right to representation during the formal complaint process.
4. A formal complaint may be withdrawn by the initiating party at any time. If the complaint is resolved or withdrawn, both parties involved at that level of the process must record the action in



POLICY NUMBER: 08

POLICY: COMPLAINT POLICY

EFFECTIVE DATE: AUGUST 2004

writing and submit copies to the PRC AA/EEO Officer and Human Resource Bureau Chief within five working days.

5. The AA/EEO Officer may be consulted by the employee at any time during the complaint process unless he/she is involved in the investigation or process.

If the formal complaint pertains to an interpretation of a State Personnel Board Rule, it may be appealed to the State Personnel Director within 30 calendar days of the Agency's final decision. The Director may appoint a hearing officer to review the complaint and render a recommended decision to the Director. The Director's decision on the complaint shall be final and binding.

If the employee is dissatisfied with the decision rendered by the Chief of Staff, or at any time during the process, the employee may pursue a remedy through other avenues including, but not limited to, the following:

New Mexico Human Rights Division

United States Office for Civil Rights

United States Equal Employment Opportunity Commission

New Mexico State Personnel Office

Employees may contact the AA/EEO Officer or any PRC Human Resource Bureau staff member for the address and telephone numbers for any of these agencies.

It is the employee's responsibility to contact these agencies regarding their respective deadlines for filing complaints.

Effective: August 2000

Revised: November 2003

Revised: August 2004



PURPOSE

The purpose of this policy is to promote a safe and harmonious workplace free from discrimination and other improper conduct.

POLICY

The Agency has zero tolerance for all forms of discrimination. Employees of the Agency have the right to work in a professional environment that promotes equal employment opportunities and prohibits discriminatory practices. Discrimination, in any unlawful form is prohibited by law.

Members of the public have a right to be free of discrimination when working with employees of the Agency.

Title VII of the Federal Civil Rights Act of 1964 and the New Mexico Human Rights Act prohibit discrimination on the basis of race, color, religion, sex, national origin, sexual orientation or ethnicity.

The Agency encourages reporting of all perceived incidents of discrimination, and will review such reports and investigate them when appropriate. The Agency prohibits retaliation against any individual who reports discrimination or participates in an investigation of such reports.

REFERENCES

Civil Rights Act of 1964

Civil Rights Act of 1991

The New Mexico Human Rights Act

Discrimination: It shall be an unlawful employment practice for an employer:

- a) to fail refuse to hire to discharge any individual, or otherwise to discriminate against any individual with respect to his/her compensation, terms, conditions or privileges of employment because of such individual's race, color, religion, sex, sexual orientation, ethnicity, or national origin or:
- b) to limit, segregate, or classify an employee or applicant for employment in any way that would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his/her status as an employee, because of such an individual's race, color, religion, sex, or national origin.

9-1

Definitions:

Hostile work environment: A work place atmosphere which arises out of verbal or physical conduct that denigrates or shows hostility or aversion toward an

individual because of his or her race, color, religion, sex, national origin, ancestry, age, physical or mental disability, veteran status, Vietnam era and special disabled veteran, or sexual orientation and that:

- (1) Has the effect of creating an intimidating, hostile or offensive working environment;
- (2) Has the effect of unreasonably interfering with an individual's work performance; or
- (3) Has the effect of hindering an individual's employment opportunities.

Offensive conduct: Any behavior which a reasonable person of ordinary sensibilities would find abusive, insulting, offensive, demeaning, derogatory, ethnic, racial or sexual in nature. Such behavior includes, but is not limited to, verbal or written comments, jokes, cartoons or use of offensive materials in the work place; and

Offensive materials: Any public display in the work place, in whatever form, which a reasonable person of ordinary sensibilities would find insulting, offensive, demeaning, derogatory, racially or sexually explicit in nature. Such displays include, but are not limited to, pictures, calendars, electronic images or photographs;

Retaliation: An adverse employment action, restraint, interference, intimidation, coercion or unlawful discrimination against:

- (1) An employee who files a complaint;
- (2) The employee's representatives; or
- (3) Any witnesses, or any employee with the responsibility for processing such complaints and which occurs because of such activity; and

Sexual harassment: Unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature that

- (1) Is made explicitly or implicitly a term or condition of an individual's employment;
- (2) Is used as a basis for employment decisions affecting an individual; and/or
- (3) Has the effect of unreasonably interfering with an individual's work performance or which is so severe and pervasive that it creates an intimidating, hostile or offensive work environment; and
- (4) Such conduct is unwelcome sexual conduct that unreasonably alters an individual's conditions of employment, or is sufficiently severe or pervasive as to create a hostile, intimidating or offensive work environment.

- (5) In the case of members of the public, sexual harassment shall be deemed to include: any unwelcome verbal or physical conduct of a sexual nature directed toward a member of the public, by an employee on official duty for the PRC. Sexual harassment includes: any sexual advances, requests for sexual favors, and/or other verbal or physical conduct of a sexual nature. Sexual harassment is not an occasional compliment, of a socially acceptable nature.

Standard of Enforcement: Concept that unlawful discrimination or the existence of a hostile work environment will not be condoned or tolerated by the management or employees of the Commission and appropriate disciplinary action will be taken.

Unlawful discrimination: Any conduct or practice which may violate any applicable civil rights laws relating to employment; and

RESPONSIBILITY TO REPORT DISCRIMINATION

Any employee, who believes he/she is a victim of discrimination, or has knowledge of discrimination in the workplace, has a duty to report the incident. If a supervisor has knowledge of discrimination and an employee does not report this conduct, the supervisor still has the duty to take action on the discrimination or report it to the Agency's Affirmative Action/Equal Employment Opportunity Officer (AA/EEO Officer) or Human Resource Bureau Chief. Supervisors who knowingly allow or tolerate discrimination are in violation of this policy and subject to disciplinary action up to and including dismissal.

PROCEDURES FOR REPORTING DISCRIMINATION

An employee should promptly report any discrimination to his/her supervisor, AA/EEO Officer, or Human Resources Bureau Chief.

1. An employee who believes he/she has been subject to discrimination should promptly tell the alleged harasser of their disapproval of the behavior and ask them to stop the behavior. However if for any reason, the employee feels uncomfortable addressing the alleged harasser he/she should promptly report the alleged discrimination to his/her supervisor, AA/EEO Officer, or Human Resources Bureau Chief.

9-3

2. An employee who wants assistance in addressing discrimination behavior may report the alleged occurrence within 60 working days, or at any time, if it is of a continuous nature. The employee may report the alleged incident to his/her immediate supervisor. If the immediate supervisor is the alleged harasser or if the employee feels uncomfortable speaking to his/her immediate supervisor, the employee may contact the next level supervisor, the AA/EEO Officer, or the Agency's Human Resource Bureau Chief.

It is the Agency's intent to provide a fair process for investigating and resolving complaints of discrimination.

The Agency is responsible for conducting a prompt review. The Agency will commence a review and if appropriate, an investigation within 10 working days from receipt of the complaint. The time for conducting the investigation may be extended by the Chief of Staff. Every attempt will be made to keep the investigation as confidential as possible.

The AA/EEO Officer or the Human Resources Bureau Chief will complete a written report within 30 working days of receipt of the complaint. The Chief of Staff may extend the time for completion of the report. Upon completion, the report will be provided to the Chief of Staff for his/her final decision. The Chief of Staff will render a decision within 10 working days.

If the affected employee is dissatisfied with the decision rendered by the Chief of Staff, or at any time during the process, the employee may pursue a remedy through other avenues, including but not limited to the following:

New Mexico Human Rights Division, Department of Labor

U.S. Office for Civil Rights

U.S. Equal Employment Opportunity Commission

Employees may contact the AA/EEO Officer or any PRC Human Resource staff member for the address and telephone numbers for any of these agencies.

It is the employee's responsibility to contact the agencies regarding deadlines for filing complaints.

PROTECTION AGAINST RETALIATION

The PRC will not retaliate against an individual who reports discrimination. Retaliation is a serious violation of this policy and should be reported immediately. Any employee found to have retaliated against another employee for reporting discrimination shall be subject to disciplinary action, up to and including dismissal.

DISCIPLINE

The PRC has a zero-tolerance for discrimination and considers discrimination of employees cause for discipline, up to and including dismissal. However, serious cases of discrimination are **not** subject to progressive discipline.

9-4

Supervisors and managers who are aware of, and who fail to take prompt and appropriate action, in response to actual or alleged incidents of discrimination, are also subject to disciplinary action, up to and including dismissal.

Employees who knowingly make false allegations of discrimination are subject to disciplinary action, up to and including dismissal.

RESPONSIBILITIES OF MANAGERS AND SUPERVISORS

Managers and supervisors have the following responsibilities:

1. Maintain accurate, up-to-date job descriptions;
2. Conduct accurate, timely, and consistent performance evaluations;
3. Justify employment decisions with valid performance data;
4. Document the basis for employment decisions;
5. Respond to all allegations of discrimination quickly, fairly, and appropriately;
6. Discuss all complaints with the AA/EEO Officer or Human Resource Bureau Chief;
7. Cooperate with any investigation stemming from allegations of discrimination; and
8. Ensure that there is no retaliation against any employee involved in a discrimination complaint.

AWARENESS AND TRAINING

Prevention is always the best means of avoiding discrimination. Periodic mandatory training for all employees, including supervisors and managers, will be provided by the PRC to increase knowledge of this discrimination policy, state and federal laws and the process for enforcing the policy. The PRC will make every effort to familiarize staff with this policy.

Effective:	August	2000
Revised:	November	2003
Revised:	August	2004



PURPOSE

The purpose of this policy is to establish a Code of Conduct for all Public Regulation Commission (PRC) employees, classified and exempt. **Violation of this Policy may result in discipline, up to and including termination.** These standards shall constitute the required NMPRC Code of Conduct according to Section 10-16-11 NMSA 1978 of the New Mexico Governmental Conduct Act. Employees covered by the State Collective Bargaining Agreement may have other rights. See, CBA.

POLICY

All NMPRC employees shall treat their government position as a public trust. Employees are expected to conduct themselves in a manner that instills public confidence, adheres to the highest standards of honesty, integrity, professionalism and diligence, and at all times maintain integrity and ethically discharge the high responsibilities of public service. Such conduct shall include politeness, frugality, punctuality and respect for others. The public and co-workers shall be treated with respect and courtesy at all times.

Conduct that violates any provision of statute may be subject to any penalty (ies) as prescribed by law.

All Employees must become familiar with this Policy and the following standards and rules and to observe them without exception. All new NMPRC Employees will review the NMPRC's "Code of Conduct" during the orientation process and all employees will annually acknowledge the receipt and review of the policy. A signed "Receipt of Acknowledgement" will be required from each employee upon reviewing the "Code of Conduct" which will be placed in the Employee's personnel file.

A. Business Conduct

1. All Employees shall conduct themselves professionally in all dealings with the public, clients and co-workers. Employees shall treat each other and the public with courtesy and respect.
2. Use of language or gestures that is threatening, abusive or profane to the public or any co-worker is prohibited.
3. Bullying is prohibited.
4. Harassment is prohibited.



5. Employees should cooperate with their supervisors and follow direction. Insubordination will not be tolerated. Insubordination means refusal to follow an authorized Supervisor's reasonable orders or a willful disregard of a Supervisor's legitimate authority.
6. All furniture and equipment supplied to Employees is state property. Employees do not have a privacy interest in state property, and the agency retains the right to search property (e.g., offices, desks, file cabinets, computer files, and other state issued property) at any time. See, Section I.
7. All Employees will protect and conserve the NMPRC's property including equipment, supplies, and other property entrusted of issued to them. See, Section I.
8. Employees shall not willfully damage, misuse or misappropriate NMPRC property and doing so may result in termination and referral to law enforcement. See, Section I.
9. Employees shall not alter without authorization, or falsify any NMPRC information or records and doing so may result in termination and referral to law enforcement.

B. Violence, Harassment and Safety in the Workplace:

1. It is the NMPRC's policy to promote a safe work environment for its employees. The NMPRC is committed to working with its Employees to maintain a work environment free from violence, threats of violence, intimidation, and other disruptive behavior.
2. Employees shall not cause or create unsafe or hazardous condition. This includes maintaining a safe and hazard free office or workspace. Employees must report unsafe or hazardous workplace conditions to management.
3. Employees shall not cause or create unsafe or hazardous conditions. This includes maintaining a safe and hazard-free office or workspace. Employees must report unsafe or hazardous workplace conditions to management.
4. NMPRC will not tolerate verbal threats, threatening or violent behavior, implied or actual, by any person, including members of the public, directed towards NMPRC personnel or property.
5. Verbal threats or threatening or violent behavior, actual or implied, by an Employee, directed towards other Employees, to members of the public or to State of New Mexico property, made while conducting official business and/or on the Agency premises, including intimidation, harassment and/or coercion will not be tolerated.
6. Any act or threat of work place fighting, or physical violence, or stalking conducted in the workplace or while conducting official business, may be referred to law enforcement.



7. When threatening behavior is exhibited or an act of violence is committed, the NMPRC I will initiate an appropriate response. This response may include, but is not limited to, evaluation by the State Employee Assistance program and/or termination of any business relationship, reassignment of job duties, suspension or termination of employment, and/or referral to appropriate law enforcement for investigation and criminal prosecution of the person(s) involved.

C. Weapons

Violation of this section on Weapons, as all other sections of this Code of Conduct, may result in discipline, up to and including termination.

1. On State Property: including the PERA building and parking lot:

Employees carrying a concealed weapon in state buildings are required to be in compliance with the New Mexico Concealed Handgun Carry Act, NMSA 1978, Section 29-19-1 to -15 (2003 as amended through 2015), and shall comply with all of the requirements of the Department of Public Safety Rule 10.8.2 NMAC.

In order for an employee to be in compliance with the referenced statute and regulations the employee shall:

- 1) have their concealed handgun license in their possession at all times while carrying the concealed handgun; *See* NMSA 1978, Section 29-19-9, (2003)
- 2) not carry the concealed handgun where do so is a violation of state or federal law; *See* § 29-19-8(A)
- 3) not carry the concealed handgun on school premises; *See* § 29-19-8(B) and 10.8.2.16(H) NMAC
- 4) not carry the concealed handgun on the premises of a preschool; *See* § 29-19-8(C) and 10.8.2.16(G) NMAC
- 5) not carry the concealed handgun on tribal land unless authorized by the governing body for that nation, tribe or pueblo; *See* § 29-19-10
- 6) not carry the concealed handgun in a courthouse or court facility, unless authorized by the presiding judicial officer for the same; *See* § 29-19-11
- 7) not carry the concealed handgun in establishments licensed to dispense alcoholic beverages; 10.8.2.16(J) NMAC
- 8) not carry the concealed handgun on university premises; 10.8.2.16(I) NMAC
- 9) not carry the concealed handgun on private property that has signs posted prohibiting the carrying of concealed weapons or when verbally told so by a person lawfully in possession of the property; 10.8.2.16(F) NMAC
- 10) not carry a concealed handgun of a different category or higher caliber than is indicated on the license; 10.8.2.16(A) NMAC
- 11) only carry one concealed handgun at a time; 10.8.2.16(A) NMAC



12) not consume alcohol, or be impaired by alcohol, controlled substances, or over-the-counter or prescribed medication while carrying a concealed handgun; 10.8.2.16(B) (C) NMAC

AND

13) produce the concealed handgun license on demand by a peace officer. 10.18.2.16(D) NMAC

2. In State-Owned Vehicles:

Employees of the NMPRC are required to follow General Services Department Rule 1.5.3 NMAC which states in subsection 1.5.3.17(A), “WEAPONS AND PETS PROHIBITED: A. No authorized driver or passenger shall possess a weapon while operating a state motor vehicle unless the authorized driver or passenger is a certified law enforcement officer. This includes individuals with concealed weapons licenses.”

D. Drug and Alcohol Use/Violations of Law

- 1 Agency employees who illegally sell, purchase, transfer or possess drugs or any substance Schedules I and II of the Controlled Substances Act (§§30-31-1 through 303-31-41, NMSA 1978 as amended) while on duty shall be terminated and reported to the appropriate local law enforcement agency.
- 2 Employees must report the use of any medication which may impair work performance to their immediate supervisor.
- 3 Employees, who consume alcohol or possess an open container, while on duty, shall be terminated.
- 4 The possession or use of alcohol or illicit drugs during work hours, while conducting official business or in the workplace is prohibited. Reporting for work and/or being on the Agency premises under the influence of any of the above is prohibited.
- 5 Smoking is prohibited in the Agency building and within 15 feet of the NMPRC building and in State vehicles.

E. Recording

Employees, while in the workplace or while conducting official duties, shall provide *prior verbal notice* to all other Employees and all other persons present (within recording distance) that he/she intends to make an audio recording or video recording of any conversation or meeting.

F. Ethical Principles of Public Service, Prohibited Acts and Conflicts of Interest

1. Employees shall use the powers, resources, and property of public office to advance the public interest. Employees shall not use the powers, resources and property of public office obtain personal benefits or pursue private interests incompatible with the public interest.



2. Full disclosure of real, perceived, or potential conflicts of interest shall be a guiding principle for determining appropriate conduct. At all times, reasonable efforts shall be made to avoid undue influence and abuse of office in public service.
3. No employee shall request or receive, and no person shall offer an employee, any money, thing of value or promise thereof that is conditioned upon, or given in exchange for, promised performance of an official act.
4. Employees shall not perform an official act for the primary purpose of directly enhancing their own financial interest, financial position, or for any other form of personal gain.
5. Employees shall disqualify themselves from engaging in any official act directly affecting their or their family's financial interest.
6. Any person who knowingly and willfully violates the provisions of the Governmental Conduct Act, NMSA 1978, §§ 10-16-1 through 18 is guilty of a fourth degree felony.
7. No employee may request or receive an honorarium for a speech or service rendered that relates to the performance of public duties. "Honorarium" means payment of money, or any other thing of value in excess of one hundred dollars (\$100), but does not include reasonable reimbursement for meals, lodging or actual travel expenses incurred in making the speech or rendering the service, or payment or compensation for services rendered in the normal course of a private business pursuit. Such private business interests may only be pursued during non-work hours or when an employee is on approved leave. Employees may not conduct private business with entities with which the PRC has regulatory or supervisory authority contact outside the normal provisions of service available to other consumers.
8. Employees shall not use confidential information acquired by virtue of their state employment for their or another person's private gain.
9. Any person, who violates the State Procurement Code NMSA 1978 §§13-1-190 and 193 is guilty of a misdemeanor. It is unlawful for any employee who is participating directly or indirectly in the procurement process to become or to be, while such an employee, the employee of any person or business contracting with the governmental body by which the employee is employed.
10. Pursuant to Section 8-8-19 NMSA 1978 of the Public Regulation Act, no employee shall accept anything of value from a regulated entity, affiliated interest or intervenor¹.

¹ Section 8-8-19 A. contains the following definitions: "(1) "affiliated interest" means a person who directly controls or is controlled by or is under common control with a regulated entity, including an agent, representative, attorney, employee, officer, owner, director or partner of an affiliated interest. For the purposes of this definition, "control" includes the possession of the power to direct or cause the direction of the management and policies of a person, whether directly or indirectly, through the ownership, control or holding with the power to vote of ten percent or more of the person's voting securities; (2) "intervenor" means a person who is intervening as a party in an adjudicatory matter or commenting in a rulemaking pending before the commission or has intervened in an adjudicatory or rulemaking matter before the commission within the preceding twenty-four months, including an



For the purposes of this paragraph, "anything of value" does not include: a) the cost of refreshments totaling no more than five dollars (\$5.00) a day or refreshments at a public reception or other public social function that are available to all guests equally; b) inexpensive promotional items that are available to all customers of the regulated entity, affiliated interest or intervenor; or c) pension or disability benefits received from a regulated entity, affiliated interest or intervenor.

11. Pursuant to Section 8-8-19 NMSA 1978 of the Public Regulation Act, no employee shall have a pecuniary interest in a regulated entity, affiliated interest or intervenor, and if a pecuniary interest in an intervenor develops, the employee shall divest himself of that interest or recuse himself from the proceeding with the intervenor interest.
12. Pursuant to Section 8-8-19 NMSA 1978 of the Public Regulation Act, no employee shall solicit any regulated entity, affiliated interest or intervenor to appoint a person to a position or employment in any capacity.
13. It is unlawful for a state agency employee who is participating directly or indirectly in the contracting process to become or to be, while such an employee, the employee of any person or business contracting with the governmental body by whom the employee is employed

G. Prohibited Sales by Employees

1. Supervisor employees of the NMPRC are required to comply with the prohibition of certain business sales to employees under their supervision as set forth in the Governmental Conduct Act, Section 10-16-13.2 NMSA 1978 (2011).
2. NMPRC employees are required to comply with the prohibition of certain business sales to persons over whom the employee has regulatory authority as set forth in the Governmental Conduct Act, Section 10-16-13.2 NMSA 1978 (2011).
3. An employee of the PRC shall not participate directly or indirectly in a procurement when the employee knows that the employee or any member of the employee's immediate family has a financial interest in the business seeking or obtaining a contract.

agent, representative, attorney, employee, officer, owner, director, partner or member of an intervenor; (3) "pecuniary interest" includes owning or controlling securities; serving as an officer, director, partner, owner, employee, attorney or consultant; or otherwise benefiting from a business relationship. "Pecuniary interest" does not include an investment in a mutual fund or similar third-party-controlled investment, pension or disability benefits or an interest in capital credits of a rural electric cooperative or telephone cooperative because of current or past patronage; and (4) "regulated entity" means a person whose charges for services to the public are regulated by the commission and includes any direct or emerging competitors of a regulated entity and includes an agent, representative, attorney, employee, officer, owner, director or partner of the regulated entity.



4. Any employee violating any provision of NMSA 1978, § 13-2-29 is guilty of a fourth degree felony.

H. Outside Employment and Activities

Employees of the PRC may hold outside employment, including public, private, or self-employment, or invest, or acquire an interest in a private business so long as the outside employment complies with this Code of Conduct and Section 8-8-19 of the NMPRC Act. Additionally, outside employment or business activity are prohibited from being performed during the hours they are scheduled for work, including paid breaks, unless they have authorized leave. An employee wishing to represent the NMPRC in an official capacity must obtain prior approval from the Chief of Staff.

I. Gambling

Engaging in gambling or commercial gambling activities during work hours, including paid breaks, or on NMPRC premises or while conducting official duties shall result in disciplinary action. The following statutory definitions apply to such activities:

1. Gambling consists of:
 - a. making a bet;
 - b. entering or remaining in a gambling place with intent to make a bet, to participate in a lottery or to play a gambling device;
 - c. conducting a lottery; or
 - d. possessing facilities with intent to conduct a lottery.

2. Employees are advised that whoever commits commercial gambling is guilty of a petty misdemeanor. Commercial gambling consists of:
 - a. participating in the earnings of or operating a gambling place;
 - b. receiving, recording or forwarding bets or offers to bet;
 - c. possessing facilities with the intent to receive, record or forward bets or offers to bet;
 - d. for gain, becoming a custodian of anything of value, bet or offered to be bet;
 - e. conducting a lottery where both the consideration and the prize are money, or whoever with intent to conduct a lottery, possesses facilities to do so; or
 - f. setting up for use, for the purpose of gambling, or collecting the proceeds of, any gambling device.

Under prescribed circumstances, state law permits the sale or drawing of any prize at any fair held in the state for the benefit of any church, public library or religious society in the state, or



for charitable purposes when all the proceeds of such fair are for the benefit of such church, public library, religious society or charitable purpose. Employees shall not engage in any activities in support of such lotteries during work hours or while conducting official business.

J. Use of State Property, Equipment and Supplies

1. Equipment, furniture, supplies, and other state resources is state property and are to be used only in support of official NMPRC business or activities.
2. State property may not be removed from work premises without a supervisor's authorization.
3. State telephones and State computers are to be used primarily for official Agency business or activities. Use of State telephones and State computers for personal matters shall be kept to a minimum and shall not interfere with employee's duties. Supervisors are expected to monitor State telephone and State computers usage so as to ensure that personal use does not interfere with the performance of their Subordinates' duties.
4. Personal cell phone use shall be minimal while conducting official business or in the workplace and shall not interfere with official duties.
5. Employees shall not use state telephones to place long distance personal calls or accept collect calls billed to the State without approval from their Supervisors. An employee shall reimburse the Agency for the cost of such calls.
6. The unauthorized removal or fraudulent use of State property for personal or other purposes is prohibited and doing so may result in termination and referral to law enforcement.
7. All employees shall adhere to any and all State of New Mexico and Agency Information Technology protocols on system security.
8. Any implied or express threat to damage or compromise the security of the IT systems and net work is prohibited.

K. Legislative Activities

1. Employees interested in a particular bill pertaining to the Agency's duties and wishing to attend a committee hearing must obtain permission from their Division Director.
2. Employees wishing to attend legislative proceedings pertaining to matters of personal interest during scheduled work hours must obtain authorized leave.
3. Such employees shall, if speaking to an issue, clearly indicate that they are present in a personal capacity and shall, when voicing a personal opinion on an issue, clearly identify the position or opinion as personal.

L. Political Activities

1. Permitted political activities:



- a. Employees are encouraged to register and vote;
 - b. Employees have a right to express their opinions on all political subjects and candidates; and
 - c. Employees may wear nondistracting political badges or buttons while on duty.
2. Employees may engage in the following activities so long as they are on approved leave:
- a. serve as convention delegates;
 - b. attend political rallies;
 - c. sign nominating petitions and make voluntary contributions to political organizations;
 - d. engage in political activity; and
 - e. serve as election officials.
3. Employees are prohibited from:
- a. using official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office or for any other political purpose;
 - b. directly or indirectly coercing, attempting to coerce, commanding or advising a state or local officer or employee to pay, lend or contribute anything of value to a party, committee, organization, Agency or person for a political purpose;
 - c. threatening to deny promotions to any employee who does not vote for certain candidates, influencing or advising to contribute to a political fund, influencing to buy tickets to political fundraising dinners and similar events, or to take part in political activity and matters of a similar nature;
 - d. engaging in political activity while on duty; or
 - e. serving as an officer of a political organization even if off duty.
4. Employees shall comply with all provisions of the Gift Act, Sections 10-16B-1 etseq. NMSA 1978, including but not limited to:
- a. shall not knowingly accept from a restricted donor, and a restricted donor ² shall not knowingly donate to a an employee, or that person's family, a gift of a market value greater than two hundred fifty dollars (\$250); and
 - b. shall not solicit gifts for a charity from a business or corporation regulated by the state agency for which the employee works and shall not otherwise solicit

² See, the Gift Act, Section 10-16B-2 D which defines "restricted donor": "means a person who: (1) is or is seeking to be a party to any one or any combination of sales, purchases, leases or contracts to, from or with the agency in which the donee holds office or is employed; (2) will personally be, or is the agent of a person who will be, directly and substantially affected financially by the performance or nonperformance of the donee's official duty in a way that is greater than the effect on the public generally or on a substantial class of persons to which the person belongs as a member of a profession, occupation, industry or region; (3) is personally, or is the agent of a person who is, the subject of or party to a matter that is pending before a regulatory agency and over which the donee has discretionary authority as part of the donee's official duties or employment within the regulatory agency; or (4) is a lobbyist or a client of a lobbyist with respect to matters within the donee's jurisdiction:..."



donations for a charity in such a manner that it appears that the purpose of the donor in making the gift is to influence the state officer or employee in the performance of an official duty

5. An employee is prohibited from directly or indirectly coercing or attempting to coerce another public officer or employee to pay, lend or contribute anything of value to a party, committee, organization, agency or person for a political purpose and threatening to deny a promotion or pay increase to another employee who does or does not vote for certain candidates, requiring another employee to contribute a percentage of the employee's pay to a political fund, influencing a subordinate employee to purchase a ticket to a political fundraising dinner or similar event, advising an employee to take part in political activity or similar activities.

M. Public Office

1. Employees covered by the provisions of the Hatch Act [5 U.S.C.§§1501 to 1508] may be candidates in nonpartisan elections if, upon filing or accepting the nomination, and during the entire campaign, they are on authorized, full-time, continuous leave without pay. A nonpartisan election is any election for public office when the candidate's party affiliations are neither indicated nor required.
2. Employees covered by the provisions of the Hatch Act may not be candidates in partisan elections.
3. Employees not covered by the provisions of the Hatch Act may be candidates for any public office if, upon filing or accepting the nomination and during the entire campaign, they are on authorized full-time continuous leave without pay.
4. Employees may hold only a nonpartisan county or municipal political office during employment in the classified service.
5. Serving as a local school board member or an elected member of any post-secondary educational institution shall not be construed as holding political office.

N. Dress Code

1. Employees shall maintain good personal hygiene and dress appropriately for the tasks of their position.
2. Employees are prohibited from wearing Agency uniforms or any Agency clothes with badges when not in the workplace or while not conducting official business.
3. Employees who are assigned uniforms with NMPRC logos are only allowed to wear and use those uniforms while conducting official business.

O. Contact Information



Every employee is responsible for maintaining his/her current contact information on file with the Human Resources Bureau. Notices mailed to the last address on record or phoned to the last telephone number on record shall be considered properly delivered.

Commission Approved

Effective: August 2000
Revised: November 2003
Revised: August 2004
Revised: August 2017
Revised: March 2019



PURPOSE

The purpose of this policy is to establish a uniform procedure to allow Public Regulation Commission (PRC) employees to request an alternative work schedule. The Agency Alternative Work Schedule Policy is implemented to provide employees the opportunity to balance their professional careers with their personal needs. The policy defines Alternative Work Schedules and establishes the application and approval procedure for employees requesting an Alternative Work Schedule.

POLICY

The normal work schedule for Agency employees is Monday through Friday from 8:00 a.m. to 5:00 p.m. with a one-hour lunch period, except for those divisions and/or bureaus whose operations require coverage during the noon hour. Employees may request an Alternative Work Schedule by utilizing the Department's Alternative Work Schedule PRC-ADM Form #101 (attached). Applications must be approved by the immediate supervisor and processed through the chain of command final approval by the division director. Immediate supervisors and division directors shall ensure that the efficient operation of the unit is not interrupted that sufficient coverage is maintained in each respective area prior to approving an Alternative Work Schedule.

SCOPE

This policy applies to all Agency employees.

BACKGROUND

The management of the Agency establishes work schedules for employees. However, this policy establishes a process for employees to request variances from the normal work schedule.

DEFINITIONS

STANDARD WORKWEEK SCHEDULE: The standard workweek schedule for the Agency is Monday through Friday.

STANDARD WORKDAY SCHEDULE: The standard workday schedule for the Agency is 8:00 a.m. to 5:00 p.m., with a minimum ½ hour lunch and a maximum one-hour lunch between 12:00 p.m. and 1:00 p.m., except as otherwise noted.

11-1

FLEXTIME: An Alternative workday schedule allows an employee to request a variance from the standard workday by establishing an alternate workday that begins and/or ends at a different time than the standard workday. Division Directors may approve work hours that begin no earlier than 7:00 a.m. and conclude no later than 6:00 p.m. Each workday will not exceed eight (8) hours, unless employee is on an approved compressed work schedule

COMPRESSED WORK SCHEDULE: A compressed work schedule allows an employee to request a variance from the standard workweek schedule by allowing the employee to complete his/her workweek in less than five working days. (An example of a compressed work schedule is when an individual works four ten-hour days.)

FLEX SCHEDULES

The Agency recognizes that an Alternative Work Schedule may not be practical for certain positions because of the nature and responsibilities of the job.

Alternative Work Schedules may not be approved if such schedules will require or result in increased overtime in order to accomplish work assignments.

Participation in a car or vanpool does not imply automatic approval of a requested Alternative Work Schedule.

Supervisors, with the approval of the Division Director, may cancel, suspend or adjust Alternative Work Schedules based on workload, special projects, special assignments, training, etc., if it would be more effectively addressed by working the normal work schedule. Employees shall be given as much advance notice as possible when canceling, suspending or adjusting a Alternative Work Schedule.

Compensation for working on holidays shall be governed by the Agency Compensation Policy.

A copy of the completed and approved Alternative Work Schedule Agency-ADM Form #101 (Form) must be forwarded to the Human Resources Bureau for the employee file.

BREAK PERIODS

Lunch periods must be for at least 30 minutes and may not be taken at the beginning or end of the workday, but may be taken earlier or later than the noon hour with supervisor approval.

Employees may be granted a 15-minute break in the morning and a second 15-minute break in the afternoon. Break periods shall not be combined with any kind of leave.

Supervisors may adjust, suspend or cancel break periods based on workload, special projects, special assignments, training, etc. Employees shall be given as much advance notice as possible when canceling, suspending or adjusting a break period.

Break and lunch periods shall not be accumulated.

PROCEDURES

Employees shall complete the Agency Alternative Work Schedule Form and submit it to their immediate supervisor for review and recommendation.

Supervisors must make sure that their units are adequately staffed at all times during hours an office is open. Supervisors shall forward an employee's Alternative Work Schedule Form to their division director with an appropriate recommendation.

Division directors shall review the Alternative Work Schedule Form and approve or disapprove the request. All disapproved requests shall state a reason for the disapproval on the Alternative Work Schedule Form.

A copy of the Alternative Work Schedule Form shall be provided to the employee. The Human Resource Bureau shall maintain the original application.

GENERAL POLICY STATEMENTS

The primary consideration for approving any Alternative Work Schedules for Agency employees shall be based on how effectively and efficiently services are provided to the general public of the State of New Mexico. All other considerations shall be secondary.

Variations from the standard work schedules requested by employees can be accommodated only when productivity and service is not reduced.

To maintain an efficient and productive work environment, Agency employees are expected to be reliable and to be punctual in reporting for scheduled work. Absenteeism and tardiness place a burden on other employees, and on the public. Poor attendance and excessive tardiness are disruptive and counterproductive and may lead to the termination of the Alternative Work Schedule Agreement and/or further disciplinary action.

Effective: August 1, 2000
Revised: November 2003
Revised: August 2004



I. PURPOSE

Workers' compensation laws provide compensation or benefits to Employees who suffer an Injury During the Course of Employment. This policy establishes guidelines for reporting, investigating, monitoring and managing workers' compensation claims by Public Regulation Commission (PRC) Employees.

A copy of this policy is provided to each employee at its new employee orientation and is available to the employees or potential employees on the website at the following link: <http://nmprc.state.nm.us/>. Employees also acknowledge receipt upon future revision to this policy.

II. POLICY

- A. Workers' compensation claims by Employees will be handled in accordance with the workers' compensation laws and regulations of the State of New Mexico. These state laws govern the payment of medical costs and reimbursement of lost wages to an Employee who sustains an injury or dies During the Course of Employment.
- B. As an employer, the PRC is required to comply with all provisions of the Rehabilitation Act of 1973 and the Americans with Disabilities Act. If a conflict arises with the interpretation of the Worker's Compensation Policy and any provision of the cited federal mandate, the federal mandate prevails.
- C. The PRC will pay the entire premium for this Worker's Compensation insurance.
- D. In the event of injury or death During the Course of Employment, it the PRC's first priority is to ensure the Employee receives prompt, reasonable and necessary medical attention.
- E. PRC Employees shall immediately report any injury to their supervisor after an accident's or injury's occurrence or the Employee's knowledge of the Injury (including repetitive motion injuries, illness, etc.).
- F. The Employee is expected to fully cooperate with the PRC during the investigation of the reported work Injury, including timely completion and submission of proper forms.

III. DEFINITIONS

- A. **"Employee"** means any person receiving a salary from, and acting in the service of, the PRC, including elected officials or appointed employees. Employees include persons employed by PRC in a permanent, probationary, term, temporary, or emergency position.
- B. **"Workers' Compensation Administration (WCA)"** means the New Mexico Workers' Compensation Administration.
- C. **"Workers' Compensation Bureau (WCB)"** means the WCB in the Risk Management Division, General Services Department.



- D. **“During the Course of Employment”** means: at the time of the accident the PRC has complied with the provisions of the Worker’s Compensation Act, at the time of the accident, the employee is performing service arising out of and in the course of his employment, at the time of the accident the injury or death is proximately caused by accident arising out of and in the course of his employment and is not intentionally self-inflicted.
- E. **“Injury”** means all accidents, injuries, illness or death, occurring During the Course of Employment.

IV. PROCEDURE FOR REPORTING INJURIES

- A. Employees shall report all Injuries During the Course of Employment to their immediate supervisor or Division Director as soon as possible after recognition of the same, regardless of the nature of the Injury.
 - i. The Employee shall immediately complete the Notice of Accident form, which can be obtained from the Human Resources Bureau (HRB), when the Employee has had an Injury During the Course of Employment, regardless of whether the Employee believed medical attention is needed.
 - ii. The Employee shall sign the Notice of Accident form and obtain the signature of the Employee’s immediate supervisor and then promptly provide the completed and fully signed form to the Human Resources Bureau.
 - iii. An employee has fifteen (15) calendar days from the date of accident to have the “Notice of Accident” signed and provided to the Human Resources Bureau.
 - iv. A delay in completing and providing the form to the Human Resources Bureau may occur only if the injury, or some other cause beyond the employee’s control prevents the employee from giving notice within that time. In those exceptional cases, the employee must file the form as soon as possible, but in any case no later than sixty (60) calendar days after the accident.
- B. The injured Employee shall coordinate all relevant communications with the State Risk Management Bureau, WCB, WCA, and PRC Human Resources.
- C. For each visit to an authorized health care provider, the employee must take a “Doctor Visit/ Modified Work Assignment” form to be completed by the health care provider. The form will then be promptly provided to the HRB after each medical visit, or upon request.
- D. PRC employees shall keep the Human Resources Bureau informed of work-related medical treatment, including visit dates and time, return-to-work status, and any work restrictions imposed by the health care provider.

V. PROCEDURE FOR SUPERVISORS OF INJURED EMPLOYEES

- A. When an Employee has reported an Injury During the Course of Employment his/her immediate supervisor or Division Director should encourage the Injured employee to receive necessary medical attention from an a health care provider of their choice
- B. Supervisors should immediately report the work related injury or illness to their immediate supervisor, if any, and to the HRB.



- C. Supervisors are responsible for safety, loss prevention and control and shall attend the Loss Prevention Committee meeting quarterly to become apprised of their role in safety and loss prevention.

VI. HUMAN RESOURCE BUREAU (HRB) RESPONSIBILITIES

- A. If requested by the employee, the HRB will assist the employee in completing any forms required by RMD.
- B. The HRB will assist supervisors to investigate work related injuries or illness.
- C. The HRB will provide administrative support and coordinate with WCB to provide training on work-related topics and procedures to follow in the event of an Injury.
- D. HRB will complete the "Employer's First Report of Injury or Illness" form (E-1.2) within forty-eight (48) hours of a medical services visit or after an employee has been absent from work due to the work related injury or illness for three scheduled work days, and then submit to General Services Risk Management Division (RMD).
- E. The HRB will submit the "Doctor Visit / Modified Work Assignment" form to RMD upon receipt from the employee.
- F. The HRB will notify the RMD if an employee injured who is on leave due the injury is terminated.

VII. MEDICAL TREATMENT FOR INJURY

- A. In the event of an Injury During the Course of Employment requiring emergency medical treatment, 911 should be contacted.
- B. Employees on agency business away from their worksite will report to the nearest emergency medical facility in the event of an Injury During the Course of Employment.
- C. For non-emergency care, PRC employees will report to the health care provider of their choice. The PRC reserves the right to select a different health care provider to treat an injured employee after the initial sixty-day treatment period.

VIII. CLAIMS MANAGEMENT

- A. After documentation has been submitted to the WCB, the claim will be handled by the assigned adjuster from the WCB. Claims related inquiries or concerns, including those about indemnity payments or medical bills, should be addressed to the assigned adjuster.
- B. When an employee files a Workers' Compensation Complaint, the WCB Director may appoint a pro tem mediator to mediate the dispute. If the Complaint is not resolved through mediation, the WCB Director may appoint a pro tem judge to adjudicate the matter.

IX. LEAVE FOR WORK RELATED INJURIES



- A. The employee shall follow the procedures in the PRC Absence and Leave policy to request leave for an Injury During the Course of Employment.
- B. If Family Medical Leave or Leave Without Pay is approved, the employee shall follow the procedures for the same in the PRC Absence and Leave Policy.

X. RETURN TO WORK

- A. Employees who are released to full duty after initial treatment should resume work for any remainder of the workday. Employees released to work at a later date should report to work as directed by the authorized health care provider.
- B. Employees released to work following a work injury, must report to the HRB and their immediate supervisor (in that order) prior to returning to work.
- C. Employees released to work with modified or limited work assignments should report to the HRB and must sign the Modified Work Assignment Acknowledgement form before resuming work activities. Supervisors must also sign the Modified Work Assignment Acknowledgement form.

APPROVED:

DATE:

COMMISSION APPROVED

08/2018

References: NMSA 1978, Section 52-1- through 10-1 (1929), "Workers Compensation Act"
Rule 11.4.1 NMAC
Rule 11.4.5.1 NMAC



POLICY NUMBER: 13

POLICY: PRESS AND MEDIA

EFFECTIVE DATE: MAY 2022

PURPOSE

The purpose of this Policy is to provide direction for the coordination and approval of news statements, media interviews, releases and other responses to media inquiries concerning the New Mexico Public Regulation Commission (PRC) and the entities or matters it regulates.

This Policy is applicable to all PRC employees and Fellows on loan from other public entities and other non-full-time employees employed by the PRC with the exception of staff directly employed by Commissioners.

POLICY

The PRC recognizes that it has an obligation to be open, candid and responsive to the media in providing information and comment on issues that come under its regulatory mandate.

The media are important means of communication by which the PRC disseminates information about regulatory matters of public importance. Staff is encouraged to identify subjects that may be worthy of dissemination through the news media or other means and bring it to the attention of their supervisor and the Public Information Officer (PIO).

GUIDELINES AND GENERAL PROVISIONS

Except as relates to communications to and from Commissioners, all press releases, news statements, public service announcements, social media postings and media interviews will be cleared and processed through the PIO and the Chief of Staff (COS) prior to dissemination.

MEDIA INQUIRIES

Except as relates to inquiries or communications to and from Commissioners, all media inquiries should be directed to the PIO and the COS. Except as provided in the next paragraph, requests relating to a specific Division of the Commission will be referred to the appropriate staff member by the COS for response. The Division Director or designee will notify the PIO and the COS of each press or media inquiry made and the response given. The PIO will share press releases, news statements, media inquiries, etc. with Commissioners in a timely manner.

The COS will designate a PIO as the primary contact to be available to the media for routine or follow-up inquiries about specific cases or technical issues; however, the COS may delegate these inquiries to a Commission employee or Fellow to be the contact for a particular inquiry or subject matter.

Requests involving more than one Division of the Commission, personnel matters, fiscal and financial matters, or Commission-wide policies or practices, will be referred to the PIO and the COS for response.

Certain information may be subject to laws and rules relating to confidentiality and professional conduct. Anyone responding to a media inquiry should be aware of these potential restrictions and, prior to responding, consult with the PIO, the COS and the Commission's Legal Division.

INTERVIEWS

All requests for interviews, media or blog interviews, radio or TV interviews or talk shows, or special feature stories are subject to approval by the PIO and the COS. The PIO and COS should identify the most knowledgeable staff member who can provide the requested information for any media interview request and then delegate the matter to the appropriate person.

Employees of the Commission are not required to respond to inquiries from the media unless directed by the COS. Employees who receive an inquiry from the media will report the inquiry to the PIO or the COS for a response. The PIO and COS should facilitate interviews and work to meet reporters' deadlines.

Only PRC employees and Fellows are authorized to speak to the media on behalf of the agency, in accordance with this Policy. Contractors of the NMPRC and any other non-state employees employed by the PRC are not authorized speak on behalf of the agency or respond to media inquiries. Exceptions to this practice may be considered on an individual basis subject to approval by the PIO and COS.

Meetings that are open to the public are, by definition, open to the media. PRC employees who are presenters at open meetings are encouraged to accommodate requests from media present regarding their presentation while on site. Interviews or media questions that are beyond the scope of the specific presentation should be referred to the PIO and COS for follow up.

LETTERS TO THE EDITOR AND OPINION-EDITORIAL COLUMNS

Letters to the editor and opinion-editorial (op-ed) columns, if designed to represent an official agency response or view, or if the author is writing as part of his/her official responsibilities, must be cleared through the PIO and COS.

EDITORIAL BOARDS AND CONFERENCE BOARDS

Participation by PRC employees or Fellows in media-sponsored editorial boards or technical boards in an industry or technical conference including industry or continuing education classes, will receive prior approval by the PIO and COS.

JOURNAL ARTICLES

Scientific, technical, and policy articles or commentaries written by PRC employees or Fellows for publication in peer-reviewed journals or other scientific, technical or policy publications are subject to review and prior approval by the PIO and COS.



POLICY NUMBER: 13

POLICY: PRESS AND MEDIA

EFFECTIVE DATE: MAY 2022

USE OF SOCIAL MEDIA

Social media includes online engagement platforms such as Facebook, Twitter, LinkedIn and YouTube as ways of disseminating information to general public which could be made available to the media. PRC employees or Fellows will refrain from posting any comments on matters currently before the Commission or posting of certain information that may be subject to laws and rules relating to confidentiality and professional conduct. Social media postings on social media platforms representing the PRC must have the approval of the PIO and COS.

EXCEPTION

All press releases, news statements, interviews or responses to other media inquiries that are directed to or generated from Commissioners directly are exempted from the provisions of this Policy.

The Commissioners should provide informational copies of all such statements and/or releases to the other Commissioners and the Public Information Officer.

Approved by Commission via Resolution 5-4-22.

PURPOSE

The purpose of this policy is to establish a process for Public Regulation Commission (PRC) employees to request educational leave and reimbursement for attending job-related training or university/college course work under certain circumstances.

POLICY

Employees, through the proper chain of command, must request in advance and in writing, approval for educational leave and/or tuition reimbursement from their Division Director or designee. All requests for educational leave must involve a course of study that is related to the employee's current job or a career series within the Agency and be of value to the Agency. It is the Agency's intent that employees share in the financial cost for Educational Leave.

Tuition reimbursement is dependent upon available funds.

DEFINITIONS

The following definitions apply to the Educational Leave and Reimbursement Policy:

- 1. PRC:** The Public Regulation Commission.
- 2. Eligible Employee:** A full-time career or term employee of the PRC who has completed the probationary period and has been employed by the PRC for at least one year.
- 3. Educational Leave:** Time away from work, with or without pay, to attend training or course work which is related to employee's employment Or Time away from work, with or without pay, to pursue a one-time event of limited duration (i.e. three day workshops), which is related to employee's employment.

EDUCATIONAL LEAVE

Division Directors and supervisors should consider the following factors when reviewing requests for educational leave: 1) the degree of need and job relevance of requested training or education; 2) budgeted funds available; 3) workload, service considerations and/or a flexible work schedule to ensure coverage of the employee's work responsibilities; 4) concurrence with employee's development plan; and 5) other relevant considerations necessary to accomplish bureau and division priorities.

Educational leave may be granted with pay or authorized leave without pay under certain circumstances.

Educational leave with pay shall be limited to a maximum of four (4) hours per workweek, unless otherwise approved by the Division Director and Chief of Staff.

Agency employees who request educational benefits shall be notified in writing regarding the disposition of their request. Notification shall also be sent to the immediate supervisor and the Human Resource Bureau.

Supervisor assigned workshops, seminars and conferences are considered work time and do not require educational leave.

Study assignments, reports and homework, shall be completed outside work hours and is non-compensable time unless the product result is work product.

Class attendance or travel time during non-work hours are considered non-compensable time.

Employees on full-time educational leave with pay shall not accrue annual or sick leave pursuant to SPB Rule 1.7.7.15.NMAC.

Employees who are granted paid educational leave for training in excess of 100 work hours in a calendar year shall agree, in writing, to continue with the Agency for a period of time equal to three times the period of the training or will be responsible for payment of the course, pursuant to SPB Rule 1.7.7.15 D. NMAC.

Employees dissatisfied with educational leave and reimbursement decisions may file a formal complaint in accordance with the Agency Complaint Resolution Policy.

PROCEDURES

Employees requesting tuition reimbursement, and/or short-term or long-term educational leave shall complete the Agency Request Form and forward it through their chain of command for advanced approval.

Supervisors and managers shall review the request to ensure that the requested activity and the employee are eligible for educational leave benefits and that appropriate documentation has been attached. The Request for Educational Leave and/or Tuition Reimbursement form shall be forwarded to the Division Director.

The Division Director shall review the request to ensure that the requested activity is in compliance with this policy, including budget availability for tuition reimbursement, and approve or disapprove the request. The Director shall obtain the Chief of Staff approval.

Completed paperwork shall be submitted to the Human Resource Bureau for tracking and filing.



POLICY NUMBER: 14
POLICY: EDUCATIONAL LEAVE AND
TUITION REIMBURSEMENT
EFFECTIVE DATE: AUGUST 2004

TUITION REIMBURSEMENT

Tuition expenses shall be paid to the employee on a reimbursement basis and shall include proof of satisfactory class completion (i.e. equivalent grade of "C" *for undergraduate or "B" or better for graduate students*) and copies of receipts of payment for tuition. Reimbursement shall be made only if the courses relate directly or indirectly to tasks of the PRC. The Chief of Staff shall determine relevance and amount of reimbursement with recommendation of approval from the Division Director.

Reimbursement for educational expenses shall not include textbooks, lab fees, per diem or mileage or any other non-course related fees.

Employees who have been granted educational leave must, within 45 days of satisfactory completion of a course, submit proof of satisfactory class completion (i.e. equivalent grade of "C" *for undergraduate or "B" or better for graduate students*) along with a request for tuition reimbursement, if prior approval was granted.

SCOPE

This policy applies to eligible employees who are full-time career or term employees who have completed the probationary period and have been employed by the Agency for at least one year.

REFERENCES

State Personnel Board Rule 1. 7.7.15.NMAC.

BACKGROUND

The Agency supports employees who strive to improve themselves within their professions or for career advancement opportunities by attending training or post-educational course work.

Effective: October 2002
Revised: November 2003
Revised: August 2004

PURPOSE: The purpose of this policy is to provide for accountability and to establish uniform policies and procedures governing the maintenance and use of all state vehicles operated by Public Regulation Commission (PRC) employees; and to record use and maintenance of state motor vehicles for divisions and bureaus.

REVISIONS: This policy supersedes PRC Policy 15 Vehicle Operating Policy.

APPLICABILITY: All PRC Commissioners and employees who drive or occupy state vehicles, without exception.

REFERENCES: **NMSA 1978, Section 15-8-1 through 15-8-11**
1.5.3 NMAC GSD NMSA 1978, Laws of 2007, Chapter 208 1.5. 3
NMAC Section 13-6-1 through 13-6-4, as amended.

CONTENTS:

- I. Definitions**
- II. Documents required in State Vehicles**
- III. Fuel Credit Card Usage**
- IV. Use of Vehicles**
- V. Driver Safety**
- VI. Maintenance**
- VII. Complaints**

I. DEFINITIONS:

- A. Alcohol: All consumable non-prescription substances specifically including, without limitation, spirits, wine, malt beverages, and intoxicating liquors.



- B. Approval Authority: The Division Director, Bureau Chief, or designee with the written consent of the Chief of Staff.
- C. Authorized Driver: A PRC employee holding a valid New Mexico driver's license and a defensive driving certificate who is permitted to use a state vehicle in furtherance of official state business. A valid New Mexico driver's license does not include provisional, limited, restricted or administrative permits.
- D. Certificate of Completion of Defensive Driving Course: A certificate of completion of the defensive driving course approved by the General Services Department.
- E. Commuting: The use of a state vehicle to travel between the employee's ordinary work place and home, but does not include a one time or occasional travel between work place and home, prior or subsequent to traveling out of town on state business. Commuting does not include travel that is permitted under Moss v. U.S. 145 F. Supp. 10 (1956). And does not include On-Call or as provided by IRS standards.
- F. Illegal drug: Any drug, the possession or use of which is illegal under federal or state law.
- G. Official purposes: includes uses that further the state's interests and are not for employee's sole benefit.
- H. State vehicle: A motor vehicle owned, leased, or rented by the State of New Mexico or any of its agencies or departments.
- I. PRC Vehicle Coordinator or PRCVC: The individual assigned by the Chief of Staff or designee who is responsible for providing motor vehicle information to the Chief of Staff and agency.
- K. State PRC: The State of New Mexico Public Regulation Commission includes all of its bureaus, divisions, departments, and the Commission.

- L. IRS Regulations: If any provisions of this policy conflicts with IRS regulations, IRS regulations prevail.

II. DOCUMENTS REQUIRED IN STATE VEHICLES:

- A. PRC vehicle coordinator shall ensure that current copies of the following documents are kept in the glove compartment of all state vehicles.
 - 1. Vehicle Maintenance-Manufacturer's specifications for maintenance.
 - 2. Emergency Repairs-Instructions and procedures for emergency repairs of mechanical breakdowns during and after normal business hours.
 - 3. Accident Reports: The Auto Accidents in State Vehicles package provided by the GSD, Risk management Division.
 - 4. If an Authorized Driver is incapacitated as the result of an accident that occurs while they are operating a state vehicle or a private vehicle involved in state business, a representative of the Agency shall respond in the Authorized Driver's place and prepare and file all required reports, forms and other paperwork.
 - 5. Vehicle Mileage Log: Each vehicle will have a vehicle mileage log assigned to it that will be used to track and monitor all vehicle activity and associated costs. At the very least the mileage log needs to contain the following information: date; employee name; beginning and ending mileage; destination; purpose of trip; type of fuel purchased; gallons; total cost; other vehicle costs and purchases. This mileage log should also have a place on the form that allows the supervisor to perform random verifications. This mileage log would be used for audits comparing actual gas receipts against vehicle usage.

Individual trip tickets can also be used to substantiate vehicle usage.

6. The PRC vehicle coordinator shall ensure that a fuel credit card is in the vehicle while it is in operation with detailed instructions and procedures for use of the fuel credit card, and a current list of statewide-authorized vendors. The fuel credit card must remain with the assigned vehicle at all times, not with the driver. A Personal Identification Number (PIN); a distinct 6 digit number will be issued to each authorized driver which may be changed at the discretion of the employee. Once a PIN has been issued, the employee is not to share the PIN with anyone else or let someone else use the PIN.

III. Fuel Credit Card Usage:

- A. It is the responsibility for the employee, operating the PRC/state vehicle to use the credit card for official business and within the procedural limits established.
- B. It is the responsibility of the employee, operating the PRC/state vehicle, to notify the issuing authority of a lost, stolen or damaged credit card within one working day of the discovery.
- C. It is the responsibility of the Human Resources Bureau to provide a monthly report to the PRC vehicle coordinator of the new and terminated employees.
- D. The fuel credit card is to be used only for State of New Mexico owned vehicles.
- E. A fuel credit card may be used for the following purchases:



1. Regular unleaded gasoline, diesel fuel, alternative fuels, lubrication, motor oil, oil and filter change and wash jobs under \$25.00 where such services normally provided by an approved vendor are geographically unavailable. All receipts are required for non-fuel purchases; washer fluid, antifreeze and other fluids may be purchased on an emergency basis. Any unsupported transaction charge, non fuel purchase, or other travel of out of pocket item that is not supported by a valid invoice for the same amount will not be reimbursed, or if charged to card will be invoiced and collected.
2. Emergency services to a maximum of one hundred dollars (\$100) are to include justification and receipt for the maintenance provided within one day of return to the office.
3. Emergency services in excess of one hundred dollars (\$100) must be authorized by the PRC vehicle coordinator or Administrative Services Director.
4. Except for disabled employees, fuel purchased at public service stations shall be from self-service pumps.
5. Problems at the Pump: If a problem is encountered at the time of purchase, the driver should contact Wright Express immediately from the vendor location; use the 800 number on the back of the card. This will allow Wright Express to determine if the problem is with the card, the PIN, the vendor's equipment, or the system. Most problems may be handled manually processing the purchase; this may be done only with authorization from Wright Express using the 800 number.
6. Mileage Entry: When purchasing items with the fuel card the employee is required to enter the exact current mileage at the time of purchase (do not include tenths).

7. Use of a fuel credit card is subject to the policies and procedures of the PRC, General Services Division and Department of Finance Administration. Misuse of a fuel credit card may result in administrative, disciplinary actions up to and including dismissal and/or referral for criminal investigation by the PRC.

IV. USE OF STATE VEHICLE:

A. Authorized Drivers and Passengers:

1. Only authorized drivers may drive state vehicles.
2. Only state employees or those individuals for whom prior authorization has been obtained from GSD, Transportation Services Division may occupy a state vehicle in the furtherance of state business.
3. A passenger who is not a state employee must have written authorization from the GSD Transportation Services Division Director before occupying a state vehicle. To obtain authorization the employee must receive approval through the employee's chain of command and ASD PRCVC, will and must mail or fax a letter on agency letterhead to the GSD Transportation Services Division containing the following:

The trip's location, dates of travel, and purpose;

- a. Explanation of how the passenger is accompanying the employee in the furtherance of state business;
- b. The employee who will be driving the vehicle and his driver's license number;
- c. The date the employee completed the defensive driving course;



- d. The license plate number of the vehicle to be used;
 - e. The facsimile and telephone number of the office where the employee is assigned; and
 - f. The signature of the employee's supervisor.
 - g. This provision shall not be construed to prohibit or prevent the use or occupancy of a state vehicle to render emergency aid or assistance to any person.
5. Animals, except for those that assist the handicapped, are not allowed in state vehicles, unless authorized by the GSD, Transportation Services Division upon written request.
 6. Cell Phones: Authorized drivers shall only use a cell phone with a hands-free device while operating a state vehicle.
 7. Smoking: Smoking and Smokeless tobacco products are prohibited in state vehicles.
 8. All Commission owned vehicles shall be maintained in a safe, operable condition and maintenance records shall be kept. Vehicles leased from the Transportation Services Division (TSD) of GSD are the responsibility of MTD for maintenance and record keeping purposes.
 9. State Vehicle Mileage Logs will be the responsibility of the PRC vehicle coordinator. All mileage logs will be audited weekly and signed off on as correct and accurate by the supervisor/manager. These logs sent for review to the PRCVC monthly.
 10. When multiple employees are traveling to the same location on PRC business they are to make every effort to car pool in state vehicles.



11. All state vehicles will be parked at the PRC Santa Fe parking lots for the weekends or during periods of leave unless specifically approved otherwise by the Chief of Staff or designee. These vehicles should be parked only in assigned parking spaces.
12. Only employees in an On-Call status or required to leave from their residence for PRC business should have state vehicles parked overnight at their residence.
13. Any use of a state vehicle used to commute between work and residence must be approved by the Chief of Staff. (1.5.3.20 NMAC), or as provided by IRS regulations.
 - a. The PRCVC will maintain current records of all state drivers and passengers by name and position.
 - b. The number of miles each state authorized driver who commutes drives annually between work and residence using a state vehicle will be documented.
 - c. The number of times annually a state authorized driver who is given written approval to use a state vehicle to commute between his assigned post of duty and his primary residence and is called back when the state employee is off-duty.
 - d. Review all authorizations to use a state vehicle to commute at least once a year; and
 - e. Report commuting information and subsequent changes the state agency commuting policies to TSD by the fifteenth of July of each year.
 - f. PRC employees using a state vehicle for commuting purposes will be given a 1099 at the end of each calendar year.



14. Compliance with State Laws:

- a. PRC employees shall use state vehicles in accordance with state statutes, GSD rules, and PRC policies, including but not limited to 1.5.3. NMAC and PRC Policy.
- b. The failure of an Authorized Driver to obey any applicable traffic laws, whether on or off public rights-of-way, while operating or occupying a state vehicle may result in the suspension or revocation of the driver's state vehicle operating privileges, or other disciplinary action.
- c. All traffic citations received while operating a state vehicle shall be the personal responsibility of the individual authorized driver who received them. An authorized driver shall claim no reimbursement, in any form, nor will any such reimbursement be authorized to be paid for traffic citations. All authorized drivers shall be personally responsible for appearing in court on their own time. Any authorized driver who receives a traffic citation or parking ticket while using a state vehicle shall be personally responsible for the citation or ticket. This shall include, but is not limited to, traffic citations, parking tickets and any moving violations.
- d. All Operators must exercise prudence and extreme caution while operating any state vehicle, and shall not abuse or misuse a state vehicle. An operator may be personally assessed for the loss or damage of a state vehicle if driving while under the influence of intoxicating liquor or drugs or if reckless driving (as cited) caused the loss or damage.
- e. The state vehicle operating privileges of an Authorized Driver may be suspended or revoked, and other disciplinary action may be taken, if a state vehicle is damaged or destroyed due to the



15. Accident Reporting:
 - a. In the event of ANY vehicle accident, whether moving or not and whether damage occurs to the state vehicle or not, the Authorized Driver shall follow all steps as stated in these Vehicle Operating Policies.
 - b. Any Agency employee operating a state vehicle, or a private vehicle that has been authorized to be utilized in advance for state business, who is involved in any vehicle accident or incident; or who experiences any vehicle damage from an accident or other occurrence; or who is injured or whose passenger(s) are injured in any way while a passenger riding in a state vehicle, shall immediately inform their immediate supervisor.
 - c. The employee's supervisor shall be responsible for immediately informing the Division Director and the PRCVC or his or her designee of the accident or incident.

16. An Authorized Driver involved in any vehicle accident or incident shall provide the following information to the PRCVC or his or her designee within 48 hours of the accident or incident. The information shall be submitted in writing. If for any reason the Authorized Driver is unable to provide the written report, the Authorized Driver's supervisor shall provide the written report to include the following information to the extent such information is available:
 - a. Names, addresses and/or phone numbers of all parties involved;
 - b. The type and nature of any injuries to the Authorized Driver, any Passengers, or others;



- c. A description of the facts of the incident;
 - d. Where the accident/incident occurred;
 - e. Date and time of day the accident or incident occurred;
 - f. A description of the damages to all vehicles;
 - g. If a Law Enforcement Officer investigated the accident, the Officer's name and the Agency he or she was representing. If the Officer created and filed any type of report, or any other written documentation, of his or her investigation, the case number of the incident investigation and where a copy of the report may be obtained.
17. In every instance in which the Authorized Driver of a state vehicle, or a private vehicle involved in state business, has cause to believe that unclaimed or potential claims of damage or injury to a state vehicle or private vehicle(s), to the passengers or to other people involved in an accident or incident may have occurred, the Authorized Driver shall immediately notify their immediate supervisor who shall in turn notify the PRCVC or his or her designee of the situation.
- a. The PRCVC or his or her designee shall immediately forward the Authorized Driver's written narrative of the accident and any reports or documents associated with the accident or incident to General Services Department's Risk Management Division and any other state agency or entity whose vehicle(s) may have been involved in the accident or incident.
 - b. In all cases, a police report shall be requested from the law enforcement agency having jurisdiction over



the area in which the vehicle accident occurred and submitted to the PRCVC.

- c. Should the law enforcement agency having jurisdiction over the area in which the accident occurred be unable to respond within a reasonable time frame, or to be unwilling to create or file an accident report, a PRC representative, shall note this fact in the written report.
 - d. Once notified of the accident or incident, the PRCVC or his or designee shall immediately notify other involved state agencies, (such as the General Service Department's Transportation Services Division, Central Fleet Services Bureau (Motor Pool) if a Leased vehicle is involved), and General Service Department's Risk Management Division of the accident or incident. Follow all investigative, reporting, and procedural guidelines outlines in 1.5.3.25 NMAC.
18. Failure to comply with the initial reporting requirements may result in the suspension or revocation of the Operator's state vehicle operating privileges or other disciplinary action. The PRCVC shall review all reports and documentation provided for in sections 13, 14, 15, 16 and 17 of this policy and prepare a written report.
 19. Upon notification of any accident or incident involving a state vehicle or a private vehicle involved in state business, the PRCVC or his or designee shall investigate the accident or incident and prepare a written report with respect to the accident or incident. The report shall make specific recommendations and findings regarding the incident or accident, including, where appropriate, disciplinary recommendations.



- a. Upon completion of the report, the PRCVC or his/her designee shall provide a copy of the report, including
 - b. recommendations and findings, to the Authorized Driver and the individual or individuals involved in the accident or incident, the Authorized Driver's Division Director, and the Chief of Staff.
 - c. Nothing in this policy shall supersede any other accident or incident reporting or notification requirements of the General Services Department Risk Management Division or any other applicable law.
21. Out-of-State/Out-of-Country Travel: An employee must obtain a waiver from GSD, Transportation Services Division to drive a state owned vehicle out-of-state or out-of- country. The employee must keep the waiver in the designated vehicle during the entire trip.
22. Vehicles used by PRC employees are not to be used for regular commuting purposes. Their use is the responsibility of their respective director or bureau chief.
23. If any employee loses any state-issued equipment that is part of a state-owned vehicle through misplacement or theft, such loss must be reported to the employee's immediate supervisor within one working day.
24. The Administrative Services Division may conduct an investigation into all instances of reported loss. If the investigation determines that the employee was negligent, this determination may be the basis for initiating disciplinary action, including cost of repair/replacement by the employee.



- A. **Liability:** It shall be the responsibility of all Authorized Drivers to ensure that, in addition to the proper and current vehicle registration paper(s), a copy of these Vehicle Operating Policies and all required accident-reporting forms shall be maintained in the glove compartment of each vehicle.
- B. **Vehicle Safety:**
1. Windows of all state vehicles shall be closed and doors locked at all times when not in use.
 2. No motor vehicle shall be left unattended with the motor running or with the keys in the ignition switch. All unattended vehicles shall be locked, with keys removed and in the possession of the responsible person.
 3. All vehicles shall carry only the number of passengers for which it was designed and is equipped to accommodate.
 4. **Use of Privately Owned Vehicle for Official Business:** Occasionally, employees may be permitted to use privately owned vehicles for official business when a state vehicle is not available or practicable. In such instances, the following procedures apply:
 - a. Employees must have a current New Mexico State driver or chauffeur's license and proof of liability insurance.
 - b. All federal, state and local laws as well as Commission regulations will be observed.
 - c. Use of privately owned vehicles and reimbursement for such use will be only by permission of and in accordance with instructions issued by the appropriate approval authority.



POLICY NUMBER: 15
POLICY: OPERATION OF STATE
VEHICLES
EFFECTIVE DATE: JANUARY 2012

- d. Any employee involved in an accident while operating a privately owned vehicle on official business must report such accident to his/her immediate supervisor within one working day of said accident.

V. DRIVER SAFETY:

A. EMPLOYEE SEAT BELT RESTRAINT USE

- 1. All Authorized Drivers and Authorized Occupants of state vehicles shall wear seat belts.
- 2. Violations of seat belt law may result in loss of state operator privileges. It is the responsibility of the employee to pay any fines.

B. All Agency employees must successfully complete the Defensive Driving Course offered by Risk Management. The Authorized Driver may be required to provide proof of current Defensive Driver certification before engaging in operation of a state vehicle.

C. The Agency may require an employee who seeks to operate a motor pool vehicle to provide proof of current certification. If an employee needs to operate a state vehicle in furtherance of state business but has not successfully completed the defensive driving course, the employee must register for the next available defensive driving course. The Agency must request waiver of the certification requirement from the Transportation Services Division Director; the waiver request shall include the state employee's name and New Mexico driver's license number, and the date the state employee is scheduled to attend the defensive driving course.

- D. Each PRC employee is required to take a defensive driving refresher course every four (4) years. Employees must take at least a four (4) hour course provided or approved by the GSD Transportation Division. All state employees who are authorized to operate state-owned vehicles have four (4) years from the effective date of this rule to become re-certified.
- E. Employees who have an “at-fault” accident in a state vehicle on record with PRC shall take a refresher defensive driving course as soon as possible after the accident, and may at the Division Director’s discretion, be prevented from driving state vehicles until successfully completing the course.

VI. VEHICLE MAINTENANCE:

- A. Each vehicle shall have a maintenance schedule that ensures that maintenance procedures, necessary for the safe and continued operation of PRC owned state vehicles, are routinely carried out. Each Bureau or PRCVC shall track vehicle maintenance and compliance with that schedule. Employees shall not drive any state vehicle that has been identified as having a problem until it has been checked and repaired.
 - 1. No vehicle will be repaired without first contacting and gaining approval of the Division Director or his or her designee unless an emergency exists.
 - 2. In an emergency, the towing charges (within reason), or repairs necessary to enable movement of the vehicle to a repair facility or safe parking area are authorized.
 - 3. Prior to using a state vehicle, all Authorized Drivers shall determine that all tires are inflated properly and are not excessively worn; that brakes, lights, windshield wipers, seat belts and steering are functioning properly; and check and maintain, **at every stop for gasoline**, all accessible engine fluids and windshield washing fluid.



4. Authorized Drivers shall inspect vehicles for damage(s) and safety concerns on a daily basis before the vehicle is operated.
5. Damage or improper care of a state vehicle shall result in the suspension or revocation of the Authorized Driver's state vehicle operating privileges.
6. All Divisions shall ensure that lube, oil, filter changes are performed every 5,000 miles on all leased vehicles, and every 3,000 miles on vehicles owned by the Commission. In addition, all Divisions shall take all other preventive maintenance functions are performed according to the service schedule included in the vehicle's owner's manual and/ or the service schedule provided by the PRCVC or his or her designee.
7. All Authorized Drivers shall be responsible to take the following action(s) when it can be accomplished within this policy:
 - a. Having flat tires changed and the cause of the flat repaired if the tire can be safely used after the repair is affected;
 - b. Taking prudent actions to charge a dead battery and return the vehicle to service;
 - c. Arranging for towing in the event of an engine failure while on the road or away from the Operator's base of operations;
 - d. Pay out-of-pocket, seek reimbursement with original receipt, and completed non-travel reimbursement form where and when necessary;
 - e. Supervisor shall be notified of any vehicle problems to address issue immediately;

- f. The PRC will cover the costs of replacing batteries and tires, repairing tires, and charging dead batteries.
- g. The Operator shall be responsible for:
 - i. The maintenance of the interior and exterior of the vehicle in a clean and presentable condition;
 - ii. The vehicle shall be returned in full operating condition, including fuel and fluid;
- h. The PRCVC shall ensure that all state vehicles have specially designed government registration plates. State vehicles used for legitimate undercover law enforcement purposes may be approved for undercover plates by the Chief of Staff or designee.
- i. No commercial advertising or partisan political sign may be displayed or carried on any state vehicle or carried within the vehicle for delivery or set-up on behalf of any political campaign.
- j. Unauthorized alteration of the vehicle specifications will not be allowed. The Division Director or his or her designee must authorize all vehicle alterations, modifications, conversions or improvements in advance.

VII. COMPLAINTS:

The PRCVC shall review all complaints regarding the use, maintenance or operation of state vehicles. The PRCVC will be responsible for answering each complaint in writing no later than thirty days after receipt of each vehicle complaint. Each response must be submitted in writing with a detailed explanation of each complaint circumstance.



POLICY NUMBER: 15
POLICY: OPERATION OF STATE
VEHICLES
EFFECTIVE DATE: JANUARY 2012

Each complaint and subsequent response will be reviewed and stored in a database file system. Multiple complaints against a single authorized driver may cause forfeiture of assigned vehicle and disciplinary action may be taken. Authorized Driver privileges may also be suspended if deemed in the state's best interest.

Revised: November 2003
Revised: July 2004
Revised: January 2012



NEW MEXICO
**PUBLIC REGULATION
COMMISSION**

POLICY NUMBER: 16
**POLICY: EMPLOYEE DISCIPLINARY
AND GRIEVANCE APPEAL PROCESS**
EFFECTIVE DATE: AUGUST 2004

PURPOSE

This policy offers Public Regulation Commission (PRC) employees the right of employee grievant to seek resolution of job-related grievances and to establish employment procedures.

POLICY

The Employee Grievance Policy outlines procedures by which employees may seek remedy regarding personnel matters, or employment practices when property rights have been affected.

REFERENCE

State Personnel Board (SPB) Rule 1. 7.11. NMAC DISCIPLINE.

ASFCME Article 25 Disciplinary Actions Related to Unsatisfactory Employee Performance I

DEFINITIONS

Grievance: An expressed dissatisfaction, whereby an employee believes that she/she has been unfairly treated in violation of the Agency Policies and Procedures or SPB Rules and Regulations regarding personnel matters, employment practice, or an employee's response to a Notice of Contemplated Action.

Grievant: A career status and term employee who have completed the probationary period who have filed a grievance.

Informal Disciplinary Action: An oral reprimand, verbal or written warning or letter of reprimand.

Formal Disciplinary Acton: A suspension, demotion or dismissal.

JURISDICTION

This policy applies to persons employed by the PRC who are non-probationary, career status or term employees at the time the grievance is filed unless they are Bargaining Unit represented employees in that case they will follow the procedure set out in Article 12 of the Agreement Between the State of New Mexico and AFSCME Council 18, on issues provided for in the contract.

This Grievance Policy is separate from the PRC Complaint Policy No. 8.

All agency grievances filed shall be documented and maintained by the Human Resource Bureau. All grievances filed and related documentation shall remain *confidential* and will not be disclosed except by permission of the grievant by court order.

DISCIPLINARY ACTION



The primary purpose of discipline is to correct employee performance or behavior that is below acceptable standards, or contrary to the employer's interest, in a constructive manner that promotes employee responsibility. Progressive discipline as described in SPB Rule 1.7.11. NMAC shall be used whenever appropriate. In some instances disciplinary action including dismissal, is appropriate without prior imposition of a less severe form of discipline.

There are two classifications of disciplinary actions, *informal and formal*.

1. Informal disciplinary actions include: oral warning, verbal reprimand, work improvement plan, and/or written reprimand. Documented oral warning and verbal reprimands are not placed in the employee's personnel file and are maintained with the supervisor's files. Written reprimands and work improvement plans are copied to the employee's personnel file in the Human Resource Bureau. An employee may request in writing that a written reprimand be removed from their personnel file after one year.
2. Formal disciplinary actions include: demotion, suspension and/or dismissal. Any discipline related investigation shall be completed or coordinated by the Human Resource Bureau staff. All finalized and approved formal disciplinary actions shall be maintained in the employee's personnel file. Formal discipline documents to include Notices of Contemplated Action and Notices of Final Action, shall be prepared by the Human Resource Bureau Chief or assigned legal staff for Chief of Staff's signature.

The Agency encourages its employees and management to attempt to resolve conflict at the lowest level when appropriate. Mediation may be utilized to resolve conflict and or issues at the lowest level as addressed in PRC Compliant Policy No. 8.

Supervisors and managers have the authority to give informal disciplinary actions with consultation with the Human Resource Bureau Chief. Supervisors and managers may recommend formal disciplinary actions with the approval of the appropriate Division Director, with review and recommendation of the Human Resources Bureau Chief and with Chief of Staff's approval. In all cases, final action is only final by the Chief of Staff. No supervisor or manager may negotiate a resignation in place of disciplinary action without the prior approval of the Division Director, with review and recommendation by the Human Resource Bureau Chief and Chief of Staff's approval.

During the disciplinary process, all parties involved in the process should maintain confidentiality to ensure the rights of the employee and the Agency. Any administrative leave given to the employee during the disciplinary process or pending disciplinary action must be approved by the Chief of Staff and served in writing to the employee through the Human Resource Bureau Chief.

GRIEVANCE PROCEDURES

The grievance procedure is intended to encourage an open and timely process for grievances with a goal of resolution and a process to provide due process for the grievant.



NEW MEXICO
**PUBLIC REGULATION
COMMISSION**

POLICY NUMBER: 16
**POLICY: EMPLOYEE DISCIPLINARY
AND GRIEVANCE APPEAL PROCESS**
EFFECTIVE DATE: AUGUST 2004

Notice of Contemplated Action: Employees may request an oral response meeting or respond in writing to the Chief of Staff as advised in the Notice of Contemplated Action within seven (7) calendar days from service of the notice. An additional three (3) calendar days will be in affect when Notice of Contemplated Action (NCA) is served by mail.

When an oral response is requested to the NCA, a meeting with the Chief of Staff shall be scheduled with the employee within seven (7) calendar days, unless the employee and the Agency agree in writing to an extension of time. A representative of the employee's choosing may represent the employee.

Notice of Final Action: If the employee does not respond to the NCA, the Agency shall issue a Notice of Final Action within ten (10) calendar days following the response period. If the employee has filed a written response or has had an oral response meeting, the Agency shall issue a Notice of Final Action (NFA) no later than ten (10) calendar days from the date of receipt of the response or the date of the oral response meeting.

APPEALS

The NFA may be appealed to the State Personnel Board with a written statement of the grounds for the appeal delivered to the State Personnel Office in Santa Fe, New Mexico. The appeal must be received by the State Personnel Director within 30 calendar days of the effective day and the employee must submit a copy of the NFA with the notice of appeal. This information shall be provided in the NFA to the employee.

Exempt status, temporary and probationary employees have no right of appeal through the oral or written response process or with the State Personnel Board.

Effective: August 2000
Revised: August 2004



POLICY NUMBER: 17

POLICY: RECRUITMENT AND SELECTION

EFFECTIVE DATE: 08/09/2017

PURPOSE

To clarify a standardized method of filling classified vacant positions that is open, honest, fair and in compliance with State Personnel Board Rules and applicable law. Employees covered by the State Collective Bargaining Agreement may have other rights. See, CBA, Article 32, Filling of Vacancies.

POLICY

The Public Regulation Commission (PRC) is an equal opportunity employer and will conduct a standardized selection program to hire, appoint, promote or transfer the best suited for the vacant position.

APPLICABILITY

This policy applies to all classified employees of the Agency and all applicants who are interested in classified employment with the Agency.

DEFINITIONS

“Applicant” means any person, including an employee, who has applied for a position within the PRC.

“Classified position” means any position within the PRC that is not exempt by law from the Personnel Act.

“HRB” means the Public Regulation Commission Human Resources Bureau

“Job Related Qualification Standards” (JRQS) means the established requirements for a position. The Agency establishes JRQS in accordance with specific requirements and standards and approved by the State Personnel Office (SPO).

RECRUITMENT

All requests to advertise or re-advertise classified positions shall be authorized and approved by the Chief of Staff prior to any recruitment processing.

A ‘Request to Recruit’ notification shall be submitted to the HRB for appropriate processing. The Division Director or designee shall establish requirements for the vacant position through a Position Action Request Form. Advertisement of positions will be posted a minimum of five (5) workdays through the SPO recruitment process unless otherwise authorized by the Chief of Staff. All advertised positions must be submitted to the HRB for advertisement. Positions covered under the Collective Bargaining Agreement will be posted for 14 calendar days. An employment list is certified and issued by SPO for the individual job vacancy after appropriate recruitment has taken place.



POLICY NUMBER: 17

POLICY: RECRUITMENT AND SELECTION

EFFECTIVE DATE: 08/09/2017

INTERVIEWS

Interviews shall be conducted by an interview panel. The panel will consist of the hiring Supervisor or designee and one to three additional members. The interview process shall be consistent for all candidates. All applicable federal and state regulations shall be followed in all employment interviews.

All internal candidates must be interviewed.

SELECTION

Selections for classified positions advertised shall be from the certified list issued by SPO. Once the interviews are completed, the names of the top three candidates will be submitted to HRB and then forwarded to the Chief of Staff for review and a possible subsequent interview, prior to a recommendation for selection. The Division Director or designee will notify HRB of the recommendation to hire candidate on the Supervisor's Personnel Action Request form and attach a copy of the candidate's resume/application.

The hiring Supervisor will prepare a commendation based on the panel's consensus. The final selection packet must include the following documentation:

- SPO Referred Applicant List
- Applications of top three applicants
- Supervisor Personnel Action Request ("PAR")
- Interview Rating Worksheet
- Authorization of Background Check
- Release and Waiver
- Manager Review Form
- Reference check questions

If a CBA-covered position has multiple applicants that are substantially equally qualified, then Agency Seniority shall be the tie-breaker (if Agency applicants exist).

Final job offers, including salary and start dates, shall not be made before approval of Chief of Staff and notification from the HRB. All salary offers shall be in compliance with the Agency's Salary and Compensation Policy No. 1 forms.



POLICY NUMBER: 17

POLICY: RECRUITMENT AND SELECTION

EFFECTIVE DATE: 08/09/2017

The HRB will review the recommendation packet and verify that salary and start dates are in compliance with this policy. The HRB will obtain all required approval signatures on the Personnel Action Request Form. The HRB will notify the supervisor of the approval of the candidate and approved salary. The HRB will extend an offer to the selected candidate.

REFERENCES

SPB Rule 1.7.5 NMAC, RECRUITMENT, ASSESSMENT, SELECTION; CBA Article 32, Filling of Vacancies.

APPROVED:

COMMISSION APPROVED

DATE:

08/09/2017



POLICY NUMBER: 18

POLICY: EMPLOYEE RECORDS REVIEW

EFFECTIVE DATE: AUGUST 2017

PURPOSE

The purpose of this policy is to establish a uniform procedure within the Public Regulation Commission (PRC) for the review of an employee employment record in accordance with operational necessity and applicable state and federal law requirements and to establish a method of maintaining a paper file based on an employment history record for each Agency employee.

POLICY

Subject to the requirements of the Public Records Act, the PRC takes appropriate steps to protect employees' privacy rights and interests and prevent inappropriate or unnecessary disclosure of information from any Agency employee employment record.

APPLICABILITY

This policy applies to all PRC employees.

DEFINITIONS

1. **"Employment record"** means the official Agency employee personnel file maintained by the Human Resource Bureau"
2. **"HRB"** means the PRC Human Resource Bureau
3. **"Records Administrator"** means the Agency's Human Resource Bureau Chief

EMPLOYMENT RECORDS

1. The PRC HRB will maintain personnel records in accordance with State Personnel Rules, records retention schedules and generally accepted human resource practice.
2. Employment records will be maintained with current and accurate information for each employee. Employees will have full knowledge of, and access to, the contents of their individual employment record (personnel file). An employee may review their employment record at any time by request through the HRB. Employment records may not be removed from the human resource office. . No materials will be placed in an employee's personnel file without providing the employee a copy it is the employee's responsibility to notify HRB of any changes to the employees' name, telephone number, home address,

beneficiary designations, etc. Employees may submit rebuttal to any material placed in their employment history.

3. The confidentiality and security of employment records will be maintained at all times. Information obtained as part of a required medical examination and/or inquiry regarding the medical condition or history of applicants and employees shall be collected and maintained in a separate file from the employee's main employment record and treated as confidential medical records.

PROCEDURES FOR REQUESTING REVIEW OF AN EMPLOYMENT RECORD

1. Except for confidential records, employment records are subject to inspection by the general public. Confidential records shall not be provided to anyone without the written consent of the employee or unless the request is made pursuant to a lawful court order, or as indicated in this policy.
2. For the purpose of inspection of public records, the following material shall be regarded as confidential and exempted from public inspection: records and documentation pertaining to physical or mental illness, injury, or examinations, sick leave and medical treatment of persons; records and documentation maintained for purposes of the Americans with Disabilities Act [42 U.S.C. Section 101 et seq.]; letters of reference concerning employment, licensing, or permits; records and documentation containing matters of opinion; documents concerning infractions and disciplinary actions; performance appraisals, opinions as to whether a person should be re-employed; college transcripts; military discharge; information on the race, color, religion, sex, national origin, political affiliation, age, and disability of employees; home address and personal telephone number unless related to a public business; social security number, and laboratory reports or test results generated according to the provisions of 1.7.8 NMAC.
3. Requests for non-confidential employment records may be made orally or in writing in accordance with the inspection of public records act.
4. In accordance with State Personnel Board Rules, employment records shall be available for inspection by state agencies hiring supervisors or managers during the process of interviewing for employment within the procedures of this policy. The PRC shall transfer the record of an employee's employment history upon inter-agency transfer to another state agency. The official employment record shall be maintained and located with the Agency Human Resource Bureau (HRB).
5. Internal access to individual employment records will be limited to the human resources staff, the immediate supervisor and those above the supervisor in the "chain of command" up to and including the Commissioners, the Chief of Staff and PRC legal counsel
6. All requests for confidential employment records by Agency employees, including those from Commissioners, shall be made to the Records Administrator. The HR Records Requests shall be kept in the confidential portion of the employment record being reviewed. The Records Administrator will: Notify the affected employee, review whether to authorize



POLICY NUMBER: 18

POLICY: EMPLOYEE RECORDS REVIEW

EFFECTIVE DATE: AUGUST 2017

viewing of the requested records, and provide the appropriate materials for review, when authorized by a signed release by the employee, and monitor the review of the employment record

7. The employment records or personnel files shall not be removed from the HR office unless authorized by the Records Administrator.

DISCIPLINE

Any person who violates this policy may be subject to disciplinary action up to and including dismissal. The unauthorized disclosure of medical information to discriminate in any manner against an employee is grounds for disciplinary action. Any Commissioner that violates the policy may be subject to censure by a majority of the Commission.

REFERENCES

State Personnel Board (SPB) Rule 1.7.1.12.NMAC.

APPROVED:

DATE:

COMMISSION APPROVED

AUGUST 2017



PURPOSE

Pursuant to Executive Order 2019-036, the purpose of this policy is to provide New Mexico Public Regulation Eligible Employees time following the birth or adoption of an employee's child. The leave is intended to allow Eligible Employees to care for and bond with their newborn or a newly adopted child(ren).

1. DEFINITIONS

Eligible Employee: a full-time classified employee who has completed the one (1) year probationary period as defined by the State Personnel Board rules, or an exempt employee who has been employed with the State of New Mexico twelve (12) consecutive months, prior to the start of Paid Parental Leave, excluding temporary, emergency, and term appointments. Classified employees who complete their probationary period after January 1, 2020, or exempt employees who complete twelve (12) months of consecutive service after January 1, 2020, will be eligible for Paid Parental Leave subject to the requirements set forth herein, including but not limited to the requirement that Paid Parental Leave be taken within six (6) months of the birth or adoption of the child(ren).

FMLA Leave: certain leave provided under the federal Family Medical Leave Act (FMLA) for employees who have been employed with the State of New Mexico for twelve (12) months and have worked at least 1,250 hours during the twelve (12) months prior to the start of FMLA leave. Reasons for FMLA leave include, but are not limited to, birth of a child or the adoption of a child.

HR: New Mexico Public Regulation Commission Human Resources.

Paid Parental Leave: a period of paid leave of absence (that does not reduce an employee's earned time balance) for the purpose of providing Eligible Employees additional flexibility and time to bond with their newborn and newly adopted child(ren) under the age of 18.

2. POLICY

2.1. In order to assist and support new parents in balancing work and family, New Mexico Public Regulation Commission provides Eligible Employees with a period of Paid Parental Leave for activities related to the bonding, care, and well-being of their newborn or newly adopted child(ren). Domestic Partners as defined by the State Personnel Board rules are eligible for the Paid Parental Leave benefit when a new child joins the household via birth or adoption.

2.2. New Mexico Public Regulation will provide up to twelve (12) workweeks of Paid Parental Leave for all Eligible Employees following the birth or adoption of a child. This policy shall only apply to Paid Parental Leave taken on or after January 1, 2020. For example, if the birth or adoption of a child occurs prior to the January 1, 2020 effective date, the Paid Parental Leave may be taken within six (6) months of the birth or adoption of a child, but the Paid Parental Leave may only commence after the January 1, 2020 effective date.



- 2.3. Paid Parental Leave shall be paid based upon the Eligible Employee's base salary (excluding temporary increases of pay, such as temporary promotion increases, temporary recruitment differentials, temporary retention differentials, or temporary salary increases) determined by the employee's regularly scheduled work hours.
- 2.4. If both parents or adoptive parents, including a Domestic Partner of a parent or adoptive parent, of a newborn or a newly adopted child are Eligible Employees, each parent or partner is eligible to receive Paid Parental Leave under the terms of this policy.
- 2.5. Eligible Employees must take Paid Parental Leave during the first six (6) months following the birth or adoption of a child. Any unused leave at the end of this 6-month period will be forfeited. Paid Parental Leave will have no cash value and will not result in a payout benefit. Paid Parental Leave may not be donated to another employee. Paid Parental Leave can be taken all at once or intermittently during this six-month period.
- 2.6. Eligible Employees may utilize up to twelve (12) workweeks per birth or adoption event. For purposes of this policy, an event is defined as a delivery or adoption of a child(ren). For example, if an Eligible Employee has a delivery of multiple newborns or adopts multiple children at the same time, the employee would be eligible for up to twelve (12) workweeks of Paid Parental Leave for that event.
- 2.7. An employee cannot receive short-term disability benefits and paid parental leave benefits at the same time. If an employee is eligible for short-term disability benefits after giving birth to a child, the employee should complete the short-term disability and then may take paid parental leave within the six-month period above.
- 2.8. If an official holiday occurs during the Eligible Employee's Paid Parental Leave, the Eligible Employee will receive holiday pay in lieu of paid leave, provided the Eligible Employee is in paid status the day before and the day after the official holiday.
- 2.9. Paid Parental Leave taken under this policy shall run concurrently with leave under the FMLA. This means that, for example, when Paid Parental Leave taken under this policy falls under the definition of circumstances qualifying for leave under the FMLA, the Paid Parental Leave will be counted against the employee's 12-week FMLA leave entitlement. Employees should refer to New Mexico Public Regulation Commission Family and Medical Leave policy for further guidance and information on the FMLA. An employee shall be eligible for Paid Parental Leave even if the employee has otherwise exhausted their FMLA time.
- 2.10. In all circumstances in which federal or state law provides for greater family and medical leave rights than this policy, New Mexico Public Regulation Commission will comply with those laws.



3. PROCEDURES

3.1. To apply for Paid Parental Leave, an Eligible Employee shall:

3.1.1. Notify and discuss with the employee's immediate supervisor and Human Resources verbally or in writing the employee's request for Paid Parental Leave at least thirty (30) days in advance of the birth or adoption of a child. When thirty (30) days' notice is not possible, the employee must provide this notice as soon as practicable.

3.1.2. Complete the Request for Paid Parental Leave form and submit the form to Human Resources and the employee's immediate supervisor for review and approval. The form is available at Human Resources.

3.1.3. Notify the employee's supervisor and Human Resources verbally or in writing upon the birth or adoption of a child. This obligation is for any employee requesting Paid Parental Leave under this policy.

3.1.4. Provide legal documentation of the birth or the adoption of a child to HR within thirty (30) days of the birth or the adoption or as soon as it is available. Situations where a legal document cannot be provided at the time of birth or adoption, or within the required timeframe or a reasonable time thereafter, will be considered on a case-by-case basis. Examples of legal documents that will be considered are: a report of birth, a birth certificate, adoptive placement agreement, or an adoption order. The legal documents provided shall at a minimum show the date of birth or date of adoption, the age of the child at the time of adoption when applicable, and the name of the parent(s).

3.2. As Paid Parental Leave is used, the employee's immediate supervisor will report the employee's Paid Parental Leave hours in SHARE using the code "PdPrntLv" if FMLA leave is not applicable, or "FMLA PdPrntLv" when the employee is eligible for both FMLA leave and Paid Parental Leave to run concurrently.

3.3. Human Resources shall:

3.3.1. Communicate available leave options with the employee upon receipt of a request for Paid Parental Leave, including FMLA leave if the employee is eligible for such leave.

3.3.2. Provide the requesting employee acknowledgement of the Request for Paid Parental Leave form and respond to the request once it has been reviewed by Human Resources and the employee's supervisor.

3.3.3. Keep the employee's immediate supervisor apprised of any revisions in a Paid Parental Leave request.

3.3.4. Keep completed and signed forms in the employee's personnel file.

3.4. Failure to comply with procedures listed in this section may result in delay or denial of



an employee's request for Paid Parental Leave.

4.

ATTACHMENT

4.1.

Request for Paid Parental Leave Form

5.

APPROVAL

5.1.

Approved by:

COMMISSION APPROVED

DATE JANUARY 2020



1. PURPOSE

- 1.1 The purpose of this policy is to establish a process for telework, providing employees and the New Mexico Public Regulation Commission (“**NMPRC**”) alternatives in employee work locations, while adhering to Federal and State statutes and regulations. Telework is a work location alternative that may be appropriate for some employees and some jobs.
- 1.2 This policy governs for all current employees who desire to telework or currently are teleworking and who are requesting a change of their worksite location to a telework location or a continuation of a telework location.
- 1.3 This policy also governs telework arrangements under Emergency conditions during any period of time the Governor has declared any Emergency Executive Order and/or has issued an Executive Order declaring a public health emergency. Emergency telework requests shall be made pursuant to this policy’s Emergency provisions as defined in 3.2.
- 1.4 This policy also governs telework arrangements any future employees, who may be hired directly into telework positions with a telework location plus a designated post of duty designated; and current employees whose positions in the future may be converted to permanent, mandatory telework status with a telework location plus a designated post of duty.
- 1.5 All other terms and conditions of employment with NMPRC remain in effect during a telework arrangement.
- 1.6 If any provision of this policy conflicts with a provision of an applicable Collective Bargaining Agreement (CBA), the CBA shall control.

2. REFERENCES

The Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.*, as amended.

3. DEFINITIONS

- 3.1 “**HR**” or “**Human Resources**” means **NMPRC’s** Human Resources Division.
- 3.2 **Emergency**” is an unplanned or imminent event that affects or threatens the health, safety or welfare of people, or property and infrastructure, or disrupts ordinary business operations, which requires a significant and coordinated response and causes the NMPRC to be unable to provide an office work location for its employees for an extended period of time. What constitutes an emergency is determined by the Governor or the NMPRC Chief of Staff. Examples include:



- 3.2.1 Fires;
- 3.2.2 Health outbreaks;
- 3.2.3 Severe weather;
- 3.2.4 Natural disasters;
- 3.2.5 Power failures, including electricity outages or gas leaks;
- 3.2.6 Emergency evacuation or moving to an emergency shelter;
- 3.2.7 Temporary closure or relocation of the program to another facility or service site for more than 24 hours;
- 3.2.8 An eviction from office space and/or a lack of legislative appropriations; and
- 3.2.9 Other events that threaten the immediate health and safety of persons served and that require calling "911."

3.3 **"HR" or "Human Resources"**: NMPRC's Human Resources.

3.4 **"Personally Identifiable Information" (or "PII")** means information which can be used to distinguish or trace an individual's identity, such as their name, social security number, biometric records, etc. alone, or when combined with other personal or identifying information which is linked or linkable to a specific individual such as date and place of birth, mother's maiden name, etc.

3.5 **"Sensitive Agency Information"** means any confidential information, information system resources, data, records, PII, proprietary information, and other sensitive information handled by **NMPRC** and protected by applicable laws, regulations or policies.

3.6 **"Telework"** means a work flexibility arrangement under which an employee performs the duties and responsibilities of such employee's position from an approved telework location other than the location from which the employee's designated post of duty, during any part of regular, paid hours, including an employee's residence.

3.7 **"Telework location"** means the employee-employer agreed upon work site location which is the employee's home and legal place of residence as defined by the Per Diem and Mileage Act. The telework location is the location where the telework employee to perform his/her work duties in accordance with the telework agreement and this Policy.

3.8 **"Designated post of duty"** means the physical location of the NMPRC offices in Santa Fe, New Mexico"

4. POLICY

4.1 NMPRC retains the right to determine work schedules and locations. Teleworking may be granted as long as employees are held accountable and continue to be productive and



provide quality services. Teleworking is not a right, it is not an entitlement, and it is not a State of New Mexico employment benefit.

- 4.2 **Emergency Teleworking:** When the Governor issues an Emergency Executive Order or an Emergency is determined by the Chief of Staff, the Chief of Staff may assign employees to telework as necessary to meet the emergency situation. In an emergency telework situation, after the Governor or NMPRC Chief of Staff determines an emergency has been resolved, the Executive Order is lifted and/or persons involved are in no longer in immediate danger, the Chief of Staff may require that employees will return to their normally assigned work location, which is either to their designated post of duty or to their previous telework arrangement.
- 4.3 Teleworking may be required by the **NMPRC** in order to promote the public interest and the interest of governmental efficiency, including, but not limited to, financial obligations, agency budget limits; and/or the agency goals.
- 4.4 Unless mandated by the Chief of Staff due to an Emergency, agency budget limits, financial obligations or agency goals, either an employee or a supervisor can suggest telework as a possible telework arrangement to be approved by the **NMPRC** in accordance with this policy.
- 4.5 In addition to 4.4, certain NMPRC Employees may be mandated to telework under this policy due to administrative efficiency, financial obligations, physical space limitations and/or agency budget limits.
- 4.6 Unless otherwise authorized, telework employees shall maintain a normal 40-hour work schedule (8:00 a.m. to 5:00 p.m. Monday-Friday).
- 4.7 **NMPRC** retains the right to approve or deny any alternative telework time/hours schedule requests.
- 4.8 Telework employees shall telework from their telework location which shall be their home which is defined as the employee's primary legal residence in accordance with the Per Diem and Mileage Act. **NMPRC** retains the right to approve or deny any alternative (from home) telework location requests.
- 4.9 No employee's telework location shall be outside of New Mexico.
- 4.10 Telework employees shall perform all duties and responsibilities of their position and maintain an "Achieves" performance rating or better on all evaluation criteria in any performance appraisal permitted by State Personnel Board Rule 1.7.9 NMAC. Failure to do so may result in revocation of the telework arrangement and/or discipline, up to and



including dismissal.

- 4.11 Telework employees shall be accessible by phone, text, and email during their scheduled work hours and must report in person to their normal designated post of duty as soon as it is reasonable upon being requested to do so, but no later than the next business day, unless a later time is requested and approved by their supervisor. Failure to be accessible by phone, text and email and/or failure to report to their normal worksite may result in revocation of the telework work arrangement and/or discipline, up to and including dismissal.
- 4.12 Telework employees shall communicate with their supervisors and managers as needed to fulfill their job responsibilities successfully and shall maintain contact with their supervisor as directed. Failure to do so may result in revocation of the telework arrangement and/or discipline, up to and including dismissal.
- 4.13 Telework employees shall adhere to all **NMPRC** policies and procedures, including but not limited to: accurately recording their actual work time and attendance in the **SHARE** system, requesting leave in advance, not working overtime or extra hours for which additional compensation or compensatory time might be due without prior authorization, and submitting to all required drug and alcohol testing, including testing based on reasonable suspicion. Failure to do so may result in revocation of the telework arrangement and/or discipline, up to and including dismissal.
- 4.14 **NMPRC** will determine, on a case-by-case basis, the employee's appropriate equipment needs, including, but not limited to, hardware, software, modems, phone and data lines, facsimile equipment or software, and photocopiers) for each telework arrangement. The telework employee's supervisor, HR and information technology divisions will serve as resources in this matter and advise the employee as to what equipment and resources will be provided by the **NMPRC**.
- 4.15 Equipment supplied by **NMPRC** will be maintained by **NMPRC** and remain the sole and exclusive property of **NMPRC**. Equipment supplied by the telework employee, if deemed appropriate by **NMPRC**, will be maintained by the employee. **NMPRC** accepts no responsibility for damage or repairs to employee-owned equipment. **NMPRC** reserves the right to determine whether any equipment is appropriate, subject to change at any time. Equipment supplied by **NMPRC** shall be used for business purposes only. The telework employee shall sign an inventory acknowledging receipt of all **NMPRC** equipment and agrees to take all **NMPRC**-directed and otherwise appropriate action to protect **NMPRC** equipment from damage, loss or theft. Neither family members nor other non-State **NMPRC** employed individuals are authorized to access, handle or use any **NMPRC** equipment. The telework employee shall immediately notify employee's supervisor of any damage, loss or theft of **NMPRC** equipment. Supervisors are responsible for immediately notifying the Agency Head and/or Agency CIO of any damage,



loss or theft of **NMPRC** equipment. Damage, loss or theft of **NMPRC** equipment may result in revocation of the telework arrangement and/or discipline, up to and including dismissal, as permitted by **NMPRC** policy. Upon termination of employment, either voluntarily or otherwise, all **NMPRC** equipment shall be returned to **NMPRC** prior to the final date of employment.

- 4.16 **NMPRC** equipment and remote access to **NMPRC**'s networks shall be provided in accordance with Department of Information Technology regulations. All sessions performed remotely are subject to periodic and random monitoring by **NMPRC** and shall be permitted by the **NMPRC** telework employee.
- 4.17 Telework employees shall ensure the protection of all Sensitive Agency Information as required by privacy and confidentiality laws and regulations and by **NMPRC** policy, procedures and practice regarding information security for employees working at the normal worksite. Steps include following all agency information and data security policies, guidelines and protocols; use of encryption; use of locked cabinets and desks; regular password maintenance and any other steps directed by **NMPRC** or appropriate for the job and the environment. Neither family members nor other non-State **NMPRC** employed individuals are authorized to handle or view any Sensitive Agency Information. Telework employees shall immediately notify employee's supervisor of any potential or confirmed breach in security or disclosure of Sensitive Agency Information in violation of privacy or confidentiality laws or regulations or **NMPRC** policy, procedure or practice. Supervisors are responsible for immediately notifying the **NMPRC Chief of Staff** and/or CIO of any potential or confirmed breach in security or disclosure of Sensitive Agency Information. Telework employees shall be liable for disclosure of any Sensitive Agency Information protected by state or federal privacy or confidentiality laws, regulations, rules, policies, or procedures to the same extent as employees working at the normal worksite. Improper, unlawful, unauthorized, or negligent disclosure of Sensitive Agency Information may result in revocation of the telework arrangement and/or discipline, up to and including dismissal.
- 4.18 **NMPRC** will supply the employee with appropriate office supplies (pens, paper, etc.) for successful completion of job responsibilities. **NMPRC** is not responsible for any operating costs associated with an employee's use of his or her personal residence as an alternative worksite including, but not limited to, home maintenance, insurance and/or home utilities, including phone, data lines and internet service, and/or with internet connection.
- 4.19 Mileage reimbursement will not be available for an employee's travel between a telework location and a designated post of duty location. Mileage reimbursement for the employee's other pre-approved business travel, if any, will be based on the employee's telework location in accordance with the DFA Per Diem and Mileage Rule and the Per Diem and Mileage Act. If the teleworker is required by their supervisor to appear at the designated post of duty for work duties, the teleworker shall bear all costs for travel



including, but not limited to, mileage, per diem and lodging.

- 4.20 In the event that more than one employee requests telework, and **NMPRC** determines that granting all the telework requests is not in the best interest of **NMPRC**, the **Chief of Staff** may in his or her sole discretion deny all requests, deny some requests, modify requests, implement alternative telework schedules, or take other action. If two bargaining unit employees request telework, and **NMPRC** determines that telework would be suitable for both employees (as determined in Section 5.3 below) but also determines it is in the best interest of **NMPRC** to approve only one of the bargaining unit employee's telework requests, then Agency Seniority, as defined in the applicable collective bargaining agreement, shall be used to determine which bargaining unit employee's telework request shall be approved.
- 4.21 Requests for leave under the Family and Medical Leave Act (FMLA) or reasonable accommodations under the Americans with Disabilities Act, as amended, (ADA) are not governed by this policy. Such requests are governed by **NMPRC's** FMLA policy and ADA policy, respectively.
- 4.22 Telework employees shall be responsible for ensuring they have a clean, professional, and safe workspace at their telework location. It is the responsibility of the employee to ensure that a proper work environment is maintained.
- 4.23 Telework employees shall report any job-related injuries that occur in the course and scope of employment while teleworking at the earliest reasonable opportunity, pursuant to **NMPRC** policy.
- 4.24 It is solely the employee's responsibility to comply with any personal tax or other personal legal obligations arising from a telework arrangement pursuant to this policy.

5. PROCEDURES

- 5.1 To perform telework under this policy, employees shall complete the **NMPRC's** attached Telework Arrangement agreement form.
- 5.2 Employees requesting to telework must present a draft Telework Arrangement to their immediate supervisor for review. Employees must complete the employee information, telework schedule and location, and equipment sections of the Telework Arrangement.
- 5.3 Supervisors will evaluate the suitability of the proposed telework arrangement, paying particular attention to the following areas:
 - 5.3.1 **Job responsibilities.** The supervisor will assess the employee's job responsibilities



and determine if the position is appropriate for a telework arrangement, including, but not limited to, any scheduling issues particular to the employee's position and the importance of having the employee present at the normal worksite to interface with supervisors, colleagues, and the public. Some positions are not generally suitable for telework, including, but not limited to: positions that require the employee to have daily, in-person contact with co-workers, supervisory officials, customers, or the general public in order to be effective; positions where operational requirements dictate the employee's presence at a specific location; positions that require routine access to protected information which cannot be accessed remotely or **NMPRC** is unable or unwilling to allow to be accessed remotely

- 5.3.2 **Employee performance and suitability.** The supervisor will assess the needs and work habits of the employee, including, but not limited to, the employee's demonstrated ability to work independently and fulfill the responsibilities of the job without direct, in-person supervision. **NMPRC** may refuse to grant telework for any employee, including but not limited to any employee with less than an "Achieves" performance rating on all evaluation criteria in any performance appraisal permitted by State Personnel Board Rule 1.7.9 NMAC or any employee currently on a performance development plan (PDP).
- 5.3.3 **Ability to monitor.** The supervisor will assess the ability to monitor the employee's productivity and quality of work under the telework arrangement.
- 5.3.4 **Best interest.** The supervisor will assess the business and operational needs of **NMPRC** and consider any other factors in the best interest of **NMPRC**.
- 5.4 The supervisor may approve, amend, or deny the telework request if it is in the best interest of **NMPRC**. All denied requests shall state the reason for the denial on the Telework Arrangement and be discussed with the employee. If the supervisor approves the proposed telework arrangement or a modified version of the proposed telework arrangement, and HR concurs, then the supervisor will modify the Telework Arrangement as needed, complete the job duties and telework review sections of the Telework Arrangement, and present a finalized Telework Arrangement to the employee for discussion.
- 5.5 After the employee and the supervisor have signed the Telework Arrangement, the supervisor will send the Telework Arrangement to the **Chief of Staff** or designee, with the supervisor's recommendation whether to approve the telework request.
- 5.6 The **Chief of Staff** or designee shall review the Telework Arrangement and approve, amend, or deny the telework request. All denied requests shall state a reason for the denial on the Telework Arrangement and be explained to the employee by the employee's supervisor.
- 5.7 Once approved, amended, or denied by the **Chief of Staff** or designee and discussed with



the employee, the employee's supervisor shall forward the Telework Arrangement to HR to be placed in the employee's personnel file and a pdf copy shall be emailed to the employee. Any additional changes to the employee's work schedule requiring approvals must be completed on the required forms and forwarded to HR to be placed in the employee's personnel file and a pdf copy emailed to the employee.

- 5.8 HR shall maintain the original request and Telework Arrangement whether approved, amended, or denied. HR shall email the employee a pdf copy of the signed Telework Arrangement. The employee shall use the TELWK timecode in SHARE to code any time spent teleworking under an approved Telework Arrangement. HR will provide a copy of any approved Telework Arrangement to the supervisor, who is responsible for employee compliance with this Telework Policy and the Telework Arrangement and for ensuring that a forty (40) hour work week is completed.
- 5.9 In the event that an employee is unable to perform telework at his or her telework location due to circumstances beyond his or her control (e.g., power failure or loss of internet connectivity) and another work location is not available for the employee, administrative leave may be provided on a case-by-case basis pursuant to State Personnel Board Rule 1.7.7.14 NMAC. If administrative leave is not granted to an employee, he or she may request to use accrued annual leave or other appropriate paid time off (i.e., earned compensatory time).
- 5.10 During inclement weather, telework employees shall be governed by the current version of SPO General Memorandum 2011-006 (Revised).
- 5.11 **Cancellation, suspension or modification of telework arrangement:** Supervisors, with the approval of the *Chief of Staff* or designee, may permanently or temporarily cancel, suspend, or modify telework arrangements for any reason if it is in the best interest of the agency, including but not limited to: workload issues; special projects; special assignments; training; failure to safeguard *NMPRC* equipment from damage, loss or theft; failure to safeguard *NMPRC* Sensitive Agency Information from improper, unlawful, or negligent disclosure; any violation of this Telework Policy or the Telework Arrangement; or employee discipline. Employees shall be given as much advance notice as possible, and, where appropriate, *NMPRC* shall make every effort to give no less than two (2) weeks' notice when canceling, suspending, or modifying telework arrangements. Employees shall have the right to cancel their telework arrangements for any reason and will give their supervisor as much advance notice as possible, and no less than two (2) weeks' notice. However, if the *NMPRC* does not have any sufficient appropriate work location for an employee to work from in lieu of his/her telework location, the *NMPRC* shall have as much time as needed to find and secure a sufficient appropriate work location for such employee.



6. ATTACHMENT

NMPRC -Telework Arrangement Form

7. APPROVAL

Adopted by Commission via resolution 8-18-21-A

Date: 8/18/2021



1. PURPOSE

- 1.1 The NMPRC's goal is to minimize the risk of its employees contracting COVID-19 while working in State buildings, facilities, and indoor field work locations. This Policy and Procedure provides direction and guidance to employees accordingly.
- 1.2 The NMPRC is requiring its employees to follow COVID-19 Safe Practices to reduce the possibility of COVID-19 transmission in its buildings, facilities, and indoor field work locations. COVID-19 Safe Practices are set out below.
- 1.3 The NMPRC is also requiring its employees to follow New Mexico Department of Health (NMDOH) and Centers for Disease Control and Prevention (CDC) COVID-19 recommendations on COVID-19 Isolation and Exposure, before entering any State building, facility, or indoor field work location. ([Isolation and Precautions for People with COVID-19 | CDC.](#))
- 1.4 If any provision of this Policy and Procedure is in conflict with an Executive Order or Public Health Order, the Executive Order or Public Health Order shall control.
- 1.5 If any provision of this Policy and Procedure is in conflict with a provision of an applicable Collective Bargaining Agreement (CBA), the CBA shall control. Because this Policy and Procedure was negotiated and agreed to by and between the State of New Mexico and AFSCME New Mexico Council 18 for all AFSCME-covered State executive agencies, those individual covered agencies are not required to engage in further negotiations with AFSCME on this Policy and Procedure. Because this Policy and Procedure was negotiated and agreed to by and between the State of New Mexico and CWA, AFL-CIO, CLC State Employee Alliance for all CWA-covered State executive agencies, those individual covered agencies are not required to engage in further negotiations with CWA on this Policy and Procedure.

2. REFERENCES

- NMDOH, *Amended Public Health Emergency Order Clarifying All Orders, Directives, Guidance And Advisories Remaining in Effect and Imposing Certain Ongoing Public Health Measures* (December 19, 2022): [121922-PHO.pdf \(nmhealth.org\)](#)
- NMDOH, *Policies for the Prevention and Control of COVID-19 in New Mexico* (August 19, 2022): [EPI-COVID19-Containment-Policies-8.19.2022.pdf \(nmhealth.org\)](#)
- Executive Order 2022-117 (August 12, 2022): [Executive-Order-2022-117.pdf \(state.nm.us\)](#)

- New Mexico Environmental Improvement Board Rule 11.5.1.16 NMAC, *Recordkeeping and Reporting Occupational Injuries, Illnesses and Fatalities: [11.5.1.16-Amendment.pdf \(nm.gov\)](#)*
- CDC, *Isolation and Precautions for People with COVID-19* (updated August 11, 2022): [Isolation and Precautions for People with COVID-19 | CDC](#)
- CDC, *What to Do If You Were Exposed to COVID-19* (updated August 24, 2022): [What to Do If You Were Exposed to COVID-19 | CDC](#)
- CDC, *How to Protect Yourself & Others* (updated October 19, 2022): [How to Protect Yourself & Others | CDC](#)
- CDC, *Stay Up to Date with COVID-19 Vaccines Including Boosters* (updated January 9, 2023): [Stay Up to Date with COVID-19 Vaccines Including Boosters | CDC](#)
- CDC, *COVID-19 by County* (updated August 11, 2022): [COVID-19 by County | CDC](#)
- CDC, *When and How to Clean and Disinfect a Facility* (updated November 2, 2022): [Cleaning and Disinfecting Your Facility | CDC](#)
- U.S. Equal Employment Opportunity Commission (EEOC), *What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws* (updated July 12, 2022): [What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws | U.S. Equal Employment Opportunity Commission \(eoc.gov\)](#)
- EEOC, *Pandemic Preparedness In the Workplace and the Americans With Disabilities Act* (revised March 2020 and thereafter): [Pandemic Preparedness in the Workplace and the Americans with Disabilities Act | U.S. Equal Employment Opportunity Commission \(eoc.gov\)](#)

3. DEFINITIONS

- 3.1 **“Close Contact”**: Within six feet for a cumulative total of 15 minutes or more in a 24-hour period. Wearing a mask or cloth face-covering does not affect the definition for Close Contact.
- 3.2 **“COVID-19 Symptoms”**: Fever (temperature of 100.4 degrees Fahrenheit or more), chills, cough, shortness of breath or difficulty breathing, fatigue, muscle or body aches, headache, new loss of taste or smell, sore throat, congestion or runny nose, nausea or vomiting, diarrhea, or as otherwise identified by the CDC ([CDC Symptoms of COVID19](#)).
- 3.3 **“Exposure” or “Exposed”**: Close Contact with a person with confirmed COVID-19 during their infectious period, without wearing Personal Protective Equipment.
- 3.4 **“Human Resources”**: NMPRC Human Resources.
- 3.5 **“Isolation”**: Isolation is a public health strategy that refers to someone being physically separated from other people to prevent the spread of a communicable disease. For

purposes of this Policy and Procedure, “Isolation” separates people who are COVID-positive (with or without symptoms) from others who are not COVID-positive.

- 3.6 **“New Diagnosis of COVID-19”**: The first positive COVID-19 test result received during a single COVID-19 infection.
- 3.7 **“Personal Protective Equipment”**: At minimum, a mask, eye protection, gloves, and isolation gown. The NMPRC has discretion to require employees providing direct care to COVID-19 positive persons to wear additional forms of personal protective equipment. The NMPRC will provide training in the proper use of Personal Protective Equipment it requires its employees to use.
- 3.8 **“Proof of Vaccination”**: Proof of COVID-19 vaccination in the form of a CDC vaccine card or a vaccine record from the New Mexico Statewide Immunization Information System ([NMSIIS](#)) which indicates the name of the vaccine recipient, the date(s) the vaccines were received, and which COVID-19 vaccines were received.
- 3.9 **“Social Distancing”**: Maintaining a distance of at least six feet between individuals to limit the spread of COVID-19. Wearing a mask or cloth face-covering does not affect the definition for Social Distancing.

4. POLICY

- 4.1 The NMPRC will take proactive steps to protect its employees and minimize the spread of COVID-19.
- 4.2 Following the COVID-19 Safe Practices set forth below is mandatory for NMPRC employees before entering any State building, facility, or indoor field work location.
- 4.3 Following NMDOH and CDC COVID-19 recommendations on isolation and exposure is mandatory for NMPRC employees, before entering any State building, facility, or indoor field work location. If there is a conflict between a NMDOH COVID-19 recommendation and a CDC COVID-19 recommendation, the more restrictive recommendation shall control.
- 4.4 Any employee who fails to adhere to the COVID-19 Safe Practices set forth below, the NMDOH and CDC COVID-19 recommendations on isolation and exposure, or any other provision of this Policy and Procedure may be subject to disciplinary action, up to and including dismissal.
- 4.5 Any employee who harasses or discriminates against another employee due to the employee’s mask-wearing or vaccination status in violation of NMPRC’s CODE OF CONDUCT, may be subject to disciplinary action, up to and including dismissal.
- 4.6 NMPRC shall work toward adopting applicable COVID-19 safe building guidance and procedures as recommended by the New Mexico Environment Department, Occupational Health and Safety Bureau (NMED-OSHA) found here: [Guidance on Preparing Workplaces for COVID-19 \(nm.gov\)](#). NMPRC shall publish measures that ensure air ventilation standards are maintained.

5. PROCEDURES

5.1 COVID-19 Safe Practices.

All employees shall take the following steps to reduce the transmission of COVID-19 in State buildings facilities, and indoor field work locations:

A. *New Diagnosis of COVID-19.*

DO NOT report to any State building, facility, or indoor field work location if you have received a New Diagnosis of COVID-19.

Follow NMPRC's established call-in procedure and contact your supervisor immediately.

Do not return to any State building, facility, or indoor field work location without first following the Isolation instructions provided by the NMDOH ([EPI-COVID19-Containment-Policies-8.19.2022.pdf \(nmhealth.org\)](#)) and the CDC ([Isolation and Precautions for People with COVID-19 | CDC](#)).

B. *COVID-19 Symptoms.*

DO NOT report to any State building, facility, or indoor field work location if you are experiencing COVID-19 Symptoms.

Follow NMPRC's established call-in procedure and contact your supervisor immediately.

Do not return to any State building, facility, or indoor field work location without first following the Isolation instructions, provided by the NMDOH ([EPI-COVID19-Containment-Policies-8.19.2022.pdf \(nmhealth.org\)](#)) and the CDC ([How to Protect Yourself and Others | CDC](#)).

C. *COVID-19 Exposure.*

Follow the Exposure instructions provided by the NMDOH ([EPI-COVID19-Containment-Policies-8.19.2022.pdf \(nmhealth.org\)](#)) and the CDC ([What to Do If You Were Exposed to COVID-19 | CDC](#)).

5.2 COVID-19 Best Practices.

It is strongly recommended that all employees take the following additional steps to reduce the transmission of COVID-19 in State buildings, facilities, and indoor field work locations:

A. *Vaccinate and Boost.* Employees are strongly encouraged to be fully vaccinated against COVID-19, as defined by the CDC, and to receive all booster doses of the COVID-19 vaccine for which they are eligible. ([Stay Up to Date with COVID-19 Vaccines Including Boosters | CDC](#))

B. *Mask and Social Distance When Community Level is High.* Employees should consider masking and Social Distancing when the CDC indicates the COVID-19 Community Level is High in the county where they work. ([COVID-19 by County | CDC](#))

C. *Clean Hands.* Employees should wash their hands often with soap and water for at least 20 seconds, especially after they have been in a public place, or after blowing their nose, coughing, or sneezing. If soap and water are not readily available, employees should use a hand sanitizer that contains at least 60% alcohol to cover

all surfaces of their hands and rub them together until they feel dry. The NMPRC will supply hand sanitizer to employees as necessary.

- D. *Cover Mouth and Nose.* Employees should cover their mouth and nose with a tissue when coughing or sneezing or use the inside of their elbow.
- E. *Avoid Touching Face.* Employees should avoid touching their face, nose, mouth, and eyes.

5.3 Screening.

- A. It is within the NMPRC's discretion to screen its employees for COVID-19 Symptoms and Exposure. If NMPRC screens its employees, it will screen all similarly situated employees and utilize the screening results consistently. If NMPRC collects employees' COVID-19 Symptoms and Exposure screening responses and results, the Americans with Disabilities Act (ADA) requires that the NMPRC treat such responses and results as confidential medical information and maintain them separately from the employees' personnel files.
- B. The NMPRC is permitted to administer COVID-19 screening to clients, customers, and other members of the public who seek to enter NMPRC's buildings or facilities. If NMPRC collects screening responses and results from members of the public, it shall treat those responses and results as confidential medical information and maintain them for 3 years. NMPRC shall not ask clients, customers, or other members of the public seeking to enter NMPRC's buildings if they are vaccinated.

6. TEST SITES AND ADMINISTRATIVE LEAVE

- 6.1 Test sites can be found at [COVID-19 Screening & Testing | NMDOH - Coronavirus Updates \(nmhealth.org\)](#). You can find FDA-approved rapid antigen tests, at-home tests, and other testing options at [findatestnm.org](#).
- 6.2 In order to support the Isolation guidelines outlined in Section 5.1 (B), Agencies may grant 5 (five) days of Administrative Leave with pay for employees who have tested positive for Covid-19, pursuant to 1.7.7.14(A) NMAC.

7. PROOF OF VACCINATION

- 7.1 NMPRC may require an employee to provide Proof of Vaccination if the inquiry is job-related and consistent with business necessity. For example, NMPRC may require Proof of Vaccination to determine an employee's compliance with an Executive Order or Public Health Order.
- 7.2 NMPRC requests for Proof of Vaccination: (1) shall not elicit information about an employee's disability, (2) shall not ask why an employee did not receive a vaccination, and (3) shall warn the employee not to provide any medical information beyond the requested Proof of Vaccination.
- 7.3 Agencies may utilize the COVID-19 Vaccination and Testing Tracking function in SHARE HCM to record their employees' COVID-19 vaccination data. An employee's Proof of Vaccination and any other employee vaccination data shall be treated as confidential medical information and will be maintained by Human Resources separately from the

employee's personnel file and/or maintained confidentially in SHARE. An employee's vaccination status (but not the actual Proof of Vaccination) can be shared with the employee's supervisors to determine compliance with an Executive Order or Public Health Order.

- 7.4 Any employee who provides inaccurate information or is untruthful about their vaccination status may be subject to discipline, up to and including dismissal.

8. COVID-19 - REPORTING INSTRUCTIONS

- 8.1 If an employee receives a New Diagnosis of COVID-19, they must report the positive test to their supervisor as soon as possible.
- 8.2 Before the start of the next business day, the supervisor shall notify the Chief of Staff or designee by email at Cholla.Khoury@prc.nm.gov that an employee has a New Diagnosis of COVID-19. This notification must be made even if the initial report is received by the supervisor after normal working hours or on a weekend.
- 8.3 The supervisor shall include the following information in the notification to the Chief of Staff or designee:
- Name of employee that tested positive.
 - The date the employee tested positive.
 - The last day the employee reported to the office, and what office or building area(s) the employee occupied or spent time in that day.
 - The names of all employees that may have had Close Contact with the COVID-19 positive employee when they last reported to the office.

The information in the notice should be based on conversations with the COVID-19 positive employee.

An employee's COVID-19 positive status is confidential medical information, and the name of any COVID-19 positive employee shall be disclosed to the minimum extent necessary to maintain business operations.

- 8.4 The Chief of Staff or designee will notify employees who may have been Exposed. The notification will include:
- A. A report that the employees may have been Exposed to a COVID-19 positive employee. The report shall not include the name of the COVID-19 positive employee.
- B. A reminder that employees shall follow the Isolation and Exposure instructions provided by the NMDOH ([EPI-COVID19-Containment-Policies-8.19.2022.pdf \(nmhealth.org\)](#)) and the CDC ([Isolation and Precautions for People with COVID-19 | CDC, How to Protect Yourself and Others | CDC, What to Do If You Were Exposed to COVID-19 | CDC](#)) and shall not report to a State building, facility, or indoor field work location if they develop COVID-19 Symptoms or test COVID-19 positive.
- 8.5 Within 48 hours of learning of a COVID-positive employee, NMPRC shall provide notice of the positive case to NMPRC employees assigned to the same office or facility where

the COVID-positive employee reported *if* the COVID-positive employee was in the office or facility within 48 hours prior to developing symptoms or, if asymptomatic, within 48 hours prior to the positive test. The notice shall not release the name of the employee, but will indicate that close contacts, if any, have been notified.

- 8.6 The NMRPC may coordinate a thorough cleaning of the exposed space, as per CDC guidelines.

9. ADA REASONABLE ACCOMMODATION RELATED TO COVID-19

If an employee with a disability or medical condition needs a reasonable accommodation related to COVID-19, including, but not limited to, related to COVID-19 risk or COVID-19 long-haul syndrome, the employee shall contact their supervisor or Human Resources to initiate the reasonable accommodation process. An employee may request an accommodation verbally or in writing and should indicate that a workplace barrier removal is needed related to a medical condition. A reasonable accommodation can be requested at any time; however, the employee should initiate the reasonable accommodation process as soon as possible so that barrier removal solutions can be explored in a timely manner. (See also Attachment A, Disability Resources.)

10. FAMILY AND MEDICAL LEAVE ACT LEAVE RELATED TO COVID-19

Pursuant to the federal Family and Medical Leave Act (FMLA) of 1993, 29 U.S.C. Section 2601 *et seq.*, as amended, and State Personnel Board Rule 1.7.7.12 NMAC, eligible State employees are entitled to a total of 12 weeks of unpaid, job-protected leave for serious health conditions that make the employee unable to perform the essential functions of the employee's job, and to care for the employee's spouse, domestic partner, child, or parent who has a serious health condition. COVID-19-related health conditions may qualify as serious health conditions under the FMLA. Employees with COVID-19-related health conditions should contact Human Resources to determine if FMLA leave may be available.

11. UPDATES

This Policy and Procedure may be updated and supplemented by additional guidance as circumstances require. Chief of Staff will provide up-to-date information as it becomes available and encourage all supervisors to communicate regularly with their teams so that information is distributed and that questions are elevated and answered promptly.

12. ACKNOWLEDGMENTS

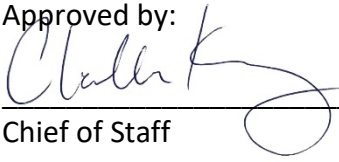
All employees shall receive a copy of this Policy and Procedure in paper or electronic form and acknowledge its receipt.

13. ATTACHMENTS

- (A) Disability Resources

14. APPROVAL

Approved by:



Chief of Staff

Date: July 7, 2023

Attachment A: Disability Resources

COVID-19 and the pandemic has had a unique impact on people with disabilities. To help employers, employees with disabilities, and Human Resources managers understand their rights and obligations, the following State agencies and organizations are available to provide technical assistance, resources, assistive technology, and information.

In addition, the U.S. Equal Employment Opportunity Commission offers answers to frequently asked questions about the workplace, COVID-19, and the rights of people with disabilities. The EEOC's guidance can be found [HERE](#).

Southwest ADA Center

Toll-Free: 1-800-949-4232

Fax: 713-520-5785

Email: swdbtac@ilru.org

[Southwest ADA Center](#)

*The Center is part of the [ADA National Network](#) funded by NIDILRR at the U.S. Department of Health & Human Services

NM Governor's Commission on Disability

491 Old Santa Fe Trail

Santa Fe, NM 87501-2753

Phone: 505-476-0412

Toll-free (in State only): 877-696-1470

Fax: 505-827-6328

Email: gcd@state.nm.us

[Governor's Commission on Disability](#)

*Serves NM with local offices in Albuquerque, Santa Fe

NM Commission for the Deaf and Hard of Hearing

505 Marquette Ave. NW, Suite 1550

Albuquerque, NM 87102

Direct Phone: 505-228-7710

Video Phone: 505-435-9319

Toll-free: 800-489-8536

Fax: 505-383-6533

[NM Commission for the Deaf and Hard of Hearing](#)

*Serves NM with local office in Albuquerque, Las Cruces

NM Commission for the Blind

2200 Yale Blvd. SE

Albuquerque, NM 87106

Phone: 505-841-8844

Toll-Free: 888-513-7958

[NM Commission for the Blind](#)

*Serves NM with local offices in Alamogordo, Albuquerque, Farmington, Las Cruces, Las Vegas, Roswell, Santa Fe

NM Human Rights Bureau

The Bureau investigates claims of discrimination, including those based on disability, and provides mediation and training.

Toll Free (in NM): 1-800-566-9471

Phone: 505-827-6838

[DWS Human Rights Information](#)

NM Developmental Disabilities Council

625 Silver Avenue SW, Suite 100

Albuquerque, New Mexico 87102

Office: 505-841-4519

DDPC Fax: 505-841-4590

OOG Fax: 505-841-4455

[NM Developmental Disabilities Council](#)

U.S. Equal Employment Opportunity Commission

Coronavirus and COVID-19 Information

[EEOC Coronavirus and COVID-19](#)

Job Accommodation Network (JAN)

Toll-Free: 800-526-7234

TTY: 877-781-9403

Text: 304-216-8189

[Job Accommodation Network \(JAN\)](#)