

**NEW MEXICO PUBLIC REGULATION COMMISSION
PERSONNEL POLICIES AND PROCEDURES
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**PUBLIC REGULATION COMMISSION
HUMAN RESOURCE POLICY NO. 1
SALARY AND COMPENSATION PLAN**

I. **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).

II. **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.

III. **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.

IV. **DEFINITIONS**

- A. **Appropriate Placement:** **NMAC 1.7.4.7 B** "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.
- B. **Classifications:** Include management classifications and non-management classifications
- C. **Compa-Ratio:** 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%.
- D. **In-Grade Hire:** 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.

- E. **Lead worker (for Bargaining Unit Eligible Employees):** 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.
- F. **NMAC:** The New Mexico Administrative Code. 1. 7 NMAC refers to the State Personnel Board Rules.
- G. **On-Call Pay:** 1.7.4.16 NMAC On-Call Pay, AFSME Contract Article 12, Section 7.
- H. **Pay Band:** Means the range of pay rates, from minimum to maximum for a Technical Occupation Group Role.
- I. **Pay Plan:** A 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.
- J. **Policies for the Governor Exempts:** ESPP 20.b, Annual Leave Accrual.
- K. **Reduction Without Prejudice:** A voluntary (non-disciplinary) change of an employee from a classified position to a classified position with a lower salary pay opportunity.
- L. **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.
- M. **Salary upon Reduction:** 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.
- N. **SPO:** The New Mexico State Personnel Office.
- O. **Transfer:** The movement of an employee from one position to another in the same Pay Band or Pay Opportunity without a break in service.

V. **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:

- A. 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;
- B. 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;
- C. 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.
- D. 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.

VI. SPECIFIC PAY GUIDELINES

The individual components of the pay system and the corresponding Agency procedures are as follows:

- A. Entrance Salary (Reference Subsection A.1.7.4.12 NMAC).** All salary placement requests must receive approval of the Chief of Staff prior to implementation.
 - 1. All new employees will be hired between the minimum and 115% salary. All salaries must receive the approval of the PRC Chief of Staff. "Any entrance salary in the principal contributor zone must receive SPO approval from the SPO Director prior to appointment."
 - 2. For hires to be considered for approval above the minimum (In-Grade Hires) of the pay band, one or more of the following will apply:

- a. difficulty in recruitment
- b. current minimum salary for a given classification is below market level;
- c. superior qualifications of candidate, including possession of specialized skills, knowledge, and abilities;
- d. demonstrated performance in a similar position;
- e. candidate's current and prior salary history;
- f. salaries of employees in the same class performing the same or similar job functions; or
- g. any other special considerations or information for use in determining the appropriate placement of the employee or new employee's pay which will be presented in written justification for Chief of Staff's approval.

3. 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.

B. Pay for Performance Increase

1. 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 (subsection B of 1.7.4.12 NMAC).
2. Employees with a salary at or above the maximum of the position's Pay Band or Pay Opportunity will not be eligible for a salary increase unless authorized by statute or State Personnel.

3. In-Pay Band Adjustment and Applicant Placement

- a. 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. Placement of an applicant should be reflective of his/her demonstrated skill, benefit to the agency, and demonstrated performance in the classification.
- b. Specific provisions:
 - i. Requests for in-pay band adjustments must be submitted by the Division Director for approval by the Chief of Staff, or designee.
 - ii. 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.

- iii. The new placement of the employee's salary with the increase must be determined and documented as described in the contributor proficiency zones in Section I. Any request for a compa-ratio > 105% must include the specific "value added" performance examples.
- iv. Requests for all in-pay band adjustments must be approved by the Chief of Staff, or designee.
- v. No in-pay band adjustment may be granted until all governing agencies have approved the paperwork and notified the agency.

4. Promotion

- a. Each salary upon promotion will be determined utilizing the criteria established above.
- b. All salary increases must be approved by the Chief of Staff, or designee.
- c. Requests for salary increase, upon promotion, for less than 5% or more than 15% must be approved by the State Personnel Director, unless:
 - i. 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
 - ii. 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.

5. Temporary Promotion

- a. 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.

6. Pay Allowance for Performance of Supervisory Duties

- a. 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.
- b. 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.

- c. 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.
- d. When the supervisory duties are no longer being performed, the PRC will remove the supervisory pay allowance.
- e. The following is a guideline used in determining the percentages of supervisory pay allowance based on number of FTE's to be supervised:
 - i. 2-4 FTE, 10% of base pay
 - ii. 5-8 FTE, 15% of base pay
 - iii. 9 or more FTE, 20% of base pay
- f. 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.
- g. 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.

7. Lead Worker Pay (for Bargaining Unit Eligible Employees)

- a. An employee assigned to lead worker duties will 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.
- b. Process:
 - i. All lead worker increases must be approved through the chain of command.
 - ii. All salary increases must be approved by the Chief of Staff, or designee.
 - iii. All paperwork must be completed and processed prior to implementation of the salary increase.

H. Classification Reduction

- 1. Classification reductions without prejudice will be granted under the following circumstances:

- a. 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, unless the reduction is made in accordance with paragraph (2) of Subsection F 1.7.4.12 NMAC, or
- b. The position occupied by an employee has been assigned a classification at a lower salary pay band or pay opportunity, in accordance with the provisions of 1 7.3.9.A. NMAC. Under this circumstance, the employee may elect to accept the classification reduction, or overfill the position in their current classification.
- c. The Chief of Staff, or designee, must approve requests for less than a 5% reduction in pay upon classification reduction in pay.
 - i. 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.
 - ii. Salary may not exceed the maximum of the pay band or pay opportunity unless authorized by statute or State Personnel.

I. 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 approval.

J. Temporary Salary Adjustments

1. 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.
2. **Temporary** salary increase may be up to 15%, when the demands placed upon the employee in accepting the new duties warrant such an increase.
 - a. 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 State Personnel Director.
 - b. Bargaining Unit Eligible employees must be compensated in conjunction with Article 12, Section 9 of the ASFME contract.
 - c. Temporary salary adjustments requests which result in a salary above the maximum of the pay band must be approved by the State Personnel Director.
 - d. All requests for temporary salary adjustments must be made in writing and address the following:

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

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

K. Temporary Recruitment/Retention Differential

1. 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

- a. 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.
 - b. Requests for temporary recruitment/retention differentials in excess of 15% of the employee's salary, or requests that shall 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.
 - c. 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.
 - d. Recruitment differentials may be approved for up to 2 years at a time and must be re-justified biennially for continuance.
2. In addition to the documentation and consideration requests outlined above, requests for recruitment differentials must address the following:
 - a. The condition causing the recruitment difficulties, e.g. geographic location, unusual or extreme working conditions, pay, etc;
 - b. Documentation supporting the assertion of recruitment difficulties, e.g. turnover, unsuccessful recruitment attempts, etc., during the last 12 months;
 - c. An explanation as to how the specific differential percentage being requested was determined.

Temporary Retention Differential

3. 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.

Process:

- a. An explanation as to why the person and/or position is critical to the agency;
 - b. 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;
 - c. The training and/or transition difficulties which shall be incurred by hiring a new employee;
 - d. An explanation as to how the specific differential percentage being requested was determined.
4. In addition, each request must provide a detailed plan that outlines how the agency intends to resolve the problems associated with the retention difficulties.
 5. Payment of the differential shall be separate from the employee's base salary. Retention differentials may not exceed one year, shall be specific to the position, and may not transfer with the employee.

4. Out-of-State Differentials

- a) 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 State Personnel Director. This pay shall not be counted as a part of the employee's base pay.

5. Legislative Restrictions

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

6. On-Call Pay: 1.7.4.16 NMAC On-Call Pay, AFSME Contract Article 12, Section 7

- a) **On-Call Status** An employee assigned to "on-call" status in circumstances where the time expended shall 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.
- b) **Unrestricted Call-Back Status** On-call pay shall not be paid to employees who are placed on stand by 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 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.

Process

- i) The Chief of Staff and Division Directors shall define the departments and job titles eligible for on-call pay, based on operational needs.
- ii) The Bureau Chief of each designated department with approval of the Division Director shall decide specifically which employee(s) in each job classification shall 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 shall follow PRC HR Policy # 5 Overtime Compensation and # 11 Alternative Workweek Scheduling.
- iii) Each job classification that the agency classifies as exempt (under the Fair Labor Standards Act) shall not be eligible to receive call pay unless approved in advance by the Chief of Staff.
- iv) 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 shall be notified in writing of the specific times of the On-Call schedule.
- v) Employees are to follow all PRC Policy No. 15 Vehicle Operations and any other rules and regulations in the operation of a State Vehicle.
- vi) 6. Employees shall be considered engaged by the Agency from the time they leave home (or when they receive the call) until the work is completed. This time shall be considered worked time and shall 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.
- vii) 7. An employee may not be placed On-Call when the employee is:
 - (1) Taking vacation, or personal day.
 - (2) Absent for illness.
 - (3) Absent for funeral leave.
 - (4) On a leave of absence.
 - (5) Not able or available for work, (any time when the employee is unable to work).
- viii) 8. An employee's compensation for call status shall be rounded up to the whole hour that the employee makes himself/herself available during off-duty hours and shall be paid at the rate approved by the agency.

ix) 9. An employee who is on call must meet the following criteria to receive the pay:

- (1) It is the responsibility of the employee to ensure that the cell phone is on and operational
- (2) Stay within the cell phone's range.
- (3) When notified the employee must respond within five minutes.
- (4) Arrive at the site within 60 minutes or less as safety standards permit after receiving the call.
- (5) Arrive in "fit" condition for the working environment.

x) 10. If an employee does not meet the criteria as defined in #8, he/she shall forfeit the call pay from the time of the first attempt to contact him/her to the end of the call period.

xi) When an employee is called back, this work time shall 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.

xii) The Commission reserves the right to validate the availability of an employee receiving call pay. If the employee is unreachable then #9 above shall apply and the employee may be subject to disciplinary action if this situation continues.

xiii) Employees shall not receive call pay for time worked.

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

xv) 15. Each employee shall be responsible for completing a card documenting each time he/she is on call and forward to his/her supervisor to approve the call time. Cards must be submitted to the supervisor by Friday morning of each week.

c) Any exceptions to the procedures must be justified and approved in writing by the Chief of Staff or designee.

7. Demotion

a) 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 or the decrease is being made in accordance with paragraph (2) of Subsection F of 1.7.4.12 NMAC.

8. Governor Exempt Employees

a) The salary and payment of leave for an employee in the Governor Exempt classification status shall follow those policies and standards as set forth within the "Policies for the Governor Exempts" produced by the Department of Finance and Administration (latest revision). In addition to conforming to the "Policies for the Governor Exempts" ESPP 20.b, Annual Leave Accrual, the Commission sets forth the following conditions for the pay out of excess Annual Leave above 240 hours at calendar year end:

- i) The Chief Financial Officer or designee must approve the request for the payout of excess annual leave based on budget sufficiency by no later than October 31.
- ii) The Chief of Staff shall submit the request for the payout of excess Annual Leave for the position of Chief of staff only to the Commission for approval by no later than November 5. The Chief of staff shall determine the payout of excess leave for all other Governor Exempt positions.
- iii) The Commission reserves the right to extend the required request dates.

Revised: July 2002
Revised: October 2003
Revised: August 2004
Revised: December 2006

PUBLIC REGULATION COMMISSION

HUMAN RESOURCE POLICY NO. 2

EMPLOYEE DEVELOPMENT AND APPRAISAL PLAN

PURPOSE

The purpose of this policy is to provide for proper appraisal and documentation of Public Regulation Commission (PRC) employee performance and development as required to meeting PRC's goals and mission.

POLICY

This policy is developed in accordance with SPB 1. 7.9 NMAC. The appraisal form adopted for use for classified employees of the Agency is the Employee Development and Appraisal Plan (EDA) (SPB 232. DEFINITIONS

Supervisor: 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.

Reviewer: 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.

Anniversary Date: The date of appointment or reemployment and is changed as of the date of promotion, demotion, reduction, or change of classification.

PROCEDURES

The appraisal is comprised of the evaluation of the employee's performance on Job Assignments. A four-tier appraisal rating system will be used when rating Agency employees. Rating terms will include "Exceptional", "Successful", Requires Attention, and Not Acceptable

The Employee Development Plan will identify at least one development goal for the employee and may include as many as applicable that support the Agency's mission, goals and objectives.

The supervisor shall ensure that the EDA is accurate and completed on a timely basis. The immediate supervisor/Division Director 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 EDA 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 EDA is in compliance with PRC policies.

DEVELOPMENT/IMPLEMENTATION

The employee's EDA shall become a part of the employee's employment history filed with the State Personnel Office and PRC Human Resource Bureau.

The supervisor shall develop and initiate the Employee Development and Appraisal Plan (SPB232) within ninety (90) calendar days of appointment, reassignment, promotion, demotion, classification reduction, transfer of the employee or change of assignment. At that time the EDA will be opened on form SPB 232. The appraisal will be closed and evaluated annually on EDA SPB 232 form. The completed EDA will be submitted to the HR Office for recording in the employee's personnel file.

EVALUATIONS

The performance and development of a career employee shall be appraised by the immediate supervisor/Division Director on an annual and quarterly basis. If one of the interim reviews contains a Not Acceptable or Requires Attention on any job assignment, a Performance Action Plan (Part 5 of the EDA form) will be initiated along with a Work Improvement Plan. This process will continue until the employee achieves a "Successful" or above rating or disciplinary action is initiated. Any rating to include "Exceptional" will require additional written justification.

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 on a quarterly and annual basis for a period of one (1) year.

Employees who have not been in their current position for a minimum of 90 days will not be eligible for an annual performance evaluation that year. The EDA 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.

The immediate supervisor/Division Director will submit the EDA 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 EDA is in compliance with applicable policies, regulations and rules.

The finalized EDA must be submitted to the Agency Human Resource Bureau no later than 30 days of the employee's anniversary date.

REBUTTALS

Performance appraisals are not subject to complaint under the PRC Complaint Policy or any other PRC policy. However, employees may submit a rebuttal as part of the EDA to performance appraisals, which shall become a part of the EDA.

MISCELLANEOUS

All Agency Division Directors, Supervisors, Bureau Chiefs and Managers must successfully complete a State Personnel Office approved EDA training session within forty-five (45) days of appointment. The Chief of Staff shall also complete EDA training successfully. Employees will be advised of the Employee Development and Appraisal and any updates through policy distribution with acknowledgement and internal training. Employees will also be informed of this policy through new employee orientation.

Agency Division Directors, Supervisors, and Bureau Chiefs who fail to comply with this policy may be subject to disciplinary action.

Effective: August 1, 2000

Revised: September 2003

Revised: August 2004

**PUBLIC REGULATION COMMISSION
HUMAN RESOURCE POLICY NO. 3
ABSENCE AND LEAVE**

PURPOSE

The purpose of this policy is to provide guidelines and procedures by which the Public Regulation Commission (PRC) will ensure compliance with the State Personnel Board (SPB) Rule 1. 7.7NMAC.

POLICY

This policy, which promulgated pursuant to SPB Rule 1. 7.7NMAC, governs absence and leave and ensures fair and equitable treatment of all PRC employees.

DEFINITIONS

1. **Employee:** A person employed by the PRC.
2. **Probationer:** A person in the classified service who has not completed a one-year probationary period.
3. **Household Member:** A person residing in the employee's household.
4. **Relation by blood or marriage within the third degree:** includes spouse, parent, mother-in-law, father-in-law, step-parent, children, brother, step-brother, brother-in-law, sister, step-sister, sister-in-law, grandparent, grandchild, uncle, aunt, nephew, niece, great-grandchild, great-grandparent, son-in-law, daughter-in-law and step child.

ANNUAL LEAVE

Employees appointed, reemployed, or returned to work except those on full-time educational leave with pay, absence without leave, leave without pay, unpaid Family Medical Leave or suspension, shall accrue annual leave at the rate of:

1. 3.08 hours per pay period if less than 3 years of cumulative employment;
2. 3.69 hours per pay period if 3 years or more but less than 7 years of cumulative employment;
3. 4.61 hours per pay period if 7 years or more but less than 11 years of cumulative employment;

4. 5.54 hours per pay period if 11 years or more but less than 15 years of cumulative employment; and
5. 6.15 hours per pay period if 15 years or more of cumulative employment.

Immediate Supervisor/Division Directors may only approve leave that has been accrued. Leave is not accrued until the end of the pay period and cannot be used until after the pay period in which it was earned.

Annual leave should be requested at least twenty-four (24) hours in advance. While reasonable efforts will be made to accommodate the employee's request, approval will be subject to advance request and the needs of the agency.

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.

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.

For purposes of annual leave accrual, employment in programs transferred into the classified service by legislation or executive order shall count as employment in the classified service.

Employees shall not accrue annual leave while on absence without leave or leave without pay.

A maximum of 240 hours of annual leave shall be carried forward after the last pay period beginning in December.

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.

The estate of an employee who dies while in the classified service shall be paid for the employee's total accrued annual leave.

DONATION OF ANNUAL LEAVE

Agency employees may donate annual leave to another Agency employee for a medical emergency with approval of the Chief of Staff. The employee requesting donated leave must request for donated leave in writing through the chain of command to the Chief of Staff with an explanation of the medical emergency prior to taking leave. A 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 must be provided with the written request for donated annual leave. Human

Resources must be provided all documentation with approval from Chief of Staff to initiate a "Donated Annual Leave Program".

Human Resources will notify all PRC employees of the need for donated leave and will collect and transfer leave. Human Resources will transfer the donated 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. The recipient of donated annual leave may not use such leave until first exhausting all accrued annual and sick leave, compensatory time and personal leave day. Donated annual 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 Agency.

All supporting documentation for the request to donate annual leave shall be kept confidential and not subject to public inspection without the written consent of the employee.

SICK LEAVE

All PRC employees, except those on full-time educational leave with pay, absence without leave, leave without pay or suspension, shall accrue sick leave at the rate of 3.69 hours per pay period.

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

Annual leave may be used in lieu of sick leave with appropriate supervisor approval.

Sick leave shall be accrued on a biweekly basis and shall not be used before it is accrued. Leave is not accrued until the end of the pay period and cannot be used until after the pay period in which it is earned.

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.

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. Such leave should be requested for approval at least twenty-four (24) hours in advance whenever possible.

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 employee is at work when he/she gets ill, the employee shall notify their immediate supervisor prior to leaving work and obtain leave approval.

Supervisors may require an employee to furnish a doctor's certificate for sick leave taken.

Employees shall not accrue sick leave while on absence without leave or leave without pay. There is no limit to the amount of sick leave that may be accrued.

FAMILY AND MEDICAL LEAVE ACT (FMLA)

Within the applicable laws, rules, and regulations governing leave, a leave of absence of up to twelve (12) weeks consisting of any combination of accumulated annual leave, donated annual leave, personal leave, sick leave and unpaid leave shall be granted by the Chief of Staff for a serious health condition. An employee must submit the request through their supervisor, in writing on appropriate FML form as soon as practical.

Compensatory time shall not count towards the 12 weeks entitled by FMLA. See SPO rule 7.7.12.D NMAC.

Employees who have been employed in the classified service for at least twelve (12) months (which need not be consecutive), and who have worked at least 1250 hours during the twelve (12) month period immediately preceding the start of the FMLA leave are eligible employees. In addition, employment in the exempt service, legislative or judicial branch shall count as classified employment for purposes of the FMLA Rule, provided the leave is requested in conjunction with a qualifying event.

FMLA may be requested for the following reasons:

- a. To care for a parent of the employee who is unable to care for himself/herself;
- b. To care for a newborn child of the employee, whether the child arrives by birth or adoption;
- c. To care for a spouse or household member who is unable to care for himself/herself;
- d. When the employee requires extended leave for reasons of serious illness or personal injury;

Employees shall return to the same worksite and job classification after conclusion of up to twelve (12) weeks of FMLA. 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.

No more than 12 weeks of FMLA may be taken in any one (1) year period (one year is 365 days from the first day of leave). Additional leave, beyond the twelve (12) weeks, must be approved by the Chief of Staff (COS). Extended family leave not covered by sick or annual leave will be considered leave without pay. The COS or designee may place the employee on FML status.

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.

Unpaid FMLA shall not change the employee's anniversary date established pursuant to SPB Rule 1. NMAC 7.7NMAC.

An employee shall not accrue annual and sick leave, nor be compensated for "observed" holidays while on unpaid FMLA leave.

While on unpaid FMLA leave, the employee shall be responsible for payment of his/her share of the cost of the insurance premiums.

When FMLA leave is **extended** into leave without pay, the employee's anniversary date may be affected.

The PRC has the right to place an employee on FMLA. Employees placed on FMLA by the PRC shall be notified in writing.

LEAVE WITHOUT PAY

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 approved by the Chief of Staff. All other requests are subject to the approval of the Division Director. The Division Director or designee may require the employee to furnish a doctor's certificate. The PRC may authorize leave without pay upon the prior written request of the employee to the Chief of Staff.

Leave without pay may not exceed thirty (30) consecutive days for a probationary employee, and twelve (12) consecutive months for a permanent employee.

The Chief of Staff has the option to extend either period if the employee is willing to meet specified conditions; however, the State Personnel Director must be in concurrence.

Leave without pay shall be requested and approved in advance with a letter indicating the reason(s) for the request. PRC's Payroll Officer must be notified no later than noon on Thursday prior to the end of a pay period of any approved leave without pay.

Leave without pay may be granted only when the PRC can ensure 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 that requirement.

Leave without pay requests shall be considered based on the needs of the PRC.

1. Leave without pay may be requested for:

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. Personal or professional leave. Leave without pay may be authorized for up to twenty (20) weeks. In order to be eligible for personal or professional leave, an employee must have worked for the PRC for no less than one (1) full year. Professional leave may be authorized only once every (5) five years.
2. 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 Manager 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 he/she returns a position of like status and pay may not be offered and, consequently, must meet the job qualifications for the position offered.

Employees shall not accrue sick or annual leave while on leave without pay.

Leave without pay does not change the rights of the employee under FMLA.

Failure to report for work upon the expiration of approved leave without pay may be grounds for disciplinary action.

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

Employees who have life and health insurance and who are on leave without pay for more than fifty-three (53) hours in one pay period, will be responsible for both the employer and employee share of the insurance premium.

An employee on leave without pay in excess of thirty (30) days cannot count this time toward retirement or permanent status except those who were called to active military duty.

All other conditions and requirements of SPB Rule 1. 7.7 NMAC shall apply.

ABSENCE WITHOUT LEAVE

Employees who fail to appear for work without authorized leave or who appear for work but are in violation of PRC policies shall be considered to be absent without leave. Unauthorized absence may be grounds for disciplinary action in accordance with SPB Rule 1. 7.11.10. NMAC.

Employees will not be compensated for any period of absence without leave and shall not accrue sick or annual leave.

MILITARY LEAVE

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) days are in addition to other authorized leave. This rule does not apply to employees in temporary or emergency status.

The Governor may grant members of the National Guard paid military leave for active duty training, in addition to that already given by law. Such additional leave must not exceed fifteen (15) working days per federal fiscal year.

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.

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.

Employees on military leave with pay shall accrue annual and sick leave.

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 according to the provisions of 38 U.S.C. 2024. This rule does not apply to employees in temporary or emergency status.

EDUCATIONAL LEAVE

See PRC Educational Leave Policy No. 14

ADMINISTRATIVE LEAVE

Administrative leave may be granted under the following circumstances:

1. **Voting:** Employees who are registered voters may be absent 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. Supervisors/Division Directors shall determine what time of the day employees may take their voting leave to ensure adequate staff coverage.

2. **Jury Duty/Witness Duty:** When in obedience to a subpoena, an employee appears as a witness before a federal or state grand jury or court, or before a federal or state agency, the employee shall be entitled to leave with pay for the required period. Fees received, as a witness, excluding reimbursement for travel, shall be remitted to the PRC. A person shall be entitled to leave with pay for serving on a federal or state grand or petit jury. Fees received, as a juror, excluding reimbursement for travel, shall be remitted to the PRC. An employee shall advise their supervisor, as well as the Fiscal Office, at the time the summons is received. A leave slip will be completed on a biweekly basis and will reflect actual court/jury time off from work.
3. **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.
4. **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.
5. **Emergencies:** The Chief of Staff or his/her designee may grant administrative leave when he/she declares an emergency and closes the PRC. 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. Only the Chief of Staff or his/her designee has the authority to grant administrative leave (other than as noted above). Administrative leave will be requested and approved through written justification outlining the reason/purpose for such leave. The leave form must contain all the required signatures.
4. **Inclement Weather:** Prior to the commencement of inclement weather days, PRC employees will follow the directions given within media announcements for delays and/or closures. 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. This designation may include different directions for PRC employees who live within the Santa Fe city limits and those who live outside of the city limits. 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. 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 or Leave Without Pay. Employees who choose to come in late when there is no designation of administrative leave will also be required to notify their supervisor and obtain approved annual leave or Leave Without Pay.

7. **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 purposes upon the death of a relation by blood or marriage within the third degree and/or persons residing in the employee's household as defined within this policy. All requests for bereavement leave shall be submitted to the HR Manager through the chain of command indicate 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. Such leave shall be approved or disapproved within a 24-hour period. Administrative leave authorized for bereavement purposes must be used within one (1) week of the death and may be authorized for up to a maximum of nine (9) days within a calendar year, but 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.
8. **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.
9. **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 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.
10. **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.
11. **Admin. Leave While Completing an Investigation:** Administrative Leave in conjunction with 1.7.7.14.NMAC while completing 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.

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.

PERSONAL LEAVE DAY

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.

The personal leave day must be taken during consecutive hours.

The personal leave day must be taken before the end of the last pay period in December or it will be lost.

Employees who do not take the personal leave day shall not be paid for it upon separation from service.

TRANSFER OF LEAVE

Employees who transfer from one agency to another shall retain all accrued leave.

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.

Effective: August 1, 2000
Revised: January 31, 2001
Revised: September 2003
Revised: August 2004

**PUBLIC REGULATION COMMISSION
HUMAN RESOURCE POLICY NO. 4
SMOKING POLICY**

PURPOSE

The purpose of this policy is to reduce the hazards of smoking to both smokers and non-smokers by generally encouraging smokers to stop or reduce their smoking. The Public Regulation Commission (PRC) will make reasonable efforts to assure non-smokers an atmosphere free of the discomfort and hazards of smoke; and the PRC will provide employee's access to self-help information and other appropriate resources as needed and available.

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

SMOKING PROHIBITED AREAS

Smoking is not permitted within 15 feet of entry doors or windows that open into employee workspaces.

Smoking is not permitted in state vehicles.

SMOKING BREAKS

Smoking breaks are to be taken pursuant to the PRC Alternative Work Schedule Policy No. 11, Break Periods.

REQUIRED SIGNS

The PRC Managed Facilities or PERA Property Management will provide appropriate signs to advise persons of the existence of the PRC smoke-free policy as outlined in the Clean Indoor Air Act of 1985.

PERSON IN CHARGE - COMPLIANCE

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 and the Clean Indoor Air Act of 1985.

PENALTIES

Any person who violates the provisions of The Clean Indoor Air Act of 1985 may be subject to the penalties set forth in the Act. Any person who violates this policy may be subject to disciplinary action. A copy of The Clean Indoor Air Act of 1985 is available at the Human Resource Bureau (HRB) and is posted on the HRB web page.

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

**PUBLIC REGULATION COMMISSION
HUMAN RESOURCE POLICY NO. 5
OVERTIME COMPENSATION**

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, 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.

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.
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

**PUBLIC REGULATION COMMISSION
HUMAN RESOURCE POLICY NO. 6
DRUG AND ALCOHOL-FREE WORKPLACE**

PURPOSE

The purpose of this policy is to establish a procedure that allows the PRC to maintain a drug-free workplace and work-related activities for all employees.

POLICY

No employee shall report to work under the influence of alcohol or a controlled substance.

The unlawful manufacture, distribution, dispensing, possession or use of alcohol and/or a controlled substance is prohibited in all PRC worksites.

Each employee of the PRC shall be provided with a copy of this policy.

DEFINITION

In accordance with the Controlled Substance Act (21-USC 8-11), controlled substances include: narcotics, depressants, stimulants, hallucinogens and cannabis. The schedules are available for inspection in the Human Resource Bureau.

“Alcohol” means all consumable non-prescription substances, which contain alcohol, specifically including, without limitation, spirits, wine, malt beverages, and intoxicating liquors.

“Drug” means marijuana, cocaine, opiates, phencyclidine (PCP), and amphetamines; a metabolite of those drugs; or any non-prescription substance containing those drugs.

“Medical Review Officer” means a licensed physician knowledgeable in the medical use of prescriptions drugs and alcohol and the pharmacology and toxicology of illicit drugs and alcohol.

CONDITION OF EMPLOYMENT

It shall be a condition of employment with the PRC that the employee: (1) abide by the terms of this Policy; and, (2) notify the Chief of Staff, or his/her designee, of the employee’s criminal drug statute conviction for a violation no later than five (5) days after such conviction. Within thirty (30) days of receipt of such notice of conviction, the Chief of Staff or his/her designee will take appropriate disciplinary action, which may include the dismissal from employment or may require the employee to participate satisfactorily in a drug abuse or assistance program approved for such purposes. The Chief of Staff’s determination as to the approved status of a program shall be final.

VOLUNTARY COUNSELING

Employees with drug dependency or abuse problems are encouraged to voluntarily seek counseling and appropriate referral for treatment through the Employee Assistance Program. This is a free, confidential counseling service, which is available to state employees and their families. In addition, employees may be eligible for other referral, treatment and rehabilitation through health insurance and other available programs.

PENALTIES

Penalties for violation of this policy may include disciplinary action in accordance with the provisions of State Personnel Board (SPB) Rule 1. 7.8NMAC and the Criminal Offender Employment Act (Section 28-2-4 NMSA 1978, as amended). Disciplinary action may include a warning; the requirement to complete a course of treatment and rehabilitation as a condition of continued employment; suspension, dismissal, referral for prosecution; and any other sanctions made available pursuant to applicable statutes and regulations.

DRUG-FREE AWARENESS PROGRAM

Employees may obtain information regarding this policy and referral programs by contacting the Agency's Drug Free Coordinator at:

**Public Regulation Commission
Drug Free Coordinator
1120 Paseo De Peralta
Santa Fe, NM 87501
Phone: (505) 827-4643
Fax: (505) 827-4068**

1. The Agency Drug Free Coordinator shall administer the drug and alcohol abuse awareness program to inform employees about the dangers of alcohol and drug abuse; available counseling, rehabilitation, and employee assistance programs; and the sanctions that may be imposed upon an employee as provided in SPB Rule 1. 7.8.NMAC.
2. The Agency may require employees to undergo drug and/or alcohol testing if the Agency has a reasonable suspicion that the employee is under the influence of drugs or alcohol while on duty based on, but not limited to, one of the following warning signs:
 - direct observation of the physical symptoms or manifestations of being under the influence of a drug or alcohol such as liquor on breath;
 - slurred speech, unsteady walk or impaired coordination;
 - direct observation of the possession of drug paraphernalia;
 - abnormal conduct or erratic behavior while at work or a significant deterioration in work performance; or
 - employee has caused a work-related accident or was operating or helping to operate machinery, equipment, or vehicles involved in a work-related accident.

3. Before an employee is required to submit to drug and/or alcohol testing, a supervisor must secure the approval of the next level supervisor unless the supervisor is the Chief of Staff. The supervisor will also immediately contact the Agency's designated Drug Free Coordinator for further instructions. The supervisor must prepare a memorandum within 24 hours of the testing stating what gave rise to the reasonable suspicion and submit the memorandum to the Drug Free Coordinator.

4. Before requiring an applicant or employee to undergo drug or alcohol testing, the applicant or employee shall be given the opportunity to state in writing, information relevant to the reliability of the test results, including any over-the-counter or prescription medications that the applicant or employee is currently taking or has recently taken. The applicant or employee shall also be advised of what substance can cause false positive test results and asked about the ingestion or use of these substances.

A test for alcohol shall be administered by breath unless the applicant or employee requests a test by blood. A test for alcohol by blood may be performed by a laboratory that meets the requirements of SPB Rule 1. 7.8NMAC. A test result of a blood-alcohol content (BAC) level of .06 or more shall be deemed positive for alcohol.

5. Drug and alcohol test results shall be reported only to the Drug Free Coordinator or designee. The drug test report shall contain the specimen number assigned, the laboratory accession number and results of the drug tests. 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 drug. Results may be transmitted to the Drug Abuse Coordinator by various means including certified mail with return receipt requested, courier service, and/or electronic mail in a secure area (e.g., teleprinter, facsimile, or computer).

Certified copies of all analytical results and chain-of-custody forms shall be available from the laboratory when requested by the appropriate authority.

6. The Drug Free Coordinator shall notify applicants and employees verbally or in writing of the tests results.

7. The Drug Free Coordinator will advise only those members of management who need to know the test results.

8. Applicants and employees who test positive on a drug test may elect to have at the applicant's or employees expense a portion of the original urine specimen retested by another laboratory. The drug-testing laboratory shall arrange for the shipment of the sample to the laboratory of the applicant's or employee's choosing. The Agency shall pay for the re-test if the re-test is negative.

9. No laboratory reports or test results shall appear in the employee's personnel file unless they are a part of a disciplinary action taken according to the provisions of SPB Rule 1. 7.11. NMAC, but shall be placed in a special locked file maintained by the Drug Free Coordinator. Files relating to laboratory reports or test results maintained by the Drug Free Coordinator are confidential within the meaning of SPB Rule 1. 7.1.12.NMAC.

10. The Drug Free Coordinator shall refer to an employee assistance program, counseling service or drug or alcohol rehabilitation program any employees who request such a referral prior to selection for drug or alcohol testing. Any costs for counseling or rehabilitation shall be borne by the employee. Employees are subject to drug and/or alcohol testing at the discretion of the Drug Free Coordinator at any time between 30 calendar days and 90 calendar days of the request for a referral. Employees who test positive during this time period or fail to successfully complete such program may be dismissed.
11. Employees in non-safety sensitive positions who have not requested referral to an employee assistance program, counseling, or drug or alcohol rehabilitation program and test positive on a drug or alcohol test required by SPB Rule 1. 7.8. NMAC and do not have a satisfactory explanation for the positive test results shall be referred to an employee assistance program, counseling or drug/alcohol rehabilitation program. Employees are subject to drug or alcohol testing at the discretion of the Drug Abuse Coordinator at any time between 30 calendar days and 90 calendar days of the first positive test. Any such employee who tests positive for drugs or alcohol between 30 calendar days and 90 calendar days of the first positive test without a satisfactory explanation or failure to enter and successfully complete a program may be dismissed.
12. Any employee who refuses or fails to submit a urine or blood specimen without good cause shall be dismissed.
13. Employees who are charged with the illegal sale, purchase, or transfer of drugs or any substance in Schedules I and II of the Controlled Substances Act (30-31-1 through 30-31-41 NMSA 1978 (1989 Repl.) may be subject to disciplinary action, may be placed on administrative leave pending an investigation and shall be reported to the local law enforcement agency.

Employees who, while on duty, possess drugs without a valid prescription, or as otherwise authorized by law, or any substance in Schedules I and II of the Controlled Substances Act 30-31-1 through 30-31-41 NMSA 1978 (1989 Repl.) may be subject to disciplinary action, may be placed on administrative leave pending an investigation, and shall be reported to the local law enforcement agency.

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

**PUBLIC REGULATION COMMISSION
HUMAN RESOURCE POLICY NO. 7
PHYSICAL FITNESS POLICY**

PURPOSE

The purpose of this policy is to establish guidelines whereby Public Regulation Commission (PRC) employees may request administrative leave for the purpose of engaging in physical fitness activities.

POLICY

This Policy is offered as an accommodation to Agency employees who wish to engage in physical fitness activity(ies) and shall not be construed to imply either a requirement of participation in physical fitness activity(ies) or an endorsement of participation in particular physical fitness activity(ies) by employees.

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.

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.

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 (page 2). 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, whichever occurs first, in writing that he/she will no longer engage in physical fitness activity(ies) pursuant to this Policy; 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.**

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.

The agreement shall provide for the employee's acceptance of administrative leave status as constituting his/her own time and not official business.

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.

REFERENCES

State Personnel Board Rule 1.7.7.14A.NMAC Administrative Leave.

APPLICABILITY

This Policy applies to all PRC full-time employees.

DEFINITION

Physical fitness activities are allowed for, but 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.

PROCEDURES

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

1. 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.
2. The agreement must be signed and dated by the employee and his/her immediate supervisor and division director.
3. The immediate supervisor is responsible for keeping the original signed agreement on file.
4. The immediate supervisor is responsible for providing a copy of the signed contract to the employee and the Human Resource Bureau.
5. The physical fitness periods taken by the employee are to be recorded on Attendance Reports as administrative leave.

STATUS DURING PHYSICAL FITNESS PERIOD

1. While on administrative leave, 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". Time spent on administrative leave must be indicated as such on the employee's Attendance Report. Physical fitness administrative leave time does not, in any manner; count as "time worked" for overtime purposes.

2. Even though an employee on administrative leave is on his/her own time, such time is granted only pursuant to the provisions and conditions of this Policy.
3. 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 annual leave or leave without pay. Further, any misuse of such time will result in revocation of privileges granted under this Policy and is grounds for disciplinary action.

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.

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

**PUBLIC REGULATION COMMISSION
PHYSICAL FITNESS**

I _____, of _____,
 Employee Name (Please Print) Unit and Division
 would like to request administrative leave pursuant to Public Regulation Commission (PRC) Human Resource Policy No. 7, for the purpose of engaging in physical fitness activity(ies) as follows:

Day(s) of week	Time(s)	Activity(ies) and Location(s)
_____	_____	_____
_____	_____	_____
_____	_____	_____

I agree to abide by all provisions of the PRC Physical Fitness Policy, of which I have been furnished a copy. As a condition of receiving administrative leave under this Policy, I agree that activities on administrative leave or during my lunch period are performed on my own time and not on work time. I irrevocably agree 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.

I also agree that this Policy is offered as an accommodation to me to engage in physical fitness activity(ies) and shall not be construed to imply either a requirement of participation in physical fitness activity(ies) or an endorsement of participation in particular physical fitness activity(ies) by me.

I further agree that since participation in physical fitness activity(ies) may pose a threat to the health or well-being of an individual, I will do so only upon the advice of an appropriate health care practitioner.

The immediate supervisor's and division director's approval will be valid for a period of six (6) months, or until such time I notify the immediate supervisor whichever occurs first, in writing that I will no longer engage in physical fitness activity(ies) pursuant to this Policy; provided however, that the immediate supervisor's and division director's approval may be withdrawn at any time subject to agency needs.

 Employee Signature

 Date

APPROVALS: _____
 Immediate Supervisor Signature

 Date

 Division Director Signature

 Date

**PUBLIC REGULATION COMMISSION
HUMAN RESOURCE POLICY NO. 8
EMPLOYEE COMPLAINT POLICY**

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.

- 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.

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.

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.

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 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 1, 2000
Revised: November 2003
Revised: August 2004

**PUBLIC REGULATION COMMISSION
HUMAN RESOURCE POLICY NO. 9
DISCRIMINATION IN THE WORKPLACE**

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.

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.

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.

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

**PUBLIC REGULATION COMMISSION
HUMAN RESOURCE POLICY NO. 10
CODE OF CONDUCT**

PURPOSE

The purpose of this policy is to establish a Code of Conduct for the Public Regulation Commission (PRC) employees.

POLICY

Employees shall treat their government position as a public trust. As public servants, 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.

Employees whose conduct violates this Code of Conduct may be subject to disciplinary measures. Progressive discipline shall be used whenever appropriate; however, there may be instances where a disciplinary action including dismissal is appropriate without first having imposed progressive disciplinary measures.

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

PERSONAL CONDUCT

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.

Employees shall not carry firearms or other weapons into the workplace.

Employees shall report to work on time, each scheduled workday unless leave is pre-approved or authorized by the employee's supervisor. Employees shall obtain leave approval from their immediate supervisor as soon as reasonably possible in emergency situations.

RULES AND REGULATIONS/POLICIES AND PROCEDURES

All employees are expected to be familiar with the Rules and Regulations of the State Personnel Board. The Rules and Regulations are available in the PRC Human Resources Bureau for inspection or duplication.

All employees are expected to be familiar with the PRC Policies and Procedures. Such policies

and procedures are routinely shared with staff and are available in the Human Resources Bureau for inspection or duplication. Employees shall be issued a copy of the PRC Policies and Procedures and will review and sign acknowledgement of receipt which will be kept in the employee's personnel file. Failure to comply with PRC Policies and Procedures may result in disciplinary action to include suspension, demotion or dismissal.

All employees are expected to be familiar with the Rules and Regulations of the State Personnel Board. The Rules and Regulations are available in the PRC Human Resources Bureau for inspection or duplication and are available through State Personnel's website: www.state.nm.us/spo/.

Exempt employees are expected to be familiar with the Governor's Exempt Salary Plan Policies. Such policies are available in the Human Resources Bureau.

DEMEANOR AND DRESS CODE

Employees shall wear apparel that is appropriate for the work environment. Employees shall conduct and express themselves in a professional manner. This requirement shall apply to the work place itself and to other work-related settings such as business trips and business-related social events.

DRUG OR ALCOHOL USE

Employees shall not use illegal drugs or alcohol or be under the influence of illegal drugs or alcohol during working hours.

Employees are expected to adhere to Rule 1. 7.8.NMAC of the Rules and Regulations of the State Personnel Board and PRC Policy No. 6 regarding drug and alcohol use.

Employees whose conduct violates any provision of the alcohol or illegal drug related statutes may be subject to any penalty(ies) as prescribed by law.

ETHICAL PRINCIPLES OF PUBLIC SERVICE AND PROHIBITED ACTS

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

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.

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.

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.

Employees shall disqualify themselves from engaging in any official act directly affecting their financial interest.

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.

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.

Employees shall not use confidential information acquired by virtue of their state employment for their or another persons private gain.

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.

PROHIBITED SALES BY EMPLOYEES

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.

No employee who supervises, exercises control, or interacts with outside entities shall enter into any business relationship with an employee of an outside entity over which they exercise regulatory supervision or control.

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

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 provided that:

1. such outside employment, business or investment does not directly relate to the employee's duties with the PRC, and is not otherwise prohibited by NMSA 1978, § 8-8-19;
2. there is no conflict of interest or appearance of conflict of interest;

3. there is no interference with the employee's duties with the PRC;
4. there is no outside employment or business activity is not performed during the hours they are scheduled for work, including paid breaks, unless they have authorized leave; and
5. no state property, equipment, supplies, or resources are used for any outside business.

An employee wishing to represent the PRC in an official capacity must obtain prior approval from the Chief of Staff.

GAMBLING

Engaging in gambling or commercial gambling activities during work hours, including paid breaks, or on PRC premises 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.

Employees are advised that whoever commits commercial gambling is guilty of a petty misdemeanor.

2. 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.

Employees are advised that whoever commits commercial gambling is guilty of a fourth degree felony.

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.

USE OF STATE EQUIPMENT AND SUPPLIES

Equipment, supplies, and other state resources are to be used only in support of official PRC business or activities.

Telephones are to be used primarily for official Agency business or activities. Use of telephones for personal matters shall be kept to a minimum and shall not interfere with employee's duties. Supervisors are expected to monitor telephone usage so as to ensure that personal telephone calls do not interfere with the performance of their subordinates' duties.

PERSONAL CELL PHONES

Personal cell phones are restricted to emergency use only and shall be kept on vibrate tone so as not to disrupt the work place.

ACCEPTABLE USE OF ELECTRONIC INFORMATION

1. Personal Responsibility

As representatives of the PRC, employees shall not misuse the network. Misuse can come in many forms, but it is commonly viewed as any message sent that indicates or suggests pornography, unethical or illegal solicitation, racism, sexism, inappropriate language and other conduct described below. Use of e-mail for personal matters shall be kept to a minimum and shall not interfere with employee's duties. Supervisors are expected to monitor e-mail usage so as to ensure that personal e-mails do not interfere with the performance of their subordinates' duties. Also, employees should not open or forward e-mails from unknown sources. E-mails that are received from an unknown source that contain an attachment should be forwarded to the network administrator for inspection and further instruction. This is to reduce the risk of introducing e-mail-transmitted computer viruses. All the rules of conduct described in the Agency's Code of Conduct apply when employees are on the network and/or using Agency computers. Messages relating to, or in support of, illegal activities must be reported to your immediate supervisor, or network administrator.

2. Acceptable Use

Effective use of computer technology, both hardware and software, is important to the Agency. Employees are expected to learn enough of the basics of operating equipment to perform their duties, but employees who learn the more advanced features can achieve greater productivity. Routine demands often prevent employees from exploring these advanced features. To improve the effectiveness of Agency employees using this technology, the Agency permits *limited* personal use of Agency-owned computer equipment to provide the opportunity to learn advanced techniques, thereby enhancing their contribution to the operations of the Agency; however, such use should not interfere with daily work activities.

This Agency reserves the right to inspect all files stored on any Agency-owned computer system whether assigned to a single-user or used as a network resource to assure compliance with this policy.

Use of any Agency resource for any activity prohibited by state law, regulation, or Agency policy is grounds for disciplinary action, which may include immediate dismissal and may subject the employee to criminal or civil penalties as provided by law. Sexually explicit material may not be viewed, archived, stored, distributed, edited or recorded using state network or computing resources.

State network or computing resources shall not be used to disseminate any solicitation, chain letters, or any other circulation not related to Agency business.

3. Privileges

The use of the information system is a privilege, not a right, and inappropriate use may result in the cancellation of those privileges. The Agency reserves the right to decide what is inappropriate use on a case by case basis. The system administrator may close an account at any time deemed necessary. Management of the Agency may request that the system administrator deny, revoke, or suspend specific user accounts.

4. Privacy

Electronic mail (e-mail) is not guaranteed to be private. It is recommended that users not give out personal information such as home addresses and/or telephone numbers. Also, passwords should be kept private and changed frequently.

5. Security

Security on any computer system is a high priority because there are so many users. If an employee identifies a security problem, he or she should notify the system administrator at once. Never demonstrate the problem to other users. Never use another individual's account without written permission from that person. All use of the system must be under the employee's own account. Any user identified as a security risk will be denied access to the information system.

6. Network Etiquette

Electronic messages sent through the state-owned system are considered to be official correspondence of the Agency, and should be sent with the same standards used for paper correspondence. Messages should be polite, concise, correctly spelled and easy to read. In addition, users should recognize that electronic messages will likely be considered public records.

7. Network Services

The Agency makes no warranties of any kind, whether expressed or implied, for the network service it is providing. The Agency will not be responsible for any damages suffered while on this system. These damages include loss of data as a result of delays, non-deliveries, misdeliveries or network service interruptions caused by the system or errors or omissions. Use of any information obtained via the information system is at the employee's own risk. The PRC specifically disclaims any responsibility for the accuracy of information obtained through its services.

8. Vandalism

Vandalism is defined as any attempt to harm or destroy data of another user or that of any other agencies or networks that are connected to the system. This includes, but is not limited to, the uploading or creation of computer viruses. Any vandalism or system applications by, and that affect the overall services provided by these applications will result in the loss of computer services, disciplinary action and perhaps, legal action against any offender. Employees must further adhere to the provisions of the Protection of Electronic Data within this policy. Violations of this are subject to appropriate disciplinary action.

9. Updating

The network administration staff may occasionally require new registration and account information from employees to continue the service. Employees must notify the network system administrator of any changes in their account information.

DEFINITIONS

Access: the ability to read, change, or enter data using an information system.

Contractor or **Contract Staff:** an individual employed by a non-state entity under contractual authority granted by the state, when the individual is working in a state-owned facility, or when the individual is using state-owned equipment or facilities.

Employee: an individual holding a position authorized by the State Personnel Office, or a volunteer providing services to the state, or a docent providing services at a state museum facility.

Equipment: computers, monitors, keyboards, mice, routers, switches, hubs, software and any other information technology assets.

Information Technology or Information System: computer hardware, software, data bases, electronic message systems, communication equipment, computer networks and any information which is used by a state Agency to support programs or operations that is generated by, transmitted within, or stored on any electronic media.

Sexually Explicit Materials: images sounds or documents that depict exposed breasts, or genitalia, oral sex, sexual penetration or sexual intercourse.

MANAGEMENT AND ADMINISTRATION

The Agency may maintain software that can monitor and record all Internet usage and retains the right to record each World Wide Web (www) site visit, chat, newsgroup, email message or file transfer at any time.

- A. No employee or contractor should have any expectation of privacy as to his or her Internet usage.
- B. Management may review Internet activity and analyze usage patterns to ensure Internet access is used primarily for state business.

POLICIES

Employee and Contractor Declaration

All employees and contractors granted Internet access will be provided with a written copy of this policy and must sign the attached statement to be provided and kept on file by the Agency.

Internet Access is a Business Tool

Employees and contractors shall use the Internet primarily for official state business, i.e., to communicate with the citizens of New Mexico, state agencies, customers and suppliers, to research relevant topics and obtain information useful to state programs.

- A. State employees and contractors must conduct themselves honestly and appropriately on the Internet, and to respect the copyrights, software licensing rules, property rights, privacy and prerogatives of others, as in any other business dealings.
- B. All Agency policies apply to employee and contractor conduct on the Internet, particularly those that relate to intellectual property protection, privacy, misuse of state equipment, sexual harassment, sexually hostile work environment, data security and confidentiality.

MAINTENANCE OF THE STATE'S IMAGE

Internet chats, newsgroups and email give state employees and contractors considerable reach to propagate information to describe state programs, services and policies. Anything an employee or contractor communicates on the Internet can be interpreted as representing state government.

- A. Each employee or contractor using Internet facilities provided by the state shall identify himself or herself honestly, accurately and completely (including state affiliation and function where requested) when participating in chats or newsgroups, or when setting up accounts to use outside network computer systems.
- B. Chats and newsgroups are public forums where it is inappropriate to reveal confidential information, client data, or any other information covered by existing state confidentiality policies, procedures or contract terms.
- C. Employees and contractors releasing confidential information via a newsgroup or chat will be subject to sanctions associated with Agency policies and procedures.

Internet Security

Access to the Internet can enable unauthorized external access to state data and networks if employees and contractors do not apply appropriate security discipline.

- A. Computers with confidential data or mission critical applications may be prevented from connecting to the Internet in accordance with program and security requirements.
- B. The PRC shall hold users accountable for any breaches of security or confidentiality.
- C. The PRC reserves the right to inspect any files stored on any state-owned computer.

Sexually Explicit Materials

The intentional display of sexually explicit material or reproduction of sexually explicit sounds on any state information system is prohibited.

Use of the Internet for Illegal Purposes

Employees shall not use state Internet facilities and computer equipment to intentionally violate the laws or regulations of the United States, any other nation, or any state or local jurisdiction.

Ownership of Downloaded Material

Any software or files downloaded via the Internet onto state computers becomes the property of the state.

- A. Software may only be downloaded from the Internet after obtaining approval from the Agency Network Administrator, or equivalent.

- B. Any downloaded files or software may be used only in ways that are consistent with their licenses or copyrights.
- C. No employee or contractor may use state equipment to download or distribute pirated software or data.
- D. Any file that is downloaded via the Internet must be scanned for viruses before it is run or accessed.

Off-Hours Browsing

If permission is acquired from an immediate supervisor, employees and contractors may use Internet access for non-business research or browsing during mealtime or other breaks, or outside of working hours, provided that all other policies regarding internet usage are met.

Abuse of State Licenses

Employees and contractors are prohibited from uploading any software licensed to the state or data owned or licensed by the state without explicit authorization from the network administrator responsible for the software or data.

Passwords

User IDs and passwords help maintain individual accountability for Internet access.

- A. Any employee or contractor who obtains a password or user ID for Internet access, shall keep that password confidential.
- B. Sharing of user IDs or passwords is prohibited.

Secure Usage

Any employee or contractor who attempts to disable, defeat or circumvent any state security mechanism (firewall, proxy, Internet access screening program, or other security system) may be subject to immediate dismissal or other disciplinary action.

LEGISLATIVE ACTIVITIES

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.

Employees wishing to attend legislative proceedings pertaining to matters of personal interest during scheduled work hours must obtain authorized leave. 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.

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.

PUBLIC OFFICE

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.

Employees covered by the provisions of the Hatch Act may not be candidates in partisan elections.

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.

Employees may hold only a nonpartisan county or municipal political office during employment in the classified service.

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.

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

**PUBLIC REGULATION COMMISSION
HUMAN RESOURCE POLICY NO. 11
ALTERNATIVE WORK SCHEDULE POLICY**

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.

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.

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

**PUBLIC REGULATION COMMISSION
HUMAN RESOURCE POLICY NO. 12
WORKERS' COMPENSATION**

PURPOSE

The purpose of this policy is to provide guidance for Workers' Compensation Claims.

POLICY

This policy outlines procedures related to the administration of the Workers' Compensation Program.

DEFINITIONS

New Mexico Workers' Compensation Act ("NMWC") NMSA 1978, Section 52-1-1 et Seq.: Mandates payment of incurred medical costs and a partial reimbursement of lost wages to a Agency employee who sustains injury by accident or illness arising out of or in the course of employment.

Limited Duty: Duties for which the employee is monetarily compensated while performing tasks that, due to physical restrictions after an injury or illness placed upon them by a physician, are limited in nature as compared to the normal responsibilities of the affected employee's job classification. A health care provider will specify said limited duties, in each instance.

Health Care Provider: As is defined in NMWC Act at NMSA 1978, Section 52-4-1.

REPORTING INJURIES

Agency employees shall report all work-related injuries or illnesses to their immediate supervisor or Division Director as soon as possible after recognition of the injury or illness, regardless of the nature of the injury or illness.

Original documentation must be filed through the Workers' Compensation Representative in the HRB within fifteen (15) days of recognition of any alleged work-related injury or illness.

When an employee has reported a work-related injury his/her immediate supervisor or Division Director should encourage the injured employee to receive necessary medical attention from an authorized medical provider (please check with the Human Resource Representative to obtain authorized provider information).

Upon seeking medical treatment, the employee should inform the medical personnel that the insurance carrier is the Risk Management Division (RMD), Workers' Compensation Bureau. Do not give your personal insurance carrier's name.

PROCEDURE

The HRB is responsible for ensuring completion and processing of the following forms of a workers' compensation claim:

1. Notice of Accident
2. Employees First Report of Injury (E1.2)
3. Authority to Release Medical Reports and Information

The following forms should be **thoroughly** explained to the injured employee. (Employee authorization is needed.)

1. Benefits Explanation Form
2. Claim Explanation

The employee has **15 days** from the date of recognition of accident to file the Notice of Accident with his/her immediate supervisor or Division Director.

Supervisors must review, complete and sign all required forms and forward them to the Human Resource Bureau HRB within **two working days** of recognition of accident

All medical bills shall be submitted to the Human Resource Bureau HRB for processing to RMD.

Employees shall provide a Doctor Query/Modified Work Assignment Form to their immediate supervisor/Division Director upon return from each visit to their health care provider. Immediate supervisor/Division Director shall review, sign and forward form to the Human Resource Bureau.

Employees who report a false claim and/or falsify required documents under this policy may be subject to disciplinary action up to and including dismissal and may be liable for any medical bills incurred.

MODIFIED WORK ASSIGNMENT

It is the policy of the Commission that an employee who has been injured while on duty or has suffered a serious work-related illness, and is not able to perform his or her normal responsibilities in their job classification, be allowed to temporarily work in a modified and/or limited duty assignment whenever possible.

Limited duties to be performed will be determined by the employee's immediate supervisor or Division Director and HRB under the direction of the health care provider releasing the employee for modified work assignment and/or limited duty.

LEAVE

At time of the work-related illness or injury, the employee will be granted administrative leave for initial consultation with the authorized provider. For following visits, employee must utilize accrued leave or leave without pay will commence if the employee does not have any accrued leave.

INVOLUNTARY OR VOLUNTARY SEPARATION

Employees who have suffered a job-related injury or illness which is compensable under the Worker's compensation Act and are physically or mentally unable to perform the essential functions of their pre-injury/pre-illness position, with or without reasonable accommodation, shall be involuntarily or voluntarily separated from the service without prejudice provided;

- 1) the employee has been afforded modified duty in accordance with this policy.
- 2) the employee has reached Maximum Medical Improvement (MMI) prior to the completion of up to 12 months or modified duty; or, the employee has not reached MMI upon the expiration of up to 12 months of modified duty;
- 3) all efforts to reasonably accommodate the medical restrictions of the employee have been made and documented; and
- 4) the employing Agency has exhausted efforts to find other suitable vacant positions within the Agency at the same or lower midpoint than the midpoint of the pre-injury/pre-illness position for which:
 - a. the employee meets the established requirements and can perform the essential functions of the job, either with or without reasonable accommodation, or
 - b. the Agency certifies that the employee hold qualifications and abilities necessary for successful job performance and can perform the essential functions of the job, either with or without reasonable accommodation.

Employees who have suffered a non job-related injury or illness and are permanently unable to perform the essential functions of their pre-injury/pre-illness position, with or without reasonable accommodation, as a result of the physical or mental disability created by the non-job-related injury or illness shall be involuntarily or voluntarily separated from the service without prejudice provided:

- 1) all efforts to reasonably accommodate the medical restrictions of the employee have been made and documented; and
- 2) the employing Agency has exhausted efforts to find other suitable vacant positions within the Agency at the same or lower midpoint than the midpoint of the pre-injury/pre-illness position for which:
 - a. the employee meets the established requirements and can perform the essential functions of the job, either with or without reasonable accommodation or
 - b. the Agency has certified that the employee holds qualifications and abilities necessary for successful job performance and can perform the essential functions of the job, either with or without reasonable accommodation.

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

**PUBLIC REGULATION COMMISSION
HUMAN RESOURCE POLICY NO. 13
PRESS AND MEDIA**

PURPOSE

The purpose of this policy is to provide uniform guidelines for the preparation, review, approval, coordination and dissemination of news statements and releases concerning the programs and activities of the Public Regulation Commission (PRC).

POLICY

The Agency recognizes that it has an obligation to be open, candid and courteous to the news media in providing responses and comment on issues that come under its regulatory mandate.

The news media is an important means of communication by which the Agency 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 or Division Director.

GUIDELINES

All official PRESS RELEASES, NEWS STATEMENTS AND PUBLIC SERVICE ANNOUNCEMENTS shall be cleared and processed through the Chief of Staff prior to dissemination. They are subject to the approval of the Division Director, the Chief of Staff and the Commission.

MEDIA INQUIRIES

All inquiries should be directed to the Chief of Staff. Except as provided in the next paragraph, requests relating to a specific Division of the Commission shall be referred to the appropriate Division Director, or the designee of the Division Director, by the Chief of Staff, for response. The Division Director or designee shall notify the Chief of Staff and the Commissioners of each press inquiry made and the response given.

The Chief of Staff shall designate a primary contact that will be available to the media for routine or follow-up inquiries about specific cases or technical issues.

Requests involving more than one Division of the Commission, personnel matters, fiscal and financial matters, or Commission-wide policies or practices, shall be referred to the Chief of Staff for response. The Chief of Staff may coordinate or assign these requests as appropriate.

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 seek advice from the Commission's Legal Division.

GENERAL PROVISIONS

The Commission and staff shall comply with the provisions of the Inspection of Public Records Act.

All requests for personal interviews, radio or TV talk shows, or special feature stories are subject to approval of the Division Director, Chief of Staff and/or the Commission.

It is important that requests for information be processed in a timely manner.

Employees of the Commission are not required to respond to inquiries from the news media unless directed by a Commissioner, or the Chief of Staff. Employees who receive an inquiry from the media shall report the inquiry to the Division Director or the Chief of Staff for a response. Employees are encouraged to understand the mission and role of the Public Regulation Commission before responding to inquiries from the news media.

EXCEPTION

All press releases, news statements or media inquiries that are generated from Commissioners directly are exempted from the provisions of this policy.

The Commissioners may provide informational copies of all such statements and/or releases to the other Commissioners and the Chief of Staff.

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

PUBLIC REGULATION COMMISSION HUMAN RESOURCE POLICY NO. 14 EDUCATIONAL LEAVE AND REIMBURSEMENT

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.

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

PUBLIC REGULATION COMMISSION
HUMAN RESOURCE POLICY NO. 15
VEHICLE OPERATING POLICIES

PURPOSE

The purpose of this policy is to establish uniform policies and procedures governing the maintenance and use of all state vehicles operated by Public Regulation Commission(PRC) employees.

POLICY

All employees operating state vehicles shall conform to the requirements of the Vehicle Operating Policies prescribed herein. The policies are designed to improve the accountability and efficiency of Public Regulation Commission assets. In addition, the policies are designed to enhance the safety of both Public Regulation Commission employees as well as the public.

SCOPE

This policy applies to all Agency employees, without exception.

DEFINITIONS:

“**PRC Vehicle Coordinator**” or “**PRCVC**” means the individual assigned by the Chief of Staff or designee who is responsible for providing motor vehicle information to the Chief of Staff.

“**Authorized Driver**” means 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.

“**Authorized Passenger**” means an individual who is permitted to occupy a state vehicle in furtherance of official state business or a person who has received prior authorization from the Chief of Staff to occupy a state vehicle. The Chief of Staff will provide, upon request, blanket approvals for those employees who regularly transport passengers in furtherance of official state business.

“**State PRC**” means the State of New Mexico or any of its branches, departments, boards, commissions, instrumentalities or institutions. Includes any public PRC authorizing an officer or employee use of motor pool vehicle.

VEHICLE OPERATING REQUIREMENTS

1. State vehicles shall not be used for any personal business.
2. When not in use, all state vehicles shall be parked at spaces designated by the Chief of Staff or his or her designee.

3. Under no circumstances may a state vehicle be taken to an Authorized Driver's home without advance written approval of the Chief of Staff or his or her designee. Division Directors may request permission to authorize take home vehicles for "on-call employees" in writing to the Chief of Staff.
4. State vehicles shall not be taken out of the State of New Mexico or out of the country without prior written approval of the Chief of Staff or his or her designee.
5. All Authorized Drivers must provide current certification and proof of Defensive Driving course completion.
6. For those employees who use a state vehicle PRC Vehicle Coordinator may request a bi-annual printout of driving records.
7. Authorized Drivers must sign a form certifying that authorized driver has read and understands the vehicle operating policies.
8. A State Gasoline Credit Card will be assigned to each Agency vehicle and may be used **only** for the assigned vehicle.

TRAFFIC LAWS AND OPERATOR CONDUCT

1. 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.
2. 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. 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.
3. 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.
4. Operators shall avoid engaging in any discourteous behavior or any inappropriate conduct while operating a state vehicle.
5. 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 negligence of the Authorized Driver. Any such conduct may result in disciplinary action.

ACCIDENT REPORTING PROCEDURES

1. 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.
2. 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.
3. 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.
4. 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;
5. 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.
6. 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.

7. 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.
8. 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, the PRCVC, or PRC representative, shall note this fact in the written report that they shall be required to submit immediately to the PRCVC or his or her designee.
9. 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.
10. 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.

INVESTIGATION

1. 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.
2. The Authorized Driver and any Authorized Passengers who are employees of the PRC shall cooperate with the investigation to the fullest extent required by law.
3. Upon completion of the report, the PRCVC or his or her designee shall provide a copy of the investigative report, including 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.
4. 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.

LIABILITY

1. It shall be the responsibility of all Authorized Drivers to ensure that, in addition to the proper and current vehicle registration paper(s) and "Proof of Insurance" 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.

2. 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.

MAINTENANCE AND REPAIR

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. Each Division Director shall assign an individual within his or her division as the party responsible for overseeing such maintenance and repairs that the division may be responsible for.
4. If a state vehicle is damaged due to negligence or abuse, the Division will be charged for the cost of the repairs.
5. 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.
6. Authorized Drivers shall inspect vehicles for damage(s) and safety concerns on a daily basis before the vehicle is operated.
7. Damage or improper care of a state vehicle shall result in the suspension or revocation of the Authorized Driver's state vehicle operating privileges.
8. All Divisions shall ensure that 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.
9. 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.
10. The Division will cover the costs of replacing batteries and tires, repairing tires, and charging dead batteries.

11. The Operator shall be responsible for:
 - a. the maintenance of the interior and exterior of the vehicle in a clean and presentable condition;
 - b. the vehicle shall be returned in full operating condition, including fuel and fluid.
12. All Divisions 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.
13. 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.
14. 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.

ALCOHOL/DRUG USE

1. No person shall operate a state vehicle while under the influence of intoxicating alcohol, controlled substances, or drugs.
2. No person shall transport intoxicating alcohol of any type, whether in open or unopened containers, while operating or occupying a state vehicle.
3. No person shall operate a state vehicle when he or she is so impaired by a legal drug that he or she is rendered incapable of operating a motor vehicle in a safe and responsible manner.
4. No person shall smoke or use smokeless tobacco products of any type in any state vehicle.
5. No person shall possess a weapon while operating a motor vehicle unless he or she is a certified law enforcement officer on duty.
6. No pets are allowed at any time in state vehicles.
7. Any Agency employee convicted of driving under the influence of alcohol or drugs, or of alcohol related reckless driving, while operating a state vehicle or while using his or her own vehicle for state business shall be subject to disciplinary action up to and including termination of employment. An employee who operates a state vehicle or who uses his or her own vehicle for state purposes and who is convicted of either of the two charges listed above shall immediately inform his or her supervisor of this conviction, suspension or license revocation. The supervisor shall then inform the Division Director and the Chief of Staff of the employee's conviction. Failure on the part of the employee or the supervisor to provide proper notification shall be grounds for the imposition of disciplinary action up to and including termination of employment.

EMPLOYEE SEAT BELT RESTRAINT USE

1. All Authorized Drivers and Authorized Occupants of state vehicles shall wear seat belts.
2. An Authorized Driver shall observe child safety and restraint laws at all times when transporting a minor in a state vehicle in furtherance of official state business.
3. Violations of this law may result in loss of state operator privileges.

DEFENSIVE DRIVING

All Agency employees must successfully complete the Defensive Driving Course offered by Risk Management or provide other certification of an approved Defensive Driver training course prior to operation of any Agency vehicle. The Authorized Driver may be required to provide proof of current Defensive Driver certification before engaging in operation of a state vehicle. Each Division must submit a list of certified Authorized Drivers along with the expiration date to the PRCVC or his or her designee. Divisions are encouraged to review the vehicle usage, driving habits or activities of their employees, and where appropriate to require individuals or groups of vehicle users to complete the Defensive Driving Course or other approved driver safety courses as deemed appropriate.

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.

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 by the 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.

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. The PRCVC should include details involving any disciplinary or remedial action taken. 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. Authorized Driver privileges may also be suspended if deemed in the state's best interest.

Revised: November 2003

Revised: August 2004

**PUBLIC REGULATION COMMISSION
HUMAN RESOURCE POLICY NO. 16
EMPLOYEE DISCIPLINARY AND GRIEVANCE APPEAL PROCESS
POLICY**

PURPOSE

This policy offers Public Regulation Commission (PRC) employees the right of employee grievants 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.

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 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 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 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.

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.

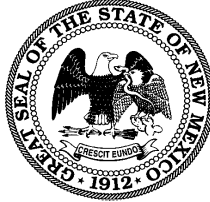
Exempt status, temporary and probationary employees have no right of appeal through the oral or written response process or with the State Personnel Board.

Effective: August 1, 2000
Revised: August 2004

NEW MEXICO PUBLIC REGULATION COMMISSION

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RELEASE AND WAIVER

TO: PRESENT/FORMER EMPLOYER(S)

FROM: _____
(Candidate's Name)

I hereby authorize any duly accredited representative of the New Mexico Public Regulation Commission (PRC) to obtain from you information relating to my activities as an employee. This Release & Waiver applies to information which includes, but is not limited to, data regarding my achievement, salary, performance, attendance and disciplinary information. This information will be held in confidence.

This Release and Waiver replaces any prior agreement or statement I may have made with you previously. I agree that a facsimile copy of this signed authorization shall be effective as my original signature.

As against any person or entity supplying this information, I hereby waive any right of action, cause of action or means of redress I may have which might arise from the person supplying the information to the Department.

Printed Name

Social Security Number

Signature

Date

"AN EQUAL OPPORTUNITY EMPLOYER"

**PUBLIC REGULATION COMMISSION
HUMAN RESOURCE POLICY NO. 18
EMPLOYMENT RECORDS REVIEW**

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

This policy is intended to create a procedure related to the review of an individual employee employment history. The PRC Employment Record Review Policy is intended to comply with the confidentiality and other requirements of State Personnel Board (SPB) Rule 1.7.1.12.NMAC. Subject to the requirements of the Public Records Act, the Agency takes appropriate steps to protect employees' privacy rights and interests and prevent inappropriate or unnecessary disclosure of information from any Agency employee employment record.

REFERENCES

State Personnel Board (SPB) Rule 1.7.1.12.NMAC.

State of New Mexico General Personnel Records 1. 1.15.6.101 C. NMAC.

DEFINITION

1. **Confidential records include:** records and documentation pertaining to physical or mental examinations and medical treatment of persons, including those confined to any institution; 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, if other than honorable; information on the race, color, religion, sex, national origin, political affiliation, age, and disability of employees; and laboratory reports or test results generated according to the provisions of 1.7.8 NMAC.
2. **Employment record:** The official Agency employee personnel file maintained by the HRB.
3. **Records Administrator:** The Agency's Human Resource Bureau Chief.

EMPLOYMENT RECORD

Employees shall have access to their own employment record (file). Employment-related confidential 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. Employees may submit rebuttal to any material placed in their employment history. 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).

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.

PROCEDURES FOR REQUESTING REVIEW OF AN EMPLOYMENT RECORD

Except for confidential records, employment records are subject to inspection by the general public. Confidential records shall not be provided to anyone without the consent of the employee or unless the request is made pursuant to a lawful court order, or as indicated in this policy. Requests for non-confidential employment records may be made orally or in writing in accordance with the inspection of public records act.

All requests for confidential employment records by from 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 viewing of the requested records,

- Provide the appropriate materials for review, when authorized.

And monitor the review of the employment record.

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.

Effective: November 2003

Revised: August 2004

