

Sullivan-Leshin, Isaac, PRC

From: Sullivan-Leshin, Isaac, PRC
Sent: Wednesday, September 16, 2020 12:50 PM
To: Records, PRC, PRC
Subject: Resolution 9-16-20-B; Filing Submission
Attachments: Resolution 9-16-20-B, A Resolution Adopting Telework Policy as NMPRC HR Policy No. 20.pdf

Good afternoon,

Please file the attached **A RESOLUTION ADOPTING TELEWORK POLICY AS NMPRC HR POLICY NO. 20.**

Thank you.

NEW MEXICO PUBLIC REGULATION COMMISSION

A RESOLUTION

9-16-20-B

A RESOLUTION ADOPTING TELEWORK POLICY AS NMPRC HR POLICY NO. 20

WHEREAS, this duly elected body, on this 16th day of September, 2020, does hereby recognize that there is an immediate need for the adoption and implementation by the New Mexico Public Regulation Commission (“NMPRC”) of a teleworking policy due to the following: 1) a March 15, 2020 directive issued by Governor Michelle Lujan Grisham to all state agencies to accelerate remote-work initiatives in the wake of the COVID-19 public health emergency and to temporarily adjust, and in some cases suspend, certain functions at State of New Mexico public offices in order to minimize public health risks; and 2) the eviction, effective September 30, 2020, from the NMPRC state offices at the old PERA building by the General Services Department, Facilities Management Division, and the simultaneous lack of sufficient appropriation of funds by the New Mexico Legislature for a replacement private lease office space which have resulted in the majority of NMPRC employees without state office space to conduct the NMPRC’s functions and being required to telework from an alternate location to conduct the NMPRC’s functions.

WHEREAS, telework is a work arrangement whereby selected NMPRC employees are allowed to perform the normal duties and responsibilities of their positions through the use of computers or telecommunications, at home or another place apart from the employees’

originally designated post of duty.

***WHEREAS,** the purpose of a NMPRC teleworking policy is to establish a procedure to telework during both normal operating conditions or during an emergency, such as the aforementioned eviction and lack of funding, which will provide NMPRC employees alternatives in employee work locations, while adhering to Federal and State statutes and regulations.*

***WHEREAS,** for the reasons stated herein, it is the policy of the NMPRC to adopt and implement the attached NMPRC HR Policy No. 20 Teleworking to set forth the policies and procedures for teleworking arrangements between the NMPRC and its employees.*

THEREFORE, BE IT RESOLVED,

*That the Commission shall, immediately adopt and implement the attached **NMPRC HR Policy No. 20, Teleworking.***

**ISSUED under the Seal of the Commission at Santa Fe, New Mexico, this 16th day of
September, 2020.**

NEW MEXICO PUBLIC REGULATION COMMISSION

/s/ Cynthia B. Hall, electronically signed

CYNTHIA B. HALL, COMMISSIONER DISTRICT 1

/s/ Jefferson Byrd, electronically signed

JEFFERSON L. BYRD, COMMISSIONER DISTRICT 2

/s/ Valerie Espinoza, electronically signed

VALERIE ESPINOZA, COMMISSIONER DISTRICT 3

/s/ Theresa Becenti-Aguilar, electronically signed

THERESA BECENTI-AGUILAR, COMMISSIONER DISTRICT 4

/s/ Stephen Fischmann, electronically signed

STEPHEN FISCHMANN, COMMISSIONER DISTRICT 5





POLICY NUMBER: 20

POLICY: TELEWORK POLICY

EFFECTIVE DATE: SEPTEMBER 2, 2020

1. PURPOSE

1.1 The purpose of this policy is to establish a process to telework during normal operating conditions or an emergency, providing employees and New Mexico Public Regulation Commission (NMPRC) alternatives in employee work locations, while adhering to Federal and State statutes and regulations. Telework is a work alternative that may be appropriate for some employees and some jobs. It is not an entitlement, it is not a State benefit, and it in no way changes the terms and conditions of employment with NMPRC.

1.2 If any provision of this policy is in conflict 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 **“Emergency”** is an unplanned or imminent event that affects or threatens the health, safety or welfare of people, or property and infrastructure, disrupts ordinary business operations, which requires a significant and coordinated response and cause 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:

3.1.1 Fires;

3.1.2 Health outbreaks;

3.1.3 Severe weather;

3.1.4 Natural disasters;

3.1.5 Power failures, including electricity outages or gas leaks;

3.1.6 Emergency evacuation or moving to an emergency shelter;

3.1.7 Temporary closure or relocation of the program to another facility or service site for more than 24 hours;

3.1.8 An eviction from office space and/or a lack of legislative appropriations; and

3.1.9 Other events that threaten the immediate health and safety of persons served and that require calling “911.”

3.2 **“HR” or “Human Resources”**: NMPRC’s Human Resources.

3.3 **“Telework”** means a work flexibility arrangement under which an employee performs the duties and responsibilities of such employee's position, and other authorized activities, from an approved worksite other than the location from which the employee would otherwise work, during any part of regular, paid hours, including from an employee’s residence.

4. POLICY

4.1 NMPRC retains the right to determine work schedules and locations.



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- 4.2 The Chief of Staff may assign employees to telework as necessary to meet financial obligations, agency goals, as long as employees are held accountable and continue to be productive and provide quality services.
- 4.3 Either an employee or a supervisor can suggest telework as a possible work arrangement during an emergency or preparedness for an emergency or during normal operating conditions.
- 4.4 After the Governor or NMPRC Chief of Staff determines an emergency has been resolved and/or persons involved are in no longer in immediate danger, employees will return to their normally assigned work location.
- 4.5 NMPRC will determine, with information supplied by the employee and the supervisor, the appropriate equipment needs (including but not limited to: hardware, software, modems, phone and data lines, facsimile equipment or software, photocopiers, etc.) for each telework arrangement on a case-by-case basis. HR and information technology departments will serve as resources in this matter. Equipment supplied by the organization will be maintained by NMPRC. Equipment supplied by the employee, if deemed appropriate by the organization, will be maintained by the employee. NMPRC accepts no responsibility for damage or repairs to employee owned equipment. NMPRC reserves the right to make determinations as to appropriate equipment, subject to change at any time. Equipment supplied by the organization is to be used for business purposes only. The teleworker should sign and submit an inventory of all NMPRC property and agrees to take appropriate action to protect the items from damage or theft. Upon termination of employment all NMPRC property shall be returned in good and functional condition, unless other arrangements have been made.
- 4.6 Consistent with NMPRC expectations of information security for employees working at the office, teleworkers will be expected to ensure the protection of proprietary information, personally identifiable information, and other information confidentiality laws or regulations in their home or telework location. Steps include use of locked file cabinets and desks, regular password maintenance, and any other steps appropriate for the job and the environment.
- 4.7 NMPRC will supply the employee with appropriate office supplies (i.e., pens, paper, etc.) for successful completion of job responsibilities. NMPRC may purchase business-related expenses on behalf of an employee in accordance with their job responsibilities in compliance with the State's Procurement Code. Such business-related expenses must be pre-approved by the employee's supervisor prior to Purchase Order and purchase by PRC ASD Procurement. Employees should not purchase business related supplies with personal funds as per DFA policy.
- 4.8 Staff assigned to perform field inspections and investigations will have a state vehicle for use in the course of their job assignment. State vehicles that are compatible with the area and/or geographic locations will be made available to employees whose duties require them to travel. Staff assigned a state vehicle shall operate and maintain the vehicle in compliance with Policy #15.



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- 4.9 The employee and supervisor will agree on the number of days of telework allowed each week, the work schedule the employee will customarily maintain, and the manner and frequency of communication. The employee agrees to be accessible by phone or modem within a reasonable time period during the agreed on work schedule.
- 4.10 In the event that more than one eligible employee requests telework, and all such requests cannot be granted while meeting the eligibility criteria, NMPRC's Chief of Staff may deny all requests, rotate alternative work schedules, or take other appropriate action.
- 4.11 Requests for intermittent leave under the Family and Medical Leave Act (FMLA) or reasonable accommodations under the American with Disabilities Act (ADA) are not governed by this policy. Such requests are governed by NMPRC's FMLA policy and ADA policy, respectively.

5. PROCEDURES

- 5.1 To perform telework under this policy, employees shall utilize NMPRC's ***Telework Agreement form***.
- 5.2 The employee must present the form to their immediate supervisor for review and recommendation.
- 5.3 The supervisor will evaluate the suitability of such an arrangement paying particular attention to the following areas.
 - 5.3.1 Employee suitability. The employee and supervisor will assess the needs and work habits of the employee.
 - 5.3.2 Job responsibilities. The employee and supervisor will discuss the job responsibilities and determine if the job is appropriate for a telework arrangement.
 - 5.3.3 Equipment needs and scheduling issues. The employee and supervisor will discuss equipment needs and scheduling issues.
 - 5.3.4 Tax and other legal implications for the business use of the employee's home based on Internal Revenue Service (IRS) and state and local government restrictions. Responsibility for fulfilling all obligations in this area rests solely with the employee.
- 5.4 An appropriate level of communication between the teleworker and supervisor will be agreed to as part of the discussion process in a manner and frequency that seems appropriate for the job and the individuals involved.
- 5.5 If the employee and supervisor agree, and HR concurs, a draft telework agreement will be prepared and signed by the employee and supervisor. The supervisor will send the telework agreement to the Chief of Staff, with the supervisor's recommendation whether to approve the telework request.
- 5.6 The NMPRC Chief of Staff shall review the telework agreement and approve, amend, or deny the request. All denied requests shall state a reason for the denial on the telework agreement and be discussed with the employee.
- 5.7 Once approved, amended, or denied by the Chief of Staff and discussed with the



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employee, the employee's supervisor shall forward the telework agreement to HR for the employee's personnel file. Any additional changes to the schedule requiring approvals must be completed on the required forms and forwarded to HR for the employee's personnel file.

- 5.8 HR will enter the telework location into the SHARE system if appropriate and provide the employee with a copy of the signed telework agreement. HR shall maintain the original request and agreement upon approval, amendment, or denial. HR will provide copies of the telework agreement to supervisors, and supervisors and directors who are responsible for employee compliance with these documents and ensuring that a forty (40) hour workweek is completed.
- 5.9 The Chief of Staff or Supervisors, with the approval of the NMPRC's Chief of Staff, may permanently or temporarily cancel, suspend, or adjust schedules based on workload, special projects, special assignments, training, the emergency has been resolved and/or persons involved are in no longer in immediate danger, or in the best interest of the NMPRC. Employees shall be given as much advance notice as possible when canceling, suspending, or adjusting telework. Employees teleworking are expected to maintain a high level of professionalism including being presentable and flexible.

6. ATTACHMENT

Telework Agreement

7. APPROVAL

Approved by: Full Commission, see Resolution 9-16-20-B.



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NMPRC Telework Agreement Form:

Telework Agreement Form

The purpose of this document is for both the supervisor and the employee to have a clear, shared understanding of the employee's telework arrangement. Each telework arrangement is unique depending on the needs of the position, supervisor, and employee.

This telework agreement is not a contract of employment and does not provide any contractual rights to continued employment. It does not alter or supersede the terms of the existing employment relationship. The employee remains obligated to comply with all New Mexico Public Regulation Commission's (NMPRC) rules, policies, practices, and instructions that would apply if the employee were working at the regular NMPRC worksite.

Employee Telework Information

| | |
|--|--|
| Employee Name: | |
| Job Title: | |
| Department and Bureau: | |
| Supervisor: | |
| Arrangement requested by: | <input type="checkbox"/> Chief of Staff <input type="checkbox"/> Employee <input type="checkbox"/> Department/Agency |
| Location where telework will be performed: | |
| Telework arrangement effective dates: | — |

Job Duties

The general expectation for a telework arrangement is that employees will effectively accomplish their regular job duties, regardless of work location. If there are telework-specific job duties and/or expectations, specify them in the box below, or enter N/A.

1. While telecommuting, employee will:
 - a. remain accessible during the telecommute work schedule;
 - b. check in with the supervisor to discuss status and open issues;
 - c. be available for teleconferences, scheduled on an as-needed basis;
 - d. be available to come into the office if a business need arises;
 - e. request supervisor approval in advance of working any overtime hours (if employee is non-exempt); and
 - f. request supervisor approval to use vacation, sick, or other leave in the same manner as when working at employee's regular work location.
2. Employee's duties, obligations, responsibilities, and conditions of employment with NMPRC remain unchanged except those obligations and responsibilities specifically addressed in this agreement. Job responsibilities, standards of performance, and performance appraisals remain the same as when



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working at the normally assigned duty station. The supervisor reserves the right to assign work as necessary at any work site.

3. The parties acknowledge that this agreement may be evaluated on an ongoing basis to ensure that employee's work quality, efficiency, and productivity are not compromised by the telecommuting arrangement described herein.

Work Schedule and Location

| Day of Week | Work Hours | Work Location |
|-------------|-------------|---------------|
| Sunday | | |
| Monday | As directed | |
| Tuesday | As directed | |
| Wednesday | As directed | |
| Thursday | As directed | |
| Friday | As directed | |
| Saturday | | |

Telework Arrangement Modification

Unless a collective bargaining agreement states otherwise, either the employee or NMPRC may end an employee requested telework arrangement. This form does not apply to telework arrangements made through the disability accommodation process. All employee-proposed changes are subject to Chief of Staff's approval.

Ad-hoc modifications to this agreement should be discussed between the employee and supervisor. Long-term or substantive modifications should be documented by revising this agreement.

Telework Review

Specify a date to meet and discuss the effectiveness of the telework arrangement, or enter N/A.

| | |
|-----------------------|--|
| Telework review date: | |
|-----------------------|--|

Equipment and technology access

NMPRC will work with the employee to determine appropriate and suitable equipment. In the spaces below, specify any equipment or technology access the employee will need to telework and whether it will be employee or NMPRC provided. In the event of equipment failure or service interruption, the employee must notify NMPRC IT department immediately to discuss alternate assignments or other options. Internet access must be via DSL, Cable Modem, or an equivalent bandwidth network, with a secure password protected router.



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Employee agrees to protect NMPRC -owned equipment, records, and materials from unauthorized or accidental access, use, modification, destruction, or disclosure. The precautions described in this agreement apply regardless of the storage media on which information is maintained, the locations where the information is stored, the systems used to process the information, or the process by which the information is stored.

Employee agrees to report to employee’s supervisor any incidents of loss, damage, or unauthorized access at the earliest reasonable opportunity.

Employee understands that all equipment, records, and materials provided by NMPRC shall remain the property of the NMPRC.

| Equipment | Provided by | Responsible for loss or damage |
|-----------|-------------|--------------------------------|
| | | |
| | | |
| | | |
| | | |

Taxes

Employee understands that employee is responsible for tax consequences, if any, of this arrangement.

Pay, Attendance and Leave

All pay, leave and travel entitlements will be based on the employee’s telework location and the employee’s time and attendance will be recorded as if performing official duties there. Telework employees will not be granted administrative leave during inclement weather unless otherwise approved by telework employee’s manager, which will be approved on a case-by-case basis. The employee shall not work overtime for which additional compensation might be due without supervisory approval in advance. The employee must obtain supervisory approval before taking leave, in accordance with established procedures. Telework employees are expected to adhere to the same policies and procedures as non-telework employees. By signing this Agreement, the employee agrees to follow established procedures for requesting and obtaining approval of leave.

Incident Reports

The employee shall report any job-related injuries that occur in the course and scope of employment while teleworking at the earliest reasonable opportunity.



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| Policies and Procedure Acknowledgements | Initials |
|--|----------|
| I have read and understand the NMPRC Telework During Emergencies Policy. | |
| I have read and understand NMPRC policies regarding personal use of state computers and equipment. | |

Employee signature: _____

Date: _____

Supervisor signature: _____

Date: _____

Approved Denied

If Denied, provide reason(s):

Chief of Staff signature: _____

Date: _____

Approved Denied

If Denied, provide reason(s):

Distribution:

Original: Personnel File

Copies: Employee, Supervisor, Chief of Staff