

New Mexico Register

The official publication for all official notices of rulemaking
and filing of proposed, adopted and emergency rules.

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New Mexico Register

Volume XXXVI, Issue 18

September 23, 2025

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Notices of Rulemaking and Proposed Rules

CULTURAL AFFAIRS, DEPARTMENT OF HISTORIC PRESERVATION DIVISION

NEW MEXICO HISTORIC PRESERVATION DIVISION PUBLIC RULE HEARING

NOTICE IS HEREBY GIVEN that the Department of Cultural Affairs, New Mexico Historic Preservation Division (HPD) will convene a hybrid public hearing on Friday, October 24, 2025, at 1:00 pm. Interested parties may attend in person at the HPD conference room in the Bataan Memorial Building, 407 Galisteo Street, Suite 236, Santa Fe, New Mexico 87501, or virtually by way of the following link: <https://nm-gov.zoom.us/j/81917203034?pwd=IuPQOvAkNBaA3646q7yJLhDYNBGSpf.1>. Following the hearing, HPD will consider public comments and adopt the rule.

The purpose of the hearing is to consider repealing and replacing rule 4.10.9 NMAC, Cultural Properties and Historic Preservation Credit to State Income Tax for Approved Restoration, Rehabilitation, or Preservation of Registered Cultural Properties. HPD proposes to repeal and replace the rule in order to better facilitate the effective administration of the program for the state income tax credit for the rehabilitation of cultural properties.

The statutory authority for the proposed changes to 4.10.9 NMAC is the Income Tax Act, NMSA 1978 Section 7-2-18.2.A through 7-2-18.2.H, and Corporate Income Tax Act, NMSA 1978 Section 7-2A-8.6.A through 7-2A-8.6.G, which require the historic preservation division to promulgate regulations for implementation of the acts, as well as the Cultural Properties Act, NMSA 1978 Section 18-6-8.D, which states the state historic preservation officer shall administer historic preservation tax benefit programs.

HPD is considering the adoption of a new rule 4.10.9 NMAC in order to implement an appeals process for denied applications; to delineate the roles of staff and the committee in processing, reviewing, and evaluating applications; and to change the application submission deadline from 14 to 30 days prior to a committee meeting to allow for thorough review of applications.

The proposed rule is available at the HPD website, <https://nmhistoricpreservation.org>, and at the HPD office located in the Bataan Memorial Building, 407 Galisteo Street, Suite 236, Santa Fe, New Mexico 87501. To request that a copy of the proposed rule be mailed to you, submit your request in writing to the New Mexico Historic Preservation Division, 407 Galisteo Street, Suite 236, Santa Fe, New Mexico 87501 or by email to nm.shpo@dca.nm.gov.

HPD is currently accepting public comments on the proposed rule. Additionally, any person may attend the hearing to submit their comments. Written comments may be submitted by mail to New Mexico Historic Preservation Division, 407 Galisteo Street, Suite 236, Santa Fe, New Mexico 87501, or by email nm.shpo@dca.nm.gov. Written comments should be submitted for HPD's consideration no later than 10:00 am on October 24, 2025. Written comments will be posted on HPD's website.

Individuals in need of a reader, amplifier, qualified sign language interpreter or any other form of auxiliary aid or service to attend or participate in the hearing should contact HPD at 505-827-6320 or nm.shpo@dca.nm.gov at least ten business days prior to the hearing.

EDUCATIONAL RETIREMENT BOARD

NOTICE OF PROPOSED RULEMAKING

Public Hearing: Notice is hereby given that the New Mexico Educational Retirement Board (hereafter, "NMERB") will convene a Rule Hearing at 9:00 a.m. on October 24, 2025, at the NMERB's Santa Fe office, located at 5211 Las Soleras Drive, Santa Fe, New Mexico 87507.

Purpose: The purpose is to make rules consistent with changes made by the legislature to 22-11-25.1 NMSA 1978.

Statutory Authority: Educational Retirement Act, Paragraph (5) of Subsection A of Section 22-11-6 NMSA 1978.

Summary of Proposed Amendments:

Proposed Section 17 of 2.82.5 NMAC increases the Return to Work program earnings from less than fifteen thousand per fiscal year to twenty-five thousand per fiscal year.

Proposed Section 18 of 2.82.5 NMAC increases the Return to Work program limits from 36 consecutive or nonconsecutive months to 60 consecutive or nonconsecutive months.

Details for Obtaining a Copy of Proposed Rule Amendments and Submitting Oral or Written Comments:

A copy of the proposed rule amendments is available on the NMERB website at <https://www.erb.nm.gov>. Hard copies are available for pick up at the NMERB offices located at 701 Camino de los Marquez, Santa Fe, NM 87505 or 8500 Menaul Blvd. NE, Suite B-450, Albuquerque, NM 87112 during regular business hours. The proposed rule amendments are also posted on the New Mexico Sunshine Portal at <https://ssp.nm.gov>. Interested individuals may provide oral comments at the public rule hearing or submit written comments by mail to Amanda Olsen, New Mexico Educational Retirement Board, P.O. Box 26129, Santa Fe, NM 87502 or by email to NMERB.

RuleChange@erb.nm.gov or by fax to (505) 827-1855. Written comments must be received by 5:00 pm (MT) on October 23, 2025. All timely submitted written comments will be posted on the NMERB website at <https://www.erb.nm.gov>.

Any person with a disability who needs a reader, amplifier, qualified sign language interpreter, or auxiliary aid or service to attend or participate in the hearing should contact Amanda Olsen at (505) 531-6133 as soon as possible or at least ten business days before the public hearing.

**FINANCE AND
ADMINISTRATION,
DEPARTMENT OF
LOCAL GOVERNMENT
DIVISION**

**NOTICE OF ADDITIONAL
RULEMAKING HEARING**

The Department of Finance and Administration's Local Government Division (the Division) is proposing to repeal and replace the New Mexico Administrative Code (NMAC) rule 10.6.2 NMAC, *Procedures Local Government Law Enforcement Agencies* to address liability associated with allowable use of fees and align with updates to New Mexico law.

Section 63-9D-8, NMSA 1978, as amended, requires Local Government Division to administer the Enhanced 911 Fund.

Notice Date: September 23, 2025
Additional Hearing Date: October 24, 2025

Adoption Date: Proposed as December 1, 2025

Technical Citations: 10.6.2 NMAC

This hearing is in addition to the hearings previously held on July 11, 2025, and August 29, 2025. Members of the public are encouraged to attend and provide comments on the proposed rule replacement.

Written Comments will now be accepted through October 23, 2025, at 12:00 p.m. MT

The Department is proposing to repeal and replace the rule as follows:

These proposed rule changes will be contained in 10.6.2 NMAC. The register and the proposed rule are available on the Division website at: <https://www.nmdfa.state.nm.us/>. If you do not have internet access, a copy of the proposed register and rule may be requested by contacting DFA Office of General Counsel at dfalegal@dfa.nm.gov and (505) 827-4985.

The LGD proposes to implement this rule effective December 1, 2025.

A public hearing to receive testimony on this proposed rule will be held on October 24, 2025, at 9:00 a.m. The hearing will be held at the New Mexico Public Education Department, Marbry Hall Auditorium, 300 Don Gaspar Avenue, Santa Fe, New Mexico, 87501.

If you are a person with a disability and you require this information in an alternative format or require a special accommodation to participate in the public hearing, please contact our staff to discuss your accessibility needs at least one week prior, or as soon as possible, by emailing the DFA Office of General Counsel at dfalegal@dfa.nm.gov or calling 505-827-4985.

Copies of all comments will be made available by the Division upon request by providing copies directly to a requestor or by making them available on the Division website or at a location within the county of the requestor.

Interested persons may address written comments to:

DFA Office of General Counsel
ATTN: LGD 10.6.2 NMAC Public Comments
407 Galisteo St.
Bataan Memorial Building, Room 180
Santa Fe, NM 87501

Recorded comments may be left at (505) 827-4985. Interested persons may also address comments via electronic mail to: dfalegal@dfa.nm.gov. Written mail, electronic mail and recorded comments must be received no later than 12:00 p.m. MT on October 23, 2025. Written and recorded comments will be given the same consideration as oral testimony made at the public hearing. All written comments received will be posted as they are received on the DFA website at <https://www.nmdfa.state.nm.us/> along with the applicable register and rule. The public posting will include the name and any contact information provided by the commenter.

**GAME AND FISH
DEPARTMENT**

**STATE GAME COMMISSION
MEETING AND RULE MAKING
NOTICE**

The New Mexico State Game Commission ("Commission") will be hosting a meeting and rule hearing on Friday, November 7, 2025 beginning at 9:00 a.m. at Fuller Lodge, 2132 Central Avenue, Los Alamos, NM 87544. For instructions on how to attend this meeting either in person or virtually, visit the Department's website at <https://wildlife.dgf.nm.gov/commission/meeting-agendas/>. The purpose of this meeting is to hear and consider action as appropriate on the following: proposed changes for the Fisheries Rule (19.31.4 NMAC) and proposed changes to the fisheries relevant (Subsection J of 19.31.10.7 NMAC, 19.31.10.14 NMAC, and 19.31.10.17 NMAC) and possession of game animal parts found in the field (Subsection E of 19.31.10.9 NMAC) portions of the Hunting and Fishing Manner and Method of Taking Rule.

Synopsis for the Fisheries Rule and Hunting and Fishing Manner and Method of Taking Rule:

The proposal is to adopt a new Fisheries Rule, 19.31.4 NMAC,

which will include changes from the existing rule and will become effective April 1, 2026. There are also fisheries and possession of game animal parts found in the field amendments proposed to the Hunting and Fishing Manner and Method of Taking Rule, 19.31.10 NMAC.

Proposed amendments to the Fisheries Rule will clarify the definition of barbless lure or fly, add a definition of special trout waters, add Jack's Creek (Pecos), Rio San Antonio (near Lagunitas Lakes) and the upper Rio Chiquito to the list of Catch and Release, artificial fly or lure only, and unlimited non-native trout harvest, remove the reference to Santa Cruz Lake, Bonito Lake, Monastery Lake, and Springer Lake as closed to ice fishing and refer to signage by the specific landowner, and make it unlawful to fish from the boat ramp at the Crusher Hole Day Use Area and Texas Hole Day Use Area located in Navajo Lake State Park.

Proposed amendments to the fisheries relevant portions of the Hunting and Fishing Manner and Method of Taking Rule will clarify the definition of barbless lure or fly remove the reference to Santa Cruz Lake, Bonito Lake, and Springer Lake as closed to ice fishing and refer to signage by the specific landowner, clarify language regarding where trotlines can be used by anglers in the state, prohibit the use of bait fish in the Bureau of Land Management Overflow Wetlands near Roswell, expand the Director's authority to suspend angling limits, methods, and size limits or to close a water due to water shortage, eradication needs, or other management needs with a duration limited to six months, and add Jackson Lake to the list of lakes where electric motors are permitted.

Proposed amendments to the possession of game animal parts found in the field portion of the Hunting and Fishing Manner and Method of Taking Rule will remove the exception for obviously shed antlers found in the field from not

requiring an invoice or permit for non-residents, require a non-resident shed hunter license for a non-resident to possess more than two (2) obviously shed antlers found in the field, and establish that all shed antlers collected by a non-resident without a valid license remain property of the State of New Mexico and shall be seized.

A full text of changes is available on the Department's website at: <https://wildlife.dgf.nm.gov/>. Interested persons may submit comments on the proposed changes for the Fisheries Rule to DGF-FisheriesRule@dgf.nm.gov and proposed changes to the possession of game animal parts found in the field of the Hunting and Fishing Manner and Method of Taking Rule to: DGF-shedhunter@dgf.nm.gov. Individuals may also submit written comments to the physical address below. Comments are due by 5:00 p.m. on October 27, 2025. The final proposed rules will be voted on by the Commission during a hybrid virtual public meeting on November 7, 2025. Interested persons may also provide data, views or arguments, orally or in writing, at the hybrid virtual public rule hearing to be held November 7, 2025.

Full copies of the text of the proposed new rule, technical information related to proposed rule changes, and the agenda can be obtained from the Office of the Director, New Mexico Department of Game and Fish, 1 Wildlife Way, Santa Fe, New Mexico, 87507, or from the Department's website at <https://wildlife.dgf.nm.gov/commission/meeting-agendas/>. This agenda is subject to change up to 72 hours prior to the meeting. Please contact the Director's Office at (505) 476-8000, or the Department's website at <https://wildlife.dgf.nm.gov/> for updated information.

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting,

please contact the Department at (505) 476-8000 at least one week prior to the meeting or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats. Please contact the Department at 505-476-8000 if a summary or other type of accessible format is needed.

Legal authority for this rulemaking can be found in the General Powers and Duties of the State Game Commission 17-1-14, et seq. NMSA 1978; Commission's Power to establish rules and regulations 17-1-26, et seq. NMSA 1978.

GAME AND FISH DEPARTMENT

STATE GAME COMMISSION MEETING AND RULE MAKING NOTICE

The New Mexico State Game Commission ("Commission") will be hosting a meeting and rule hearing on Friday November 7, 2025, beginning at 9:00 a.m. at the Fuller Lodge, 2132 Central Avenue, Los Alamos, NM 87544. The purpose of this meeting is to hear and consider action as appropriate on the presentation of proposed changes to the Hunting and Fishing Licenses and Application Rule 19.31.3.

Synopsis

The proposal is to amend the Hunting and Fishing Licenses Application Rule 19.31.3 NMAC which will become effective April 1, 2026.

PROPOSED CHANGES TO THE HUNTING AND FISHING LICENCES APPLICATION RULE

The New Mexico Legislature passed Senate Bill 5 during the 2025 Legislative Session. New Mexico residents participating in the supplemental nutrition assistance program are eligible to receive a 25% discount on all licenses as established in 17-3-13 NMSA for the following license year.

A full text of changes for all rules will be available on the Department's website at: www.wildlife.state.nm.us.

Interested persons may submit comments on the proposed changes for the Hunting and Fishing Licenses and Application Rule to: special.hunts@dgf.nm.gov. Individuals may also submit written comments to the physical address below. Comments are due by 1:00 p.m. on November 6, 2025. The final proposed rules will be voted on by the Commission during a public meeting on November 7, 2025. Interested persons may also provide data, views or arguments, orally or in writing, at the public rule hearings to be held on November 7, 2025.

Full copies of text of the proposed new rules, technical information related to proposed rule changes, and the agenda can be obtained from the Office of the Director, New Mexico Department of Game and Fish, 1 Wildlife Way, Santa Fe, New Mexico 87507, or from the Department's website at www.wildlife.state.nm.us/commission/proposals-under-consideration/. This agenda is subject to change up to 72 hours prior to the meeting. Please contact the Director's Office at (505) 476-8000, or the Department's website at www.wildlife.state.nm.us for updated information.

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact the Department at (505) 476-8000 at least one week prior to the meeting or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats. Please contact the Department at 505-476-8000 if a summary or other type of accessible format is needed.

Legal authority for this rulemaking can be found in the General Powers and Duties of the State Game

Commission 17-1-14, et seq. NMSA 1978; Commission's Power to establish rules and regulations 17-1-26, et seq. NMSA 1978.

GAME AND FISH DEPARTMENT

STATE GAME COMMISSION MEETING AND RULE MAKING NOTICE

The New Mexico State Game Commission ("Commission") will be hosting a meeting and rule hearing on Friday November 7, 2025, beginning at 9:00 a.m. at the Fuller Lodge, Central Avenue, Los Alamos, NM 87544. The purpose of this meeting is to hear and consider action as appropriate on the presentation of proposed changes to the Hunting and Fishing Licenses and Application Rule 19.30.9.

Synopsis

The proposal is to amend the Game and Fish License/Permits Rule 19.30.9 NMAC which will become effective April 1, 2026.

PROPOSED CHANGES TO THE HUNTING AND FISHING LICENCES APPLICATION RULE

The New Mexico Legislature passed Senate Bill 5 during the 2025 Legislative Session. Senate Bill 5 provides that a license collector may collect and retain a vendor fee for each license or permit issued; provided that the fee shall be just and reasonable; as determined by regulation of the State Wildlife Commission. The Department conducted a survey of all vendors in New Mexico and the majority of vendors preferred an increase in the vendor fee as well as an additional fee for the issuance of a carcass tag. The Department will present proposed changes to the Game and Fish License/Permits Rule 19.30.9 NMAC to increase the vendor fee from \$1.00 per transaction to \$2.00 per transaction and \$1.00 per carcass tag issued.

A full text of changes for all rules will be available on the Department's website at: www.wildlife.state.nm.us.

Interested persons may submit comments on the proposed changes for the Hunting and Fishing Licenses and Application Rule to: special.hunts@dgf.nm.gov. Individuals may also submit written comments to the physical address below. Comments are due by 1:00 p.m. on November 6, 2025. The final proposed rules will be voted on by the Commission during a public meeting on November 7, 2025. Interested persons may also provide data, views or arguments, orally or in writing, at the public rule hearings to be held on November 7, 2025.

Full copies of text of the proposed new rules, technical information related to proposed rule changes, and the agenda can be obtained from the Office of the Director, New Mexico Department of Game and Fish, 1 Wildlife Way, Santa Fe, New Mexico 87507, or from the Department's website at www.wildlife.state.nm.us/commission/proposals-under-consideration/. This agenda is subject to change up to 72 hours prior to the meeting. Please contact the Director's Office at (505) 476-8000, or the Department's website at www.wildlife.state.nm.us for updated information.

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact the Department at (505) 476-8000 at least one week prior to the meeting or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats. Please contact the Department at 505-476-8000 if a summary or other type of accessible format is needed.

Legal authority for this rulemaking can be found in the General Powers and Duties of the State Game

Commission 17-1-14, et seq. NMSA 1978; Commission's Power to establish rules and regulations 17-1-26, et seq. NMSA 1978.

GAME AND FISH DEPARTMENT

STATE GAME COMMISSION MEETING AND RULE MAKING NOTICE

The New Mexico State Game Commission ("Commission") will be hosting a virtual and in-person meeting and rule hearing on Friday November 7th beginning at 9:00 a.m. at the Fuller Lodge, 2132 Central Ave., Los Alamos, NM 87544. Please check the Department's website at: www.wildlife.dgf.nm.gov for any changes to the venue. The purpose of this meeting is to hear and consider action as appropriate on the presentation of proposed changes to the Upland Game rule.

Synopsis:

The proposal is to amend the Upland Game rule, 19.31.5 NMAC, which will become effective April 1, 2026. The current Upland Game rule will expire on March 31, 2026. The proposed new rule includes:

- 1) Adjust hunt dates based on calendar dates;
- 2) Divide Dusky Grouse into a North and South Zone using I-40 as the dividing line;
- 3) Set Bag Limits for Dusky Grouse Zones:
 - α. North Zone- 3 Birds/Day; 6 in possession;
 - β. South Zone- 1 Bird/Day; 2 in possession;
- 4) Add an additional special youth pheasant draw hunt on Jackson Lake WMA;
- 5) Open Bluebird and Pine River WMAs for upland hunting during squirrel and dusky grouse season;
- 6) Open Double E, LBar, Navajo and River Ranch WMAs for

upland hunting during quail season.

A full text of changes for both rules will be available on the Department's website at: www.wildlife.dgf.nm.gov.

Interested persons may submit comments on the proposed changes to the Upland Game rule DGF-Gamebird@dgf.nm.gov; individuals may also submit written comments to the physical address below. Comments are due by 8:00 a.m. on November 5, 2025. The final proposed rules will be voted on by the Commission during a public meeting on November 7, 2025. Interested persons may also provide data, views or arguments, orally or in writing, at the public rule hearing to be held on November 7, 2025.

Full copies of text of the proposed new rules, technical information related to proposed rule changes, and the agenda can be obtained from the Office of the Director, New Mexico Department of Game and Fish, 1 Wildlife Way, Santa Fe, New Mexico 87507, or from the Department's website at <https://wildlife.dgf.nm.gov/commission/proposals-under-consideration/>. This agenda is subject to change up to 72 hours prior to the meeting. Please contact the Director's Office at (505) 476-8000, or the Department's website at www.wildlife.dgf.nm.gov for updated information.

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact the Department at (505) 476-8000 at least one week prior to the meeting or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats. Please contact the Department at 505-476-8000 if a summary or other type of accessible format is needed.

Legal authority for this rulemaking can be found in the General Powers

and Duties of the State Game Commission 17-1-14, et seq. NMSA 1978; Commission's Power to establish rules and regulations 17-1-26, et seq. NMSA 1978.

HEALTH CARE AUTHORITY INCOME SUPPORT DIVISION

NOTICE OF EMERGENCY RULEMAKING

The New Mexico Health Care Authority (HCA) is issuing a temporary emergency rule to be effective October 1, 2025.

The emergency rule will amend the New Mexico Administrative Code (NMAC) sections: 8.102.500 NMAC and 8.106.500 NMAC:

8.102.500

Section 1:

- ☐ Changing New Mexico Human Services Department to New Mexico Health Care Authority.
- ☐ No other language in section 1 is under review at this time.

Section 3:

- ☐ Changing by deleting human services department and updating to health care authority.
- ☐ No other language in section 3 is under review at this time.

Section 8:

- ☐ Updating Subsection B. "Gross income limits"
- ☐ Updating Subsection C
- ☐ Updating Subsection D
- ☐ No other language in section 8 is under review at this time.

8.106.500

Section 1:

- ☐ Changing New Mexico Human Services Department to New Mexico Health Care Authority.
- ☐ No other language in section 1 is under review at this time.

Section 8:

- ☐ Updating Subsection B. "Gross income limits"
- ☐ Updating Subsection H by deleting human services department and updating to health care authority

□ No other language in section 8 is under review at this time.

Each year the Authority is required to make changes to the income and resource eligibility standards and the deduction amounts available to otherwise eligible households. These amounts are determined by the United States Department of Agriculture (USDA) and Food and Nutrition Services (FNS).

The Authority received notification of the adjusted amounts on August 13, 2025, and will make the adjustments effective for benefit month October 2025 for Federal Fiscal Year (FFY) 2026 to comply with federal law and regulations.

The Authority received the notice of the federal Cost-of-Living Adjustments (COLA) with less than sixty days to implement the changes to be effective on October 1 and has insufficient time to follow the regular rulemaking process. The Authority is implementing an emergency rule to remain federally compliant as failure to implement beyond October 1 would place the Authority in violation of Federal law.

Regulations issued pursuant to the act are contained in 45 CFR Parts 200-299.

Administration of the HCA, including its authority to promulgate regulations, is governed by Chapter 9, Article 8, NMSA 1978 (Repl. 1983).

The emergency rule will remain in effect until a permanent rule takes effect under normal rulemaking process.

The Health Care Authority Register Vol. 48 No. 27 outlining the temporary emergency regulations is available on the HSD’s website at: Income Support Division Registers - New Mexico Health Care Authority

REGULATION
AND LICENSING
DEPARTMENT
BARBERS AND
COSMETOLOGISTS,
BOARD OF

NOTICE OF PUBLIC RULE
HEARING AND BARBERS AND
COSMETOLOGISTS BOARD
MEETING

The New Mexico Board of Barbers and Cosmetologists and the Regulation and Licensing Department will hold a rule hearing on Monday, November 10th, 2025, at 10:00am, immediately followed by a meeting of the Board of Barbers and Cosmetologists for adoption of the proposed rules listed below. The hearing and subsequent board meeting will be held at the Regulation and Licensing Department, located at 5500 San Antonio Dr. NE, Albuquerque, NM 87109 in the Sandia Conference Room

The hearing and subsequent Board of Barbers and Cosmetologists meeting will also be held via Microsoft Teams for those desiring to attend virtually.

Microsoft Teams Meeting Link:

Meeting ID: 236 324 309 995 7
Meeting (Access) Code: AF3ae3ER

Join by phone: +1 505-312-4308,,43535622#

Access Code: 435 356 22#

The purpose of the rule hearing is to consider the initiation of rulemaking for the following rules:

- 16.34.1 GENERAL PROVISIONS
- 16.34.2 LICENSING
- 16.34.3 EXAMINATIONS
- 16.34.4 SPECIAL LICENSES
- 16.34.5 REGULAR LICENSES
- 16.34.7 ESTABLISHMENTS AND ENTERPRISES

- 16.34.8 SCHOOLS
- 16.34.9 CONTINUING EDUCATION
- 16.34.11 VIOLATIONS
- 16.34.14 FEES
- 16.34.15 ADMINISTRATIVE PENALTIES AND FINES
- 16.34.16 PARENTAL RESPONSIBILITY ACT
- COMPLIANCE

On Friday, October 10, 2025, copies of the proposed rules may be obtained through the New Mexico Board of Barbers and Cosmetologists website at <https://www.rld.nm.gov/boards-and-commissions/individual-boards-and-commissions/barbers-and-cosmetologists/board-information/> or by contacting the Board Administrator, Naomi Baldonado at (505) 476-4622.

The New Mexico Board of Barbers and Cosmetologists and the Regulation and Licensing Department will begin accepting written public comment regarding the proposed rule changes beginning Friday October 10, 2025, at 8:00a.m. and ending Sunday November 9, 2025, at 8:00 a.m. Written public comment may be submitted either by email to [barber.cosmoboard@rld.nm.gov](mailto:cosmoboard@rld.nm.gov), or by postal mail to the following address:

New Mexico Regulation and Licensing Department
Attn: New Mexico Board of Barbers and Cosmetologists
P.O. Box 25101
Santa Fe, NM 87504

Written comments received during the public comment period (October 9, 2025, and November 9,2025) will be posted to the website page linked above. Public comments will also be accepted during the rule hearing and may be submitted in writing or presented orally by those attending in-person. The members of

the New Mexico Board of Barbers and Cosmetology will not enter substantive discussion of public comments during the rule hearing but will consider and deliberate any public comment during the regular board meeting immediately following the conclusion of the public rule hearing.

The agenda for the New Mexico Board of Barbers and Cosmetology regular meeting, which will begin immediately after the public rule hearing, will be available no less than 72 hours prior to the meeting, and available on the website linked above or by contacting the Board Administrator, Naomi Baldonado at (505) 476-4622.

If you are an individual with a disability who needs a reader, amplifier, qualified signed language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or the regular board meeting, please contact the Board Administrator, Naomi Baldonado at (505) 476-4622 at least 7 days prior to the rule hearing and regular board meeting. Public documents, including the proposed rules, meeting agenda and minutes, can be provided in various accessible formats.

For inclement weather: If the New Mexico state offices are placed on a two-hour delay to inclement weather, the rule hearing will be pushed back two hours from the noticed hearing time. If New Mexico state offices are closed due to inclement weather, the rule hearing will be rescheduled as soon as possible.

Statutory Authority: The rule changes are authorized by the Barbers and Cosmetologists Act, Section 61-17A-7-A-1 through 61-17A-7-A-10 NMSA 1978, which provides explicit authority for the New Mexico Board of Barbers and Cosmetologists to protect public health and safety and adopt rules for the administration of the Act. The rulemaking and public rule hearing

is governed by the State Rules Act, Sections 14-4-1 through 14-4-11 NMSA 1978, and the Default Procedural Rule for Rulemaking promulgated by the New Mexico Department of Justice, Parts 1.24.25 through 1.24.25.16 NMAC.

Purpose of the Proposed Rules: The proposed rule changes aim to update and expand definitions as well as modernize the licensure process by requiring online applications and removing outdated references to paper applications. Imputing general licensing procedure previously omitted and expanding the expiration time of practicing licenses being issued. Lowering passing percentage to 70% for national exams for licensure. Implement changes to the requirements for school's curriculum and allow for upcoming study hours required and continuing education. To enhance health, sanitation and safety rules for establishment and practitioners. Improve enforcement tools and penalties including higher fines for unlicensed activity and sanitation violations also defining hours of operation. Changes also add a \$10.00 administrative electronic license processing fee per year as well as Administrative returned check fee of \$35.00.

Summary of Proposed Changes:

The Board summarizes its proposed changes to its administrative rules as follows: 16.34.1 NMAC – General Provisions. Adding definitions and removing definitions no longer relevant. 16.34.2 NMA – Licensing. Adding on General Licensing procedure previously omitted in error. Changes for modernization for Online applications. 16.34.3 – Examinations. Reducing minimum required score to remain in even filed with other jurisdictions. Adding clarification on failure of any portion of national exams. 16.34.4 Special Licenses – adding on clarification verbiage for Barber Apprentice license. Increasing time post completion of schooling for student permits from 90 to 120 days to allow sufficient time prior to national testing. Duplicate licenses.

clarification and requirements.

16.34.5—Regular License. To provide change to license issuance time from 12 to 24 months. Required hours to be adjusted for Manicurist/Pedicurist and Instructor licensing. 16.34.7 Establishments and Enterprises. Added definitions, correction of verbiage for address amendments for establishments. 16.34.8 – Schools. Requirements for school applicants listed clearly. Under curriculum hours required updated for Barber, Cosmetology, Manicurist/Pedicurist, Manicurist/Esthetician, and Instructor course. Crossover credits hours for Manicuring/Pedicuring, Cosmetology to Barbering hours increased on Beard trimming and shaving. Remainder with clarification on words. 16.34.9 – Continuing Education. Continuing Education requirements listed clearly. Hours for trade shows increased from six to twelve. Process added for Audits of Continuing Education and Disciplinary action for Audits. 16.34.11—Violations. Added on process for Failure to Respond to Board Requests. 16.34.12 – Fees. Terms updated to ULA for original and renewal licenses. Administrative Fee added for Returned check and electronic license processing fee. 16.34.15 – Administrative Penalties and Fines. Administrative Penalty Fines have been established for Safety and unlicensed activity for first, second and third offences. 16.34.16 -- Parental Responsibility Act Compliance. Removed initial and input formal name of Human Services Division. Added “any other governing agency” as notification source.

*This language is contingent upon the Board's position as to whether to accept public comment virtually, or in-person only.

REGULATION AND LICENSING DEPARTMENT BODY ART PRACTITIONERS, BOARD OF

NOTICE OF PUBLIC RULE HEARING AND BOARD MEETING

The New Mexico Board of Body Art Practitioners and the Regulations and Licensing Department will hold a rule hearing on Monday, November 17, 2025, at 10:00 a.m., immediately followed by a meeting of the body art practitioners board for adoption of the proposed rules listed below. The hearing and subsequent board meeting will be held at the Regulation and Licensing Department, located at 5500 San Antonio Dr. NE., Albuquerque, New Mexico 87109.

The meeting will also be held via Microsoft Teams for those desiring to attend virtually.

Meeting Link: https://teams.microsoft.com/l/meetup-join/19%3ameeting_ZTgyNzFmYjgtMzcxYy00NDlhLWE2MTU0OTBiZDZjM2I5ZjMx%40threid.v2/0?context=%7b%22Tid%22%3a%2204aa6bf4-d436-426f-bfa4-04b7a70e60ff%22%2c%22Oid%22%3a%22f2bc0bd3-22ab-403d-bd06-7bb3d078e5e1%22%7d

Or <https://www.microsoft.com/en-us/microsoft-teams/join-a-meeting>

Meeting ID: 278 624 907 474 7

Passcode: EP2da7yT

Dial in by phone

+1 505-312-4308, 998408005# United States, Albuquerque
Phone conference ID: 998 408 005#

The purpose of the rule hearing is to consider the initiation of rulemaking for the following rules:

16.36.1 – General Provisions

16.36.2 – Licensure Requirements

16.36.3 – Requirements for Establishments

16.36.4 – Enforcement, Complaints and Disciplinary Action

16.36.5 – Standards of Practice

16.36.6 – Fees

16.36.7 – Licensure Requirements for Special Events, Mobile Body Art and Guests

16.36.8 – Expedited Licensure

16.36.9 – Licensure Requirements for Permanent Cosmetics Practitioner

16.36.10 – Licensure Requirements for Body Piercing-Scarification Practitioner

On Friday, October 17, 2025, copies of the proposed rules may be obtained through the New Mexico Board of Body Art Practitioners website at <https://www.rld.nm.gov/boards-and-commissions/individual-boards-and-commissions/body-art-practitioners/board-information/board-meetings/> or by contacting the Board Administrator, Emma Quintana at nmbody.art@rld.nm.gov or (505) 476-4622.

The New Mexico Board of Body Art Practitioners and Regulation and Licensing Department will begin accepting written public comment regarding the proposed rule changes on Saturday, October 17, 2025, at 8:00 a.m. and ending Sunday, November 16, 2025, 8:00 a.m. Written comments may be submitted by email to nmbody.art@rld.nm.gov or by postal mail to the following address:

New Mexico Regulation and Licensing Department

Attn: New Mexico Board of Body Art Practitioners

P.O. Box 25101

Santa Fe, NM 87504

*Public comment will also be accepted during the rule hearing and may be presented orally, or in writing. Individuals who would like to participate and offer public comment *must appear in person*. Written Comments received during

the public comment period (October 17, 2025 – November 16, 2025) will be posted to the website page above. Public comments will also be accepted during the rule hearing and may be submitted in writing or presented orally by those attending in-person. The members of the New Mexico Board of Body Art Practitioners will not enter substantive discussion of public comments during the rule hearing but will consider and deliberate any public comment during the regular board meeting immediately following the conclusion of the public rule hearing.

The agenda for the New Mexico Board of Body Art Practitioners regular meeting, which will begin immediately after the public rule hearing, will be available no less than 72 hours prior to the meeting, and available on the website page above or by contacting the Board Administrator, Emma Quintana at nmbody.art@rld.nm.gov or (505) 476-4622.

If you are an individual with a disability who needs a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or the regular board meeting, please contact the Board Administrator Emma Quintana at nmbody.art@rld.nm.gov (505) 476-4622 at least 7 days prior to the rule hearing and regular board meeting. Public documents, including the proposed rules, meeting agenda and minutes, can be provided in various accessible formats.

For inclement weather: If New Mexico state offices are placed on a two-hour delay due to inclement weather, the rule hearing will be pushed back two hours from the noticed hearing time. If New Mexico state offices are closed due to inclement weather, the rule hearing will be rescheduled as soon as possible.

Statutory Authority: The rule changes are authorized by the Body Art Safe Practices Act (Act), Section 61-17B-1 through 61-17B-18 NMSA 1978, which provides explicit

authority for the Board of Body Art Practitioner to protect public health and safety and adopt rules for the administration Act. The rulemaking and public rule hearing is governed by the State Rules Act, Sections 14-4-1 through 14-4-11 NMSA 1978, and the Default Procedural Rule for Rulemaking promulgated by the New Mexico Department of Justice, Parts 1.24.25.1 through 1.24.25.16 NMAC.

Purpose of the Proposed Rules: The proposed rule changes are intended to update and expand definitions; modernize the licensure process by requiring online applications and removing outdated references to paper applications; clarifying requirements for apprenticeships and sponsors, strengthening continuing education requirements, enhancing health, sanitation, and safety rules for establishments and practitioners; improving enforcement tools; requiring establishments to maintain and post inspection reports; and adding a \$35.00 fee for returned checks, a \$50.00 re-inspection fee, and a \$10.00 administrative electronic licensing fee per year. More generally, the proposed rules are intended to provide greater clarity in existing regulatory and statutory requirements, ensure continued high levels of professionalism among licensees and certificate holders, and to generally satisfy the Board's statutory obligation to promote, preserve and protect the public health, safety and welfare.

Summary of Proposed Changes:

16.36.1 NMAC – General Provisions. Update changes and clarify definitions, add documentation requirements.

16.36.2 NMAC – Licensure Requirements. Update language to reflect that applications are on an online licensing system, update apprentice and practitioner requirements including training, exams, and renewals, allow sponsors to oversee two apprentices.

16.36.3 NMAC – Requirements for Establishments. Set clearer facility standards.

16.36.4 NMAC – Enforcement, Complaints and Disciplinary Action. Shorten complaint response times, raise fines for violations, and allow immediate license suspension for serious risk, while also explicitly stating that continuing education non-compliance is subject to discipline.

16.36.5 NMAC – Standards of Practice. Strengthen health and hygiene standards for practitioners, require stricter sterilization and waste disposal practices with recordkeeping.

16.36.6 NMAC – Fees. Add three additional fees, one \$35.00 fee for returned checks, second \$50.00 fee for re-inspections, and the third fee is a \$10.00 administrative electronic licensing fee per year. Also introduce the standard for auditing continuing education requirements for license renewal.

16.36.7 NMAC – Licensure Requirements for Special Events, Mobile Body Art and Guests. Move mobile establishment to 16.36.3 NMAC to be in accordance with other establishment requirements. Establish clearer rules for special event sponsors and guest artists.

16.36.8 NMAC – Expedited Licensure. Update and clarify language.

16.36.9 NMAC – Licensure Requirements for Permanent Cosmetics Practitioner. Update language to reflect that applications are on an online licensing system, update apprentice and practitioner requirements including training, exams, and renewals, allow sponsors to oversee two apprentices.

16.36.10 NMAC – Licensure Requirements for Body Piercing-Scarification. Update language to reflect that applications are on an online licensing system, update apprentice and practitioner requirements including training, exams, and renewals, allow sponsors to oversee two apprentices.

*This language is contingent upon the Board's position as to whether to accept public comment virtually, or in-person only.

**REGULATION
AND LICENSING
DEPARTMENT
PHARMACY, BOARD OF**

**NOTICE OF REGULAR BOARD
MEETING AND RULE HEARING**

The New Mexico Board of Pharmacy will convene on October 23rd and 24th, 2025 at 9:00 a.m. and continue until finished in the Board of Pharmacy Conference Room located at 5500 San Antonio Dr., NE, Albuquerque, NM 87109 for the purpose of conducting a regular board meeting and rule hearing.

The agenda is posted 72 hours prior to the scheduled meeting. You may view and download a copy of the agenda through the board's website: <https://www.rld.nm.gov/pharmacy/pharmacy-board-information/pharmacy-board-meetings/>. All proposed language regarding rule hearings is linked to the *Agenda*, the *Notice to the Public* on our website and the *New Mexico Sunshine Portal*.

Individuals petitioning the board regarding requests/waivers must submit documentation for presentation; via fax (505) 222-9845, mail or email to the Board Administrator, at the general e-mail pharmacy.board@rld.nm.gov at least one week in advance of the scheduled meeting.

Interested persons wishing to comment on proposed language regarding rule hearings may submit documentation for presentation prior to the hearing; via fax (505) 222-9845, mail or email to the Board Administrator, at the general e-mail pharmacy.board@rld.nm.gov in advance of the scheduled meeting. Public comment is also allowed during the rule hearing.

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service, or if you are in need of a translator to attend or

participate in the hearing or meeting, please contact Board Administrator at 505-222-9830 at least one week prior to the meeting or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats. Please contact Board Administrator at 505-222-9830 or e-mail pharmacy.board@rld.nm.gov if a summary or other type of accessible format is needed.

The full text of Proposed Rule Amendments for Rule Hearing on October 23rd, 2025, at 9:10 a.m. is available for each rule via the hyperlinks below, agenda hyperlinks, and Sunshine Portal notice hyperlinks. If you are unable to access the full text of Proposed Rule Amendments via the links provided, please contact pharmacy.board@rld.nm.gov for a copy.

Short explanation of the Purpose of Proposed Rule Amendments: see below.

16.19.7 NMAC – HOSPITAL PHARMACIES

Section 8, the number of competent and qualified personnel assisting the pharmacist in charge shall be determined by the same. Remove requirement for the board or its agent to review pharmacy policy and procedure manual changes.

Section 9, remove provision detailing original or direct copy of the medication order, consistent with contemporary technological standards. For specialty designation pharmacy, replace yearly with initial license application and specify that blueprints will be provided, rather than photos and a drawing. Add allowance for pharmacist intern to be present in the pharmacy to perform clerical tasks or drug regimen reviews when the pharmacist is not in the facility. This change can improve training opportunities for interns, while allowing for increased utilization of available resources to support pharmacy operations and patient care.

Section 10, minimum square footage of a pharmacy service unit does not include space for sterile compounding. Addition of a pharmacy service unit in a hospital requires submission of plans for board approval and inspection.

Section 11, Subsection D, simplify by replacing “inpatients and outpatients” with “patients” and “inpatient” with “patient.” Subsection E, schedule III-V controlled substance records must be kept separate or readily retrievable (rather than just schedule IV). Subsection F, remove reference to inpatient distribution records. Subsection J, remove requirement for listing drugs in the policy and procedure manual, and correct grammar. Subsection M, allow designee for control of security/access to automated pharmacy systems. Subsection N, the contract will outline the services provided in outsourcing of pharmaceutical services and be incorporated into the policy and procedure manual. Records of pharmaceuticals transferred will be kept. Remove requirement for documentation of services provided.

Section 12, remove list of drug information requirements. Required reference materials are commensurate with scope of practice.

Section 13, administrative update.

Section 15, the addition of an in-house clinic will require submission of plans to the board for approval and inspection prior to authorization.

The purpose of these changes is to remove unnecessary provisions, reduce administrative burden, correct grammar, and update requirements and allowances consistent with contemporary standards.

STATUTORY AUTHORITY:
Paragraph (6) of Subsection (A) of Section 61-11-6 NMSA 1978 requires that the Board of Pharmacy provide for the licensing of hospital pharmacies and the drug rooms of

hospitals and the inspection of their facilities and activities.

<https://www.rld.nm.gov/wp-content/uploads/2025/09/16.19.7-NMAC-Clean-Copy-Amend-Short-October-2025-hearing.pdf>

16.19.9 NMAC - MINIMUM STANDARDS FOR MANUFACTURERS AND REPACKAGING FIRMS

Section 1, administrative updates.

Section 3, correct citation format.

Section 7, correct terms.

Section 8, minimum standards - Subsection A, change conformance with required United States Pharmacopeia chapter from 1141 to 1197 (packaging, storage and distribution to risks and mitigation strategies for the storage and transportation of finished drug products). Paragraph 4, administrative update. Subsection B, require equipment, accessories and space as necessary for the manufacture of radiopharmaceuticals as specified by delineated agencies. Remove list of minimum equipment and accessory standards.

Section 9, licensure or registration, remove reference to wholesale distributor, administrative update, delete paragraphs D-F and re-letter accordingly.

Section 14, administrative update.

The purpose of the proposed changes is to update, correct, remove unnecessary provisions, and minimize administrative burden

STATUTORY AUTHORITY:
Paragraph (6) of Subsection (A) of Section 61-11-6 NMSA 1978 directs the Board of Pharmacy to provide for the licensing of drug manufacturers and for the inspection of their facilities and activities. Subsection (A) of Section 61-11-6 NMSA 1978 authorizes the Board to enforce the

provisions of all state laws pertaining to the practice of pharmacy and the manufacture, production, sale or distribution of drugs, cosmetics or poisons, including the New Mexico Drug, Device and Cosmetic Act, Chapter 26, Article I NMSA 1978. Pursuant to Section 26-1-18 of the Drug, Device and Cosmetic Act, the Board is authorized to promulgate regulations for the efficient enforcement of the Act.

<https://www.rld.nm.gov/wp-content/uploads/2025/09/16.019.0009-Clean-Copy-Amend-Short-October-2025-hearing.pdf>

16.19.18 NMAC – NUCLEAR PHARMACY

Section 1, administrative update

Section 7, remove requirement that qualified nuclear pharmacist be currently certified as a Nuclear Pharmacist by the Board of Pharmaceutical Specialties.

Section 9, a nuclear pharmacy shall have the minimum equipment, accessories and space as necessary for the manufacture of radiopharmaceuticals as specified by delineated agencies. Delete list of required equipment.

The purpose of the updates is to remove unnecessary provisions and minimize administrative burden.

STATUTORY AUTHORITY:
Paragraph (1) of Subsection (A) of Section 61-11-6 NMSA 1978 authorizes the Board of Pharmacy to adopt, regularly review and revise rules and regulations necessary to carry out the provisions of the Pharmacy Act. Paragraph (3) of Subsection (A) of Section 61-11-6 NMSA 1978 directs the Board to provide for the registration and annual renewal of licenses of pharmacists. Pursuant to Paragraph (6) of Subsection (A) of Section 61-11-6 NMSA 1978, the Board is authorized to provide for the licensing of retail pharmacies, nonresident pharmacies

and wholesale drug distributors and to provide for the inspection of their facilities and activities.

<https://www.rld.nm.gov/wp-content/uploads/2025/09/16.019.0018-Clean-Copy-Amend-Short-October-2025-hearing.pdf>

16.19.36 NMAC – COMPOUNDED STERILE PREPARATIONS

Section 10, routine viable surface sample testing may be performed onsite by appropriately trained personnel.

Section 16, compounding veterinary preparations, add allowance for distribution of limited quantities of sterile compounded preparations for office use under specified conditions.

The purpose of the changes is to allow trained personnel to perform routine required sampling, and for availability of office use sterile compounded veterinary preparation for certain circumstances, to improve timely treatment access.

STATUTORY AUTHORITY:
Paragraph (6) of Subsection A of Section 61-11-6 NMSA 1978 authorizes the board of pharmacy to provide for the licensing of all places where dangerous drugs are stored, dispensed, distributed or administered and for the inspection of their facilities and activities. Paragraph (7) of Subsection A of 61-11-6 NMSA 1978 authorizes the board to enforce the provisions of all laws of the state pertaining to the practice of pharmacy and the manufacture, production, sale or distribution of drugs and their standards of strength and purity.

<https://www.rld.nm.gov/wp-content/uploads/2025/09/16.019.0036-clean-copy-amend-short-october-2025-hearing.pdf>

Disciplinary Hearing(s):
There are no disciplinary hearings scheduled at time of submission for publication.

If additional scheduling occurs, the final hearing date and time for each case will be included in the agenda posted to the board’s website at least 72 hours before the meeting.

Executive Director’s Report:

Published in NM Register:
September 23, 2025
Published in Albuquerque Journal:
September 18, 2025

REGULATION AND LICENSING DEPARTMENT PRIVATE INVESTIGATIONS ADVISORY BOARD

NOTICE OF PUBLIC RULE HEARING AND PRIVATE INVESTIGATIONS ADVISORY BOARD MEETING

The New Mexico Private Investigations Advisory Board and the Regulation and Licensing Department will hold a rule hearing on Friday November 14, 2025, at 10:00 a.m., immediately followed by a meeting of the private investigations advisory board for adoption of the proposed rules listed below. The hearing and subsequent board meeting will take place at the Regulation and Licensing Department, located at 5500 San Antonio dr. NE., Albuquerque, New Mexico 87109.

The hearing and subsequent private investigations advisory board meeting may also be accessed virtually via Microsoft Teams.

Meeting Link:

https://teams.microsoft.com/l/meetup-join/19%3ameeting_YzcxNzE1MmYtMDI4Ni00YTg4LWExZjktY2IwNDM0MGE5NTE5%40thread.v2/0?context=%7b%22Tid%22%3a%2204aa6bf4-d436-426f-bfa4-04b7a70e60ff%22%2c%22Oid%22%3a%22c32153ee-ab7c-43ed-ab7e-278fd7f55d0%22%7d

www.microsoft.com/en-us/microsoft-teams/join-a-meeting

Meeting ID: 223 191 198 313 3

Passcode: dg2wN3Zg

Dial in by phone

+1 505-312-4308, 629490405#

United States, Albuquerque

(888) 506-1357, 629490405# United States (Toll-free)

The purpose of the rule hearing is to consider the initiation of rulemaking for the following rules:

a. Rule 16.48.1 NMAC, General Provisions

b. Rule 16.48.2 NMAC,

Requirements for Licensure

c. Rule 16.48.5 NMAC, Fees

d. Rule 16.48.7 NMAC, License Renewal Inactive Status and Reinstatement

e. Rule 16.48.8 NMAC, Licensure for Military Service Members, Spouses and Veterans

On Friday, October 10, 2025, copies of the proposed rules may be obtained through the New Mexico Private Investigation Board website at <https://www.rld.nm.gov/boards-and-commissions/individual-boards-and-commissions/private-investigations-security-guard/board-information/>. Copies may also be obtained by contacting Gary Barela, Board Administrator, at pipolygraphbd@rld.nm.gov

The New Mexico Private Investigations Board and the Regulation and Licensing Department will begin accepting written public comment regarding the proposed rule changes beginning Friday, October 10th, 2025, 8:00 a.m. and ending Thursday November 10, 2025, 10:00 a.m. Written public comment may be submitted either by email to pipolygraphbd@rld.nm.gov or by postal mail to the following address:

Attn: Private Investigation Board
P.O. Box 25101
Santa Fe, NM 87504

Written comments received during the public comment period (October 10, 2025 – November 10, 2025)

will be posted to the website page linked above. Public comments will also be accepted during the rule hearing and may be submitted in writing or presented orally by those attending in-person. The members of the Private Investigations Advisory Board will not enter substantive discussion of public comments during the rule hearing but will consider and deliberate any public comment during the regular board meeting immediately following the conclusion of the public rule hearing.

The agenda for the Private Investigation Advisory Board regular meeting, which will begin immediately after the public rule hearing, will be available no less than 72 hours prior to the meeting, and available on the website linked above or by contacting the board administrator Gary Barela.

If you are an individual with a disability who needs a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or the regular board meeting, please contact Gary Barela at (505) 476-4622 at least 7 days prior to the rules hearing and regular board meeting. Public documents, including the proposed rules, meeting agenda and minutes, can be provided in various accessible formats.

For inclement weather: If the New Mexico state offices are placed on a two-hour delay to inclement weather, the rule hearing will be pushed back two hours from the noticed hearing time. If New Mexico state offices are closed due to inclement weather, the rule hearing will be rescheduled as soon as possible.

Statutory Authority: The proposed rule changes are authorized by the Private Investigations Act, §§61-27B-1 through -36, NMSA 1978, which provides authority for the superintendent to authorize the board to promulgate rules to and carry

out the provisions of the Act. The rulemaking and public rule hearing is governed by the State Rules Act, §§ 14-4-1 through -11 NMSA 1978, and the Default Procedural Rule for Rulemaking promulgated by the New Mexico Department of Justice, Parts 1.24.25.1 through 1.24.25.16 NMAC.

Purpose of Proposed Rules The proposed rule changes are intended to [a]mend the rules as necessary to conform with statutory requirements, provide for additional administrative fees, and revise the continuing education requirements. More generally, the proposed rules are intended to provide greater clarity in existing regulatory and statutory requirements, ensure continued high levels of professionalism among licensees and certificate holders, and to generally satisfy the Board's statutory obligation to promote, preserve and protect the public health, safety and welfare.

Summary of Proposed Changes:

The Board summarizes its proposed changes to its administrative rules as follows: Rule 16.48.1 NMAC, General Provisions 16.48.1.7 Remove the redundant use of the term "registered agent" from the definitions section labeled EE. Rule 16.48.2 NMAC, Requirements for Licensure 16.48.2.18 Update the qualifications and experience requirements for Level Two Security Guard applicants by removing 'or' and replacing it with 'and' to ensure compliance with statutory licensure requirements. 16.48.2.19 Update the qualifications and experience requirements for Level Three Security Guard applicants by removing 'or' and replacing it with 'and' to ensure compliance with statutory licensure requirements. Rule 16.48.5 NMAC, Fees Include a returned check or e-check fee of \$35 Include an administration processing fee of \$10 Rule 16.48.7 NMAC, License Renewal Inactive Status and Reinstatement Revise continuing education requirements and associated definitions to reflect updated standards and maintain compliance with statutory licensure provisions.

Rule 16.48.8 NMAC, Licensure for Military Service Members, Spouses and Veterans Remove the 2X2 photo as a requirement for licensure.

SUPERINTENDENT OF INSURANCE, OFFICE OF

NOTICE OF PROPOSED RULEMAKING

The OSI eDocket Number for this rulemaking is: 2025-0118.

NOTICE IS HEREBY GIVEN that the Office of Superintendent of Insurance (OSI or Superintendent) will hold a public hearing in person, via video conference, and via telephone conference regarding a repeal and replace of 13.1.3 NMAC, Privacy of Nonpublic Personal Information. **The hearing in this rulemaking will commence on Tuesday, October 28, 2025, at 10:00 a.m., MDT.**

PURPOSE OF THE PROPOSED RULE: Section 59A-2-9.3 NMSA 1978 authorizes the Superintendent to “promulgate rules to reasonably protect the privacy of insurance consumers’ nonpublic personal information, including personal health and financial information.” The purpose of this rulemaking is to: **1)** update the issuing agency promulgating the rule; **2)** update the scope and text of the rule to consider and reflect current technology used for communication and data gathering and storage by covered entities, insurers, affiliates, and associated third-parties; **3)** amend and update the definitions section of the rule; and **4)** add a new section related to requirement for covered entity insurers and reporting to the Superintendent when a cyber security event or incident occurs.

STATUTORY AUTHORITY: Sections 14-4-1 *et seq.*, NMSA 1978, State Rules Act, and Sections 59A-2-8, 59A-2-9, and 59A-2-9.3 NMSA 1978.

TO ATTEND THE HEARING IN PERSON: Office of Superintendent of Insurance - 1120 Paseo de Peralta, (PERA Building), 4th Floor Hearing Room, Santa Fe, NM 87501

PLEASE NOTE: The entrance to the PERA Building is on the ground floor. All guests must sign in with the ground floor receptionist, then each guest will be escorted to the 4th Floor Hearing Room. Please give yourself extra time to check in before 10:00 a.m.

TO ATTEND THE HEARING BY ELECTRONIC VIDEO CONFERENCE VIA MS TEAMS MEETING:

Please copy the link below into your browser to get to the video conference meeting

https://teams.microsoft.com/l/meetup-join/19%3ameeting_NTE0NGQ5MmItYWVlZS00MmRILWE2MWYtYzY4YjgyMTA1MWY0%40thread.v2/0?context=%7b%22Tid%22%3a%2204aa6bf4-d436-426f-bfa4-04b7a70e60ff%22%2c%22Oid%22%3a%22b76166d2-adf5-4b1b-b66b-732b2019af27%22%7d

Meeting ID: 215 401 552 168 3 -
Passcode: uj6hu9m2

TO ATTEND VIA TELEPHONE:
+1 505-312-4308,,537863522# -
Phone conference ID: 537 863 522#

PUBLIC COMMENT: The Superintendent designates David Black, as the hearing officer for this hearing. Oral comments will be accepted at the public hearing from members of the public and other interested parties in-person or via electronic video conference. Copies of the Notice of Proposed Rulemaking and proposed rule are available by electronic download from the OSI eDocket: <https://edocket.osi.state.nm.us/home>, you must login or register to get access if you are not already registered. You may also request copies if the Notice of Proposed Rulemaking and proposed rule by emailing Gloria

Regensberg at: gloria.regensberg@osi.nm.gov or by phone at: 505-500-9079, email communication is preferred. To view all filings in OSI’s rulemaking information, please visit the **OSI website** at: <https://www.osi.state.nm.us/en/legal-information/rulemaking/>, the OSI rulemaking record is filed on the eDocket **(please follow the instructions on the web page for using the eDocket, there is no charge for using the eDocket, to find this rulemaking use the following eDocket Number: 2025-0118)**, or on the Sunshine Portal at: https://statenm.my.salesforce-sites.com/public/SSP_RuleHearingSearchPublic (from the “Agency” drop down menu, select “Office of Superintendent of Insurance”)

Written comments will be accepted through 4:00 p.m. on Thursday, October 23, 2025. Responses to written comments or to oral comments delivered at the hearing will be accepted through 4:00 p.m. on Wednesday, October 29, 2025. All comments shall be filed electronically through the OSI eDocket. Please copy the following link into your browser to get to the eDocket: <https://edocket.osi.state.nm.us/home>, you must login or register to get access. **To find this rulemaking use the following Docket Number: 2025-0118.**

Written comments may be sent via U. S. mail to:

**OSI Records and Docketing
NM Office of Superintendent of Insurance
P.O. Box 1689, Santa Fe, NM
87504-1689**

Written comments must be received by OSI and stamped as accepted between the hours of 8:00 a.m. and 4:00 p.m. Monday through Friday except on state holidays. The Superintendent will consider all oral comments and will review and consider all timely submitted written comments and written responses. For help submitting a filing, please send an email to: osi-docketfiling@state.nm.us.

nm.us. The docket number and title below must be indicated on all written comments submitted to the OSI:

**Docket Number: 2025-0118
IN THE MATTER OF REPEAL
AND REPLACE OF 13.1.3 NMAC**

SPECIAL NEEDS: Any person with a disability requiring special assistance to participate in the hearing should contact Andrea Padilla, at 505-531-7171 no later than ten (10) business days prior to the hearing.

WORKFORCE SOLUTIONS, DEPARTMENT OF

NOTICE OF RULEMAKING

The New Mexico Department of Workforce Solutions (“Department” or “NMDWS”) hereby gives notice that the Department will conduct a public hearing in the Leo Griego Auditorium located in the State Personnel Office (Willie Ortiz Building) at 2600 Cerrillos Road in Santa Fe, New Mexico, 87505 on October 23, 2025, from 10:00 am to 12:00 pm. The purpose of the public hearing will be to obtain input and public comment on the Department’s adoption of a rule adding a new part 5 Industrial Revenue Bonds to Chapter 1 Labor Relations General Provisions, Title 11 Labor and Workers Compensation of the New Mexico Administrative Code. A prior public comment hearing was held on September 3, 2025, and this rescheduled hearing is to consider comments made at the last hearing which were incorporated into the current proposed regulation.

Summary: The rule is being added to define regulations necessary for the application of prevailing wage rates for laborers and mechanics employed under the auspices of a local government through the issuance of an industrial revenue bond, including procedures for the predetermination of wages, the adoption of job

classification descriptions, and the adoption of procedures for the enforcement of the Public Works Minimum Wage Act (PWWA), and in conformity with the Public Works Apprenticeship and Training Act (PWAT).

Under Subsection J of Section 13-4-11 NMSA 1978, the director of the Labor Relations Division of the Department of Workforce Solutions has authority to issue rules necessary to administer and accomplish the purpose of the Public Works Minimum Wage Act. Under Subsection C of Section 13-4D-4 NMSA 1978, the Workforce Solutions Department has authority to adopt rules and regulations necessary to implement the provisions of the Public Works Apprentice and Training Act.

Interested individuals may testify at the public hearing or submit written comments to the New Mexico Department of Workforce Solutions, P.O. Box 1928, Albuquerque, N.M., 87103, attention Andrea Christman. Written comments must be received no later than 5 p.m. on October 23, 2025. However, the submission of written comments as soon as possible is encouraged.

Copies of the proposed rules may be accessed at <http://www.dws.state.nm.us/> or obtained by calling Andrea Christman at (505) 841-8478 or sending an email to Andrea.Christman@dws.nm.gov. The proposed rules will be made available at least thirty days prior to the hearing.

Individuals with disabilities who require this information in an alternative format or need any form of auxiliary aid to attend or participate in this meeting are asked to contact Ms. Christman as soon as possible. The Department requests at least ten (10) days advance notice to provide requested special accommodations.

WORKFORCE SOLUTIONS, DEPARTMENT OF

NOTICE OF RULEMAKING

The New Mexico Department of Workforce Solutions (“Department” or “NMDWS”) hereby gives notice that the Department will conduct a public hearing in the Leo Griego Auditorium located in the State Personnel Office (Willie Ortiz Building) at 2600 Cerrillos Road in Santa Fe, New Mexico, 87505 on October 23, 2025, from 2:00 pm to 4:00 pm. The purpose of the public hearing will be to obtain input and public comment on the Department’s adoption of a rule adding a new Part 7 Caregiver Leave to Chapter 1 Labor Relations General Provisions, Title 11 Labor and Workers Compensation of the New Mexico Administrative Code.

Summary: The rule is being added to define regulations necessary for the governance and oversight of the Caregiver Leave Act to include definitions, compliance measures, required notices, complaint procedures and decisions.

Under Subsection E of Section 50-16-3 NMSA 1978, the secretary of workforce solutions shall adopt and promulgate rules to implement the provisions of the Caregiver Leave Act. These rules shall include, at a minimum, grievance procedures for according eligible employees recourse for violations of the Caregiver Leave Act.

Interested individuals may testify at the public hearing or submit written comments to the New Mexico Department of Workforce Solutions, P.O. Box 1928, Albuquerque, N.M., 87103, attention Andrea Christman. Written comments must be received no later than 5 p.m. on October 23, 2025. However, the submission of written comments as soon as possible is encouraged.

Copies of the proposed rules may be accessed at <http://www.dws.state.nm.us/> or obtained by calling

Andrea Christman at (505) 841-8478 or sending an email to Andrea.Christman@dws.nm.gov. The proposed rules will be made available at least thirty days prior to the hearing.

Individuals with disabilities who require this information in an alternative format or need any form of auxiliary aid to attend or participate in this meeting are asked to contact Ms. Christman as soon as possible. The Department requests at least ten (10) days advance notice to provide requested special accommodations.

WORKFORCE SOLUTIONS, DEPARTMENT OF

NOTICE OF RULEMAKING

The New Mexico Department of Workforce Solutions ("Department" or "NMDWS") hereby gives notice that the Department will conduct a public hearing to receive comments regarding proposed amendments to NMAC 11.2.3 (the State Apprenticeship Policy Manual) in the Leo Griego Auditorium located in the State Personnel Office (Willie Ortiz Building) at 2600 Cerrillos Road in Santa Fe, New Mexico, 87505 on October 23, 2025 from 12:00 pm to 2:00 pm.

Summary: The proposed regulation amends 11.2.3 NMAC, to clarify the standards for apprenticeship programs requesting reciprocity from the New Mexico State Apprenticeship Agency, specifically as they apply to programs working on Energy Transition Act projects.

Under Subsection C of Section 62-13-16 NMSA 1978, NMDWS is the agency responsible for promulgating rules to ensure compliance with this section of the Energy Transition Act. Paragraph (5) of Subsection B of Section 50-7-4 NMSA 1978 grants the secretary of workforce solutions the authority to perform duties such as are necessary to carry out Chapter

50, Section 7 NMSA, which includes promulgating regulations.

Interested individuals are encouraged to submit written comments to the New Mexico Department of Workforce Solutions, P.O. Box 1928, Albuquerque, N.M., 87103, attention Andrea Christman prior to the hearing for consideration. Alternatively, written comments may be submitted via email to andrea.christman@dws.nm.gov. Comments must be received no later than 5 p.m. on October 23, 2025.

Copies of the proposed rule may be accessed online at <https://www.dws.state.nm.us/> or obtained by calling Andrea Christman at (505) 841-8478 or sending an email to Andrea.Christman@state.nm.us. The proposed rule will be made available at least thirty days prior to the hearing.

Individuals with disabilities who require this information in an alternative format or need any form of auxiliary aid to attend or participate in this meeting are asked to contact Ms. Christman as soon as possible. The Department requests at least ten (10) days advance notice to provide requested special accommodations.

REGULATION AND LICENSING DEPARTMENT REAL ESTATE APPRAISERS BOARD

AMENDED NOTICE OF PUBLIC RULE HEARING AND REAL ESTATE APPRAISERS BOARD MEETING

The New Mexico Real Estate Appraisers Board and the Regulation and Licensing Department has cancelled the previously-scheduled rule hearing set for October 10, 2025, and will hold a rule hearing on Friday, December 5, 2025, at 9:00 a.m., immediately followed by a meeting of the Real Estate Appraisers

Board for adoption of the proposed rules listed below. The hearing and subsequent board meeting will be held at the Regulation and Licensing Department, located at 5500 San Antonio Drive SE., Albuquerque, New Mexico 87109.

The hearing and subsequent Real Estate Appraisers Board meeting will also be held via Microsoft Teams for those desiring to attend virtually.

Join the meeting now

Meeting ID: 278 309 632 185 9
Passcode: o2EJ9vm3

Dial in by phone

+1 505-312-4308,,44853101# United States, Albuquerque
(888) 506-1357,,44853101# United States (Toll-free)

Phone conference ID: 448 531 01#

The purpose of the rule hearing is to consider the initiation of rulemaking for the following rules:

16.62.2 NMAC – GENERAL PROVISIONS

16.62.3 NMAC – APPLICATION FOR LICENSED RESIDENTIAL

16.62.4 NMAC – APPLICATION FOR RESIDENTIAL CERTIFICATION

16.62.5 NMAC – APPLICATION FOR GENERAL CERTIFICATION

16.62.7 NMAC – ISSUANCE/ RENEWAL OF APPRENTICE REGISTRATION/LICENSES/ CERTIFICATIONS

16.62.8 NMAC – EDUCATION PROGRAMS/CONTINUING EDUCATION

16.62.12 NMAC – FEES

16.65.2 NMAC – REGISTRATION REQUIREMENTS

16.65.3 NMAC – APPLICATION FOR REGISTRATION

The agenda for the rule hearing and board meeting will be posted and available at least 72 hours before the meeting on the Real Estate Appraisers Board website at [Real Estate Appraisers Rules and Laws](#) |

RLD NM. Copies of the agenda may also be obtained by contacting the Board Administrator, Pamela Predika at (505) 220-3164.

The New Mexico Real Estate Appraisers Board will begin accepting written public comment regarding the proposed rule changes. The deadline for written public comment is Friday, November 21, 2025, 5:00 p.m. Written comments may be submitted by email to nm.reab@state.nm.us or by postal mail to the following address:

New Mexico Regulation and Licensing Department
Attn: Real Estate Appraisers Board
5500 San Antonio Drive SE
Albuquerque, NM 87109

***Public comment will also be accepted during the rule hearing and may be presented orally, or in writing. Individuals who would like to participate and offer public comment must appear in person.**

The members of the New Mexico Real Estate Appraisers Board will not engage in substantive discussion of public comments during the rule hearing but will consider all public comments during the board meeting following the conclusion of the rule hearing.

For inclement weather: If New Mexico state offices are placed on a two-hour delay due to inclement weather, the rule hearing will be pushed back two hours from the noticed hearing time. If New Mexico state offices are closed due to inclement weather, the rule hearing will be rescheduled as soon as possible.

An individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or other form of auxiliary aid or service to attend or participate in the hearing, please contact the Board Administrator Pamela Predika at 505-220-3164 at least 7 days prior to the rule hearing and regular board meeting.

Statutory Authority:

The rule changes are authorized by the Real Estate Appraisers Act (ACT), Section 61-30-1 through 61-30-24 NMSA 1978, which provides explicit authority for the Real Estate Appraisers Board (Board) to protect public health and safety and adopt rules for the administration of the Act. The rulemaking and public rule hearing is governed by the State Rules Act, Sections 14-4-1 through 14-4-11 NMSA 1978, and the Default Procedural Rule for Rulemaking promulgated by the New Mexico Department of Justice, Parts 1.24.25 through 1.24.25.16 NMAC.

Purpose of the Proposed Rules:

The proposed rule changes aim to implement changes to reflect the modifications to the Real Property Appraiser Qualification Criteria adopted by the Appraiser Qualifications Board (AQB) requiring valuation bias and fair housing laws and regulations education for real property appraisers. The changes also to implement fees for returned checks and for an administrative electronic application annual fee. Generally, the proposed rules are intended to provide greater clarity in existing regulatory and statutory requirements, ensure continued high levels of professionalism among licensees and certificate holders.

Summary of Proposed Changes:

The Board summarizes its proposed changes to its administrative rules as follows:

16.62.2 NMAC – General Provisions amending education requirements pursuant to modification of the Real Property Appraiser Qualification Criteria adopted by AQB and to set a timeframe for required responses to the Board.

16.62.3 NMAC – Application for Licensed Residential amending education requirements pursuant to modification of the Real Property Appraiser Qualification Criteria adopted by AQB and to set a timeframe for required responses to the Board.

16.62.4 NMAC – Application for Residential Certification amending education requirements pursuant to modification of the Real Property Appraiser Qualification Criteria adopted by AQB and to set a timeframe for required responses to the Board.

16.62.5 NMAC – Application for General Certification amending education requirements pursuant to modification of the Real Property Appraiser Qualification Criteria adopted by AQB and to set a timeframe for required responses to the Board.

16.62.7 NMAC – Issuance/Renewal of Apprentice Registration/Licenses/Certifications amending education requirements pursuant to modification of the Real Property Appraiser Qualification Criteria adopted by AQB.

16.62.8 NMAC – Education Programs/Continuing Education amending education requirements pursuant to modification of the Real Property Appraiser Qualification Criteria adopted by AQB and to set a timeframe for required responses to the Board.

16.62.12 NMAC – Fees to implement returned check and administrative electronic application annual fees to pay for ongoing technological expenses incurred while using Salesforce/NM-Plus system.

16.65.2 NMAC – Registration Requirements amending education requirements pursuant to modification of the Real Property Appraiser Qualification Criteria adopted by AQB.

16.65.3 NMAC – Application for Registration amending education requirements pursuant to modification of the Real Property Appraiser Qualification Criteria adopted by AQB.

End of Notices of Rulemaking and Proposed Rules

Adopted Rules

Effective Date and Validity of Rule Filings

Rules published in this issue of the New Mexico Register are effective on the publication date of this issue unless otherwise specified. No rule shall be valid or enforceable until it is filed with the records center and published in the New Mexico Register as provided in the State Rules Act. Unless a later date is otherwise provided by law, the effective date of the rule shall be the date of publication in the New Mexico Register. Section 14-4-5 NMSA 1978.

AGING AND LONG-TERM SERVICES DEPARTMENT

The New Mexico Aging and Long-Term Services Department approved the repeal of 9.2.1 NMAC, General Provisions, filed on 6/17/2015, and replaced it with 9.2.1 NMAC, General Provisions, adopted 09/11/2025 and effective 09/23/2025.

The New Mexico Aging and Long-Term Services Department approved the repeal of 9.2.3 NMAC, Eligibility for Aging and Long-Term Services Department Services, filed on 6/17/2015, and replaced it with 9.2.3 NMAC, Eligibility for Aging and Long-Term Services Department Services, adopted 09/11/2025 and effective 09/23/2025.

The New Mexico Aging and Long-Term Services Department approved the repeal of 9.2.4 NMAC, Designation of Planning and Service Areas, filed on 6/17/2015, and replaced it with 9.2.4 NMAC, Designation of Planning and Service Areas, adopted 09/11/2025 and effective 09/23/2025.

The New Mexico Aging and Long-Term Services Department approved the repeal of 9.2.5 NMAC, Area Agency on Aging Designation, filed on 6/17/2015, and replaced it with 9.2.5 NMAC, Area Agency on Aging Designation, adopted 09/11/2025 and effective 09/23/2025.

The New Mexico Aging and Long-Term Services Department approved the repeal of 9.2.6 NMAC, Area Agency on Aging Requirements, filed on 6/17/2015, and replaced it with 9.2.6 NMAC, Area Agency on Aging Requirements, adopted 09/11/2025 and effective 09/23/2025.

The New Mexico Aging and Long-Term Services Department approved the repeal of 9.2.7 NMAC - De-Designation of Area Agencies on Aging, filed on 6/17/2015 and Replaced by 9.2.7 NMAC - De-Designation of Area Agencies on Aging adopted 09/11/2025 and effective 09/23/2025.

The New Mexico Aging and Long-Term Services Department approved the repeal of 9.2.8 NMAC, Adequate Proportion of Services, filed on 6/17/2015, adopted 09/11/2025, and effective 09/23/2025.

The New Mexico Aging and Long-Term Services Department approved the repeal of 9.2.9 NMAC, Direct Services, filed on 6/17/2015, adopted on 09/11/2025, and effective 09/23/2025.

The New Mexico Aging and Long-Term Services Department approved the repeal of 9.2.11 NMAC, Appeal/Hearing Procedures, filed on 6/17/2015, and replaced it with 9.2.11 NMAC, Appeal/Hearing Procedures, adopted 09/11/2025 and effective 09/23/2025.

The New Mexico Aging and Long-Term Services Department approved the repeal of 9.2.13 NMAC, Employment Programs for Older Workers, filed on 6/17/2015, and replaced it with 9.2.13 NMAC, Employment Programs for Older Workers, adopted 09/11/2025 and effective 09/23/2025.

The New Mexico Aging and Long-Term Services Department approved the repeal of 9.2.14 NMAC, State-Funded Foster Grandparent Program, filed on 6/17/2015, and replaced it with 9.2.14 NMAC, State-Funded

Foster Grandparent Program, adopted 09/11/2025 and effective 09/23/2025.

The New Mexico Aging and Long-Term Services Department approved the repeal of 9.2.15 NMAC, State-Funded Senior Companion Program, filed on 6/17/2015, and replaced it with 9.2.15 NMAC, State-Funded Senior Companion Program, adopted 09/11/2025 and effective 09/23/2025.

The New Mexico Aging and Long-Term Services Department approved the repeal of 9.2.16 NMAC, State-Funded Retired Senior Volunteer Program, filed on 6/17/2015, and replaced it with 9.2.16 NMAC, State-Funded Retired Senior Volunteer Program, adopted 09/11/2025 and effective 09/23/2025.

The New Mexico Aging and Long-Term Services Department approved the repeal of 9.2.17 NMAC, Legal Assistance Services, filed on 6/17/2015, and replaced it with 9.2.17 NMAC, Legal Assistance Services, adopted 09/11/2025 and effective 09/23/2025.

The New Mexico Aging and Long-Term Services Department approved the repeal of 9.2.18 NMAC, Nutrition Services, filed on 6/17/2015, and replaced it with 9.2.18 NMAC, Nutrition Services, adopted 09/11/2025 and effective 09/23/2025.

The New Mexico Aging and Long-Term Services Department approved the repeal of 9.2.19 NMAC, Long-Term Care Ombudsman, filed on 12/13/2017, and replaced it with 9.2.19 NMAC, Long-Term Care Ombudsman, adopted 09/11/2025 and effective 09/23/2025.

The New Mexico Aging and Long-Term Services Department approved

the repeal of 9.2.21 NMAC, Civil Penalty Assessments by the State Long-Term Care Ombudsman, filed on 3/8/2004, and replaced it with 9.2.21 NMAC, Civil Penalty Assessments by the State Long-Term Care Ombudsman, adopted 09/11/2025 and effective 09/23/2025.

The New Mexico Aging and Long-Term Services Department approved the repeal of 9.2.22 NMAC, Hearings to Challenge Civil Penalty Assessments by the State Long-Term Care Ombudsman, filed on 3/8/2004, and replaced it with 9.2.22 NMAC, Hearings to Challenge Civil Penalty Assessments by the State Long-Term Care Ombudsman, adopted 09/11/2025 and effective 09/23/2025.

The New Mexico Aging and Long-Term Services Department approved the repeal of 9.2.23 NMAC, Patient Care Monitoring in Long-Term Care Facilities, filed on 6/30/2004, and replaced it with 9.2.23 NMAC, Patient Care Monitoring in Long-Term Care Facilities, adopted 09/11/2025 and effective 09/23/2025.

AGING AND LONG-TERM SERVICES DEPARTMENT

**TITLE 9 HUMAN RIGHTS
CHAPTER 2 AGE
PART 1 GENERAL
PROVISIONS**

9.2.1.1 ISSUING

AGENCY: New Mexico Aging and Long-Term Services Department (NMALTSO).
[9.2.1.1 NMAC - Rp, 9.2.1.1, 09/23/2025]

9.2.1.2 SCOPE: These rules apply to members of the public and organizations that participate in the delivery of services to New Mexico’s aging and disability populations.
[9.2.1.2 NMAC - Rp, 9.2.1.2, 09/23/2025]

9.2.1.3 STATUTORY AUTHORITY: Aging and Long-Term Services Department Act, Sections 9-23-1 to 9-23-12 NMSA 1978; Older Americans Act of 1965, 42 U.S.C. Sections 3001 to 3058, and implementing regulations.
[9.2.1.3 NMAC - Rp, 9.2.1.3, 09/23/2025]

9.2.1.4 DURATION:
Permanent.
[9.2.1.4 NMAC - Rp, 9.2.1.4, 09/23/2025]

9.2.1.5 EFFECTIVE DATE: September 23, 2025, unless a later date is cited at the end of a section.
[9.2.1.5 NMAC - Rp, 9.2.1.5, 09/23/2025]

9.2.1.6 OBJECTIVE:
The objective of this rule is to define terms used throughout the rule and to set forth basic requirements for carrying out Older Americans Act programs.
[9.2.1.6 NMAC - Rp, 9.2.1.6, 09/23/2025]

9.2.1.7 DEFINITIONS:
For definitions, see 42 U.S.C. Section 3002 and Section 9-23-3 NMSA 1978. The following words and terms, when used in these rules, shall have the following meanings unless the context clearly indicates otherwise or a different definition has been provided:

- A. Definitions**
Beginning with “A”:
(1)
“**Administration on aging**” is the federal agency, which is a part of the United States department of health and human services, charged with the responsibility of implementing the Older Americans Act.
(2)
“**Advocacy**” is defined as non-lobbying activities designed to create change in legislation and policies which benefit both individuals and groups of individuals.
(3) “Area plan” is a document submitted by an area agency on aging to the

- department which provides for the provision of services and centers to meet the needs of older individuals in the planning and service area(s) administered.
- B. Definitions**
Beginning with “B”: [RESERVED]
- C. Definitions**
Beginning with “C”:
(1) “Conflicts of interest” means:
(a)
one or more conflicts between the private interests and the official responsibilities of a person in a position of trust;
(b)
one or more conflicts between competing duties of an individual, or between the competing duties, services, or programs of an organization, or portion of an organization; and
(c)
other conflicts of interest identified in guidance issued by the assistant secretary.
(2)
“**Corporation for national and community service**” (CNCS) is the federal agency that administers federal domestic volunteer programs.
(3) “Cost sharing” means requesting payment using a sliding scale, based on an individual’s income and the cost of delivering the service, in a manner consistent with the exceptions, prohibitions, and other conditions laid out in the Act.
- D. Definitions**
Beginning with “D”:
(1) “DAB”
means the departmental grant appeals board of the United States department of health and human services as described and defined in 45 C.F.R. Sections 1 and 2.
(2)
“**Department**” as used in these rules means the New Mexico Aging and Long-Term Services Department.
(3)
“**Domestically produced foods**” means agricultural foods, beverages and other food ingredients which are a product of the United States, its territories or possessions, the

Commonwealth of Puerto Rico, or the Trust Territories of the Pacific Islands (hereinafter referred to as "the United States"), except as may otherwise be required by law, and shall be considered to be such a product if it is grown, processed, and otherwise prepared for sale or distribution exclusively in the United States except with respect to minor ingredients. Ingredients from nondomestic sources will be allowed to be utilized as a United States product if such ingredients are not otherwise:

- (a) produced in the United States; and
- (b) commercially available in the United States at fair and reasonable prices from domestic sources.

E. Definitions

Beginning with "E": [RESERVED]

F. Definitions

Beginning with "F": "Family caregiver" means an adult family member, or another individual, who is an informal provider of in-home and community care to an older individual; an adult family member, or another individual, who is an informal provider of in-home and community care to an individual of any age with Alzheimer's disease or a related disorder with neurological and organic brain dysfunction; or an older relative caregiver. For purposes of this part, family caregiver does not include individuals whose primary relationship with the older adult is based on a financial or professional agreement.

G. Definitions

Beginning with "G": [RESERVED]

H. Definitions

Beginning with "H": [RESERVED]

I. Definitions

Beginning with "I": "Indian tribal organization" is the recognized governing body of any Indian tribe or any legally established organization of Indians which is controlled, sanctioned, or chartered by the governing body.

J. Definitions

Beginning with "J": [RESERVED]

K. Definitions

Beginning with "K": [RESERVED]

L. Definitions

Beginning with "L": [RESERVED]

(1) "Long-term care ombudsman"

(LTCO) means an individual trained and certified to act as a representative of the office of the state long-term care ombudsman.

(2) "Low income"

is defined as having an annual family income at or below one hundred twenty five percent of the federal poverty level.

M. Definitions

Beginning with "M":

(1) "Major disaster declaration"

means a presidentially declared disaster under the Robert T. Stafford Relief and Emergency Assistance Act (42 U.S.C. Sections 5121 through 5207).

(2) "Means test"

means the use of the income, assets, or other resources of an older person, family caregiver, or the households thereof to deny or limit that person's eligibility to receive services under this part. Means tests shall be prohibited in determining eligibility for any services administered by the department or its designees.

(3)

"Minorities" are individuals who are of Hispanic, Native American Indian (including Hawaiian and Eskimo), African-American, or Asian heritage.

N. Definitions

Beginning with "N":

(1) "Native American"

means a person who is a member of any Indian Tribe, band, nation, or other organized group or community of Indians (including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. Section 1601 et seq.) who:

(a) Is

recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(b)

Is located on, or in proximity to, a federal or state reservation or rancheria; or is a person who is Native

Hawaiian, who is any individual any of whose ancestors were natives of the area which consists of the Hawaiian Islands prior to 1778.

(2) "Nutrition Services Incentive Program"

means grant funding to state agencies, eligible tribal organizations, and Native Hawaiian grantees to support congregate and home-delivered nutrition programs by providing an incentive to serve more meals.

O. Definitions

Beginning with "O":

(1) "Older Americans Act"

means the Older Americans Act of 1965, 42 U.S.C. Sections 3001-3058.

(2) "Older relative caregiver"

means a caregiver who is age 55 or older and lives with, is the informal provider of in-home and community care to, and is the primary caregiver for a child or an individual with a disability, and

(a) in

the case of a caregiver for a child, is:

(i)

the grandparent, step-grandparent, or other relative (other than the parent) by blood, marriage, or adoption, of the child;

(ii)

the primary caregiver of the child because the biological or adoptive parents are unable or unwilling to serve as the primary caregivers of the child; or

(iii)

has a legal relationship to the child, such as legal custody, adoption, or guardianship, or is raising the child informally; and

(b)

in the case of a caregiver for an individual with a disability, is the parent, grandparent, step-grandparent, or other relative by blood, marriage, or adoption of the individual with a disability.

P. Definitions

Beginning with "P":

(1)

"Participants" are individuals who are eligible to receive services or to participate in particular programs administered by the department or its designees.

(2) **“Policies and procedures”** is the aging and long-term services department’s policies and procedures guide. The policies and procedures provide detailed information for the successful administration of the department’s mission and the requirements and procedures necessary for the management of its programs, services, partnerships, and the systems it has established for the benefit of older individuals. The policies and procedures also detail the federal requirements mandated by the Older Americans Act of 1965 and its implementing regulations.

(3) **“Private pay programs”** are a type of contract or commercial relationship and are programs, separate and apart from programs funded under the Act, for which the individual consumer agrees to pay to receive services under the programs.

(4) **“Program income”** means gross income earned by the non-federal entity that is directly generated by a supported activity or earned as a result of the federal award during the period of performance except as otherwise provided under federal grantmaking authorities. Program income includes, but is not limited to, income from fees for services performed, the use or rental of real or personal property acquired under federal awards, the sale of commodities or items fabricated under a federal award, license fees and royalties on patents and copyrights, and principal and interest on loans made with federal award funds. Interest earned on advances of federal funds is not program income. Except as otherwise provided in federal statutes, regulations, or the terms and conditions of the federal award, program income does not include rebates, credits, discounts, and interest earned on any of them. See also 35 U.S.C. Sections 200 to 212 (which applies to inventions made under federal awards).

(5) **“Provider”** means an entity that is awarded funds, including via a grant,

subgrant, contract, or subcontract, to provide direct services under the state or area plan.

Q. Definitions
Beginning with “Q”: [RESERVED]

R. Definitions
Beginning with “R”:

(1) **“Reservation”** means any federally or state recognized American Indian tribe’s reservation, pueblo, or colony, including former reservations in Oklahoma, Alaska Native regions established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. Section 1601 et seq.), and Indian allotments.

(2) **“Right of first refusal”** is a provision in the Older Americans Act which requires the department to give priority to public agencies or units of general purpose local government when designating area agencies on aging.

S. Definitions
Beginning with “S”:

(1) **“State ombudsman”** means the individual who heads the office and is responsible to personally, or through representatives of the office, fulfill the functions, responsibilities, and duties set forth in 45 C.F.R. Sections 1324.13 and 1324.19.

(2) **“State plan on aging” or “state plan”** is a document submitted by the state in order to receive grants from its allotments under the Older Americans Act.

(3) **“Supplemental foods”** means foods that assist with maintaining health but do not alone constitute a meal. Supplemental foods include liquid nutrition supplements or enhancements to a meal, such as additional beverage or food items, and may be specified by state agency policies and procedures. Supplemental foods may be provided with a meal, or separately, to older adults who participate in either congregate or home delivered meal services.

T. Definitions
Beginning with “T”: [RESERVED]

U. Definitions
Beginning with “U”: “Unit of

general purpose local government” means a political subdivision of the state whose authority is general and not limited to one function or combination of related functions, or an Indian tribal organization.

V. Definitions
Beginning with “V”: “Voluntary contributions” means donations of money or other personal resources given freely, without pressure or coercion, by individuals receiving services under the Older Americans Act and its implementing regulations.

W. Definitions
Beginning with “W”:
[RESERVED]

X. Definitions
Beginning with “X”: [RESERVED]

Y. Definitions
Beginning with “Y”: [RESERVED]

Z. Definitions
Beginning with “Z”: [RESERVED]
[9.2.1.7 NMAC - Rp, 9.2.1.7, 09/23/2025]

9.2.1.8 BASIC REQUIREMENTS:

A. These rules apply to all functions and responsibilities required under the state plan on aging in carrying out Older Americans Act programs.

B. The department, all area agencies on aging, grantees and subgrantees, contractors, and subcontractors of funds administered by the department shall adhere to these rules and shall adhere to the regulations promulgated under the Older Americans Act. Additional terms and requirements not contained in these rules may be identified in contracts or grant awards.

C. Amendments to the Older Americans Act, any regulations promulgated thereunder, and state statutes may override these rules pending adoption of revised or new rules.

D. In the absence of department rules, federal laws, rules, and regulations shall apply, as appropriate, to federal funds or to state funds used to match or supplement federal funds. In a like manner, state statutes shall apply to state funds not governed by federal requirements.

E. The department, all area agencies on aging, grantees and subgrantees, contractors and subcontractors of funds administered by the department shall, where applicable, comply with the Civil Rights Act of 1964, 42 U.S.C. Section 2000(e); the Americans with Disabilities Act of 1990, 42 U.S.C. Sections 12101 to 12103; Nondiscrimination Under Programs Receiving Federal Assistance Through the Department of Health and Human Services, 45 C.F.R. Section 80; and Nondiscrimination on the Basis of Handicap in Programs or Activities Receiving Federal Financial Assistance, 45 C.F.R. Section 84.

F. State agency policies and procedures: The State agency on aging shall develop policies and procedures governing all aspects of programs operated as set forth in these rules. These policies and procedures shall be developed in consultation with area agencies on aging, program participants, and other appropriate parties in the state. Except for the ombudsman program as set forth in 45 C.F.R. Section 1324(A) and where otherwise indicated, the state agency policies may allow for such policies and procedures to be developed at the area agency on aging level.

G. Emergency and disaster requirements:

(1) The department shall establish emergency plans as set forth in 42 U.S.C. 3027(a) (28).

(2) Area agencies on aging shall establish emergency plans which include:

(i) the area agency's continuity of operations plan and an all-hazards emergency response plan based on completed risk assessments for all hazards and updated annually;

(ii) a description of coordination activities for both development and implementation of long range emergency and disaster preparedness plans; and

(iii) other information as deemed appropriate by the area agency on aging.

H. Conflicts of interest: The State Agency on Aging shall develop policies and procedures regarding conflicts of interest, in accordance with the Act (42 U.S.C. Section 3058g(f)) and all other applicable federal requirements (45 C.F.R. Section 1324.21). These policies and procedures must safeguard against conflicts of interest on the part of the state agency, employees, and agents of the state who have responsibilities relating to Title III programs, including area agencies on aging, governing boards, advisory councils, staff, and volunteers. Conflicts of interest policies and procedures must establish mechanisms to identify, avoid, remove, and remedy conflicts of interest in a Title III program at organizational and individual levels. [9.2.1.8 NMAC - Rp, 9.2.1.8 NMAC, 09/23/2025]

HISTORY OF 9.2.1 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center: SAA Rule No. 95-1, General Provisions, filed 4/13/1995.

History of the Repealed Material: SAA Rule No. 95-1, (filed 4/13/1995) - Repealed 6/30/2015. 9.2.1 NMAC, General Provisions (filed 6/17/2015) Repealed effective 09/23/2025.

Other: 9.2.1 NMAC, General Provisions (filed 6/17/2015) Replaced by 9.2.1 NMAC, General Provisions effective 09/23/2025.

AGING AND LONG-TERM SERVICES DEPARTMENT

**TITLE 9 HUMAN RIGHTS
CHAPTER 2 AGE
PART 3 ELIGIBILITY
FOR AGING AND LONG-TERM**

SERVICES DEPARTMENT SERVICES

9.2.3.1 ISSUING

AGENCY: New Mexico Aging and Long-Term Services Department (NMALTS). [9.2.3.1 NMAC - Rp, 9.2.3.1 NMAC, 09/23/2025]

9.2.3.2 SCOPE: These rules apply to members of the public and organizations that participate in the delivery of services to New Mexico's aging and disability populations. [9.2.3.2 NMAC - Rp, 9.2.3.2 NMAC, 09/23/2025]

9.2.3.3 STATUTORY AUTHORITY: Aging and Long-Term Services Department Act, Aging and Long-Term Services Department Act, Sections 9-23-1 to 9-23-12 NMSA 1978; Older Americans Act of 1965, 42 U.S.C. Sections 3001 to 3058, and implementing regulations. [9.2.3.3 NMAC - Rp, 9.2.3.3 NMAC, 09/23/2025]

9.2.3.4 DURATION: Permanent. [9.2.3.4 NMAC - Rp, 9.2.3.4 NMAC, 09/23/2025]

9.2.3.5 EFFECTIVE DATE: September 23, 2025, unless a later date is cited at the end of a section. [9.2.3.5 NMAC - Rp, 9.2.3.5 NMAC, 09/23/2025]

9.2.3.6 OBJECTIVE: The objective of this rule is to establish eligibility standards for the federal and state-funded programs administered by the department. [9.2.3.6 NMAC - Rp, 9.2.3.6 NMAC, 09/23/2025]

9.2.3.7 DEFINITIONS: See 9.2.1.7 NMAC for definitions. [9.2.3.7 NMAC - Rp, 9.2.3.7 NMAC, 09/23/2025]

9.2.3.8 OLDER AMERICANS ACT SERVICES:
A. An individual must

be age 60 or older at the time of service to be eligible to participate in services under the Act, unless the Act otherwise provides an explicit exception. Exceptions are limited to the following specific services:

(1) Nutrition

services:

(a)

Services shall be available to spouses of any age of older individuals.

(b)

Services may be available to:

(i)

A person with a disability who lives with an adult age 60 or older or who resides in a housing facility that is primarily occupied by older adults at which congregate meals are served; and

(ii)

A volunteer during meal hours.

(2) Family

caregiver support services for:

(a)

adults caring for older adults and adults caring for individuals of any age with Alzheimer's or a related disorder;

(b)

older relative caregivers who are caring for children and are not the biological or adoptive parent of the child, where older relative caregivers shall no longer be eligible for services under this part when the child reaches 18 years of age; or

(c)

older relative caregivers who are caring for individuals age 18 to 59 with disabilities and who may be of any relationship, including the biological or adoptive parent.

(3) Services

such as information and assistance and public education, where recipients of information may not be age 60 or older, but the information is targeted to those who are age 60 or older or the information benefits those who are age 60 or older.

(4)

Ombudsman program services, as provided in 45 C.F.R. Section 1324.

B. State agencies,

area agencies on aging, and local service providers may develop further eligibility requirements for

implementation of services for older adults and family caregivers, as long as they do not conflict with the Act, this part, or guidance as set forth by the assistant secretary for aging. Such requirements may include:

(1) assessment

of greatest social need;

(2) assessment

of greatest economic need;

(3) assessment

of functional and support need;

(4) geographic

boundaries;

(5) limitations

on number of persons that may be served;

(6) limitations

on number of units of service that may be provided;

(7) limitations

due to availability of staff/volunteers;

(8) limitations

to avoid duplication of services; and

(9)

specification of settings where services shall or may be provided.

C. Area agencies

on aging and providers shall not means test for any service for which contributions are accepted or deny services to any individual who does not contribute.

[9.2.3.8 NMAC - Rp, 9.2.3.8 NMAC, 09/23/2025]

9.2.3.9 CORPORATION FOR NATIONAL AND COMMUNITY SERVICE VOLUNTEER PROGRAMS:

Except as otherwise provided, eligibility for federally-funded foster grandparent, senior companion, and retired senior volunteer programs shall be pursuant to Title II, Part B, of the Domestic Volunteer Service Act of 1973, 42 U.S.C. Sections 4950 to 5028, 42 U.S.C. Sections 4950 to 5028, and 45 C.F.R. Sections 2551 to 2553. The CNCS handbooks are incorporated by reference into this part.

A. Criteria for the

foster grandparent program is further set forth in 9.2.14 NMAC.

B. Criteria for the

senior companion program is further set forth in 9.2.15 NMAC.

C. Criteria for the

retired senior volunteer program is further set forth in 9.2.16 NMAC. [9.2.3.9 NMAC - Rp, 9.2.3.9 NMAC, 09/23/2025]

9.2.3.10 STATE-FUNDED SERVICES: Eligibility for programs funded solely with state funds are as follows:

A. Except where

otherwise noted, the following may be deemed eligible for state-funded services provided under contract with the department:

(1) persons

age 50 or older;

(2) spouses (of

any age) of persons age 50 or older; and

(3) persons

with disabilities age 18 or older.

B. Criteria for adult

protective services is set forth in 8.11.4 NMAC.

C. Area agencies on

aging and other contract providers may elect to serve subsets of the populations specified in Subsection A of 9.2.3.10 NMAC, which shall be defined in their area plans and contract documents.

D. Area agencies on

aging and other contract providers may request waivers from the department to serve additional populations other than those specified in Subsection A of 9.2.3.10 NMAC, based upon community need. Application for such a waiver shall include a description of:

(1) the

population(s) to be served;

(2) the need

for the proposed service(s) by the proposed population(s); and

(3) a budget

for the proposed service(s).

Approval of any such waiver will be made by the department contingent upon documented need and availability of funding. Final or conditional written approval will be provided by the department.

[9.2.3.10 NMAC - Rp, 9.2.3.10 NMAC, 09/23/2025]

9.2.3.11 [RESERVED]

[9.2.3.11 NMAC - Repealed, 09/23/2025]

9.2.3.12 [RESERVED]

[9.2.3.12 NMAC - Repealed, 09/23/2025]

9.2.3.13 SUPPLEMENT, NOT SUPPLANT: Funds awarded under the Act for services provided under Sections 306(a)(9)(B) (42 U.S.C. 3026(a)(9)(B)), 315(b)(4) (E) (42 U.S.C. 3030c-2(b)(4)(E)), 321(d) (42 U.S.C. 3030d(d)), 374 (42 U.S.C. 3030s-2), and 705(a) (4) (42 U.S.C. 3058d(a)(4)), must be used to supplement, not supplant existing federal, state, and local funds expended to support those activities. [9.2.3.13 NMAC - N, 09/23/2025]

HISTORY OF 9.2.3 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center: SAA Rule No. 95-3, Eligibility for State Agency on Aging Services, filed 4/13/1995.

History of Repealed Material:

SAA Rule No. 95-3, (filed 4/13/1995) - Repealed 6/30/2015.
9.2.13 NMAC, Eligibility For Aging And Long - Term Services Department Service (filed 6/17/2015), Repealed effective 09/23/2025.

Other: 9.2.13 NMAC, Eligibility For Aging And Long - Term Services Department Services (filed 6/17/2015) Replaced by 9.2.13 NMAC, Eligibility For Aging And Long - Term Services Department Services effective 09/23/2025.

AGING AND LONG-TERM SERVICES DEPARTMENT

**TITLE 9 HUMAN RIGHTS
CHAPTER 2 AGE
PART 4 DESIGNATION
OF PLANNING AND SERVICE
AREAS**

9.2.4.1 ISSUING

AGENCY: New Mexico Aging and Long-Term Services Department (NMALTS).
[9.2.4.1 NMAC - Rp, 9.2.4.1 NMAC, 09/23/2025]

9.2.4.2 SCOPE: These rules apply to members of the public and organizations that participate in the delivery of services to New Mexico's aging and disability populations.
[9.2.4.2 NMAC - Rp, 9.2.4.2 NMAC, 09/23/2025]

9.2.4.3 STATUTORY AUTHORITY: Aging and Long-Term Services Department Act, Sections 9-23-1 to 9-23-12 NMSA 1978; Older Americans Act of 1965, 42 U.S.C. Sections 3001 to 30, and implementing regulations.
[9.2.4.3 NMAC - Rp, 9.2.4.3 NMAC, 09/23/2025]

9.2.4.4 DURATION: Permanent.
[9.2.4.4 NMAC - Rp, 9.2.4.4 NMAC, 09/23/2025]

9.2.4.5 EFFECTIVE DATE: September 23, 2025, unless a later date is cited at the end of a section.
[9.2.4.5 NMAC - Rp, 9.2.4.5 NMAC, 09/23/2025]

9.2.4.6 OBJECTIVE: The objective of this rule is to establish the PSA application and designation process.
[9.2.4.6 NMAC - Rp, 9.2.4.6 NMAC, 09/23/2025]

9.2.4.7 DEFINITIONS: See 9.2.1.7 NMAC for definitions.
[9.2.4.7 NMAC - Rp, 9.2.4.7 NMAC, 09/23/2025]

9.2.4.8 LEGAL REFERENCES: [RESERVED]
[9.2.4.8 NMAC - Rp, 9.2.4.8 NMAC, 09/23/2025]

9.2.4.9 DESIGNATION OF PLANNING AND SERVICE AREAS (PSAs): Existing intrastate

planning and service areas (PSAs) shall continue to be designated unless:

A. There is demonstrated evidence that designation of an existing PSA is inconsistent with the purpose of the rules and regulations issued pursuant to the Older Americans Act; or
B. The designation of another PSA is necessary for the assurance of the efficient and effective administration of programs authorized by the Older Americans Act and operating in the state.
[9.2.4.9 NMAC - Rp, 9.2.4.9 NMAC, 09/23/2025]

9.2.4.10 TYPE OF DESIGNATION: The department may designate "federally recognized" planning and service areas under the auspices of the Older Americans Act and may designate "non-federally recognized" planning and service areas under state authority. Non-federally recognized planning and service areas may duplicate or overlap with federally recognized planning and service areas and shall be established in order to address special service needs or target populations and to facilitate the distribution of state funds.
[9.2.4.10 NMAC - Rp, 9.2.4.10 NMAC, 09/23/2025]

9.2.4.11 CRITERIA FOR PSA DESIGNATION: The department shall divide the state into distinct planning and service areas, considering the following criteria:

A. geographical distribution of older individuals in the state;

B. incidence of the need for supportive services, nutrition services, multipurpose senior centers, legal assistance, and other services;

C. distribution of older individuals who have greatest economic need, particularly those with low-incomes;

D. distribution of older individuals residing in rural areas;

E. distribution of minority older individuals;

F. distribution of older individuals with limited English proficiency;

G. distribution of older individuals who have greatest social need;

H. distribution of Native American Indian elders;

I. distribution of resources available to provide services;

J. boundaries of existing areas within the state which were drawn for the planning or administration of supportive services programs; and

K. location of units of general purpose local government within the state.
[9.2.4.11 NMAC - Rp, 9.2.4.11 NMAC, 09/23/2025]

9.2.4.12 PROCEDURE FOR DESIGNATING CHANGES TO PSA: The procedure to designate a PSA is as follows:

A. Department initiated change: The department may designate additional planning and service areas or redefine existing planning and service areas based upon changes in the criteria for PSA designation in accordance with 9.2.4.11 NMAC. The department shall solicit public input with regard to any proposed changes or additions to PSA designation and at least one public hearing shall be held in each county and Indian tribe proposed to be affected. Hearings shall be conducted in accordance with the department's policies and procedures for hearings.

B. Non-department initiated change: Any unit of general purpose local government, region within a state recognized for area wide planning, metropolitan area, or Indian tribe may make application to the department to be designated as a planning and service area.

(1) The aging network division director, as the department secretary's designee, shall approve or disapprove any such application submitted under this section.

(2) Any applicant under this section whose application for designation as a

planning and service area is denied by the department may appeal the denial in writing to the department secretary within 30 days of such denial.

(3) If the department denies an applicant for designation as a planning and service area under this section, the department shall provide a hearing on the denial of the application, in accordance with 9.2.11 NMAC if requested by the applicant, as well as issue a written decision on the denial within 60 days following the hearing.

[9.2.4.12 NMAC - Rp, 9.2.4.12 NMAC, 09/23/2025]

9.2.4.13 NON-DEPARTMENT INITIATED APPLICATION PROCESS: This application process applies when an entity other than the department seeks to apply to designate a new planning and service area or to change an existing planning and service area.

A. The applicant shall submit a notice of application to the aging network division director that includes:

(1) an explanation of why the new designation or change in designation is necessary;

(2) an explanation of how the new designation or change will benefit older individuals in both the established PSA and the new PSA;

(3) documentation that existing services can be substantially improved through the proposed change; and

(4) documentation of the results of a public hearing that meets the department's criteria (the applicant shall involve the area agencies on aging, service providers, and older individuals in all actions and proceedings by offering opportunities for feedback from interested parties).

B. The applicant shall establish and make publicly available the appeal process for affected parties:

(1) a full disclosure of any potential conflicts of interest that would exist if the new PSA or requested change was approved by the department; and

(2) information that addresses each of the criteria for consideration enumerated in 9.2.4.11 NMAC.

C. The applicant shall comply with the department's timeframes and requests for additional information and documentation during the application process.

D. Once the department receives the additional information and documentation requested, it shall follow the procedures set forth in 9.2.4.12 NMAC, including Subsections B and C (the procedures for a department-initiated designation). The department shall review the application in accordance with the criteria and procedures set forth in 9.2.4.9 NMAC, 9.2.4.11 NMAC, and 9.2.4.12 NMAC.

[9.2.4.13 NMAC - Rp, 9.2.4.13 NMAC, 09/23/2025]

9.2.4.14 APPROVAL OF PSA DESIGNATION: All PSA designations for purposes of distribution of federal funds must be further approved by the assistant secretary pursuant to the submission of a state plan amendment or state plan as set forth in 9.2.4.18 NMAC.
[9.2.4.14 NMAC - Rp, 9.2.4.14 NMAC, 09/23/2025]

9.2.4.15 APPEAL OF PSA DESIGNATION OR REVOCATION OF DESIGNATION:

A. An applicant for PSA change in designation whose application to the aging network division director has been denied or a PSA whose designation the department has decided to revoke may appeal pursuant to the appeals process set forth in 9.2.11 NMAC.

B. Any applicant for "federally recognized" PSA designation changes whose application the department denies and who has been provided an appeal hearing and written decision by the department may appeal to the DAB in writing within 30 days of receipt of the department's written decision, pursuant to 45 C.F.R Section 1321.17.

[9.2.4.15 NMAC - Rp, 9.2.4.15 NMAC, 09/23/2025]

9.2.4.16 DESIGNATED PSAs:

A. The designated PSAs are posted to the department's website.

B. All designation approvals shall be maintained in the appropriate department records.
[9.2.4.16 NMAC – Rp, 9.2.4.16 NMAC, 09/23/2025]

9.2.4.17 EXPLANATION OF CHANGES: The department shall provide an explanation of any decisions to change planning and service areas when it issues the decision. The explanation shall specifically address the department's consideration of each of the factors set forth in 9.2.4.11 NMAC.
[9.2.4.17 NMAC - N, 09/23/2025]

9.2.4.18 CHANGES TO PSAS IN STATE PLANS OR STATE PLAN AMENDMENTS: Any changes to planning and service areas shall be included in a state plan amendment or in the prospective state plan submitted to the assistant secretary.
[9.2.4.18 NMAC - N, 09/23/2025]

HISTORY OF 9.2.4 NMAC:
Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center:
SAA Rule No. 95-4, Designation of Planning and Service Areas, filed 4/13/95.

History of Repealed Material:
SAA Rule No. 95-4, filed 4/13/1995 - Repealed 6/30/2015.
9.2.4 NMAC, Designation of Planning And Service Areas (filed 6/17/2015), Repealed effective 09/23/2025.

Other: 9.2.4 NMAC, Designation of Planning And Service Areas (filed 6/17/2015), Replaced by 9.2.4 NMAC, Designation of Planning And Service Areas effective 09/23/2025.

AGING AND LONG-TERM SERVICES DEPARTMENT

**TITLE 9 HUMAN RIGHTS
CHAPTER 2 AGE
PART 5 AREA AGENCY
ON AGING DESIGNATION**

9.2.5.1 ISSUING AGENCY: New Mexico Aging and Long-Term Services Department (NMALTS).
[9.2.5.1 NMAC - Rp, 9.2.5.1 NMAC, 09/23/2025]

9.2.5.2 SCOPE: These rules apply to members of the public and organizations that participate in the delivery of services to New Mexico's aging and disability populations.
[9.2.5.2 NMAC - Rp, 9.2.5.2 NMAC, 09/23/2025]

9.2.5.3 STATUTORY AUTHORITY: Aging and Long-Term Services Department Act, Sections 9-23-1 to 9-23-12 NMSA 1978; Older Americans Act of 1965, 42 U.S.C. Sections 3001 to 3058, and implementing regulations.
[9.2.5.3 NMAC - Rp, 9.2.5.3 NMAC, 09/23/2025]

9.2.5.4 DURATION: Permanent.
[9.2.5.4 NMAC - Rp, 9.2.5.4 NMAC, 09/23/2025]

9.2.5.5 EFFECTIVE DATE: September 23, 2025, unless a later date is cited at the end of a section.
[9.2.5.5 NMAC - Rp, 9.2.5.5 NMAC, 09/23/2025]

9.2.5.6 OBJECTIVE: The objective of this rule is to establish the AAA application and designation process.
[9.2.5.6 NMAC - Rp, 9.2.5.6 NMAC, 09/23/2025]

9.2.5.7 DEFINITIONS: See 9.2.1.7 NMAC for definitions.
[9.2.5.7 NMAC - Rp, 9.2.5.7 NMAC, 09/23/2025]

9.2.5.8 LEGAL REFERENCES: [RESERVED]
[9.2.5.8 NMAC - Rp, 9.2.5.8 NMAC, 09/23/2025]

9.2.5.9 NEED FOR DESIGNATION: Applications for designation as an area agency on aging (AAA), under the Older Americans Act, must be solicited by the department when a new planning and service area (PSA) has been designated, when an existing AAA has been de-designated, or when an existing AAA has voluntarily withdrawn its designation.
[9.2.5.9 NMAC - Rp, 9.2.5.9 NMAC, 09/23/2025]

9.2.5.10 TYPE OF DESIGNATION: The department may designate federally recognized AAAs under the auspices of the Older Americans Act or may designate non-federally recognized AAAs under state authority. Non-federally recognized AAAs shall be established and shall operate under the same rules as federally recognized AAAs unless otherwise negotiated with the designated organization.
[9.2.5.10 NMAC - Rp, 9.2.5.10 NMAC, 09/23/2025]

9.2.5.11 ELIGIBILITY AND PREFERENCE FOR DESIGNATION:

A. An AAA may be any of the following:

- (1) an established aging organization which operates in a PSA;
- (2) any office or agency designated by the chief elected officials of a unit of general purpose local government to function only as an AAA;
- (3) any office or agency designated by the chief elected officials of any combination of units of general purpose local government to act on behalf of the combination for such purpose; or
- (4) any non-state local public or private non-profit organization in a PSA, or any separate unit within such organization, which is under the supervision or direction

for this purpose of the designated state agency, and which demonstrates the ability and willingness to engage in the planning or provision of a broad range of services under the Older Americans Act within such planning and service area.

B. No regional or local office of state government may be designated as an AAA.

[9.2.5.11 NMAC - Rp, 9.2.5.11 NMAC, 09/23/2025]

9.2.5.12 APPLICATION PROCESS AND PROCEDURE:

A. When it is necessary to solicit applications for area agency on aging designation pursuant to 9.2.5.9 NMAC, the department shall provide public notice of the need to solicit applications for designation and the process by which an entity can apply for such designation.

B. The department shall provide public notice as follows:

(1) in newspapers of general circulation in the planning and service area for which AAA applications are being solicited;

(2) on the department website;

(3) via electronic dissemination to New Mexico's aging network; and

(4) in written notification to units of general purpose local government in the planning and service area.

C. In the written notification to the unit(s) of general purpose local government, the department shall solicit the views of such unit(s) of general purpose local government in the application process of any AAA.

[9.2.5.12 NMAC - Rp, 9.2.5.12 NMAC, 09/23/2025]

9.2.5.13 AREA AGENCY ON AGING REPLACEMENT REQUIREMENTS:

Any unsolicited application for AAA designation which, if approved, would result in the replacement of a formally designated area agency on aging or substantially impact the aging network within the PSA involved, must include:

A. written indication of support, by resolution, of seventy-five percent of the governing bodies of municipalities and counties within the PSA boundaries;

B. documentation that existing services can be substantially improved through the proposed change in designation;

C. assurance that no staff or board member of the applicant has served on the staff or board of the existing area agency on aging within the affected PSA, the department, or the United States administration for community living for a period of not less than two years prior to the date of notification of application; and

D. other criteria deemed relevant by the department to the applicant's ability to carry out the duties of an AAA.

[9.2.5.13 NMAC - Rp, 9.2.5.13 NMAC, 09/23/2025]

9.2.5.14 REVIEW AND ASSESSMENT:

The department shall review each application for completeness and ability to meet the necessary requirements of designation. The entity being considered for AAA designation shall provide an opportunity for on-site review and assessment by the department to ensure that said entity has the capacity to perform the functions of an AAA, including the requirements set forth in 9.2.6 NMAC. The department shall consider the views offered by the unit(s) of general purpose local government throughout its assessment process.

[9.2.5.14 NMAC - Rp, 9.2.5.14 NMAC, 09/23/2025]

9.2.5.15 DESIGNATION REQUIREMENT:

The department is responsible for designating an area agency on aging to serve each planning and service area. Only one area agency on aging shall be designated to serve each planning and service area for which the department allocates funds under Title III of the Older Americans Act, supplemental state funds, or both.

A. An area agency that serves more than one planning and service area must maintain separate funding, planning, and advocacy responsibilities for each planning and service area.

B. When designating a new AAA, the department shall give right of first refusal to unit(s) of general purpose local government if such unit can meet the requirements of 9.2.5.13 NMAC and 9.2.5.14 NMAC, and the boundaries of the PSA are reasonably contiguous. If any unit of general purpose local government chooses not to exercise right of first refusal, the department shall then give preference to an established AAA or aging organization which operates in the PSA and shall take into consideration the historical experience applicants have had in coordination, planning, and delivery of services for older adults. The department secretary shall approve or disapprove any applications for designation in writing.

[9.2.5.15 NMAC - Rp, 9.2.5.15 NMAC, 09/23/2025]

9.2.5.16 RIGHT TO APPEAL:

Applicants who have been denied designation may appeal as provided in 9.2.11 NMAC.

[9.2.5.16 NMAC - Rp, 9.2.5.16 NMAC, 09/23/2025]

9.2.5.17 DESIGNATED AAAs:

A. The designated AAAs are posted to the department's web site.

B. All designation approvals shall be maintained in the appropriate department records. [9.2.5.17 NMAC - Rp, 9.2.5.17 NMAC, 09/23/2025]

9.2.5.18 CONFLICTS OF INTEREST POLICIES AND PROCEDURES:

The area agency must have policies and procedures regarding conflicts of interest in accordance with the Act, guidance as set forth by the assistant secretary for aging, and state agency policies and procedures as set forth at 45 C.F.R.

Section 1321.47. These policies and procedures must safeguard against conflicts of interest on the part of the area agency, area agency employees, governing board and advisory council members, and awardees who have responsibilities relating to the area agency’s grants and contracts. Conflicts of interest policies and procedures must establish mechanisms to avoid both actual and perceived conflicts of interest and to identify, remove, and remedy any existing or potential conflicts of interest at organizational and individual levels.
[9.2.5.17 NMAC - N, 09/23/2025]

9.2.5.19 AREA AGENCY ON AGING TITLE III AND TITLE VI COORDINATION RESPONSIBILITIES:

A. For planning and service areas where there are Title VI programs, the area agency’s policies and procedures, developed in coordination with the relevant Title VI program director(s), as set forth in 45 C.F.R. Section 1322.13(a), must explain how the area agency’s aging network, including service providers, will coordinate with Title VI programs to ensure compliance with 42 U.S.C. Section 3062(a)(11)(B).

B. The policies and procedures set forth in subsection (A) of this section must at a minimum address:

(1) How the area agency’s aging network, including service providers, will provide outreach to Tribal elders and family caregivers regarding services for which they may be eligible under Title III;

(2) The communication opportunities the area agency will make available to Title VI programs, to include Title III and other funding opportunities, technical assistance on how to apply for Title III and other funding opportunities, meetings, email distribution lists, presentations, and public hearings;

(3) The methods for collaboration on and sharing of program information and

changes, including coordinating with service providers where applicable;

(4) How Title VI programs may refer individuals who are eligible for Title III services;

(5) How services will be provided in a culturally appropriate and trauma informed manner; and

(6) Opportunities to serve on advisory councils, workgroups, and boards, including area agency advisory councils as set forth in 45 C.F.R. Section 1321.63.

[9.2.5.18 NMAC - N, 09/23/2025]

9.2.5.20 STATE AGENCY

OBLIGATION: The department shall assume area agency on aging responsibilities in the event there are no successful applicants in the state agency’s application process including the responsibility to administer the agency area on aging programs in accordance with 42 U.S.C. Section 306(f).

[9.2.5.20 NMAC - N, 09/23/2025]

HISTORY OF 9.2.5 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center: SAA Rule No. 95-5, Area Agency Designation, filed 4/13/1995.

History of Repealed Material:

SAA Rule No. 95-5, filed 4/13/1995 - Repealed 6/30/2015.

9.2.5 NMAC, Area On Agency Designation (filed 6/17/2015)
Repealed effective 09/23/2025.

Other: 9.2.5 NMAC, Area On Agency Designation (filed 6/17/2015)
Replaced by 9.2.5 NMAC, Area On Agency Designation effective 09/23/2025.

AGING AND LONG-TERM SERVICES DEPARTMENT

TITLE 9 HUMAN RIGHTS CHAPTER 2 AGE

PART 6 AREA AGENCY ON AGING REQUIREMENTS

9.2.6.1 ISSUING

AGENCY: New Mexico Aging and Long-Term Services Department (NMALTSO).

[9.2.6.1 NMAC - Rp, 9.2.6.1, 09/23/2025]

9.2.6.2 SCOPE: These rules apply to members of the public and organizations that participate in the delivery of services to New Mexico’s aging and disability populations.

[9.2.6.2 NMAC - Rp, 9.2.6.2, 09/23/2025]

9.2.6.3 STATUTORY

AUTHORITY: Aging and Long-Term Services Department Act, Sections 9-23-1 to 9-23-12 NMSA 1978; Older Americans Act of 1965, 42 U.S.C. Sections 3001 to 3058, and implementing regulations.

[9.2.6.3 NMAC - Rp, 9.2.6.3, 09/23/2025]

9.2.6.4 DURATION:

Permanent.

[9.2.6.4 NMAC - Rp, 9.2.6.4, 09/23/2025]

9.2.6.5 EFFECTIVE

DATE: September 23, 2025, unless a later date is cited at the end of a section.

[9.2.6.5 NMAC - Rp, 9.2.6.5, 09/23/2025]

9.2.6.6 OBJECTIVE:

The objective of this rule is to establish standards and responsibilities for the area agencies on aging.

[9.2.6.6 NMAC - Rp, 9.2.6.6, 09/23/2025]

9.2.6.7 DEFINITIONS:

See 9.2.1.7 NMAC for definitions.

[9.2.6.7 NMAC - Rp, 9.2.6.7, 09/23/2025]

9.2.6.8 LEGAL

REFERENCES: [RESERVED]

[9.2.6.8 NMAC - Rp, 9.2.6.8, 09/23/2025]

9.2.6.9 AREA AGENCY ON AGING STRUCTURE: An area agency on aging must:

A. administer Older Americans Act and state programs within one or more designated planning and service areas;

B. have a full-time, qualified director and adequate qualified staff;

C. include a commitment of public, private, voluntary, and personal resources committed to supporting the system;

D. involve collaborative decision-making principles that include public, private, voluntary, faith-based, civic, and fraternal organizations including trusted leaders of communities in greatest economic and greatest social need, older individuals, and family caregivers in the community; and

E. have a board of directors comprised of leaders in the community, including leaders from groups identified as in greatest economic need and greatest social need, who have the respect, capacity, and authority necessary to convene all interested persons, assess needs, design solutions, track overall success, stimulate change, and plan community responses for the present and for the future.

[9.2.6.9 NMAC - Rp, 9.2.6.9, 09/23/2025]

9.2.6.10 AREA AGENCY ON AGING RESPONSIBILITIES: A designated area agency on aging, in accordance with 45 C.F.R. Section 1321, shall:

A. Comply, as applicable, with all federal and state statutes, rules and policies. In addition, a designated area agency on aging may not engage in any activity which is inconsistent with its statutory mission prescribed in the Older Americans Act or policies prescribed by the department.

B. Coordinate services for older persons in its planning and service area(s) and serve as an advocate and focal point for older individuals within the area. This responsibility shall include having a

point of contact where anyone may go or contact for help, information, and referral on any aging issue.

C. Plan and develop collaborative linkages; share information; monitor and evaluate services; and lead the development of comprehensive and coordinated community-based systems.

D. Develop a service delivery system by contracting with other organizations to provide services to older individuals. The role of an area agency on aging is to engage in area-wide planning and development and to purchase needed services. An area agency on aging shall not provide direct services to older individuals, except where, in the judgment of the department, the area agency on aging has demonstrated that.

(1) the provision of such services by an area agency on aging is necessary to assure an adequate supply of such services; or

(2) such services are directly related to the area agency on aging's administrative function(s); or

(3) such services of comparable or higher quality can be provided more economically by the area agency on aging;

E. Conduct periodic public hearings on the effectiveness of services and the needs of older adults in the area.

F. Furnish appropriate training and technical assistance to providers of services in the area.

G. Develop and submit area plans and area plan amendments on or before dates determined by the department, or as needed, to the department for approval. Prior to department submission, proposed area plans and plan amendments shall be submitted to the agency's advisory council for review and comment. Submissions of area plans and plan amendments to the department shall be completed according to policies and guidelines issued by the department and shall cover each planning and service area

administered. Proposed area plans and area plan amendments, when relevant, must:

(1) be made available for a public review and comment period of at least 30 calendar days unless a waiver is provided by the department during an emergency or when a time sensitive action is necessary;

(2) include objectively collected, and where possible, statistically valid, data with evaluative conclusions concerning the unmet need for supportive services, nutrition services, evidence-based disease prevention and health promotion services, family caregiver support services, and multipurpose senior centers. The area agency evaluations shall consider all services in these categories regardless of the source of funding for the services;

(3) be accessible to the public in a public location and provided to the public in print by request;

(4) incorporate services which address the incidence of hunger, food insecurity and malnutrition; social isolation; and physical and mental health conditions;

(5) shall provide, to the extent feasible, for the furnishing of services through self-directed care as defined in 42 U.S.C. Section 3002; and

(6) meet all of the requirements set forth in 45 C.F.R. Section 1321.65;

H. Establish and support an advisory council. The advisory council shall carry out advisory functions which further the area agency's mission of developing and coordinating community-based systems of services for all older individuals and family and older relative caregivers specific to each planning and service area.

(1) the advisory council membership shall include individuals and representatives of community organizations who will help to enhance the leadership role of the area agency on aging in developing community-based systems of services. The advisory committee shall include:

<p>(a) more than fifty percent older persons age 60 years or older, including minority individuals who are participants or who are eligible to participate in programs under the Older Americans Act, with efforts made to include individuals identified as in greatest economic need and greatest social need as defined in 42 U.S.C. Section 3002;</p>	<p>(d) reviewing and commenting on community policies, programs and actions affecting older persons and family caregivers with the intent of assuring maximum coordination and responsiveness to older persons and family caregivers;</p>	<p>with providers of services to meet the need.</p>
<p>(b) representatives of older persons;</p>	<p>(e) service provision and assisting in evaluation of such;</p>	<p>J. Collaborate with public and private entities, including adult protective services, involved in the prevention, identification and treatment of abuse, neglect, and exploitation of older adults.</p>
<p>(c) representatives of health care provider organizations, including providers of veterans' health care (if appropriate);</p>	<p>(f) policies, programs and actions representing the interests of older persons and encouraging the involvement of older persons;</p>	<p>K. Comply with the requirements of its contract with the department.</p>
<p>(d) representatives of supportive services provider organizations, which may include legal assistance, nutrition, evidence-based disease prevention and health promotion, caregiver, long-term care ombudsman, and other service providers;</p>	<p>(g) developing and administering the area plan; and</p>	<p>L. Set objectives for providing services to older adults with the greatest economic or social needs, including minority adults with low-incomes and older adults residing in rural and frontier areas.</p>
<p>(e) persons with leadership experience in the private and voluntary sectors;</p>	<p>(h) ensuring the plan is available to older individuals, family caregivers, service providers, and the general public.</p>	<p>M. Set objectives for providing services to caregivers of older adults and older adult caregivers.</p>
<p>(f) local elected officials;</p>	<p>(3) the advisory council shall develop, implement and make public bylaws governing at least the following:</p>	<p>N. Identify and reach populations in need and inform them of the availability of assistance. This responsibility includes the offer of special help or targeted resources for the most vulnerable older individuals, family caregivers, and those in danger of losing their independence.</p>
<p>(g) the general public;</p>	<p>(a) the role and functions of the advisory council;</p>	<p>O. If there is a population of older Native American Indians in the service area, conduct outreach activities to identify those individuals and inform them of the availability of assistance. The area agency on aging will comply with all Title III and Title VI coordination responsibilities set forth in 45 C.F.R. Section 1321.69.</p>
<p>(h) family caregivers;</p>	<p>(b) the number and characteristics of membership;</p>	<p>P. Establish a grievance procedure for persons who are dissatisfied with or denied services;</p>
<p>(i) representatives from Indian Tribes, Pueblos, or Tribal aging programs as available;</p>	<p>(c) the procedures for membership selection; and</p>	<p>Q. List the telephone number of the area agency on aging in each telephone directory published in its service area(s).</p>
<p>(j) older relative caregivers, including kin and grandparent caregivers of children or adults age 18-59 with a disability, as available; and</p>	<p>(d) the procedures for the conduct of the advisory council's business and activities, including preventing conflicts of interest.</p>	<p>R. Coordinate planning and delivery of transportation services (including the purchase of vehicles) to assist older adults in the service area(s).</p>
<p>(k) additional membership as determined by the department or the area agency on aging.</p>	<p>(4) the advisory council shall review and comment upon the area plan and amendments before transmittal to the department for approval.</p>	<p>S. Operate in an ethical and professional manner at all times, including in the development of policies and procedures that are in compliance with state agency policies and procedures as required in 45</p>
<p>(2) the advisory council responsibilities shall include advising the area agency on aging relative to:</p>	<p>(5) the advisory council shall not operate as a board of directors for the area agency on aging. Individuals may not serve on both the advisory council and the board of directors for the same entity.</p>	
<p>(a) all matters relating to the development and administration of the area plan;</p>	<p>I. Determine the extent of need for supportive services, nutrition services and multipurpose senior centers, evaluate the effectiveness of resources to meet such need and enter into agreements</p>	
<p>(b) conducting public hearings;</p>		
<p>(c) representing the interest of older persons and family caregivers;</p>		

C.F.R. Section 1321.59. The area agency on aging must have policies and procedures regarding conflicts of interest in accordance with the Older Americans Act and 45 C.F.R. Section 1321.67.

T. Establish financial management systems in accordance with federal and state requirements.

U. Implement a budget and systematic contracting process.

V. Respond, within established deadlines, to requests by the department to implement specific corrective action as may be required.

W. Collaborate with the foster grandparent, senior companion, and retired senior volunteer programs, the state health insurance program (SHIP), long-term care ombudsmen, and the aging and disability resource center.

X. Provide information on a range of available public and private long-term care services and support options and assure that these options are readily accessible to all older individuals and family caregivers, without regard to their income level.

Y. Provide effective referral from agency to agency to assure that information and assistance is provided, no matter how or where contact is made in the community.

Z. Evidence sufficient flexibility to respond with appropriate individualized assistance, especially for vulnerable older individuals or family caregivers.

AA. Be tailored to the specific nature of the community and the needs of older adults in the community.

BB. Carry out the advocacy responsibilities described and mandated under 45 C.F.R. Section 1321.61.
[9.2.6.10 NMAC - Rp, 9.2.6.10, 09/23/2025]

9.2.6.11 WITHDRAWAL OF AREA AGENCY ON AGING DESIGNATION: If the department determines that an area agency on aging has not made progress to correct any identified deficiency(ies), the department may

initiate the withdrawal of designation process or an area agency on aging may voluntarily relinquish their designation, pursuant to 9.2.7 NMAC and 45 C.F.R. Section 1321.
[9.2.6.11 NMAC - Rp, 9.2.6.11, 09/23/2025]

9.2.6.12 AREA PLAN ADMINISTRATION: A

designated area agency on aging must be responsible for the area plan administration. In this context, the area plan administration means funds used to carry out activities, as set forth in Section 306 of the Older Americans Act (42 U.S.C. Section 3026), and other activities to fulfill the mission of the area agency as set forth in 9.2.6 NMAC and in 45 C.F.R. Section 1321.55, including development of private pay programs or other contracts and commercial relationships. The resources made available to the area agency on aging shall be used in accordance with this section to finance those activities necessary to achieve the elements of a community-based system and shall be used consistent with the requirements for the provision of direct services as set forth in 45 C.F.R. Sections 1321.85 through 1321.93.
[9.2.6.12 NMAC - N, 09/23/2025]

HISTORY OF 9.2.6 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center:
SAA Rule No. 95-6, Area Agency on Aging Requirements, filed 4/13/1995.

History of Repealed Material:

SAA Rule No. 95-6, (filed 4/13/1995) - Repealed 6/30/2015.
9.2.6 NMAC, Area Agency on Aging Requirements filed 6/17/2015 Repealed effective 09/23/2025.

Other: 9.2.6 NMAC, Area Agency on Aging Requirements filed 6/17/2015 Replaced by 9.2.6 NMAC, Area Agency on Aging Requirements effective 09/23/2025.

AGING AND LONG-TERM SERVICES DEPARTMENT

**TITLE 9 HUMAN RIGHTS
CHAPTER 2 AGE
PART 7 DE-
DESIGNATION OF AREA
AGENCIES ON AGING**

9.2.7.1 ISSUING AGENCY: New Mexico Aging and Long-Term Services Department (NMALTSO).
[9.2.7.1 NMAC - Rp, 9.2.7.1 NMAC, 09/23/2025]

9.2.7.2 SCOPE: These rules apply to members of the public and organizations that participate in the delivery of services to New Mexico's aging and disability populations.
[9.2.7.2 NMAC - Rp, 9.2.7.2 NMAC, 09/23/2025]

9.2.7.3 STATUTORY AUTHORITY: Aging and Long-Term Services Department Act, Sections 9-23-1 to 9-23-12 NMSA 1978; Older Americans Act of 1965, 42 U.S.C. Sections 3001 to 3058, and implementing regulations.
[9.2.7.3 NMAC - Rp, 9.2.7.3 NMAC, 09/23/2025]

9.2.7.4 DURATION: Permanent.
[9.2.7.4 NMAC - Rp, 9.2.7.4 NMAC, 09/23/2025]

9.2.7.5 EFFECTIVE DATE: September 23, 2025, unless a later date is cited at the end of a section.
[9.2.7.5 NMAC - Rp, 9.2.7.5 NMAC, 09/23/2025]

9.2.7.6 OBJECTIVE: The objective of this rule is to establish standards and criteria for the de-designation of area agencies on aging.
[9.2.7.6 NMAC - Rp, 9.2.7.6 NMAC, 09/23/2025]

9.2.7.7 DEFINITIONS: See 9.2.1.7 NMAC for definitions.

[9.2.7.7 NMAC - Rp, 9.2.7.7 NMAC, 09/23/2025]

9.2.7.8 LEGAL

REFERENCES: [RESERVED]

[9.2.7.8 NMAC - Rp, 9.2.7.8 NMAC, 09/23/2025]

9.2.7.9 BACKGROUND:

De-designation of an area agency on aging may occur voluntarily or involuntarily. An area agency on aging may voluntarily relinquish its area agency on aging designation. When an area agency on aging fails to comply with applicable federal or state rules, statutes or codes, or terms of a contract, the department may take action as may be legally available and appropriate to the circumstance.

[9.2.7.9 NMAC - Rp, 9.2.7.9 NMAC, 09/23/2025]

9.2.7.10 DEPARTMENT

RESPONSIBILITIES: The department's written acceptance of any voluntary relinquishment of area agency on aging designation shall be considered the department's withdrawal of designation. Prior to any involuntary de-designation effort, the department must provide the area agency on aging with the opportunity to correct any deficiency which may be cause for de-designation.

[9.2.7.10 NMAC - Rp, 9.2.7.10 NMAC, 09/23/2025]

9.2.7.11 DE-

DESIGNATION: The department shall withdraw an area agency on aging designation whenever the department, for specific documented reasons and after reasonable notice and opportunity for a hearing, as provided in 9.2.11 NMAC, finds that:

A. the area agency on aging does not meet the requirements of federal or state regulations, as specified in 9.2.6 NMAC and 45 C.F.R. Section 1321; or

B. the area plan or area plan amendment is not approved in the current funding period; or

C. there is substantial failure to properly administer the approved area plan or to comply with any provision of the Older Americans

Act, the regulations and other guidance set forth by the assistant secretary, the terms and conditions of federal grant awards under the Older Americans Act, or the department's rules or published policies and procedures; or

D. activities of the area agency on aging are inconsistent with the statutory mission prescribed in the Older Americans Act or in conflict with the requirement of the Act that it function only as an area agency on aging; or

E. the area agency on aging does not perform its responsibilities as required by its contract with the department; or

F. the department changes one or more planning and service area designations; or

G. the area agency voluntarily requests the department withdraw its designation.

[9.2.7.11 NMAC - Rp, 9.2.7.11 NMAC, 09/23/2025]

9.2.7.12 NOTIFICATION OF CONTEMPLATION OF WITHDRAWAL OF AREA AGENCY ON AGING DESIGNATION:

If the department contemplates withdrawal of designation of an area agency on aging, the department will notify appropriate individuals and organizations in advance of the contemplated withdrawal and shall set forth the reasons which make it necessary. This notification shall be sent by certified mail, return receipt requested, to:

A. the governor of New Mexico;

B. the New Mexico congressional delegation;

C. state senators and representatives of the districts in which the area agency on aging provides services;

D. the department policy advisory committee;

E. county commission chairpersons and mayors of cities, towns, and villages in the affected planning and service area(s);

F. governors or presidents of Indian pueblos or tribes

in the affected planning and service area(s);

G. the governing body of the area agency on aging;

H. service providers that have current contracts with the area agency; and

I. the area agency on aging advisory council.

[9.2.7.12 NMAC - Rp, 9.2.7.12 NMAC, 09/23/2025]

9.2.7.13 NOTIFICATION OF WITHDRAWAL OF AREA AGENCY ON AGING DESIGNATION:

A. An area agency on aging shall be notified, by certified mail, return receipt requested, at least 10 working days prior to the effective date of its de-designation as an area agency on aging. Such notification shall explain the right of the area agency on aging to appeal such decision as outlined in 9.2.11 NMAC.

B. If, in the department's judgment, an egregious situation exists that seriously threatens the health and welfare of a significant segment of the older adult population within the affected planning and service area(s), the de-designation may be made effective immediately and so stated in the letter of notification. Immediate de-designation does not preclude processing appeals under 9.2.11 NMAC.

[9.2.7.13 NMAC - Rp, 9.2.7.13 NMAC, 09/23/2025]

9.2.7.14 PROCEDURES FOLLOWING WITHDRAWAL OF DESIGNATION:

If the department de-designates an area agency on aging, the department shall take the following actions:

A. The department will notify, by certified mail, return receipt requested, the assistant secretary and others as specified in 9.2.7.12 NMAC or as required by federal regulation.

B. The department will submit a state plan or state plan amendment to the assistant secretary that includes the withdrawal of designation.

C. The department will provide a plan for continuity of services in the affected planning and service area(s) and will:

(1) discontinue reimbursement to the former area agency on aging except for outstanding obligations;

(2) notify area agency on aging contractors regarding where to submit requests for reimbursement;

(3) terminate any contracts with the former area agency on aging; and

(4) designate an interim or new area agency on aging to administer the planning and service area(s) in a timely manner.

D. If an area agency on aging is de-designated, the department may, if necessary to ensure continuity of services in a planning and service area, assume the role of the area agency on aging for a period of up to 180 days after its final decision to withdraw designation of the area agency on aging; this period may be extended by the assistant secretary. The department may also elect to assign the responsibilities of the area agency to another agency in the planning and service area.
[9.2.7.14 NMAC - Rp, 9.2.7.14 NMAC, 09/23/2025]

HISTORY OF 9.2.7 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State records center:
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History of Repealed Material:

SAA Rule No. 95-7, filed 4/13/1995 - Repealed 6/30/2015.
9.2.7 NMAC, De-Designation of Area Agencies on Aging filed 6/17/2015
Repealed effective 09/23/2025.

Other: 9.2.7 NMAC, De-Designation of Area Agencies on Aging filed 6/17/2015 Replaced by 9.2.7 NMAC, De-Designation of Area Agencies on Aging filed 6/17/2015 effective 09/23/2025.

AGING AND LONG-TERM SERVICES DEPARTMENT

**TITLE 9 HUMAN RIGHTS
CHAPTER 2 AGE
PART 11 APPEAL/
HEARING PROCEDURES**

9.2.11.1 ISSUING AGENCY: New Mexico Aging and Long-Term Services Department (NMALTSO).
[9.2.11.1 NMAC - Rp, 9.2.11.1 NMAC, 09/23/2025]

9.2.11.2 SCOPE: These rules apply to members of the public and organizations that participate in the delivery of services to New Mexico’s aging and disability population.
[9.2.11.2 NMAC - Rp, 9.2.11.2 NMAC, 09/23/2025]

9.2.11.3 STATUTORY AUTHORITY: Aging and Long-Term Services Department Act, Sections 9-23-1 to 9-23-12 NMSA 1978; Older Americans Act of 1965, 42 U.S.C. Sections 3001 to 3058, and implementing regulations.
[9.2.11.3 NMAC - Rp, 9.2.11.3 NMAC, 09/23/2025]

9.2.11.4 DURATION: Permanent.
[9.2.11.4 NMAC - Rp, 9.2.11.4 NMAC, 09/23/2025]

9.2.11.5 EFFECTIVE DATE: September 23, 2025, unless a later date is cited at the end of a section.
[9.2.11.5 NMAC - Rp, 9.2.11.5 NMAC, 09/23/2025]

9.2.11.6 OBJECTIVE: The objective of this rule is to establish the appeals process for decisions made by the aging and long-term services department.
[9.2.11.6 NMAC - Rp, 9.2.11.6 NMAC, 09/23/2025]

9.2.11.7 DEFINITIONS: The following words and terms, when used in this section, shall have the

following meanings unless the context clearly indicates otherwise.

A. **“Hearing”** is an administrative review of documentation and evidence and an opportunity for oral testimony at the discretion of a hearing officer.

B. **“Hearing officer”** means an impartial person selected by the department secretary to conduct a hearing and render a proposed final decision.

C. **“Party”** means any petitioner and all interested persons affected by the outcome of a decision under this rule.

D. **“Petitioner”** means any person or organization who has a right to a hearing under these rules and has filed a written request for a hearing.
[9.2.11.7 NMAC - Rp, 9.2.11.7 NMAC, 09/23/2025]

9.2.11.8 LEGAL REFERENCES: [RESERVED]
[9.2.11.8 NMAC - Rp, 9.2.11.8 NMAC, 09/23/2025]

9.2.11.9 PERSONS OR ORGANIZATIONS ENTITLED TO APPEAL: The following persons or organizations (“petitioners”) have a right to a hearing:

A. any applicant for designation as a PSA, whose application is denied by the department, according to 9.2.4.15 NMAC;

B. any affected party when the department initiates an action or a proceeding to designate an additional PSA, divide the state into different PSAs, or otherwise affect the boundaries of PSAs, according to 9.2.4.12 NMAC;

C. an area agency on aging when the department proposes to:

(1) disapprove an area plan or plan amendment, according to Section G of 9.2.6.10 NMAC; or

(2) withdraw an area agency on aging designation, according to 9.2.7 NMAC; and

D. any applicant for area agency on aging designation

denied designation, according to 9.2.5 NMAC.

[9.2.11.9 NMAC - Rp, 9.2.11.9 NMAC, 09/23/2025]

9.2.11.10 HEARING PROCEDURES FOR PETITIONERS:

A. Request for a hearing:

(1) A request for a hearing must be submitted in writing to the secretary of the department within 10 working days of the receipt of the notice of action and must state with specificity the grounds upon which the proposed action is appealed or contested and the grounds upon which the petitioner refutes the basis of the proposed action. The request must include:

(a) a copy of the department's action letter;

(b) the dates of all relevant actions;

(c) the names of individuals or organizations involved in the proposed action being appealed;

(d) a specific statement of any section of the Older Americans Act or state or federal rules or regulations believed to have been violated by the department; and

(e) for organizations, a copy of the minutes or resolution in which the petitioner's governing body requests a hearing, and which authorizes a person(s) to act on behalf of the organization; the minutes or resolution shall indicate adoption by a majority of the quorum of the governing body of the organization.

(2) The petitioner may submit written amendments to the request for hearing which must be received by the secretary of the department or designee not less than 10 working days prior to the date set for hearing.

(3) The secretary of the department or designee may require additional information at any time prior to the hearing. The secretary or designee will provide a reasonable amount of

time for the petitioner to respond to any such request.

(4) Failure to submit all the information required in the request within the required time period will result in the forfeiture of the petitioner's right to a hearing.

B. Notice of hearing:

(1) Within 20 calendar days of receipt of a request for a hearing, the secretary of the department or designee shall acknowledge in writing the receipt of the request for a hearing and shall determine if the petitioner is entitled to a hearing. If so, the hearing date and notice of the hearing shall be provided to the petitioner(s). The hearing date shall not be later than 120 calendar days from the receipt of the request for a hearing.

(2) The secretary of the department or designee shall provide written notice of any hearing to the petitioner, which shall include:

(a) a statement of the time, date, location, and nature of the hearing;

(b) a statement of the legal authority and jurisdiction under which the hearing is to be held; and

(c) a reference to the particular section of statutes, regulations and rules involved.

(3) The secretary of the department or designee shall, after the initial notice, issue a written statement of the issues involved in the appeal. Thereafter a more definite and detailed statement may be furnished not less than 10 calendar days prior to the date set for the hearing.

C. The secretary shall appoint an impartial hearing officer to preside at the hearing. The hearing officer may be an employee of the department. The hearing officer shall have authority to administer oaths, rule on the parties' motions, determine the admissibility of evidence, recess any hearing, and rule on such other procedural motions as may be presented by any of the parties.

D. Conduct of the hearing:

(1) Documentary evidence may be received by the hearing officer in the form of a copy or excerpt if the original is not readily available. On request, either party shall be given an opportunity to compare the copy with the original.

(2) Parties may submit documents to the hearing officer and other parties in written form prior to the hearing. Parties may also stipulate as to facts or circumstances.

(3) Either party may cross-examine witnesses to obtain a full and true disclosure of the facts.

(4) The hearing officer may take official notice of generally recognized facts within the area of the department's specialized knowledge. The hearing officer shall inform the parties of the facts officially noticed either before or during the hearing, and shall afford the parties an opportunity to contest the facts officially noticed. The special skills or knowledge of the department and its staff may be used in evaluating the evidence.

(5) The parties need not make formal exceptions to the hearing officer's rulings during a hearing. It shall be sufficient that the party informs the hearing officer of any objection to any ruling at the time it is made.

E. During the hearing, the petitioner shall present evidence first. Other parties shall follow and present their evidence. The petitioner may thereafter present rebuttal evidence only. Rebuttal evidence must be confined to the issues raised in any other party's presentation of evidence. The petitioner shall be given the opportunity to offer a final argument without additional presentation of evidence. In addition, the other party may present a final argument without additional presentation of evidence;

F. The hearing shall be completed within 120 days of the date the request for hearing was received by the department.

G. An oral hearing shall be electronically recorded. Upon request of any party to the hearing, a copy of this recording shall be made available to the requesting party at cost. In addition, any party may request that a court reporter record the hearing at the requestor's expense. Any transcript must be certified by the hearing officer.

H. Record: The record in a hearing under this section consists exclusively of:

- (1) a copy of the notice of proposed action that generated the appeal;
- (2) the request for hearing, including all amendments;
- (3) the notice of hearing;
- (4) written information supporting the appeal, which was submitted to the department;
- (5) the department's written statement of the issues involved in the appeal;
- (6) all motions and rulings made before the hearing;
- (7) all evidence received or considered;
- (8) a statement of facts officially noticed;
- (9) any decision, opinion or report by the hearing officer;
- (10) all staff memoranda or data submitted to and considered by the hearing officer;
- (11) the recording and transcription, if any, of the hearing;
- (12) the hearing officer's recommended decision; and
- (13) the final decision.

I. Final decision:

- (1) The hearing officer shall base his/her recommended decision solely on the record.
- (2) The hearing officer shall present to the secretary a recommended decision, including proposed findings of fact and conclusions of law, within 10 working days after the close of the

hearing. The recommendation must be in writing and signed by the hearing officer.

(3) The secretary shall issue a final decision, based on the hearing officer's recommendation, for the record, within five working days of the receipt of the hearing officer's recommendation. The secretary shall affirm the action heard, unless it is unlawful, arbitrary or not reasonably supported by substantial evidence in the record.

(4) The secretary shall send a copy of the final decision to all parties by registered or certified mail, return receipt requested, within five working days after it is rendered.

J. Appeal to the assistant secretary of the U.S. administration on aging: Only an applicant for designation as a federally recognized planning and service area whose application is denied by the department and whose appeal to the department has been denied may appeal the denial to the assistant secretary of the U.S. Administration on Aging under the procedures specified in the Older Americans Act and its implementing regulations. In all other cases, the secretary's decision, based on the hearing officer's recommendation, shall be final.

[9.2.11.10 NMAC - Rp, 9.2.11.10 NMAC, 09/23/2025]

9.2.11.11 APPEAL TO THE DEPARTMENTAL APPEALS BOARD:

Any area agency on aging that has appealed a state agency's decision to withdraw area agency on aging designation, and that has been provided a hearing and a written decision, may appeal the decision to the departmental appeals board. The petitioner must follow the procedures for such appeal as set forth in 45 C.F.R. Section 1321.23 and 45 C.F.R. Part 16.

[9.2.11.11 NMAC - N, 09/23//2025]

HISTORY OF 9.2.11 NMAC:
Pre-NMAC History: The material in this part was derived from that

previously filed with the State Records Center:
AOA 85-1, State Agency on Aging Hearing Procedures, filed 1/15/1985.
SAA Rule No. 95-11, Appeal/Hearing Procedures, filed 4/13/1995.

History of Repealed Material:
SAA Rule No. 95-11, filed 4/13/1995 - Repealed 6/30/2015.
9.2.11 NMAC, Appeal/Hearing Procedures filed 6/17/2015 Repealed effective 09/23/2025.

Other: 9.2.11 NMAC, Appeal/Hearing Procedures filed 6/17/2015 Replaced by 9.2.11 NMAC, Appeal/Hearing Procedures effective 09/23/2025.

AGING AND LONG-TERM SERVICES DEPARTMENT

**TITLE 9 HUMAN RIGHTS
CHAPTER 2 AGE
PART 13 EMPLOYMENT
PROGRAMS FOR OLDER WORKERS**

9.2.13.1 ISSUING
AGENCY: New Mexico Aging and Long-Term Services Department.
[9.2.13.1 NMAC - Rp, 9.2.13.1 NMAC, 09/23/2025]

9.2.13.2 SCOPE: These rules apply to members of the public and organizations that apply to participate in one or more of the programs created in this part.
[9.2.13.2 NMAC - Rp, 9.2.13.2 NMAC, 09/23/2025]

9.2.13.3 STATUTORY
AUTHORITY: Sections 9-23-1 et seq. and 28-4-1 et seq. NMSA 1978.
[9.2.13.3 NMAC - Rp, 9.2.13.3 NMAC, 09/23/2025]

9.2.13.4 DURATION:
Permanent.
[9.2.13.4 NMAC - Rp, 9.2.13.4 NMAC, 09/23/2025]

9.2.13.5 EFFECTIVE
DATE: September 23, 2025, unless a

later date is cited in the history note at the end of a section.

[9.2.13.5 NMAC - Rp, 9.2.13.5 NMAC, 09/23/2025]

9.2.13.6 OBJECTIVE: The objective of this rule is to establish standards and requirements for eligibility of participants and host agencies for the federal and state funded programs administered by the employment programs bureau of the aging network division of the aging and long-term services department and to comply with Older Americans Act Sections 501 through 518, (codified as amended at 42 U.S.C. Section 3056); and implementing regulations, 20 C.F.R. Section 641 (as amended).

[9.2.13.6 NMAC - Rp, 9.2.13.6 NMAC, 09/23/2025]

9.2.13.7 DEFINITIONS: The following words and terms, when used in this section, shall have the following meanings unless the context clearly indicates otherwise.

A. "Aging network" means programs and services for older adults throughout New Mexico that receive federal or state funds under contract with the department or area agencies on aging. The aging network includes, but is not limited to, programs sponsored by tribal governments, local governments and private, non-profit organizations.

B. "Applicant" means a member of the public who completes an application to become a participant in one of the programs created in this part.

C. "Community service" means social, health, welfare and educational services; legal and other counseling services and assistance; library, recreational services, conservation, maintenance or restoration of natural resources, community betterment or beautification, pollution control or environmental quality efforts, economic development or other types of service, which the department approves, excluding building and construction, except that which is normally performed by the

department, or work which primarily benefits private profit-making organizations.

D. "Department" means the New Mexico aging and long-term services department (ALTSD).

E. "Equitable distribution plan" means the process of allocating positions based on age and income census data as required pursuant to 20 C.F.R. Sections 641.140, 641.360, 641.365, and 641.879 (Older Americans Act regulations as amended).

F. "Host agency" is an agency or organization selected by the department where an eligible employment program participant is placed in a subsidized position for work experience and training.

G. "New Mexico senior employment program" means the state funded employment and training program designed to provide community service employment opportunities for older adults that enable them to remain actively engaged in their communities.

H. "Older Americans Act of 1965" (Older Americans Act) means Sections 501 through 518, title V, "The Older American Community Service Employment Act", Pub. L. 89-73, as amended by Pub. L. 109-363, enacted Oct. 16, 2006, (codified as amended at 42 U.S.C. Section 3056), and implementing regulations, 20 C.F.R. Part 641 (as amended).

I. "Participants" are applicants who:

(1) have been deemed eligible for training under the programs set forth in this part and have been placed in subsidized on-the-job training; or

(2) have been hired and placed in community service and training opportunities.

J. "Pay period" means the two-week period as established and published by the New Mexico department of finance and administration.

K. "Position" is an on-the-job training or community service opportunity created by one of the programs set forth in this part.

L. "Program year" is the period of July 1 through June 30.

M. "Senior community service employment program" (SCSEP) means the federal employment and training program funded pursuant to the provisions of Title V of the Older Americans Act, sections 501 through 518.

N. "Subsidized on-the-job training" is participation in the programs set forth in this part that fund wages for hours worked using federal or state monies.

O. "Supervisor" is the individual designated by the host agency or the department to oversee the work of a participant.

P. "Transition" is the movement of a participant from on-the-job training to unsubsidized employment.

Q. "Unsubsidized employment" is work in the public or private sector not funded from one of the programs set forth in this part. [9.2.13.7 NMAC - Rp, 9.2.13.7 NMAC, 09/23/2025]

9.2.13.8 SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM (SCSEP):

A. Position allocation.

(1) The department will follow an equitable distribution plan pursuant to Section 507 of the Older Americans Act and 20 C.F.R. Sections 641.140, 641.360, 641.365 and 641.879 (as amended) and endeavor to allocate positions to each county in New Mexico based on the projected percentage of individuals meeting the eligibility requirements of this section.

(2) When allocating positions, the equitable distribution of all senior community service employment program resources available through federal contractors operating in New Mexico will be considered.

(3) When a participant exits subsidized on-the-job training and a vacancy occurs, the vacant position is removed from the host agency and will be placed

in a statewide pool and reassigned as follows:

(a) any inequities in the equitable distribution plan will be noted and the most under-served counties will have priority to receive the position;

(b) applicants will be sought or taken from a waiting list, if one exists;

(c) federally-mandated priorities and preferences will be implemented in accordance with Section 518 of the Older Americans Act and 20 C.F.R. Sections 641.515 through 641.530 (as amended);

(d) chosen applicants will be assessed for their employment goals;

(e) host agencies that provide training which matches applicant goals will be chosen;

(f) in the event of more than one host agency that matches applicant goals, priority will be given to the host agency that demonstrates ability to provide training resulting in the unsubsidized employment of participants.

B. Eligibility requirements are:

(1) an applicant shall be 55 years of age or older in order to be determined eligible, no applicant may be determined ineligible because of advanced age, and no upper age limitation may be used;

(2) an applicant's income shall meet the eligibility requirements specified in the Older Americans Act in order to be determined eligible;

(3) an applicant shall be a resident of New Mexico, unless a cross-border agreement with a neighboring state exists, in order to be determined eligible;

(4) any additional requirements of the Older Americans Act, such as that an applicant be unemployed, will be implemented; and

(5) after completing an application, an applicant may need to disclose additional information or submit to additional screening in order to qualify for a specific placement at the discretion of the department and the host agency, including, but not limited to: background checks or proof of applicable licensure (for example, work with young children or vulnerable adults may require a criminal background check, large vehicle operation may require a special driver's license, operation of heavy equipment or lifting heavy loads may require additional medical disclosure); failure to fully disclose information relevant to meeting the qualifications for a position may result in termination, change, or lack of placement.

C. An eligible applicant who has been accepted as a participant shall be offered a physical examination at the time of enrollment and annually thereafter. The participant may waive this benefit and shall do so in writing.

D. Senior community service employment program trainee participants are excluded from membership in the public employees retirement association.

E. Eligible participants shall be placed in on-the-job training positions that provide community service. Participants may not engage in political activities pursuant to Older Americans Act, Section 502(b)(1) (P) implemented at 20 C.F.R. Section 641.836 (as amended).

F. Wages shall be at least the prevailing federal, state or local minimum wage, whichever is higher.

G. In compliance with the Fair Labor Standards Act of 1938, 29 U.S.C. Chapter 8 Section 201 et seq. (as amended), participants are not allowed to donate extra volunteer hours at work sites unless the volunteer work is substantially different than that required by their subsidized positions.

H. The department may transfer a participant from one host agency to another.

I. The department shall determine whether an agency or organization is eligible to be designated a host agency, pursuant to Older Americans Act Section 502(b)(1)(D) implemented at 20 C.F.R. Sections 641.140 and 641.844 (as amended). Before a position can be assigned to the host agency, a proper agreement shall be executed.

J. The department shall develop and maintain policy and procedure manuals. Such manuals will designate participant benefits and other policies and procedures to enable the smooth operation of the program.

K. Participants shall be reimbursed mileage, per diem and other expenses only in accordance with policies and procedures developed by the department.

L. No waivers of the eligibility requirement under the senior community service employment program may be granted by the department.

[9.2.13.8 NMAC - Rp, 9.2.13.8 NMAC, 09/23/2025]

9.2.13.9 NEW MEXICO SENIOR EMPLOYMENT PROGRAM:

A. The department will work in collaboration with area agencies on aging and other aging network providers to allocate positions within each planning and service area.

B. Eligibility requirements are:

(1) an applicant shall be 55 years of age or older in order to be determined eligible, no applicant may be determined ineligible because of advanced age, and no upper age limitation may be used;

(2) an applicant's income shall meet the income eligibility requirements specified in the Older Americans Act Section 518 Paragraphs (3) and (4) as implemented at 20 C.F.R. Part 641 (as amended) in order to be determined eligible;

(3) an applicant shall be a resident of New

Mexico in order to be determined eligible; and

(4) after completing an application, an applicant may need to disclose additional information or submit to additional screening in order to qualify for a specific placement at the discretion of the department and the host agency, including, but not limited to: background checks or proof of applicable licensure (for example, work with young children or vulnerable adults may require a criminal background check, large vehicle operation may require a special driver's license, operation of heavy equipment or lifting heavy loads may require additional medical disclosure); failure to fully disclose information relevant to meeting the qualifications for a position may result in termination, change, or lack of placement.

C. An eligible applicant who has been accepted as a participant shall be offered a physical examination at the time of enrollment and annually thereafter. The participant may waive this benefit and shall do so in writing.

D. New Mexico senior employment program trainee participants are excluded from membership in the public employees retirement association.

E. Eligible participants shall not be placed in on-the-job training positions in which they engage in political or religious activities.

F. Wages shall be at least the prevailing federal, state or local minimum wage, whichever is higher.

G. In compliance with the Fair Labor Standards Act of 1938, 29 U.S.C. Chapter 8 Section 201 et seq. (as amended), participants are not allowed to donate extra volunteer hours at work sites unless the volunteer work is substantially different than that required by their subsidized positions.

H. The department may transfer a participant from one host agency to another.

I. The department shall determine whether an agency or organization is eligible to be designated a host agency. Before a position can be assigned to the host agency, a proper agreement shall be executed.

J. The department shall develop and maintain policy and procedure manuals. Such manuals will designate participant benefits and other policies and procedures to enable the smooth operation of the program.

K. Participants shall be reimbursed mileage, per diem and other expenses only in accordance with policies and procedures developed by the department.

L. Waivers of age and income eligibility requirements may be granted by the department on a case-by-case basis.
[9.2.13.9 NMAC - Rp, 9.2.13.9 NMAC, 09/23/2025]

9.2.13.10 [RESERVED]

9.2.13.11 GRIEVANCE PROCEDURE:

A. An applicant who has been determined ineligible for enrollment or placement in the programs created under this part may:

(1) request a reconsideration regarding ineligibility from the employment programs bureau chief, either in person, by telephone, or in writing, within five calendar days of receipt of the notice of ineligibility determination;

(2) the bureau chief shall have 10 calendar days from receipt of the request for reconsideration to review the documentation and make a second determination of eligibility;

(3) if the applicant still believes that the determination is incorrect, the applicant's next step is to contact the aging network division director in writing within 10 calendar days of receipt of the bureau chief's ineligibility determination, challenging the reasons given for ineligibility, and providing accompanying documentation;

(4) after reviewing the challenge and accompanying documentation, the division director shall make a determination affirming or reversing the determination of eligibility by the bureau chief within 10 calendar days of receiving the challenge; the division director's determination shall be final.

B. Any participant who believes that he or she has been subject to unfair treatment, discrimination, or harassment by a supervisor, manager, co-worker or a host agency may proceed as follows:

(1) Step 1: The participant may discuss a problem or grievance with the participant's supervisor, either in person, by telephone, or in writing, within five calendar days of the occurrence of the problem. The supervisor shall then work with the participant to provide a solution or an explanation within 10 additional calendar days. If more time is required for the supervisor to provide a meaningful response, the participant will be notified of this fact and advised of the anticipated response date. In no event shall the supervisor extend the response date by more than 30 days from receipt of first notice. However, if the participant finds it difficult to discuss the problem with the supervisor, the participant may proceed directly to step 2.

(2) Step 2: If the problem or grievance remains unresolved to the participant's satisfaction after following Step 1, or if the participant found it difficult to discuss the problem with the supervisor, the participant may proceed to the host agency's next level of authority. The participant may discuss the problem with this level of authority, either in person, by telephone, or in writing, within five calendar days of the event giving rise to the grievance or the response of the supervisor in step 1. This level of authority shall then work with the participant to provide a solution and/or explanation within 10 additional calendar days. If the participant feels that the problem continues to remain

unresolved, the participant may proceed to step 3.

(3) Step 3: If the participant is unable to receive a satisfactory answer or resolution to the problem from the host agency in step 2, the participant may then submit a written grievance to the employment programs bureau chief within five days after the participant receives the response from the host agency in step 2. This written grievance shall include the following: the nature of the grievance, relevant facts and specific actions, and the requested relief or course of action. The bureau chief shall contact the participant within 10 calendar days after receiving the written grievance, to obtain additional information relevant to the grievance. The bureau chief may investigate the grievance and shall provide a written determination. This shall be mailed to the participant within 20 calendar days after the bureau chief's receipt of the grievance unless additional time is required for investigation. If additional time is required, the participant will be notified of that fact and advised of the response date. In no event shall the bureau chief extend the response date by more than 30 days from receipt of first notice.

(4) If the problem or grievance remains unresolved to the participant's satisfaction following step 3, the participant may follow the appeal procedure outlined 9.2.13.12 NMAC. [9.2.13.11 NMAC - Rp, 9.2.13.11 NMAC, 09/23/2025]

9.2.13.12 RIGHT OF APPEAL OF PARTICIPANTS:

A. Participants in programs created under this part have a right of appeal in the following circumstances:

(1) when participation has been involuntarily terminated by written notification from the department; or

(2) when deemed ineligible for continued enrollment by written notification from the department; or

(3) when, after following the grievance procedure outlined in Subsection B of 9.2.13.11 NMAC, the problem or grievance remains unresolved.

B. Appeal procedures for program participants who meet the criteria set forth in Subsection A of this section:

(1) An appeal, pursuant to Subsection A of this section, shall be submitted in writing to the director of the aging network division within five working days following receipt of the notice of action;

(2) The aging network division director shall contact the participant within 10 calendar days after receiving the written appeal to confirm receipt of the appeal and provide an opportunity to obtain additional information relevant to the appeal;

(3) After affording the applicant the opportunity to produce additional relevant information, the aging network division director shall provide a written decision in response to the appeal within 25 calendar days following contact with the participant;

(4) The aging network division director's decision shall be final and binding;

(5) Complaints of violations of federal law that cannot be resolved within 60 days as a result of this appeal procedure may be filed with the employment and training administration of the United States department of labor or other appropriate entities. [9.2.13.12 NMAC - Rp, 9.2..13.12 NMAC, 09/23/2025]

HISTORY OF 9.2.13 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the state records center and archives: SAA Rule No. 95-13, Employment Programs for the Elderly, filed 4/13/95.

History of Repealed Material: SAA Rule No. 95-13, Employment Programs for the Elderly (filed

4/13/95) repealed 2/12/2010. 9.2.13 NMAC, Employment Programs for the Elderly, filed 6/17/2015 Repealed effective 09/23/2025.

Other History: SAA Rule No. 95-13, Employment Programs for the Elderly (filed 4/13/95) was renumbered, reformatted and replaced by 9.2.13 NMAC, Employment Programs for Older Workers, effective 2/12/2010. 9.2.13 NMAC, Employment Programs for the Elderly, filed 6/17/2015 Replaced by 9.2.13 NMAC, Employment Programs for the Elderly, effective 09/23/2025.

AGING AND LONG-TERM SERVICES DEPARTMENT

**TITLE 9 HUMAN RIGHTS
CHAPTER 2 AGE
PART 14 STATE-FUNDED
FOSTER GRANDPARENT PROGRAM**

9.2.14.1 ISSUING AGENCY: New Mexico Aging and Long-Term Services Department (NMALTSO). [9.2.14.1 NMAC - Rp, 9.2.14.1 NMAC, 09/23/2025]

9.2.14.2 SCOPE: These rules apply to members of the public and organizations that participate in the delivery of services to New Mexico's aging and disability population. [9.2.14.2 NMAC - Rp, 9.2.14.2 NMAC, 09/23/2025]

9.2.14.3 STATUTORY AUTHORITY: Aging and Long-Term Services Department Act, Sections 9-23-1 to 9-23-12 NMSA 1978; Older Americans Act of 1965, 42 U.S.C. Sections 3001 to 3058, and implementing regulations. [9.2.11.3 NMAC - Rp, 9.2.14.3 NMAC, 09/23/2025]

9.2.14.4 DURATION:

Permanent.

[9.2.14.4 NMAC - Rp, 9.2.14.4 NMAC, 09/23/2025]

9.2.14.5 EFFECTIVE

DATE: September 23, 2025, unless a later date is cited at the end of a section.

[9.2.14.5 NMAC - Rp, 9.2.14.5 NMAC, 09/23/2025]

9.2.14.6 OBJECTIVE:

The objective of this rule is to establish standards for the state-funded foster grandparent programs administered by the aging and long-term services department.

[9.2.14.6 NMAC - Rp, 9.2.14.6 NMAC, 09/23/2025]

9.2.14.7 DEFINITIONS:

The foster grandparent program provides contracts to qualified organizations for the dual purposes of engaging persons 55 and older, particularly those with limited incomes, in volunteer service to meet critical community needs and of providing high-quality experiences that will enrich the lives of the volunteers. Foster grandparents provide supportive, person-to-person services to children who have exceptional needs, or who are in circumstances that limit their academic, social, or emotional development. State-funded foster grandparents may receive stipends to support their volunteer work.

[9.2.14.7 NMAC - Rp, 9.2.14.7 NMAC, 09/23/2025]

9.2.14.8 LEGAL

REFERENCES: Domestic Volunteer Service Act of 1973, 42 U.S.C. Sections 4950 to 5085; 42 U.S.C. Section 12651, Foster Grandparent Program, 45 C.F.R. Section 2552.

[9.2.14.8 NMAC - Rp, 9.2.14.8 NMAC, 09/23/2025]

9.2.14.9 CORPORATION FOR NATIONAL AND COMMUNITY SERVICE HANDBOOK:

A. The department adopts the most current corporation for national and community service (CNCS) foster grandparent program handbook as the operating rules and procedures with which state-funded foster grandparent programs must comply.

B. Eligibility for state-funded foster grandparent programs is the same as for the CNCS program. However, the department secretary may waive any provisions of the CNCS handbook except those which will jeopardize a program's continued federal sponsorship.

[9.2.14.9 NMAC - Rp, 9.2.14.9 NMAC, 09/23/2025]

9.2.14.10 DEPARTMENT RESPONSIBILITIES: The department shall:

A. allocate funds appropriated by the state legislature:

(1) to current contractors to maintain or enhance levels of operation; and

(2) expand services based on determined need;

B. contract with new organizations to the extent that funds are available;

C. conduct at least one assessment of each contractor every two years; and

D. provide training and technical assistance to volunteers and employees of contract organizations.

[9.2.14.10 NMAC - Rp, 9.2.14.10 NMAC, 09/23/2025]

9.2.14.11 CONTRACTOR RESPONSIBILITIES: Contractors shall:

A. comply with federal and state regulations and policies, except to the extent that the department has granted a waiver of any federal policies;

B. submit an annual budget proposal and work plan in the format established by the department;

C. submit monthly financial expenditure reports and requests for reimbursement to the department, as requested;

D. submit reports to the department in the form and

manner required and specified by the department in the contract scope of work;

E. submit an annual financial audit as requested by the department;

F. coordinate with other aging network providers, particularly in the areas of transportation, outreach, and supportive services;

G. attend required meetings and training sessions; and

H. budget sufficient state funds to allow at least one representative to attend the annual New Mexico conference on aging and one state aging network training session.

[9.2.14.11 NMAC - Rp, 9.2.14.11 NMAC, 09/23/2025]

HISTORY OF 9.2.14 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center:

SAA Rule No. 95-14, State Funded Foster Grandparent Program, filed 4/13/1995.

History of Repealed Material:

SAA Rule No. 95-14, (filed 4/13/1995) - Repealed 6/30/2015. 9.2.14 NMAC, State Funded Foster Grandparent Program filed 6/17/2015 Repealed effective 09/23/2025.

Other: 9.2.14 NMAC, State Funded Foster Grandparent Program filed 6/17/2015 Replaced by 9.2.14 NMAC, State Funded Foster Grandparent Program effective 09/23/2025.

AGING AND LONG-TERM SERVICES DEPARTMENT**TITLE 9 HUMAN RIGHTS
CHAPTER 2 AGE
PART 15 STATE-FUNDED SENIOR COMPANION PROGRAM****9.2.15.1 ISSUING AGENCY:** New Mexico Aging

and Long-Term Services Department (NMAITSD).

[9.2.15.1 NMAC - Rp, 9.2.15.1 NMAC, 09/23/2025]

9.2.15.2 SCOPE: These rules apply to members of the public and organizations that participate in the delivery of services to New Mexico's aging and disability populations.

[9.2.15.2 NMAC - Rp, 9.2.15.2 NMAC, 09/23/2025]

9.2.15.3 STATUTORY AUTHORITY: Aging and Long-Term Services Department Act, Sections 9-23-1 to 9-23-12 NMSA 1978; Older Americans Act of 1965, 42 U.S.C. Sections 3001 to 3058, and implementing regulations.

[9.2.15.3 NMAC - Rp, 9.2.15.3 NMAC, 09/23/2025]

9.2.15.4 DURATION: Permanent.

[9.2.15.4 NMAC - Rp, 9.2.15.4 NMAC, 09/23/2025]

9.2.15.5 EFFECTIVE DATE: September 23, 2025, unless a later date is cited at the end of a section.

[9.2.15.5 NMAC - Rp, 9.2.15.5 NMAC, 09/23/2025]

9.2.15.6 OBJECTIVE:

The objective of this rule is to establish standards for the state-funded senior companion programs administered by the aging and long-term services department.

[9.2.15.6 NMAC - Rp, 9.2.15.6 NMAC, 09/23/2025]

9.2.15.7 DEFINITIONS: The senior companion program (SCP) provides contracts to qualified organizations for the dual purposes of engaging persons 55 and older, particularly those with limited incomes, in volunteer service to meet critical community needs and of providing high quality experiences that will enrich the lives of the volunteers. Senior companions provide supportive, individualized services to help older adults with

special needs maintain their dignity and independence. State-funded senior companions may receive stipends to support their volunteer work.

[9.2.15.7 NMAC - Rp, 9.2.15.7 NMAC, 09/23/2025]

9.2.15.8 LEGAL

REFERENCES: Domestic Volunteer Service Act of 1973, 42 U.S.C. Sections 4950 to 5085; 42 U.S.C. Section 12651; Senior Companion Program, 45 C.F.R. Section 2551.

[9.2.15.8 NMAC - Rp, 9.2.15.8 NMAC, 09/23/2025]

9.2.15.9 CORPORATION FOR NATIONAL AND COMMUNITY SERVICE HANDBOOK:

A. The department adopts the most current corporation for national and community service (CNCS) senior companion program handbook as the operating rules and procedures with which state-funded senior companion programs must comply.

B. Eligibility for state-funded senior companion programs is the same as for the CNCS program. However, the department secretary may waive any provisions of the CNCS handbook except those which will jeopardize a program's continued federal sponsorship.

[9.2.15.9 NMAC - Rp, 9.2.15.9 NMAC, 09/23/2025]

9.2.15.10 DEPARTMENT RESPONSIBILITIES: The department shall:

A. allocate funds appropriated by the state legislature: **(1)** to current contractors to maintain or enhance levels of operation; and

(2) to expand services based on determined need;

B. contract with new organizations to the extent that funds are available;

C. conduct at least one assessment of each contractor every two years; and

D. provide training and technical assistance to volunteers and staff of contract organizations.

[9.2.15.10 NMAC - Rp, 9.2.15.10 NMAC, 09/23/2025]

9.2.15.11 CONTRACTOR RESPONSIBILITIES: Contractors shall:

A. comply with federal and state regulations and policies, except to the extent that the department has granted a waiver of any federal policies;

B. submit an annual budget proposal and work plan in the format established by the department;

C. submit monthly financial expenditure reports and requests for reimbursement to the department, as requested;

D. submit reports to the department in the form and manner required and specified by the department in the contract scope of work;

E. submit an annual financial audit as requested by the department;

F. coordinate with other aging network providers, particularly in the areas of transportation, outreach, and supportive services;

G. attend required meetings and training sessions; and

H. budget sufficient state funds to allow at least one representative to attend the annual New Mexico conference on aging and one state aging network training session.

[9.2.15.11 NMAC - Rp, 9.2.15.11 NMAC, 09/23/2025]

HISTORY OF 9.2.15 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center:

SAA Rule No. 95-15, State Funded Senior Companion Program, filed 4/13/1995.

History of Repealed Material:

SAA Rule No. 95-1, (filed 4/13/1995) - Repealed 6/30/2015.

9.2.15 NMAC, State Funded Senior

Companion Program, filed 6/17/2025
Repealed effective 09/23/2025.

Other: 9.2.15 NMAC, State Funded Senior Companion Program, filed 6/17/2025 Replaced by 9.2.15 NMAC, State Funded Senior Companion Program effective 09/23/2025.

AGING AND LONG-TERM SERVICES DEPARTMENT

TITLE 9 HUMAN RIGHTS CHAPTER 2 AGE PART 16 STATE-FUNDED RETIRED SENIOR VOLUNTEER PROGRAM

9.2.16.1 ISSUING

AGENCY: New Mexico Aging and Long-Term Services Department (NMALTSB).

[9.2.16.1 NMAC - Rp, 9.2.16.1 NMAC, 09/23/2025]

9.2.16.2 SCOPE: These rules apply to members of the public and organizations that participate in the delivery of services to New Mexico's aging and disability populations.

[9.2.16.2 NMAC - Rp, 9.2.16.2 NMAC, 09/23/2025]

9.2.16.3 STATUTORY

AUTHORITY: Aging and Long-Term Services Department Act, Sections 9-23-1 to 9-23-12 NMSA 1978; Older Americans Act of 1965, 42 U.S.C. Sections 3001 to 3058, and implementing regulations.

[9.2.16.3 NMAC - Rp, 9.2.16.3 NMAC, 09/23/2025]

9.2.16.4 DURATION:

Permanent.

[9.2.16.4 NMAC - Rp, 9.2.16.4 NMAC, 09/23/2025]

9.2.16.5 EFFECTIVE

DATE: September 23, 2025, unless a later date is cited at the end of a section.

[9.2.16.5 NMAC - Rp, 9.2.16.5 NMAC, 09/23/2025]

9.2.16.6 OBJECTIVE:

The objective of this rule is to establish standards for the state-funded retired senior volunteer programs administered by the aging and long-term services department. [9.2.16.6 NMAC - Rp, 9.2.16.6 NMAC, 09/23/2025]

9.2.16.7 DEFINITIONS:

The retired senior volunteer program (RSVP) provides contracts to qualified organizations and local and tribal governments for the dual purposes of engaging older individuals in volunteer service to meet critical community needs and of providing high quality experiences that will enrich the lives of the volunteers. RSVP matches older individuals with community projects and organizations needing volunteer talent, abilities and skills.

[9.2.16.7 NMAC - Rp, 9.2.16.7 NMAC, 09/23/2025]

9.2.16.8 LEGAL

REFERENCES: Domestic Volunteer Service Act of 1973, 42 U.S.C. Sections 4950 to 5085; 42 U.S.C. Section 12651; Senior Volunteer Program, 45 C.F.R. Section 2551.

[9.2.16.8 NMAC - Rp, 9.2.16.8 NMAC, 09/23/2025]

9.2.16.9 CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

HANDBOOK: **A.** The department adopts the most current corporation for national and community service (CNCS) retired senior volunteer program handbook as the operating rules and procedures with which state-funded retired senior volunteer programs must comply.

B. Eligibility for state-funded retired senior volunteer programs is the same as for the CNCS program. However, the department secretary may waive any provisions of the CNCS handbook except those which will jeopardize a program's continued federal sponsorship.

[9.2.16.9 NMAC - Rp, 9.2.16.9 NMAC, 09/23/2025]

9.2.16.10 DEPARTMENT RESPONSIBILITIES: The department shall:

A. allocate funds appropriated by the state legislature; **(1)** to current contractors to maintain or enhance levels of operation; and

(2) to expand services based on determined need;

B. contract with new organizations to the extent that funds are available;

C. conduct at least one assessment of each contractor every two years; and

D. provide training and technical assistance to volunteers and employees of contract organizations.

[9.2.16.10 NMAC - Rp, 9.2.16.10 NMAC, 09/23/2025]

9.2.16.11 CONTRACTOR RESPONSIBILITIES: Contractors shall:

A. comply with federal and state regulations and policies, except to the extent that the department has granted a waiver of any federal policies;

B. submit an annual budget proposal and work plan in the format established by the department;

C. submit monthly financial expenditure reports and requests for reimbursement to the department as requested;

D. submit reports to the department in the form and manner required and specified by the department in the contract scope of work;

E. submit an annual financial audit as requested by the department;

F. coordinate with other aging network providers, particularly in the areas of transportation, outreach and supportive services;

G. attend required meetings and training sessions; and

H. budget sufficient state funds to allow at least one representative to attend the annual New Mexico conference on aging and one state aging network training session.

[9.2.16.11 NMAC - Rp, 9.2.16.11 NMAC, 09/23/2025]

HISTORY OF 9.2.16 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center:
SAA Rule No. 95-16, State Funded Retired and Senior Volunteer Program, filed 4/13/1995.

History of Repealed Material:

SAA Rule No. 95-1, filed 4/13/1995 - Repealed 6/30/2015.
9.2.16 NMAC, State Funded Retired and Senior Volunteer Program filed 6/17/2015 Repealed effective 09/23/2025.

Other: 9.2.16 NMAC, State Funded Retired and Senior Volunteer Program filed 6/17/2015 Replaced by 9.2.16 NMAC, State Funded Retired and Senior Volunteer Program effective 09/23/2025

AGING AND LONG-TERM SERVICES DEPARTMENT

TITLE 9 HUMAN RIGHTS CHAPTER 2 AGE PART 17 LEGAL ASSISTANCE SERVICES

9.2.17.1 ISSUING

AGENCY: New Mexico Aging and Long-Term Services Department (NMALTSB).

[9.2.17.1 NMAC - Rp, 9.2.17.1 NMAC, 09/23/2025]

9.2.17.2 SCOPE: These rules apply to members of the public and organizations that participate in the delivery of services to New Mexico's aging and disability populations.

[9.2.17.2 NMAC - Rp, 9.2.17.2 NMAC, 09/23/2025]

9.2.17.3 STATUTORY

AUTHORITY: Aging and Long-Term Services Department Act, Sections 9-23-1 to 9-23-12 NMSA 1978; Older Americans Act of 1965,

42 U.S.C. Sections 3001 to 3058, and implementing regulations.

[9.2.17.3 NMAC - Rp, 9.2.17.3 NMAC, 09/23/2025]

9.2.17.4 DURATION:

Permanent.

[9.2.17.4 NMAC - Rp, 9.2.17.4 NMAC, 09/23/2025]

9.2.17.5 EFFECTIVE

DATE: September 23, 2025, unless a later date is cited at the end of a section.

[9.2.17.5 NMAC - Rp, 9.2.17.5 NMAC, 09/23/2025]

9.2.17.6 OBJECTIVE:

The objective of this rule is to establish the requirements for legal assistance services required under the Older Americans Act.

[9.2.17.6 NMAC - Rp, 9.2.17.6 NMAC, 09/23/2025]

9.2.17.7 DEFINITIONS:

A. A "fee generating case" includes any matter which, if undertaken by a private legal practitioner on behalf of a client, could reasonably be expected to result in an awarded legal fee directly payable out of the amount awarded the client from the opposing parties, or from public funds.

B. "Legal assistance" pursuant to the Older Americans Act and its implementing regulations means legal advice and representation provided by an attorney to older individuals with economic or social needs; and may include, to the extent feasible, counseling or other appropriate assistance provided by a paralegal or law student under the direct supervision of a licensed attorney and counseling and representation provided by a non-lawyer where permitted by law.

C. "Legal assistance providers" are those who, pursuant to the Older Americans Act, Title III B, provide services, legal assistance and other counseling services and assistance.

D. "Means test" means the use of the income, assets, or other resources of an older person,

family caregiver, or the households thereof to deny or limit that person's eligibility to receive services under this part.

E. "Defense of Guardianship" in this section means advice to and representation of older individuals at risk of and subject to guardianship as defined in 45 C.F.R. Section 1321.93(d).

[9.2.17.7 NMAC - Rp, 9.2.17.7 NMAC, 09/23/2025]

9.2.17.8 LEGAL REFERENCES: [RESERVED]

[9.2.17.8 NMAC - Rp, 9.2.17.8 NMAC, 09/23/2025]

9.2.17.9 ALLOWABLE SERVICES:

A. Providers of legal assistance, funded by the department, must provide such services to New Mexicans age 60 or older and others as described in contracts supported by state funds. Allowable services include, but are not limited to:

(1) direct service delivery programs using staff attorneys, paralegals, law students and/or other non-lawyers under the direct supervision of an attorney;

(2) legal clinics which combine education addressing specific legal issues or topics of concern to older individuals, outreach and intake efforts that target those in greatest social and economic need, and the direct provision of legal advice, representation, and follow-up services to individuals in attendance;

(3) interactive workshops at which the individuals in attendance are counseled and provided with direct legal assistance with regard to legal and elder rights issues;

(4) referral programs enlisting the services of a panel of volunteer attorneys to provide direct *pro bono* legal assistance;

(5) impact case work, for example, lawsuits that benefit entire classes of clients, nursing home reform efforts, and Medicaid advocacy;

(6) the production and provision of educational materials and other legal resources for the benefit of New Mexicans age 60 or older and others as described in contracts supported by state funds; and

(7) any programs using any combinations of the activities described above.

B. Legal assistance services cannot include legal representation in any fee generating case, unless other adequate representation is unavailable or there is an emergency requiring immediate legal action.

[9.2.17.9 NMAC - Rp, 9.2.17.9 NMAC, 09/23/2025]

9.2.17.10 STANDARDS AND REQUIREMENTS FOR LEGAL ASSISTANCE PROVIDERS:

The area agencies on aging shall award, through contract funds, only to legal assistance providers that meet the standards and requirements set forth in this section and in the implementing regulations of the Older Americans Act. Attorneys and personnel of legal assistance providers shall adhere to the applicable rules of professional conduct, including the obligation to preserve the attorney-client privilege, and selected legal assistance providers shall exhibit the capacity to:

A. demonstrate expertise and retain staff with expertise in those specific areas of law affecting older individuals in greatest economic and greatest social need, such as income, public benefits, institutionalization and alternatives to institutionalization, defense of guardianship, protective services, age discrimination, health care, long-term care, nutrition, housing, utilities, consumer law, and abuse and neglect;

B. develop and implement outreach efforts designed to identify and serve targeted populations that includes information about the availability of legal assistance;

C. provide administrative and judicial representation in the specific areas

of law affecting older individuals in greatest economic and greatest social need;

D. provide legal services to older individuals residing in congregate residential long-term settings, or who are isolated, or who are restricted to the home due to cognitive or physical limitations;

E. provide legal assistance in the principal language spoken by clients in those areas of the state where a significant number of clients do not speak English as their principal language;

F. provide support and advice to the long-term care ombudsman program, including requiring a memorandum of agreement between the state long-term care ombudsman program and the legal assistance provider(s) as required under the Older Americans Act;

G. provide support to aging network elder rights initiatives;

H. provide support to other advocacy efforts, adult protective services, and protection and advocacy and public guardianship programs; and

I. demonstrate a commitment to the statewide aging network, including participation in aging network training sessions; coordination with, and referrals to and from, other service providers; involvement in local and statewide publicity efforts to identify the availability of legal assistance services; and training local service providers, site managers, staff, and the like as to the availability and extent of legal assistance services.

[9.2.17.10 NMAC - Rp, 9.2.17.10 NMAC, 09/23/2025]

9.2.17.11 EVALUATING PROVIDERS:

The department or area agencies on aging should evaluate providers at least annually using procedures and instruments developed by such groups as the National senior citizens law center, the center for social gerontology, or other similar groups with proven experience in the evaluation of Older Americans Act, Title III(B),

legal assistance providers. If applicable, random tests of client services should be administered in the evaluation process. Copies of written evaluations conducted by area agencies on aging must be provided to the department when they are released to the providers.

[9.2.17.11 NMAC - Rp, 9.2.17.11 NMAC, 09/23/2025]

9.2.17.12 MEANS TEST AND TARGETING:

A. Legal assistance providers shall not use a means test as a criterion for determining whether an individual is entitled to legal assistance services. Legal assistance providers may question an older individual about his or her financial circumstances as part of the process of providing legal advice, counseling and representation, or for the purpose of identifying additional resources and benefits for which an older individual may be eligible.

B. The Older Americans Act requires that providers target minority older individuals with low incomes, older individuals residing in rural areas, and older individuals with the greatest economic and social needs.

C. Area agencies on aging are precluded from requiring a pre-screening of older individuals seeking legal assistance or from acting as the sole and exclusive referral pathway to legal assistance. [9.2.17.12 NMAC - Rp, 9.2.17.12 NMAC, 09/23/2025]

9.2.17.13

CONFIDENTIALITY: Legal assistance providers shall not be required to reveal any information that is protected by the attorney-client privilege. The fiduciary relationship between lawyer and client and the proper functioning of the legal system require the lawyer to preserve client confidences and secrets. Legal assistance providers must comply with client confidentiality requirements, as defined in the Older Americans Act, and all federal and state financial management requirements, including the collection,

documentation and use of program income.

[9.2.17.13 NMAC - Rp, 9.2.17.13 NMAC, 09/23/2025]

9.2.17.14

COORDINATION WITH LEGAL SERVICES CORPORATION AND OTHER SEPARATELY FUNDED LEGAL ASSISTANCE PROGRAMS:

Legal assistance providers must coordinate with legal services corporation (LSC) providers and any other providers of legal assistance to older individuals to supplement current service levels. Area agencies on aging and providers must also attempt to involve the private bar on a reduced fee and *pro bono* basis.

[9.2.17.14 NMAC - Rp, 9.2.17.14 NMAC, 09/23/2025]

9.2.17.15

DEPARTMENT

RESPONSIBILITIES: In addition to the requirements set forth in this section, the department shall adhere to the provisions and restrictions that apply to legal assistance funded by and provided pursuant to the Older Americans Act and its implementing regulations. The department shall publish policies and procedures in accordance with the requirements set forth in 45 C.F.R. Section 1321.93.

[9.2.17.15 NMAC - N, 09/23/2025]

9.2.17.16

ADEQUATE

PROPORTION FUNDING: The area agencies on aging shall award at a minimum the required adequate proportion of Title III, part B funds designated by the department to procure legal assistance for older residents of the planning and service area as set forth in 45 C.F.R. Sections 1321.27 and 1321.65.

[9.2.17.16 NMAC - N, 09/23/2025]

9.2.17.17

AREA AGENCY

CONTRACTS FOR LEGAL ASSISTANCE: The area agencies on aging shall enter into contract(s) with the selected legal assistance provider(s) in accordance with the department's policies and procedures and with the Older Americans Act and its implementing regulations.

[9.2.17.17 NMAC - N, 09/23/2025]

9.2.17.18

LEGAL

ASSISTANCE PROVIDER RESPONSIBILITIES AND

REQUIREMENTS: Contracted legal assistance providers shall adhere to the requirements, restrictions, use of funds, and prohibitions set forth in these rules and in 45 C.F.R. Section 1321.93.

[9.2.17.18 NMAC - N, 09/23/2025]

HISTORY OF 9.2.17 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center: SAA Rule No. 95-17, Legal Assistance Services, filed 4/13/1995.

History of Repealed Material:

SAA Rule No. 95-17, (filed 4/13/1995) - Repealed 6/30/2015. 9.2.17 NMAC, Legal Assistance Services filed 6/17/2015 Repealed effective 09/23/2025.

Other: 9.2.17 NMAC, Legal Assistance Services filed 6/17/2015 Replaced by 9.2.17 NMAC, Legal Assistance Services effective 09/23/2025.

AGING AND LONG-TERM SERVICES DEPARTMENT

TITLE 9

CHAPTER 2

PART 18

SERVICES

HUMAN RIGHTS

AGE

NUTRITION

9.2.18.1

ISSUING

AGENCY: New Mexico Aging and Long-Term Services Department (NMALTS).

[9.2.18.1 NMAC - Rp, 9.2.18.1 NMAC, 09/23/2025]

9.2.18.2

SCOPE:

These rules apply to members of the public and organizations that participate in the delivery of services to New Mexico's aging and disability populations.

[9.2.18.2 NMAC - Rp, 9.2.18.2 NMAC, 09/23/2025]

9.2.18.3

STATUTORY

AUTHORITY: Aging and Long-Term Services Department Act, Sections 9-23-1 to 9-23-12 NMSA 1978; Older Americans Act of 1965, 42 U.S.C. Sections 3001 to 3058, and implementing regulations.

[9.2.18.3 NMAC - Rp, 9.2.18.3 NMAC, 09/23/2025]

9.2.18.4

DURATION:

Permanent.

[9.2.18.4 NMAC - Rp, 9.2.18.4 NMAC, 09/23/2025]

9.2.18.5

EFFECTIVE

DATE: September 23, 2025, unless a later date is cited at the end of a section.

[9.2.18.5 NMAC - Rp, 9.2.18.5 NMAC, 09/23/2025]

9.2.18.6

OBJECTIVE:

The objective of this rule is to establish standards for the federal and state-funded programs administered by the aging and long term services department.

[9.2.18.6 NMAC - Rp, 9.2.18.6 NMAC, 09/23/2025]

9.2.18.7

DEFINITIONS:

See 9.2.1.7 NMAC and the department's policies and procedures for definitions.

[9.2.18.7 NMAC - Rp, 9.2.18.7 NMAC, 09/23/2025]

9.2.18.8

DEPARTMENT

RESPONSIBILITIES: The department shall:

A. establish policies and procedures in accordance with 45 C.F.R. Section 1321.87;

B. review and approve area plans, which contain plans for providing nutrition services;

C. monitor and assess area agencies on aging for compliance with these rules and with the requirements of the Older Americans Act and its implementing regulations;

D. provide technical assistance in the areas of nutrition, meal preparation, menu planning, and meal delivery;

E. conduct or coordinate training; and

F. review and grant or deny any waivers to this rule as requested by area agencies on aging. Such waivers shall not override applicable regulations issued by other state or local agencies that regulate food service and sanitation.

[9.2.18.8 NMAC - Rp, 9.2.18.8 NMAC, 09/23/2025]

9.2.18.9 AREA AGENCY ON AGING RESPONSIBILITIES:

Area agencies on aging shall follow all departmental policies and procedures, requirements within the Older Americans Act, and all implementing regulations.

[9.2.18.9 NMAC - Rp, 9.2.18.9 NMAC, 09/23/2025]

9.2.18.10 [RESERVED]

[9.2.17.10 NMAC - RRepealed, 09/23/2025]

9.2.18.11 [RESERVED]

[9.2.18.11 NMAC - Repealed, 09/23/2025]

9.2.18.12 [RESERVED]

[9.2.18.12 NMAC - Repealed, 09/23/2025]

9.2.18.13 [RESERVED]

[9.2.18.13 NMAC - Repealed, 09/23/2025]

9.2.18.14 [RESERVED]

[9.2.18.14 NMAC - Repealed, 09/23/2025]

9.2.18.15 [RESERVED]

[9.2.18.15 NMAC - Repealed, 09/23/2025]

9.2.18.16 NUTRITION SERVICES INCENTIVE PROGRAM (NSIP):

A. The Older Americans Act, Section 311, rewards federally funded nutrition programs.

B. Any meal served by a provider to eligible individuals which meets the requirements set forth in 45 C.F.R. Section 1321.87(d) shall be reported for NSIP assistance. The meal must also meet the other requirements of the Older Americans Act, including that the meal meets the

Dietary Guidelines for Americans and Dietary Reference Intakes as set forth in Section 339 of such act. However, only programs funded with Title III federal funds are eligible to receive assistance.

C. NSIP funding must only be used to purchase food which is grown or processed in the United States. Coffee, tea, cocoa, decaffeinated beverages, fruits, and vegetables grown outside of the U.S. are not reimbursable.

[9.2.18.16 NMAC - Rp, 9.2.18.17 NMAC, 9.2.18.16, 09/23/2025]

HISTORY OF 9.2.18 NMAC:

Pre-NMAC History: SAA Rule 95-18, Nutrition Services Standards, filed 4/13/1995. 9.2.18 NMAC, Nutrition Services Standards, effective 5/31/2001- replaced SAA Rule 95-18, filed 4/13/1995.

History of Repealed Material:

9.2.18 NMAC, filed 5/10/2001 - Repealed 6/30/2015.
9.2.18 NMAC, Nutrition Services filed 6/17/2015 Repealed effective 09/23/2025.

Other: 9.2.18 NMAC, Nutrition Services filed 6/17/2015 Replaced by 9.2.18 NMAC, Nutrition Services effective 09/23/2025.

AGING AND LONG-TERM SERVICES DEPARTMENT

TITLE 9 HUMAN RIGHTS CHAPTER 2 AGING PART 19 LONG-TERM CARE OMBUDSMAN

9.2.19.1 ISSUING

AGENCY: New Mexico Aging and Long-Term Services Department.
[9.2.19.1 NMAC - Rp, 9.2.19.1 NMAC, 09/23/2025]

9.2.19.2 SCOPE: These rules apply to the department, its office of the state long-term care ombudsman (the office), ombudsmen, including the state long-term care ombudsman (state ombudsman)

certified staff and volunteers, provider agencies, private nonprofit organizations and area agencies on aging.

[9.2.19.2 NMAC - Rp, 9.2.19.2 NMAC, 09/23/2025]

9.2.19.3 STATUTORY

AUTHORITY: Older Americans Act of 1965 (OAA), 42 U.S.C. Section 3001, *et seq.*, as amended, and implementing regulations 45 C.F.R. Sections 1321 and 1324; New Mexico Long-Term Care Ombudsman Act, Section 28-17-1 *et seq.* NMSA 1978.
[9.2.19.3 NMAC - Rp, 9.2.19.3 NMAC, 09/23/2025]

9.2.19.4 DURATION:

Permanent.

[9.2.19.4 NMAC - Rp, 9.2.19.4 NMAC, 09/23/2025]

9.2.19.5 EFFECTIVE

DATE: September 23, 2025 unless a later date is stated at the end of a section.

[9.2.19.5 NMAC - Rp, 9.2.19.5 NMAC, 09/23/2025]

9.2.19.6 OBJECTIVE:

These rules govern the conduct of the office in fulfilling its duties under the OAA and the New Mexico Long-Term Care Ombudsman Act by protecting the health, safety, welfare and rights of residents of long-term care facilities in this state, to investigate and resolve complaints of such residents, and to report on conditions of long-term care facilities. The department shall establish and operate the office either directly or by contract or other arrangement with a public agency or non-profit private organization. The office is a distinct entity, separately identifiable, located within or connected to the department, and, in the event the department enters into contract or other arrangement with a public agency or non-profit organization, that agency or organization shall establish a separately identifiable, distinct entity as the office.

[9.2.19.6 NMAC - Rp, 9.2.19.6 NMAC, 09/23/2025]

9.2.19.7 DEFINITIONS:

All definitions not included below can be found in 42 U.S.C. Section 3002, 45 C.F.R. Section 1321.1, and Section 28-17-3 NMAC 1978.

A. "Certification"

means the authority given to the state long-term care ombudsman to appoint or select (i.e., designate) and refuse, suspend, or remove designation of local ombudsman entities and certification of representatives of the Office pursuant to section 712(a)(5) of the Older Americans Act and its implementing regulations set forth in 45 C.F.R. Section 1324.11(e)(6).

B. "Complaint"

means information regarding action, inaction, or decisions that may adversely affect the health, safety, welfare, or rights of residents which is raised by or brought to the attention of an ombudsman.

C. "Guardian"

means the person or entity appointed by a court to exercise the legal rights and powers of another individual.

D. "Immediate

family" means those persons related to an individual as a spouse, child, sibling, or parent.

E. "Immediate family

pertaining to conflicts of interest" means a member of the household or a relative with whom there is a close personal or significant financial relationship.

F. "Informed

consent" means an agreement by a resident or a resident's surrogate decision-maker to allow a disclosure of information, made with full knowledge of the risks involved and the available alternatives, that is made in writing or through the use of auxiliary aids and services or communicated by a resident or a resident's surrogate decision-maker orally, visually or through the use of auxiliary aids and services and such consent is documented contemporaneously by a representative of the office.

G. "Long term care

facility" means any residential facility that provides care services to one or more persons unrelated to the owner or operator of the facility,

including, but not limited to, those facilities enumerated in Subsection F of Section 28-17-3 NMSA 1978.

H. "Long-term care ombudsman program (LTCO)"

means the program through which functions and duties of the office are carried out, consisting of the state ombudsman, the office headed by the state ombudsman and the representatives of the office.

I. "Office of the state long-term care ombudsman"

means the organizational unit in a state or territory which is headed by a state long-term care ombudsman.

J. "Official duties"

as used with respect to representatives of the long-term care ombudsman program means work pursuant to the long-term care ombudsman program authorized by the Act or state law and carried out under the auspices and general direction of, or by direct delegation from, the state long-term care ombudsman.

K. "Provider agency"

means the entity designated by the state ombudsman to provide ombudsman services in a particular service area.

L. "Representatives of the office of the state long-term care ombudsman ("ombudsman" or "ombudsmen")

means the employees or volunteers designated by the state ombudsman to fulfill the duties set forth in 45 C.F.R. Section 1324.19(a), whether personnel supervision is provided by the state ombudsman or his or her designee or by an agency hosting a local ombudsman entity designated by the ombudsman pursuant to Section 712(a)(5) of the Act (42 U.S.C. Section 3058g(a)(5)).

M. "State long-term care ombudsman (state ombudsman)"

means the individual who heads the office and is responsible to personally, or through representatives of the office, fulfill the functions, responsibilities and duties as set forth in 45 C.F.R. Sections 1324.13 and 1324.19.

N. "Surrogate decision maker" (sometimes referred to as "resident representative") means a legally appointed agent, guardian

or surrogate who is authorized to act on behalf of a resident to include the duties enumerated in Subsection O of Section 28-17-3 NMSA 1978.

O. "Willful

interference" means actions or inactions taken by an individual in an attempt to intentionally prevent, interfere with, or attempt to impede the ombudsman from performing any of the functions or responsibilities set forth in 45 C.F.R. Section 1324.13, or the ombudsman or a representative of the office from performing any of the duties set forth in 45 C.F.R. Section 1324.19.

[9.2.19.7 NMAC - Rp, 9.2.19.7 NMAC, 09/23/2025]

9.2.19.8 PHILOSOPHY:

The program is a resident-centered advocacy program. The long-term care facility resident or applicant for residency is the client, regardless of the source of the complaint or request for service. The office shall assist residents by protecting their health, safety, welfare and rights, to investigate and resolve complaints of such residents, and to report on conditions of long-term care facilities. [9.2.19.8 NMAC - Rp, 9.2.19.8 NMAC, 09/23/2025]

9.2.19.9 OFFICE

RULE: The state ombudsman shall assure that all residents of long-term care facilities in the state have access to program services. The state ombudsman may fulfill its responsibilities through the department either directly or by a department contract or other arrangement with a public agency or non-profit private organization. Any such agency or non-profit entity that contracts with the department to provide ombudsman services must employ a full-time state ombudsman. [9.2.19.9 NMAC - Rp, 9.2.19.9 NMAC, 09/23/2025]

9.2.19.10 [RESERVED]

9.2.19.11 [RESERVED]

9.2.19.12 QUALIFICATION AND CERTIFICATION OF THE STATE OMBUDSMAN:

Under the OAA, the department's cabinet secretary is mandated to select the state ombudsman. In upholding this responsibility, he or she shall ensure that the state ombudsman meets minimum qualifications, which shall include, but not be limited to, demonstrated expertise in:

A. long-term services and supports or other direct services for older adults or individuals with disabilities;

B. consumer-oriented public policy advocacy;

C. leadership and program management skills; and

D. negotiation and problem resolution skills.
[9.2.19.12 NMAC - Rp, 9.2.19.12 NMAC, 09/23/2025]

9.2.19.13 QUALIFICATION AND CERTIFICATION OF OMBUDSMEN:

A. To be qualified to act as ombudsmen, individuals must:

(1) demonstrate the capability to carry out the responsibilities of ombudsmen;
(2) participate in and complete all sections of the standard new volunteer training, as prescribed by the SLTCO;

(3) be free of conflicts of interest and not stand to gain financially through an action or potential action brought on behalf of individuals the ombudsman serves;
(4) possess negotiation and problem resolution skills; and

(5) possess any other qualifications that the ombudsman deems necessary for the ombudsmen to fulfill their responsibility to assist residents of long-term care facilities in the assertion of their civil and human rights.

B. In order to be certified as ombudsmen, individuals must (in addition to meeting the qualifications set forth in Subsection A of 9.2.13 NMAC complete an evaluation period of between three and six months after placement in a facility, during which the individuals:

(1) visit an assigned facility or facilities regularly;

(2) submit regular monthly reports;

(3) submit appropriately written complaints;

(4) are responsive to the needs and concerns of long-term care facility residents; and

(5) are evaluated in the field by the supervising regional coordinator.
[9.2.19.13 NMAC - Rp, 9.2.19.13 NMAC, 09/23/2025]

9.2.19.14 [RESERVED]
[9.2.19.14 NMAC - Repealed, 09/23/2025]

9.2.19.15 NOTIFICATION OF CERTIFICATION: The state ombudsman shall send written notification of an individual's certification as an ombudsman to the individual being certified, the area agency on aging (AAA), applicable provider agency or the private non-profit organization, within 30 days of the determination.
[9.2.19.15 NMAC - Rp, 9.2.19.15 NMAC, 09/23/2025]

9.2.19.16 RECERTIFICATION: Ombudsmen must be recertified each calendar year. The state ombudsman shall determine recertification requirements. As part of the recertification, the state ombudsman shall verify that the ombudsman seeking recertification has successfully:

A. visited his or her assigned facility or facilities regularly;

B. submitted regular monthly reports;

C. submitted appropriately written complaints;

D. demonstrated responsiveness to the needs and concerns of long-term care facility residents; and

E. demonstrated evidence of receiving appropriate continuing education.
[9.2.19.16 NMAC - Rp, 9.2.19.16 NMAC, 09/23/2025]

9.2.19.17 NON-CERTIFICATION AND DECERTIFICATION:

The state ombudsman may refuse to certify or may de-certify an individual as an ombudsman for any of the following reasons:

A. failure of the individual to meet or maintain the criteria for certification set forth in 9.2.19.13 NMAC;

B. existence of an unremedied conflict of interest;

C. deliberate failure of the individual to disclose any conflict of interest;

D. violation of the confidentiality requirements of these regulations, the OAA, or the act;

E. failure to provide adequate and appropriate services to long-term care residents;

F. falsifying records;

G. change in employment duties which is incompatible with those of an ombudsman;

H. separation from the program, to include, for example, removal from employment by the department or other provider agency or an extended absence not protected by state or federal law that prevents the ombudsman from fulfilling his or her job responsibilities;

I. failure to act in accordance with applicable federal and state laws, rules, regulations, and policies; or

J. such other cause that the state ombudsman may determine would render the individual unsuitable for service as an ombudsman.

[9.2.19.17 NMAC - Rp, 9.2.19.17 NMAC, 09/23/2025]

9.2.19.18 NEW MEXICO AGING AND LONG-TERM SERVICES DEPARTMENT RESPONSIBILITIES:

A. establish and operate the office either directly or by contract or other arrangement with a public agency or non-profit private organization, consistent with the options provided under state and federal law;

B. the cabinet secretary of the department shall designate who shall serve as the full-time state ombudsman;

C. provide for adequate legal counsel for the office (which may be through the office of the New Mexico attorney general) on behalf of the office or any representative of the office against whom suit or other legal action is brought or threatened to be brought in connection with the performance of the official duties of the office or of such representative;

D. provide support to the state ombudsman to enable him or her to fulfill responsibilities consistent with all applicable federal and state laws, regulations, and policies;

E. administer any program service contracts between the department, AAAs, provider agencies or private non-profit organizations;

F. administer the program in accordance with all applicable federal and state laws, regulations, and policies;

G. ensure that the agency has mechanisms to prohibit, investigate, and sanction allegations of interference, retaliation, and reprisals by a long-term care facility, other entity, or individual:

(1) with respect to any resident, employee, or other person for filing a complaint with, providing information to, or otherwise cooperating with any ombudsman, or

(2) against the state ombudsman or ombudsmen for fulfillment of the functions, responsibilities, or duties enumerated in 45 C.F.R. Sections 1324.13 and 1324.19;

H. the department shall require the Office to develop and provide final approval of an annual report as set forth in Section 712(h)(1) of the OAA. Such report shall:

(1) describe the activities carried out by the office in the year for which the report is prepared;

(2) contain analysis of program data;

(3)

describe evaluation of the problems experienced by, and the complaints made by or on behalf of, residents;

(4)

contain policy, regulatory and legislative recommendations for improving the quality of care and life of the residents; protecting the health, safety, welfare and rights of the residents; and resolving resident complaints and identified problems or barriers;

(5)

contain analysis of the success of the program, including success in providing services to residents of assisted living, board and care facilities and other similar adult care facilities; and

(6)

describe barriers that prevent the optimal operation of the program.

I.

establish mechanisms to ensure the program is performing all of the functions, responsibilities and duties set forth in Section 9.2.19.22 NMAC, as well as action steps as required in the event these functions are not performed. Although the program is both independent and autonomous, 45 C.F.R. Section 1324.15 specifically grants the department the responsibility to monitor the performance of all programs and activities of the office for quality and effectiveness;

J.

pursuant to 45 C.F.R. Section 1324.15, provide personnel supervision and management for the state ombudsman and representatives of the office who are employees of the department. Such management shall include an assessment of whether the office is performing all of its functions under the OAA and the act;

K.

provide monitoring, as required by 45 C.F.R. Section 1324.15(e), including but not limited to fiscal monitoring, where the office or local ombudsman entity is located within an agency or private non-profit organization with the department. Such monitoring shall include an assessment of whether the program is performing all of the functions, responsibilities and duties set forth

in 45 C.F.R. Sections 1324.13 and 1324.19. Further, the department shall make reasonable requests of reports, including aggregated data regarding program activities, to meet the requirements of these provisions;

L.

ensure that any review of files, records or other information maintained by the program is consistent with the disclosure limitations set forth in 45 C.F.R. Sections 1324.11(e)(3) and 1324.13(e) as well as state law;

M.

ensure that the state ombudsman receives notification of and exercises full authority over all sources of funds received by the state agency and complies with 45 C.F.R. Section 1324.15(k);

N.

the agency shall require the office to:

(1) develop and provide final approval of an annual report as set forth in 42 U.S.C. Section 3058g(h)(1) and 45 C.F.R. Section 1324.13(g) and as otherwise required by the assistant secretary for aging;

(2) analyze, comment on, and monitor the development and implementation of federal, state, and local laws, regulations, and other government policies and actions that pertain to long-term care facilities and services, and to the health, safety, welfare, and rights of residents, in the state, and recommend any changes in such laws, regulations, and policies as the office determines to be appropriate;

(3) provide such information as the office determines to be necessary to public and private agencies, legislators, the media, and other persons, regarding the problems and concerns of individuals residing in long-term care facilities; and recommendations related to such problems and concerns;

(4) establish procedures for the training of the representatives of the office, as set forth in 45 C.F.R. Section 1324.13(c)(2); and

(5) coordinate ombudsman program services with entities with responsibilities relevant

to the health, safety, welfare, and rights of residents of long-term care facilities, as set forth in 45 C.F.R. Section 1324.13(h).
[9.2.19.18 NMAC - Rp, 9.2.19.18 NMAC, 09/23/2025]

9.2.19.19 - 21 [RESERVED]

9.2.19.22 STATE LONG-TERM CARE OMBUDSMAN RESPONSIBILITIES:

A. Adhere to the rules of confidentiality and propriety set forth in these regulations and in the resource manual for new volunteer training, if applicable.

B. Protect access to ombudsman records, in accordance with 9.2.19.36 NMAC through 9.2.19.38 NMAC of this rule.

C. Carry out other activities that the state ombudsman reasonably deems appropriate to the certification of ombudsmen.

D. Perform each responsibility in accordance with all applicable federal and state law, rules, regulations, and policies.

E. Analyze, comment on, and monitor the development and implementation of federal, state and local laws, regulations and other governmental policies and actions that pertain to the health, safety, welfare and rights of residents with respect to the adequacy of long-term care facilities and seniors in the state.

F. Recommend any changes in such laws, regulations, policies, and actions as the office determines to be appropriate.

G. Facilitate public comment on the laws, regulations, policies, and actions.

H. Provide leadership to statewide systems advocacy efforts of the office on behalf of long-term care facility residents, including coordination of systems advocacy efforts carried out by representatives of the office.

I. Provide information to public and private agencies, legislators, the media, and other persons, regarding the problems and concerns of residents and recommendations related to the problems and concerns.

J. Establish policies and procedures for the office, in consultation with the department, to carry out the program in accordance with the OAA. In accordance with 45 C.F.R. Section 1324.11 (e), such policies and procedures regarding program administration must include, but not be limited to:

(1) a requirement that the department or any agency or private non-profit organization provide specific exemptions to ombudsmen, staff and volunteers from any requirements that prohibit ombudsmen from performing functions and responsibilities of the ombudsmen, as set forth in 45 C.F.R. Section 1324.13 or from adhering to the requirements of Section 712 of the OAA, including that:

(a) the department or any agency or non-profit organization provide exemptions to its internal policies and procedures which prohibit any ombudsman from performing the functions and responsibilities of an ombudsman; provided, however, that nothing in this provision shall prohibit the department from requiring that the state ombudsman, or other employees or volunteers of the office, adhere to all other policies and procedures of the department;

(b) the state ombudsman monitor the performance of local ombudsman entities which the state ombudsman has designated to carry out the duties of the office; and

(c) the process by which the agencies hosting local ombudsman entities will coordinate with the state ombudsman in the employment or appointment of representatives of the office;

(2) standards to assure prompt response to complaints by the office which prioritize abuse, neglect, exploitation and time-sensitive complaints and which consider the severity of the risk to the resident, the imminence of the threat of harm to the resident, and the opportunity for mitigating harm to the resident through the provision of program services;

(3) procedures for access to facilities, residents, and appropriate records, to include:

(a) access to enter all long-term care facilities at any time during a facility's regular business hours or regular visiting hours, and at any other time when access may be required by the circumstances to be investigated;

(b) access to all residents to perform the functions and duties set forth in 45 C.F.R. Sections 1324.13 and 1324.19;

(c) access to the name and contact information of the resident representative, if any, where needed to perform the functions and duties as set forth in 45 C.F.R. Sections 1324.13 and 1324.19;

(d) access to review resident records provided:

(i) the resident or resident representative communicates informed consent to the access and the consent is given in writing or through the use of auxiliary aids and services;

(ii) the resident or resident representative communicates informed consent orally, visually or through the use of auxiliary aids and services, and such consent is documented contemporaneously by a representative of the office in accordance with program procedures; and

(iii) access is necessary in order to investigate a complaint, including one of abuse, neglect or exploitation, the resident representative refuses to consent to the access, a representative of the office has reasonable cause to believe that the resident representative is not acting in the best interests of the resident, and the representative of the office obtains approval of the state ombudsman; and

(e) access to the administrative records, policies and documents, to which the residents have, or the general public has access, of long-term care facilities;

(f) access of the state ombudsman to, upon request, copies of all licensing and certification records maintained by the state with respect to long-term care facilities;

(4) reaffirmation that the Health Insurance Portability and Accountability Act of 1996 Privacy Rule, 45 C.F.R. Section 160 and 45 C.F.R Section 164(A) and (E), does not preclude release by long-term care facilities of resident private health information or other resident identifying information to the office or any representative of the office, including but not limited to residents' medical, social, or other records, a list of resident names and room numbers, or information collected in the course of a state or federal survey or inspection process;

(5) policies and procedures regarding disclosure of files, records and other information maintained by the program must include, but not be limited to:

(a) provision that the files, records and information maintained by the program may be disclosed only at the discretion of the state ombudsman or designee for such purpose and in accordance with the criteria developed by the program, as required by 45 C.F.R. Section 1324.13(e);

(b) prohibition of the disclosure of identifying information of any resident with respect to whom the program maintains files, records or information except as otherwise provided by 45 C.F.R Section 1324.19(b)(5) through (8), unless:

(i) the resident or resident representative communicates informed consent to the disclosure and the consent is given in writing or through the use of auxiliary aides and services;

(ii) the resident or resident representative communicates informed consent orally, visually, or through the use of auxiliary aids and services and such consent is documented contemporaneously by a representative of the office in

accordance with such procedures; or

(iii) the disclosure is required by court order;

(c) prohibition of the disclosure of identifying information of any complainant with respect to whom the program maintains files, records or information, unless:

(i) the complainant communicates informed consent to the disclosure and the consent is given in writing or through the use of auxiliary aids and services;

(ii) the complainant communicates informed consent orally, visually or through the use of auxiliary aides and services and such consent is documented contemporaneously be a representative of the Office in accordance with such procedures; or

(iii) the disclosure is required by court order;

(d) exclusion of the ombudsman and representatives of the office from abuse reporting requirements, including when such reporting would disclose identifying information of a complainant or resident without appropriate consent or court order, except as otherwise provided in 45 C.F.R. Section 1324.19(b)(5) though (8);

(e) policies and procedures regarding conflicts of interest must establish mechanisms to identify and remove or remedy conflicts of interest as provided in 45 C.F.R Section 1324.21;

(f) requiring that other agencies in which the office or local ombudsman entities are organizationally located have policies in place to prohibit the employment or appointment of an ombudsman or representatives of the office with a conflict that cannot be adequately removed or remedied;

(i) requiring that the state ombudsman take reasonable steps to refuse, suspend or remove designation of an individual who has a conflict of

interest, or who has a member of the immediate family with a conflict of interest, which cannot be adequately removed or remedied;

(ii) establishing the methods by which the office and the department periodically review and identify conflicts of the state ombudsman and representatives of the office;

(iii) establishing the actions the office and state agency will require the ombudsman or representatives of the office to take in order to remedy or remove such conflicts;

(iv) ensuring that no individual, or member of the immediate family of an individual, involved in the employment or appointment of the state ombudsman is subject to a conflict of interest;

(v) policies and procedures related to systems advocacy must assure that the office is required and has sufficient authority to carry out its responsibility to analyze, comment on, and monitor the development and implementation of federal, state, and local laws, regulations, and other government policies and actions that pertain to long-term care facilities and services and to the health, safety, welfare, and rights of residents, and to recommend any changes in such laws, regulations, and policies as the office determines to be appropriate;

(vi) such procedures must exclude the state ombudsman and representatives of the office from any state lobbying prohibitions to the extent that such requirements are inconsistent with section 712 of the OAA;

(vii) nothing in this section shall prohibit the state ombudsman or the department or other agency or private non-profit organization in which the office is organizationally located from establishing policies which promote consultation regarding the determinations of the office related to recommended changes in laws, regulations, and policies. However, such a policy shall not require a right

to review or pre-approve positions or communications of the office. That being said, such communication is strongly encouraged as per the OAA;
(viii)

policies and procedures related to designation must establish the criteria and process by which the state ombudsman shall designate and refuse, suspend or remove designation of local ombudsman entities and representatives of the office;
(ix)

such criteria should include, but not be limited to, the authority to refuse, suspend or remove designation of a local ombudsman entity or representative of the office in situations in which an identified conflict of interest cannot be adequately removed or remedied as set forth in 45 C.F.R Section 1324.21;
(x)

policies and procedures related to grievances must establish a grievance process for the receipt and review of grievances regarding the determinations or actions of the state ombudsman and representatives of the office. Such process shall include an opportunity for reconsideration of the state ombudsman decision to refuse, suspend, or remove designation of a local ombudsman entity or representative of the office. Notwithstanding the grievance process, the state ombudsman shall make the final determination to designate or to refuse, suspend, or remove designation of a local ombudsman entity or representative of the office;
(xi)

policies and procedures related to the determinations of the office must ensure that the state ombudsman, as head of the office, shall be able to independently make determinations and establish positions of the office, without necessarily representing the determinations or positions of the department or other agency or private non-profit organization in which the office is organizationally located;
(xii)

disclosure of information maintained by the program within the limitations set forth in Section 712(d) of the OAA;

(xiii) recommendations to changes in federal, state and local laws, regulations, policies and actions pertaining to the health, safety, welfare, and rights of residents; and

(xiv) provision of information to public and private agencies, legislators, the media, and other persons, regarding the problems and concerns of residents and recommendations related to the problems and concerns.

K. Pursuant to 45 C.F.R Section 1324.13(h), through the adoption of memoranda of understanding and other means, the state ombudsman shall lead state-level coordination and support appropriate local ombudsman entity coordination, between the program and other entities with responsibilities relevant to the health, safety, well-being or rights of residents of long-term care facilities including, but not limited to:

- (1) AAA programs;
- (2) aging and disability resource centers;
- (3) adult protective services programs;
- (4) protection and advocacy systems, as designated by the state, and as established under the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. Section 15001 et seq.);
- (5) facility and long-term care licensure and certification programs;
- (6) the state medicaid fraud control unit, as defined in Section 1903(q) of the Social Security Act (42 U.S.C. Section 1396b(q));
- (7) victim assistance programs;
- (8) state and local law enforcement agencies;
- (9) courts of competent jurisdiction; and
- (10) the state legal assistance developer and legal assistance programs, including those provided under Section 306(a)(2)(C) of the OAA.

L. The state ombudsman and representatives of the office assist residents in seeking administrative, legal and other appropriate remedies. In so doing, the state ombudsman shall coordinate with the legal services developer, legal services providers, and victim assistance services to promote the availability of legal counsel to residents.

M. Pursuant to 45 C.F.R. Section 1324.13, determine the use of fiscal resources appropriated or otherwise available for the operation of the office. The state ombudsman shall determine that program budgets and expenditures of the office and local ombudsman entities are consistent with laws, policies and procedures governing the program. [9.2.19.22 NMAC - Rp, 9.2.19.22 NMAC, 12/29/2017; Rp, 9.2.19.22 NMAC, 09/23/2025]

9.2.19.23 [REPEALED]
[9.2.19.23 NMAC - Repealed, 09/23/2025]

9.2.19.24 [REPEALED]
[9.2.19.24 NMAC - Repealed, 09/23/2025]

9.2.19.25 [REPEALED]
[9.2.19.25 NMAC - Repealed, 09/23/2025]

9.2.19.26 CONFLICTS OF INTEREST POLICY: The organizational placement of the program and the individuals who carry out the duties of the program must be free from conflicts of interest. [9.2.19.26 NMAC - Rp, 9.2.19.26 NMAC, 09/23/2025]

9.2.19.27 CONFLICT OF INTEREST IDENTIFICATION: A conflict of interest exists in the program or with respect to an individual providing program services when other interests intrude upon, interfere with, or threaten to negate the ability of the program to advocate without compromise on behalf of long-term care facility residents. Types of conflict of interest include: conflicts of loyalty where

incentives, often related to financial or employment considerations, shape one's judgment or behavior in ways that are contrary to the interest of residents; conflicts of commitment where goals or obligations that direct one's time or attention away from the interest of residents; and conflicts of control where limitations or restrictions are imposed that effectively foreclose one's ability to take actions to advocate for the interest of residents.

[9.2.19.27 NMAC - Rp, 9.2.19.27 NMAC, 09/23/2025]

9.2.19.28 ORGANIZATIONAL

CONFLICTS: An organizational conflict may arise when program placement is made in an agency which has not identified and taken steps to remove or remedy conflicts of interest between the office and the state agency and notified the assistant secretary of the federal health and human services department of its plan for removing the conflict, pursuant to 45 C.F.R. Section 1324.21(b)(1). An organizational conflict of interest exists where the office:

A. has an ownership or investment interest (represented by equity, debt, or other financial relationship) in a long-term care facility or a long-term care service;

B. provides long-term care services, including the provision of personnel for long-term care facilities or the operation of programs that control services for or residents' access to long-term care facilities;

C. has governing board members with ownership, investment or employment interest in long-term care facilities; or

D. has direct involvement in the licensing or certification of a long-term care facility or long-term care services. [9.2.19.28 NMAC - Rp, 9.2.19.28 NMAC, 09/23/2025]

9.2.19.29 INDIVIDUAL OMBUDSMAN CONFLICTS:

Conflicts for any ombudsman, including the state ombudsman, staff and volunteers, include, but are not limited to, the following:

A. employment of the individual by a long-term care facility in the state or by the owner or operator of any long-term care facility in the state within one year before the date the determination is being made;

B. participation in the management of a long-term care facility by the individual or a member of his or her immediate family or household within one year before the date the determination is being made. For purposes of this paragraph, "household" means all persons residing at a single dwelling and contributing to the household income;

C. ownership or investment interest (represented by equity, debt, or other financial relationship) in an existing or proposed long-term care facility or long-term care service by the individual or a member of his or her immediate family;

D. involvement in the licensing or certification of a long-term care facility or provision of a long-term care service by the individual or a member of his or her immediate family;

E. receipt of remuneration (in cash or in kind) under a compensation arrangement with an owner or operator of a long-term care facility by the individual or to the individual through a member of his or her immediate family;

F. accepting any gifts or gratuities from a long-term care facility or resident or resident representative; an ombudsman must adequately compensate a facility for food provided by the facility with the exception of courtesy beverages and sample portions of food tested as part of an investigative process;

G. accepting money or any other consideration from anyone other than the provider agency or other entity designated by the office for the performance of an act in the regular course of an ombudsman's duties;

H. having management responsibility for, or operating under the supervision of an individual with management responsibility for, adult protective services;

I. serving as a surrogate decision maker or in another fiduciary capacity for residents of long-term care facilities in an official capacity (as opposed to serving as a guardian or fiduciary for a family member, in a personal capacity);

J. provision of services with conflicting responsibilities while serving as an ombudsman; or

K. otherwise participating in activities which negatively impact on the ability of the ombudsman to serve residents, or are likely to create a perception that the ombudsman's primary interest is other than as a resident advocate.

[9.2.19.29 NMAC - Rp, 9.2.19.29 NMAC, 09/23/2025]

9.2.19.30 EXCEPTION FOR PUBLICLY TRADED POOLED INVESTMENTS:

Notwithstanding the foregoing provisions of 9.2.19.31 NMAC, ownership of shares in a mutual fund or other publicly traded pooled investment fund whose assets may include publicly traded securities of long-term care facilities or service organizations shall not generally constitute a conflict of interest, unless the investments of such fund is limited to such facilities or service organizations, or such investments normally form a large percentage of such fund.

[9.2.19.30 NMAC - Rp, 9.2.19.30 NMAC 09/23/2025]

9.2.19.31 REPORTING POTENTIAL CONFLICT:

A. All ombudsmen and agents of the AAAs, provider agencies and private non-profit organizations shall notify the department's cabinet secretary of any actual or potential conflict of interest within the program of which they have knowledge.

B. The state ombudsman shall determine whether the situation rises to the level of a conflict and, if so, whether appropriate actions must be taken to sufficiently remedy the conflict. A conflict can be sufficiently remedied only where the existence of the

conflict does not interfere with any duties of the program, and where the conflict is not likely to alter the perception of the program as an independent advocate for residents. [9.2.19.31 NMAC - Rp, 9.2.19.31 NMAC, 09/23/2025]

9.2.19.32 REMEDYING ORGANIZATIONAL CONFLICT:

An organization (with the exception of the department, which steps for remedying any perceived conflict are set forth in 9.2.19.28 NMAC within which the conflict has been identified shall submit to the state ombudsman a written remedial plan within 30 calendar days of identification of the conflict to the office. The remedial plan must identify the conflict and provide assurances that minimize to the greatest extent possible the negative impact of the conflict on the program. Examples of such assurances may include:

A. the program will investigate complaints in an unbiased manner and independently determine actions to be taken in their resolution;

B. no provider agency employee or governing board member with a conflict of interest will be involved with or influence any decision to hire or terminate the employment of an ombudsman;

C. governing board members of the provider agency, AAA or private non-profit entity who have a conflict of interest:

(1) must disclose the conflict to the governing board and to the state ombudsman;

(2) may have no involvement with ombudsman activities concerning the entity which is the source of the conflict; and

(3) must abstain from voting on issues related to the operation of the program;

D. the provider agency's policies and procedures adequately set forth procedures to remedy conflicts of interest and ensure that the ombudsmen fulfill their duties without interference; or

E. a memorandum of agreement exists between the program and another program which

provides services with conflicting responsibilities. Such a memorandum must adequately set forth the roles, responsibilities, and appropriate working relationships of the respective programs.

[9.2.19.32 NMAC - Rp, 9.2.19.32 NMAC, 09/23/2025]

9.2.19.33 REMEDYING INDIVIDUAL OMBUDSMAN CONFLICTS: Where individual conflicts have been identified, the following steps shall be taken where the conflict may be sufficiently remedied:

A. where the individual is an applicant for certification as an ombudsman, a written plan shall be developed, submitted to the state ombudsman and agreed upon before the individual takes any actions on behalf of the program;

B. where the individual is already an ombudsman, a written plan shall be developed, submitted to the state ombudsman and agreed upon within 30 calendar days of identification of the conflict to the state ombudsman;

C. the remedial plan must identify the conflict and provide assurances to minimize to the greatest extent possible the negative impact of the conflict on the program, which may include a prohibition of the ombudsman with a conflict of interest from serving the residents of the facility with which he or she has a conflict and arranging for another ombudsman to serve those residents. Where appropriate, this arrangement may be time-limited; and

D. the remedial plan must be mutually agreed upon and signed by the ombudsman or applicant with the conflict of interest, and the state ombudsman.

[9.2.19.33 NMAC - Rp, 9.2.19.3 NMAC, 09/23/2025]

9.2.19.34 PROCEDURES TO AVOID CONFLICTS OF INTEREST:

A. All persons seeking certification as ombudsman shall disclose to state ombudsman all information relevant to past

employment, membership, or interests that may affect, or could reasonably be expected to affect, that individual's ability to carry out duties of an ombudsman without conflicting interest.

B. In order to avoid confusion and possible conflicts between the program and other department personnel in communicating with the press, broadcast media and other public media, the state ombudsman or his or her representative are encouraged to apprise and summarize the intended communication for the cabinet secretary or public information officer prior to any such communication or other dissemination or release of public information from or concerning the program, provided that neither the cabinet secretary nor public information officer has an individual conflict, as set forth, above. [9.2.19.34 NMAC - Rp, 9.2.19.34 NMAC, 09/23/2025]

9.2.19.35 FAILURE TO IDENTIFY OR REMEDY A CONFLICT OF INTEREST:

A. Failure on the part of an ombudsman or provider agency to identify and report to the state ombudsman a known conflict of interest shall be sufficient grounds for refusal to designate or for de-designation of the provider agency or for refusal to certify or for de-certification of the ombudsman.

B. Existence of an un-remedied conflict of interest shall be sufficient grounds for the de-designation of a provider agency or de-certification of an ombudsman.

C. Failure on the part of an ombudsman to identify and report to the state ombudsman a known conflict of interest shall be sufficient grounds for the de-certification of the ombudsman. [9.2.19.35 NMAC - Rp, 9.2.19.35 NMAC, 09/23/2025]

9.2.19.36 LONG-TERM CARE OMBUDSMAN RECORDS POLICY:

Records of the program shall be confidential and may be disclosed only in

limited circumstances specifically provided by applicable law and these regulations 9.2.19.37 NMAC and only as approved by the state ombudsman or his or her designee.

[9.2.19.36 NMAC - Rp, 9.2.19.36 NMAC, 09/23/2025]

9.2.19.37 ACCESS TO LONG-TERM CARE OMBUDSMAN RECORDS:

A. All program client records are the property of the office. The state ombudsman or designee shall have access to all program records at all times for any lawful purpose.

B. Ombudsmen are permitted access to such records as may be necessary to discharge their responsibilities in complaint processing or other responsibilities under these regulations.

C. All records of another agency participating in the joint protocol established under the provisions of Subsection L of Section 24-1-5 NMSA 1978 that may come into the possession of the program and that include identifying or otherwise confidential resident or complainant information shall be held and disclosed in the same manner as program records hereunder, except to the extent that such other agency imposes stricter requirements or restrictions for disclosure, to which extent the rules of such other agency shall be observed to the extent permitted by law.

D. All information concerning residents or complainants shall be handled with the utmost care and discretion. No ombudsman shall disclose any information or record that includes, implies or describes the identity of any complainant or resident about whom the office maintains files or records unless:

(1) the complainant or resident or his or her surrogate decision maker consent in writing to the disclosure;

(2) the complainant or resident gives informed consent, which is documented immediately in writing by an ombudsman;

(3) disclosure is necessary for the provision of services to the resident or the resident is unable to provide informed consent; or

(4) disclosure is ordered by a court of competent jurisdiction.

[9.2.19.37 NMAC - Rp, 9.2.19.37 NMAC, 09/23/2025]

9.2.19.38 PROCEDURE FOR RELEASE:

A. Records maintained by the program may not be released, disclosed, duplicated, or removed to anyone who is not an ombudsman without the written permission of the state ombudsman. All requests made for ombudsman records shall be referred to the state ombudsman or designee.

B. The state ombudsman or designee shall determine whether to disclose all or part of the records as follows:

(1) The state ombudsman shall require that the request be made in writing and may require a copy of the request before determining the appropriate response. Where the request is made orally by a resident, complainant, or surrogate decision maker of the resident or complainant, the request must be documented immediately and filed as an ombudsman record by the ombudsman to whom informed consent was communicated in order to meet this requirement.

(2) The state ombudsman shall review the request to determine whether the release of all or part of the records would be consistent with the wishes or interest of the relevant resident(s).

(3) The state ombudsman shall notify the department's cabinet secretary and the state ombudsman's immediate supervisor (if the immediate supervisor is someone other than the cabinet secretary) of any public media request for records within 24 hours of the request.

(4) The state ombudsman or designee shall refer any request made by formal

legal process to the program's legal counsel. The state ombudsman shall be responsible to ensure that a response is timely filed and endeavor to prevent any release that would be inconsistent with the interests of the resident(s).

(5) Any request for information made under the state Inspection of Public Records Act (IPRA) directly to the program shall be forwarded to the department's records custodian within 24 hours. The department's records custodian shall respond in writing within 15 days to the requestor after consulting with the state ombudsman and the department's general counsel or designee. The ombudsman shall make the final decision whether to disclose records in response to an IPRA request, keeping in mind that program records are not public records and are therefore exempt from IPRA. Notwithstanding the foregoing, the state ombudsman may release records provided they do not name or provide personally identifying information of residents or complainants as it deems appropriate, provided such disclosure is not made pursuant to an IPRA request.

[9.2.19.38 NMAC - Rp, 9.2.19.38 NMAC, 09/23/2025]

2.9.19.39 [RESERVED]

2.9.19.40 LEGAL COUNSEL: Pursuant to 45 C.F.R. Section 1324.15 (j), the department shall ensure that:

A. legal counsel for the program is adequate, available, has competencies relevant to the legal needs of the program and of the residents, and is without conflict of interest, in order to:

(1) provide consultation and representation as needed in order for the program to protect the health, safety, welfare and rights of residents; and

(2) provide consultation or representation as needed to assist the state ombudsman and representatives of the office in the performance of their official

functions, responsibilities and duties, including complaint resolution and advocacy;

B. legal representation, arranged by or with the approval of the state ombudsman, is provided to the state ombudsman or any representative of the office against whom suit or other legal action is brought or threatened to be brought in connect with the performance of the official duties;

C. legal representation of the program by the state ombudsman or representative of the office who is a licensed attorney shall not by itself constitute sufficiently adequate legal counsel; and

D. the communications between the state ombudsman and legal counsel are subject to attorney-client privilege.
[9.2.19.40 NMAC - Rp, 9.2.19.40 NMAC, 09/23/2025]

9.2.19.41 ANONYMOUS EVALUATIONS:

A. Chapter 28, Articles 7 and 17 of the NMSA 1978 authorize and direct the department and the office to protect the health, safety, welfare and rights of the aged and other residents of long-term care facilities in this state, to investigate and resolve complaints of such residents, and to report on conditions of long-term care facilities. Subsection C of Section 28-4-6 NMSA 1978 specifically provides that the department may conduct unannounced evaluations of long-term care facilities by the use of undercover residents or employees. Pursuant to its authority as the parent agency of the office, the department may carry out such evaluations by and through the office; however, under no circumstances shall federal funding be used for such anonymous evaluations.

B. The department shall conduct all undercover evaluations authorized by Subsection C of 28-4-6 NMSA 1978 in accordance with its procedures for the conduct of anonymous evaluations of long-term care facilities adopted pursuant to such authority and in consultation with the department's

cabinet secretary.
[9.2.19.41 NMAC - Rp, 9.2.19.41 NMAC, 09/23/2025]

HISTORY OF 9.2.19 NMAC:

History of Repealed Material:

9.2.19 NMAC, Aging – Long-Term Care Ombudsman, filed 1/16/2001 - Repealed effective 12/29/2017.
9.2.19 NMAC, Aging – Long-Term Care Ombudsman, filed 12/13/2017 - Repealed effective 09/23/2025.

Other History:

9.2.19 NMAC, Aging - Long-Term Care Ombudsman (filed 1/16/2001) was replaced by 9.2.19 NMAC, Aging - Long-Term Care Ombudsman, effective 12/29/2017.
9.2.19 NMAC, Aging - Long-Term Care Ombudsman (filed 12/13/2017) was replaced by 9.2.19 NMAC, Aging - Long-Term Care Ombudsman, effective 09/23/2025.

AGING AND LONG-TERM SERVICES DEPARTMENT

TITLE 9 HUMAN RIGHTS CHAPTER 2 AGE PART 21 CIVIL PENALTY ASSESSMENTS BY THE STATE LONG-TERM CARE OMBUDSMAN

9.2.21.1 ISSUING AGENCY: Aging and Long-Term Services Department.
[9.2.21.1 NMAC - Rp, 9.2.21.1 NMAC, 09/23/2025]

9.2.21.2 SCOPE: This rule applies to the general public.
[9.2.21.2 NMAC - Rp, 9.2.21.2 NMAC, 09/23/2025]

9.2.21.3 STATUTORY AUTHORITY: This rule is adopted pursuant to the terms of 42 U.S.C. Section 3058g(j), Sections 28-4-6(B), 28-17-5 and 28-17-19 NMSA 1978 and Laws 2004, Ch. 23, Sec. 6(E).
[9.2.21.3 NMAC - Rp, 9.2.21.3 NMAC, 09/23/2025]

9.2.21.4 DURATION:
Permanent.
[9.2.21.4 NMAC - Rp, 9.2.21.4 NMAC, 09/23/2025]

9.2.21.5 EFFECTIVE DATE: September 23, 2025, unless a later date is cited in the history note at the end of a section.
[9.2.21.5 NMAC - Rp, 9.2.21.5 NMAC, 09/23/2025]

9.2.21.6 OBJECTIVE:
This rule establishes a schedule of civil penalties that will be imposed on persons or entities that violate Section 28-17-19 NMSA 1978.
[9.2.21.6 NMAC - Rp, 9.2.21.6 NMAC, 09/23/2025]

9.2.21.7 DEFINITIONS:
The following terms are used in this rule:

A. “Civil penalty assessment” means a civil monetary penalty imposed on a person or entity by the state long-term care ombudsman pursuant to the terms of Section 28-17-19 NMSA 1978 and this rule.

B. “Department” means the aging and long-term services department. It is the state department charged, among other things, with implementing the requirements of the federal Older Americans Act of 1965, as amended (42 U.S.C. Section 3001, et seq.).

C. “Long-term care ombudsman program” means the program administered by the state long-term care ombudsman.

D. “State long-term care ombudsman” means the office established pursuant to the terms of 42 U.S.C. Section 3058g and Section 28-17-4 NMSA 1978 to, among other things, identify, investigate and resolve complaints that are made by, or on behalf of, residents of long-term care facilities and that relate to action, inaction or decisions that may adversely affect the health, safety, welfare or rights of the residents.
[9.2.21.7 NMAC - Rp, 9.2.21.7 NMAC, 09/23/2025]

9.2.21.8 WILLFUL INTERFERENCE WITH LONG-TERM CARE OMBUDSMAN PROGRAM:

A. Any person or entity committing willful interference, as defined in 45 C.F.R. Section 1324 and 9.2.19 NMAC, with the lawful actions of the long-term care ombudsman program shall be subjected to civil penalties up to a maximum of \$5,000 per occurrence as follows:

(1) failing to allow an ombudsman immediate entry into a long-term care facility: \$500 minimum per occurrence;

(2) imposing unreasonable time limits or constraints on visiting a long-term care facility or its residents or employees: \$500 minimum per occurrence;

(3) failing to provide an ombudsman, upon proper written request, immediate access to readily available medical, personal, financial or other nonmedical records, including administrative records, policies, procedures or documents that concern, involve or pertain to a resident's diet, comfort, health, safety or welfare, but not including internal quality assurance or risk management reports: \$500 minimum per occurrence;

(4) failing to provide an ombudsman, upon proper written request, access within twenty-four hours to nonreadily available medical, personal, financial or other nonmedical records, including administrative records, policies, procedures or documents that concern, involve or pertain to a resident's diet, comfort, health, safety or welfare, but not including internal quality assurance or risk management reports: \$500 minimum per occurrence;

(5) failing to honor a legally-executed HIPAA-compliant authorization form from a resident or a resident's surrogate decision maker for release of records, or failing to honor a written authorization form signed by the state long-term care ombudsman or an ombudsman coordinator in

accordance with Subsection B of Section 28-17-13 NMSA 1978, or requiring redundant or legally-unnecessary forms to be completed: \$500 minimum per occurrence;

(6) eavesdropping on any private conversation between an ombudsman and a resident or any other person: \$500 minimum per occurrence;

(7) failing to provide a quiet private place for an ombudsman to meet with a resident or any other person: \$500 minimum per occurrence;

(8) instructing a resident, employee or any other person not to file a complaint with the long-term care ombudsman program, or not to provide information to, or otherwise cooperate with, the long-term care ombudsman program: \$2,500 minimum per occurrence;

(9) willfully concealing facts from, or misrepresenting facts to, an ombudsman: \$2,500 minimum per occurrence;

(10) failing to acknowledge and act timely upon communications with an ombudsman relating to an investigation: \$500 minimum per occurrence; and

(11) any other willful action that interferes with the lawful actions of the long-term care ombudsman program: \$250 minimum per occurrence.

B. Factors that will be considered in imposing civil penalties greater than the minimum amounts include, but are not limited to, the following:

(1) whether the interference with the long-term care ombudsman program caused actual harm to any resident of the facility;

(2) the number and amounts of civil penalties that have been assessed against a facility or its owners previously; and

(3) whether the interference with the long-term care ombudsman program was based on a facility policy or a policy of its owners (as opposed, for example, to an isolated incident caused by a

lower-level employee).

[9.2.21.8 NMAC - Rp, 9.2.21.8 NMAC, 09/23/2025]

9.2.21.9 RETALIATION:

A. Any person or entity that discriminates against, disciplines, or retaliates against any resident, employee, or other person for filing a complaint with the long-term care ombudsman program, or for providing information to, or otherwise cooperating with, the long-term care ombudsman program shall be subjected to civil penalties up to a maximum of \$10,000 per occurrence as required pursuant to 45 C.F.R. Sections 1324.13 and 1324.15 as follows:

(1) discharging a resident: \$10,000 per occurrence;

(2) withholding treatment to, or medication from, a resident: \$2,500 minimum per occurrence;

(3) isolating a resident or changing a resident's room: \$1,000 minimum per occurrence;

(4) restricting a resident's ability to communicate with others: \$1,000 minimum per occurrence;

(5) ignoring a resident's request for assistance or delaying response to a request: \$1,000 minimum per occurrence;

(6) taking a resident's property, even if the property has no value: \$1,000 minimum per occurrence;

(7) terminating an employee of a long-term care facility: \$10,000 per occurrence;

(8) suspending, demoting or taking any other action with monetary consequences against an employee of a long-term care facility: \$2,500 minimum per occurrence;

(9) barring a person from a facility: \$1,000 minimum per occurrence; and

(10) instituting any other discriminatory, disciplinary or retaliatory action against a resident,

a resident's family member or other representative, an employee, or any other person: \$500 minimum per occurrence.

B. Factors that will be considered in imposing civil penalties greater than the minimum amounts include, but are not limited to, the following:

- (1) whether the discrimination, discipline or retaliation caused actual harm to any resident of the facility;
 - (2) the number and amounts of civil penalties that have been assessed against a facility or its owners previously; and
 - (3) whether the discrimination, discipline or retaliation was based on a facility policy or a policy of its owners (as opposed, for example, to an isolated incident caused by a lower-level employee).
- [9.2.21.9 NMAC - Rp, 9.2.21.9 NMAC, 09/23/2025]

9.2.21.10 CIVIL PENALTY ASSESSMENT:

A. Upon determining that there has been a violation of Section 28-17-19 NMSA 1978 and this rule, the state long-term care ombudsman may deliver to the person or entity charged with the violation a notice of civil penalty assessment. The notice shall be delivered in person or by certified mail, return receipt requested. The notice shall include:

- (1) the name and address of the person or entity to whom the civil penalty assessment is directed;
 - (2) the date of the civil penalty assessment;
 - (3) the basis for the civil penalty assessment;
 - (4) the amount of the civil penalty assessment;
 - (5) the date the civil penalty assessment is due for payment; and
 - (6) notice of the right to request a hearing before the department to challenge the civil penalty assessment.
- B.** Unless a hearing is requested, the civil penalty

assessment shall be paid to the department within 30 calendar days from the date of the assessment. Payment shall be in the form of cash, cashier's check or money order.
[9.2.21.10 NMAC - Rp, 9.2.21.10 NMAC, 09/23/2025]

9.2.21.11 RECOVERY

PROHIBITED: No person or entity that has been issued a civil penalty assessment shall recover or attempt to recover the assessment or any portion of it, directly or indirectly, from any resident of a long-term care facility or from any person, insurer, governmental agency or other entity that may be responsible for paying for the services rendered to a resident of a facility.
[9.2.21.11 NMAC - Rp, 9.2.21.11 NMAC, 09/23/2025]

History of 9.2.21 NMAC:
[RESERVED]

History of Repealed Material:

9.2.21 NMAC, Civil Penalty Assessments By The State Long Term Care Ombudsman filed 3/8/2004 Repealed effective 09/23/2025.

Other: 9.2.21 NMAC, Civil Penalty Assessments By The State Long Term Care Ombudsman filed 3/8/2004 Replaced by 9.2.21 NMAC, Civil Penalty Assessments By The State Long Term Care Ombudsman effective 09/23/2025.

AGING AND LONG-TERM SERVICES DEPARTMENT

TITLE 9 HUMAN RIGHTS CHAPTER 2 AGE PART 22 HEARINGS TO CHALLENGE CIVIL PENALTY ASSESSMENTS BY THE STATE LONG-TERM CARE OMBUDSMAN

9.2.22.1 ISSUING

AGENCY: Aging and Long-Term Services Department.
[9.2.22.1 NMAC - Rp, 9.2.22.1 NMAC, 09/23/2025]

9.2.22.2 SCOPE: This rule applies to the general public and governs the hearings conducted by the aging and long-term services department to address civil penalties that have been assessed on persons or entities by the state long-term care ombudsman. It does not govern other hearings conducted by the department.
[9.2.22.2 NMAC - Rp, 9.2.22.2 NMAC, 09/23/2025]

9.2.22.3 STATUTORY

AUTHORITY: This rule is adopted pursuant to the terms of 42 U.S.C. Section 3058g(j), Subsection B of Section 28-4-6, 28-17-5 and 28-17-19 NMSA 1978 and Subsection (E) of Section 6 of Chapter 23 Laws 2004.
[9.2.22.3 NMAC - Rp, 9.2.22.3 NMAC, 09/23/2025]

9.2.22.4 DURATION:

Permanent.
[9.2.22.4 NMAC - Rp, 9.2.22.4 NMAC, 09/23/2025]

9.2.22.5 EFFECTIVE

DATE: September 23, 2025, unless a later date is cited in the history note at the end of a section.
[9.2.22.5 NMAC - Rp, 9.2.22.5 NMAC, 09/23/2025]

9.2.22.6 OBJECTIVE:

This rule establishes a hearing procedure for a person or entity to challenge a civil penalty assessment that has been issued to it by the state long-term care ombudsman pursuant to the terms of Section 28-17-19 NMSA 1978 and applicable department regulations.
[9.2.22.6 NMAC - Rp, 9.2.22.6 NMAC, 09/23/2025]

9.2.22.7 DEFINITIONS:

The following terms are used in this rule:

- A. "Assessed party"**
means a person or entity that has been issued a civil penalty assessment by the state long-term care ombudsman.
- B. "Civil penalty assessment"**
means a civil monetary penalty imposed on a person or entity by the state long-term care

ombudsman pursuant to the terms of Section 28-17-19 NMSA 1978 and applicable department regulations.

C. “Department” means the aging and long-term services department. It is the state department charged, among other things, with implementing the requirements of the federal Older Americans Act of 1965, as amended (42 U.S.C. Section 3001, et seq.).

D. “Hearing officer” means an impartial person designated by the secretary to preside over proceedings under this rule. A hearing officer may be an employee of the department (except for an employee of the long-term care ombudsman program), a policy advisory committee member, or any other impartial person. A hearing officer may be, but is not required to be, an attorney at law.

E. “Long-term care ombudsman program” means the program administered by the state long-term care ombudsman.

F. “Parties” mean the assessed party and the state long-term care ombudsman.

G. “Secretary” means the secretary of the department.

H. “State long-term care ombudsman” means the office established pursuant to the terms of 42 U.S.C. Section 3058g and Section 28-17-4 NMSA 1978 to, among other things, identify, investigate and resolve complaints that are made by, or on behalf of, residents of long-term care facilities and that relate to action, inaction or decisions that may adversely affect the health, safety, welfare or rights of the residents. [9.2.22.7 NMAC - Rp, 9.2.22.7 NMAC, 09/23/2025]

9.2.22.8 REPRESENTATION:

A. A natural person may appear as a party on his or her own behalf or by an attorney licensed to practice law in New Mexico.

B. The state long-term care ombudsman, corporations and other legal entities may be represented by a duly authorized officer or employee of the entity or by an attorney licensed to practice law in New Mexico.

C. An attorney for a party must file an entry of appearance at least 10 working days before the commencement of any hearing. The attorney of record for a party shall be deemed to continue to be the attorney of record until written notice of withdrawal of representation is provided to the hearing officer and the parties.

[9.2.22.8 NMAC - Rp, 9.2.22.8 NMAC, 09/23/2025]

9.2.22.9 REQUEST FOR HEARING:

A. An assessed party may request a hearing before the department. The request for hearing shall be in writing and received by the secretary no later than 10 working days from the date that the assessed party receives the civil penalty assessment. The request for hearing shall include:

- (1) the name and address of the assessed party;
- (2) a copy of the civil penalty assessment;
- (3) a brief statement of the factual or legal bases upon which the assessed party challenges the civil penalty assessment; and
- (4) a statement of the relief requested.

B. The assessed party shall send a copy of the request for hearing to the state long-term care ombudsman.

C. The department shall dismiss any request for hearing that is untimely or fails to substantially comply with the terms of this rule.

[9.2.22.9 NMAC - Rp, 9.2.22.9 NMAC, 09/23/2025]

9.2.22.10 APPOINTMENT OF HEARING OFFICER:

Within five working days of receipt of a timely request for hearing, the secretary will appoint a hearing officer and will send written notice of the appointment to the parties.

[9.2.22.10 NMAC - Rp, 9.2.22.10 NMAC, 09/23/2025]

9.2.22.11 NOTICE OF HEARING AND TIME LIMITS FOR HOLDING HEARING:

A. Within 10 working days of appointment, the hearing officer will establish the date, time and place of the hearing. The hearing will be no more than 120 calendar days from the date of the civil penalty assessment unless the parties agree otherwise.

B. The hearing officer will issue a notice of hearing at least 30 calendar days before the hearing date, unless the parties agree to a shorter timeframe. The notice will be served on the parties by certified mail, return receipt requested. At the discretion of the hearing officer, the notice may be served by regular mail or other appropriate means on any other persons or entities that may have an interest in the proceedings.

C. The notice of hearing shall include:

- (1) the name of the assessed party;
- (2) the name and address of the state long-term care ombudsman;
- (3) the time, date, place, and nature of the hearing; and
- (4) a statement of the legal authority under which the hearing is to be held.

[9.2.22.11 NMAC - Rp, 9.2.22.11 NMAC, 09/23/2025]

9.2.22.12 VENUE: Unless the parties agree otherwise, the hearing will be held in the county where the events allegedly occurred that gave rise to the civil penalty assessment or where the long-term care facility in question is located. [9.2.22.12 NMAC - Rp, 9.2.22.12 NMAC, 09/23/2025]

9.2.22.13 POWERS AND DUTIES OF THE HEARING OFFICER: The hearing officer shall have the authority to:

- A.** preside over hearings;
- B.** assure that hearings are properly recorded;
- C.** administer oaths and affirmations to the witnesses;

D. issue subpoenas and subpoenas *duces tecum*;

E. establish procedural schedules;

F. rule on motions and procedural requests;

G. require parties to attend hearings, pre-hearing conferences and settlement conferences;

H. require parties to produce for examination information or witnesses under their control;

I. require parties to express their positions on any issues in the proceedings;

J. require parties to submit legal briefs on any issues in the proceedings;

K. examine witnesses, and permit parties to examine witnesses;

L. determine the admissibility of evidence;

M. take official notice of any matter that is among the traditional matters of official or administrative notice in accordance with the terms of this rule;

N. recess any hearing from time to time;

O. regulate the course of the proceedings and the conduct of any participants;

P. take any action reasonably necessary to compel discovery or control the conduct of parties or witnesses;

Q. issue a recommended decision on the merits of a case, including findings of fact and conclusions of law;

R. approve settlements or other pre-hearing or post-hearing dispositions of cases by the parties, subject to final approval by the secretary; and

S. take any other action reasonably necessary to conclude the proceedings in a timely and fair manner.

[9.2.22.13 NMAC - Rp, 9.2.22.13 NMAC, 09/23/2025]

9.2.22.14 APPLICABILITY OF RULES OF CIVIL PROCEDURE AND RULES OF EVIDENCE: Although formal rules

of civil procedure and evidence do not apply, the hearing officer may look to the New Mexico rules of civil procedure and the New Mexico rules of evidence for guidance during the course of the proceedings. In addition, the hearing officer's recommended decision and the secretary's final decision must be supported by a residuum of legally competent evidence as would support a verdict in a court of law.
[9.2.22.14 NMAC - Rp, 9.2.22.14 NMAC, 09/23/2025]

9.2.22.15

COMMUNICATIONS WITH SECRETARY AND HEARING OFFICER:

A. No party, representative of a party, or other person shall communicate off the record about the merits of a case with the secretary or the hearing officer unless the communication is in writing and a copy is provided to all parties to the proceedings.

B. The secretary and the hearing officer shall not communicate off the record about the merits of a case with any party, representative of a party, or other person unless the communication is in writing and a copy is sent to all parties to the proceedings.

[9.2.22.15 NMAC - Rp, 9.2.22.15 NMAC, 09/23/2025]

9.2.22.16 PRE-HEARING DISCLOSURES AND DISCOVERY:

A. Upon written request of any party, the hearing officer may require parties to comply with reasonable discovery requests. Oral and written depositions are prohibited except to preserve the testimony of persons who are sick or elderly, or persons who will not be able to attend the hearing.

B. At least 15 calendar days before the hearing, each party shall file the following information with the hearing officer and send copies to the other parties:

(1) the name of each witness that the party will or may call at the hearing;

(2) a summary of the anticipated direct testimony of each witness and, if the testimony includes expert opinions, a list of documents or other information that provides the bases for those opinions;

(3) an estimate of the length of time for the direct testimony of each witness; and

(4) a list of exhibits that will or may be offered into evidence at the hearing. In addition, each party shall provide the other parties, but not the hearing officer, with copies of all exhibits that are identified on the exhibit list but have not been provided previously.

C. Parties are encouraged to enter into stipulations of fact to expedite the hearing process. Any stipulations must be filed jointly with the hearing officer at least 10 working days before the hearing.

[9.2.22.16 NMAC - Rp, 9.2.22.16 NMAC, 09/23/2025]

9.2.22.17 SUBPOENAS:

A. Pursuant to Subsection C of Section 28-17-19 NMSA 1978, upon the written request of a party, the hearing officer may issue subpoenas to compel attendance of witnesses or production of records in connection with proceedings before the department.

B. In order to subpoena a person who is not a party to the proceedings, or an agent or representative of a party, the party requesting the subpoena shall tender witness fees and mileage to the person subpoenaed in accordance with the terms of Rule 1-045 NMRA.

C. The hearing officer may condition a subpoena to permit the inspection and copying of records upon the party requesting the subpoena paying the person subpoenaed the reasonable cost of inspection and copying in advance.
[9.2.22.17 NMAC - Rp, 9.2.22.17 NMAC, 09/23/2025]

9.2.22.18 EVIDENCE AND CONDUCT OF HEARING:

A. Hearings will be conducted as follows:

(1) all hearings will be open to the public, unless closing a hearing is necessary to protect the privacy of any person who is entitled to privacy protection under federal or state law;

(2) only relevant and material evidence is admissible at hearings. Evidence will be allowed if it is of a type commonly relied upon by reasonably prudent persons in the conduct of serious affairs;

(3) redundant evidence will be excluded;

(4) witnesses shall be examined orally, under oath or affirmation. The parties and the hearing officer shall have the right to cross-examine witnesses; and

(5) the hearing officer may take official notice of any matter that is among the traditional matters of official or administrative notice, and may take official notice of any matter that is within the department's specialized knowledge. The hearing officer shall inform the parties of any matters officially noticed, and shall afford the parties an opportunity to contest any such matters.

B. The burden of persuasion at the hearing shall be on the state long-term care ombudsman, which must prove its case by a preponderance of the evidence unless the case involves allegations of fraud. In cases involving allegations of fraud, the state long-term care ombudsman must prove its case by clear and convincing evidence.

C. At the hearing, the state long-term care ombudsman shall present its evidence first. If the assessed party wishes to present evidence, it shall proceed second. Thereafter, only the state long-term care ombudsman may present rebuttal evidence. Rebuttal evidence shall be confined to the issues raised in the assessed party's presentation of evidence. Each party will be given an opportunity to offer a final oral or written argument without additional presentation of evidence.

[9.2.22.18 NMAC - Rp, 9.2.22.18 NMAC, 09/23/2025]

9.2.22.19 RECORD OF HEARING:

A. Unless a hearing is stenographically recorded and the hearing officer orders otherwise, all hearings shall be recorded electronically by audio or audio-video. Any party desiring a copy of the audio or audio-video shall make a written request to the hearing officer and shall pay the cost of preparing a copy.

B. No later than five working days before a hearing, a party may request that the hearing be stenographically recorded at the cost of the requesting party. The request shall be in writing to the hearing officer and shall certify that the party has hired a certified court reporter and made all necessary arrangements for the court reporter to perform his or her job. In addition, the requesting party shall arrange for the court reporter to deliver two copies of the completed hearing transcript to the hearing officer. A court reporter's transcription becomes official when certified by the hearing officer. The requesting party shall pay the court reporter's fees, including any costs associated with providing the copies of the completed hearing transcript to the hearing officer.

C. Record. The record in a hearing shall consist of the following:

- (1) the civil penalty assessment;
- (2) the assessed party's request for hearing;
- (3) the notice of appointment of the hearing officer;
- (4) the notice of hearing;
- (5) all pleadings and orders;
- (6) any written information requested by the hearing officer and provided to him or her by the parties before the hearing;
- (7) all exhibits;
- (8) all stipulations;
- (9) all statement of matters officially noticed by the hearing officer;

(10) the electronic audio or audio-video recording, or the court reporter's written transcription of the hearing prepared in accordance with this rule;

(11) the hearing officer's recommended decision;

(12) any motions for reconsideration and rulings thereon; and

(13) the secretary's final decision.
[9.2.22.19 NMAC - Rp, 9.2.22.19 NMAC, 09/23/2025]

9.2.22.20 HEARING OFFICER'S RECOMMENDED DECISION:

A. The hearing officer shall present a written recommended decision to the secretary after the close of the hearing, and shall send copies to the parties. The recommended decision shall be based solely on the record and shall include proposed findings of fact and conclusions of law.

B. Any motions for reconsideration shall be submitted to the hearing officer within five working days from the date of service of the hearing officer's recommended decision. Such motions shall be decided without a hearing unless the hearing officer orders otherwise.
[9.2.22.20 NMAC - Rp, 9.2.22.20 NMAC, 09/23/2025]

9.2.22.21 SECRETARY'S FINAL DECISION:

A. The secretary shall issue a final written decision within 10 working days of the receipt of the hearing officer's recommended decision or ruling on a motion for reconsideration. Based upon the evidence in the record, the secretary may affirm, reverse or modify the hearing officer's recommended decision as modified by any subsequent rulings of the hearing officer. The secretary's final decision shall inform the parties of their right to seek judicial review.

B. The secretary shall send copies of the final decision to the parties by certified mail, return receipt requested.

C. When the secretary's final decision affirms a civil penalty assessment by the state long-term care ombudsman, the assessed party shall pay the civil penalty to the department within 30 calendar days from the date of the decision. Payment shall be in the form of cash, cashier's check or money order.
[9.2.22.21 NMAC - Rp, 9.2.22.21 NMAC, 09/23/2025]

9.2.22.22 APPEAL: A person who is aggrieved by the secretary's final decision may appeal to the district court in accordance with the provisions of Section 39-3-1.1 NMSA 1978 and Rule 1-074 NMRA. The date of filing of the secretary's final decision starts the time limit for appeal.
[9.2.22.22 NMAC - Rp, 9.2.22.22 NMAC, 09/23/2025]

9.2.22.23 NO AUTOMATIC STAY PENDING JUDICIAL REVIEW: The filing of a notice of appeal shall not stay the enforcement of the secretary's final decision. Upon a showing of substantial hardship and irreparable harm, the secretary may grant a stay of the final decision pending appeal. The district court may also grant a stay in accordance with the provisions of Rule 1-074 NMRA.
[9.2.22.23 NMAC - Rp, 9.2.22.23 NMAC, 09/23/2025]

9.2.22.24 ENFORCEMENT OF ORDERS AND PAYMENT IN DEFAULT: Whenever an assessed party is in default of a civil penalty assessment, the state long-term care ombudsman may file an action in district court solely for the purpose of entry of judgment and enforcement of the civil penalty. The district court shall accept the civil penalty assessment without reviewing the basis for it and shall enter an appropriate judgment or order to enforce the civil penalty assessment.
[9.2.22.24 NMAC - Rp, 9.2.22.24 NMAC, 09/23/2025]

History of 9.2.22 NMAC:
[RESERVED]

History of Repealed Material:
9.2.22 NMAC, Hearings to Challenge Civil Penalty Assessments By The State Long - Term Care Ombudsman filed 3/8/2004 Repealed effective 09/23/2025.

Other: 9.2.22 NMAC, Hearings to Challenge Civil Penalty Assessments By The State Long - Term Care Ombudsman filed 3/8/2004 Replaced by 9.2.22 NMAC, Hearings to Challenge Civil Penalty Assessments By The State Long - Term Care Ombudsman effective 09/23/2025.

AGING AND LONG-TERM SERVICES DEPARTMENT

TITLE 9 HUMAN RIGHTS CHAPTER 2 AGE PART 23 PATIENT CARE MONITORING IN LONG-TERM CARE FACILITIES

9.2.23.1 ISSUING AGENCY: Aging and Long-Term Services Department.
[9.2.23.1 NMAC - Rp, 9.2.23.1 NMAC, 09/23/2025]

9.2.23.2 SCOPE: This rule applies to the general public.
[9.2.23.2 NMAC - Rp, 9.2.23.2 NMAC, 09/23/2025]

9.2.23.3 STATUTORY AUTHORITY: This rule is adopted pursuant to the terms of Subsection B of Section 28-4-6, Section 28-17-5, and Section 28-17-19 NMSA 1978; Subsection E of Section 6 of Chapter 23 Laws 2004; and Section 10 of Chapter 53 Laws 2004.
[9.2.23.3 NMAC - Rp, 9.2.23.3 NMAC, 09/23/2025]

9.2.23.4 DURATION: Permanent.
[9.2.23.4 NMAC - Rp, 9.2.23.4 NMAC, 09/23/2025]

9.2.23.5 EFFECTIVE DATE: September 23, 2025, unless a later date is cited in the history note at the end of a section.
[9.2.23.5 NMAC - Rp, 9.2.23.5 NMAC, 09/23/2025]

9.2.23.6 OBJECTIVE: This rule implements the provisions of the Patient Care Monitoring Act, Chapter 53 Laws 2004.
[9.2.23.6 NMAC - Rp, 9.2.23.6 NMAC, 09/23/2025]

9.2.23.7 DEFINITIONS: The following terms are used in this rule:

- A. "Department"** means the aging and long-term services department.
- B. "Facility"** means a long-term care facility licensed pursuant to the provisions of Section 24-1-5 NMSA 1978, other than an intermediate care facility for the mentally retarded, and may also include:
- (1) a skilled nursing facility;
 - (2) an intermediate care nursing facility;
 - (3) a nursing facility;
 - (4) an adult residential shelter care home;
 - (5) a boarding home;
 - (6) any adult care home or adult residential care facility; and
 - (7) any swing bed in an acute care facility or extended care facility.

C. "Monitoring device" means a surveillance instrument that broadcasts or records activity, but does not include a still camera.

D. "Patient" means a person who is a resident of a facility.

E. "Program" means the New Mexico long-term care ombudsman program.

F. "Roommate" means a patient who shares a room in a facility with a patient who has chosen, or whose surrogate has chosen, to install and use a monitoring device.

G. “Surrogate”

means a legal guardian or a legally appointed substitute decision-maker who is authorized to act on behalf of a patient.

[9.2.23.7 NMAC - Rp, 9.2.23.7 NMAC, 09/23/2025]

9.2.23.8 AUTHORIZATION AND USE OF A MONITORING DEVICE:

A.

A patient or surrogate may authorize installation and use of a monitoring device in a facility provided that:

(1) the facility is given notice of the installation on a form prescribed by the department;

(2) if the monitoring device records activity visually, such recording shall include a record of the date and time;

(3) the monitoring device and all installation and maintenance costs are paid for by the patient or surrogate;

(4) written consent is given by each roommate or each roommate’s surrogate on a form prescribed by the department;

(5) the monitoring is conducted in accordance with any limitation placed on it as a condition of consent by a roommate or the roommate’s surrogate; and

(6) if a roommate or the roommate’s surrogate also wishes to install and use a monitoring device, the patient or surrogate consents to the installation and use on terms that are no more restrictive than any that have been placed on the patient’s or surrogate’s installation and use.

B.

A patient or surrogate may establish and a facility shall accommodate limits on the use, including the time of operation, direction, focus or volume, of a monitoring device.

[9.2.23.8 NMAC - Rp, 9.2.23.8 NMAC, 09/23/2025]

9.2.23.9 INSTALLATION AND USE OF A MONITORING DEVICE:

A.

At the time of admission to a facility, a patient shall be offered the option to have a monitoring device, and a record of the patient’s authorization or choice not to have a monitoring device shall be kept by the facility and shall be made accessible to the program.

B.

After authorization, consent and notice, a patient or surrogate may install, operate and maintain a monitoring device in the patient’s room at the patient’s or surrogate’s expense. The patient or surrogate is responsible for all costs associated with installing, operating and maintaining the monitoring device, except the cost of electricity.

C.

A patient or surrogate is responsible for selecting the type of monitoring device that will be used in the patient’s room. If the patient or surrogate chooses to install a monitoring device that uses Internet technology, the monitoring device must have at least 128-bit encryption and enable a secure socket layer (“SSL”).

[9.2.23.9 NMAC - Rp, 9.2.23.9 NMAC, 09/23/2025]

9.2.23.10 ACCOMMODATION BY FACILITY:

A facility shall cooperate to accommodate the installation of a monitoring device, provided the installation does not place undue burden on the facility.

A.

Reasonable accommodation includes, but is not limited to, the following:

(1) providing a reasonably secure place to mount a monitoring device;

(2) providing access to power sources, if feasible;

(3) rearranging a room, if feasible;

(4) accommodating the limits a patient or roommate, or a surrogate of either, may place on the use of a monitoring device, if feasible;

(5) referring a patient or surrogate to potential roommates or surrogates of roommates who have indicated on a current patient authorization form that they would consent to monitoring if

a current roommate or surrogate of a roommate withholds consent; and

(6) allowing patients, roommates and potential roommates to change rooms, when feasible, in those cases where consent is an issue.

B.

Undue burden includes, but is not limited to, making structural changes to a room by anyone other than a licensed contractor, or a non-licensed person approved by the facility.

C.

If a patient or surrogate chooses to install a monitoring device that uses Internet technology for visual monitoring, a facility shall allow the patient or surrogate to install any necessary Internet access line(s), if feasible. This may require access to the facility’s telecommunications or equipment room, and the facility shall provide such access. In addition:

(1) a patient or surrogate is responsible for contracting with an Internet provider and for any expense for activation, installation and on-going service; and

(2) the facility is not required to allow Internet access through facility or corporate networks that also maintain confidential patient, medical, financial or personnel records.

D.

A facility has the burden of proving that a requested accommodation is not feasible or constitutes an undue burden.

E.

A facility may impose a refundable damage deposit of up to \$150 to cover the cost of repairing any damages to the facility caused by the installation or removal of a monitoring device. Within 30 days after the removal of a monitoring device, the facility shall deliver to the patient or surrogate a written statement itemizing any deductions from the deposit together with the balance of the deposit. The facility has the burden of proving that any deductions from the deposit are reasonable.

[9.2.23.10 NMAC - Rp, 9.2.23.10 NMAC, 09/23/2025]

9.2.23.11 CONSENT OF PATIENT:

A. Consent to the authorization for the installation and use of a monitoring device may be given only by a patient or surrogate.

(1) If a patient has capacity to consent, only the patient may do so, notwithstanding the terms of any durable power of attorney, advance health-care directive, or similar instrument.

(2) If a patient does not have capacity to consent, only the patient's surrogate may give consent. If there is a dispute among surrogates within the same priority class under the Uniform Health-Care Decisions Act, none of them can give consent.

(3) A patient is presumed to have capacity to consent unless the patient has been determined to be incapacitated by a court of competent jurisdiction or by two qualified health-care professionals, one of whom shall be the primary physician, in accordance with the terms of the Uniform Health-Care Decisions Act.

B. Consent to the authorization for the installation and use of a monitoring device shall include a release of liability for the facility for a violation of the patient's right to privacy insofar as the use of the monitoring device is concerned.

C. A patient or surrogate may reverse a choice to have or not have a monitoring device installed and used at any time, after notice to the facility on a form prescribed by the department.
[9.2.23.11 NMAC - Rp, 9.2.23.11 NMAC, 09/23/2025]

9.2.23.12 CONSENT OF ROOMMATES:

A. Consent of a roommate to the installation and use of a monitoring device by a patient or surrogate may be given only by the roommate or the roommate's surrogate.

(1) If a roommate has capacity to consent, only the roommate may do so, notwithstanding the terms of any

durable power of attorney, advance health-care directive, or similar instrument.

(2) If a roommate does not have capacity to consent, only the roommate's surrogate may give consent. If there is a dispute among surrogates within the same priority class under the Uniform Health-Care Decisions Act, none of them can give consent.

(3) A roommate is presumed to have capacity to consent unless the roommate has been determined to be incapacitated by a court of competent jurisdiction or by two qualified health-care professionals, one of whom shall be the primary physician, in accordance with the terms of the Uniform Health-Care Decisions Act.

B. Consent to the authorization for the installation and use of a monitoring device shall include a release of liability for the facility for a violation of the roommate's right to privacy insofar as the use of the monitoring device is concerned.

C. A roommate or the roommate's surrogate may condition or limit consent on the use, including the time of operation, direction, focus or volume, of a monitoring device.

D. A roommate or the roommate's surrogate may reverse a choice to give, not give, or limit consent at any time, after notice to the facility on a form prescribed by the department.

E. If a monitoring device is being used in the room of a patient and a new roommate, who has not yet consented to the use of the monitoring device, moves into the room, monitoring shall cease until the new roommate, or the new roommate's surrogate, has consented in accordance with this section.
[9.2.23.12 NMAC - Rp, 9.2.23.12 NMAC, 09/23/2025]

9.2.23.13 FORMS:

A. The department shall prescribe forms for implementing the Patient Care Monitoring Act and this rule. No facility shall use any forms other than those prescribed by the department.

B. A facility shall maintain the original copies of all completed forms relating to a patient for at least three years from the date of the patient's discharge from the facility. The forms shall be accessible to the program at all times.

[9.2.23.13 NMAC - Rp, 9.2.23.13 NMAC, 09/23/2025]

9.2.23.14 AUTHORIZATION FORM:

The form for the authorization of installation and use of a monitoring device shall provide for:

A. consent of the patient or surrogate authorizing the installation and use of the monitoring device;

B. notice to the facility of the patient's installation of a monitoring device and specifics as to its type, function and use;

C. consent of any roommate, or that roommate's surrogate;

D. notice of release from liability for privacy violation through the use of the monitoring device; and

E. waiver of the patient's right to privacy in conjunction with the use of the monitoring device.

[9.2.23.14 NMAC - Rp, 9.2.23.14 NMAC, 09/23/2025]

9.2.23.15 UNAUTHORIZED

USE: In any civil action against the facility, material obtained through the use of a monitoring device may not be used if the monitoring device was installed or used without the knowledge of the facility or without the prescribed form.

[9.2.23.15 NMAC - Rp, 9.2.23.15 NMAC, 09/23/2025]

9.2.23.16 IMMUNITY:

Compliance with the provisions of the Patient Care Monitoring Act shall be a complete defense against any civil or criminal action brought against the patient, surrogate or facility for the use or presence of a monitoring device.

[9.2.23.16 NMAC - Rp, 9.2.23.16 NMAC, 09/23/2025]

9.2.23.17 NOTICE TO CURRENT PATIENTS: Within six months of the effective date of the Patient Care Monitoring Act, all facilities shall provide to each patient or surrogate a form prescribed by the department explaining the provisions of the Patient Care Monitoring Act and giving each patient or surrogate a choice to have a monitoring device installed in the patient's room. Copies of the completed form shall be kept by the facility and shall be made accessible to the program.
[9.2.23.17 NMAC - Rp, 9.2.23.17 NMAC, 09/23/2025]

9.2.23.18 NOTICE OF MONITORING DEVICE: The facility shall post a notice in a conspicuous place at the entrance to a room with a monitoring device that a monitoring device is in use in that room of the facility. The notice shall be posted at the facility's expense and shall state in English and Spanish: "*warning: this room is monitored electronically.*"
[9.2.23.18 NMAC - Rp, 9.2.23.18 NMAC, 09/23/2025]

9.2.23.19 PROHIBITED ACTS: No person or patient shall be denied admission to or discharged from a facility or be otherwise discriminated against or retaliated against because of a choice to authorize installation and use of a monitoring device. Any person who violates this section shall be subject to the provisions of Section 28-17-19 NMSA 1978 and Rule 9.2.21 NMAC.

A. The civil penalty for denying a person admission to a facility or for discharging a patient from a facility in violation of this section shall be \$10,000 per occurrence.

B. The minimum civil penalty for failing to accommodate the installation of a monitoring device, in violation of Section 9.2.23.10 of this rule, shall be \$1,000.

C. The minimum civil penalty for any person other than a patient or surrogate interfering with the use of a monitoring device or destroying a recording made by a monitoring device shall be \$1,000.

D. The minimum civil penalty for failing to refund a damage deposit in accordance with the terms of Section 9.2.23.10 of this rule shall be \$500.

E. The civil penalties for other forms of discrimination or retaliation that violate this section shall be determined in a manner consistent with Rule 9.2.21 NMAC.

F Except for violations of Subsections B, C and D of this section, it is irrelevant whether the installation or use of a monitoring device was authorized in accordance with the terms of the Patient Care Monitoring Act and this rule.
[9.2.23.19 NMAC - Rp, 9.2.23.19 NMAC, 09/23/2025]

9.2.23.20 CRIMINAL ACTS: Any person other than a patient or surrogate found guilty of intentionally hampering, obstructing, tampering with or destroying a monitoring device or a recording made by a monitoring device installed in a facility pursuant to the Patient Care Monitoring Act is guilty of a fourth degree felony and shall be sentenced pursuant to Section 31-18-15 NMSA 1978.

[9.2.23.20 NMAC - Rp, 9.2.23.20 NMAC, 09/23/2025]

History of 9.2.23 NMAC:
[RESERVED]

History of Repealed Material:
9.2.23 NMAC, Patient Care Monitoring In Long - Term Care Facilities filed 6/30/2004 effective 09/23/2025.

Other: 9.2.23 NMAC, Patient Care Monitoring In Long - Term Care Facilities filed 6/30/2004 Replaced by 9.2.23 NMAC, Patient Care Monitoring In Long - Term Care Facilities effective 09/23/2025.

AGING AND LONG-TERM SERVICES DEPARTMENT

This is an amendment to 9.2.2 NMAC, Sections 6 and 12, effective 09/23/2025.

9.2.2.6 OBJECTIVE: The objective of this rule is to ~~establish standards and procedures for the federal and state-funded programs administered by the aging and long-term services department.]~~ establish the requirement to comply with the Older Americans Act and its implementing regulations for all programs administered under the Older Americans Act.
[9.2.2.6 NMAC - Rp, SAA Rule No. 95-2.6, 06/30/2015; A, 09/23/2025]

9.2.2.12 STATE PROVISIONS:

A. State funds used to match federal Older Americans Act funds must be administered in accordance with the related federal and state rules and regulations.

B. State funds used in conjunction with federal ~~[ENCS] corporation for national and community service~~ funds must be administered in accordance with the related federal and state rules and regulations.

C. State funds that exceed required match must address eligibility criteria in accordance with 9.2.3 NMAC, unless a waiver is granted by the department pursuant to 9.2.3 NMAC.

[9.2.2.12 NMAC - Rp, SAA Rule No. 95-2.12, 06/30/2015; A, 09/23/2025]

AGING AND LONG-TERM SERVICES DEPARTMENT

This is an amendment to 9.2.20 NMAC, Sections 7 and 8, effective 09/23/2025.

9.2.20.7 DEFINITIONS:
As used in this part, "indirect cost" means a cost that has been incurred for common or joint purposes and benefits more than one ~~[(+)]~~ activity, such as an intergovernmental agreement or grant. Indirect costs cannot be readily identified with

a particular activity without effort disproportionate to the results achieved.

[9.2.20.7 NMAC -Rp, 9.2.20.7 NMAC, 6/30/2015; A, 09/23/2025]

9.2.20.8 INDIRECT COSTS: The department shall allow for indirect costs in intergovernmental agreements for services with any Indian tribal organization of up to ten percent ~~[(10%)]~~ of the total agreement amount, as requested and as determined on a specific basis, provided that the Indian tribal organization has a federally approved indirect cost rate. No indirect costs shall be allowed for capital projects. [9.2.20.6 NMAC -Rp, 9.2.20.8 NMAC, 6/30/2015; A, 09/23/2025]

GENERAL SERVICES DEPARTMENT TRANSPORTATION SERVICES DIVISION

The New Mexico General Services Department, Transportation Services Division (TSD), approved and adopted, at its Jul 29, 2025, hearing, and thereby repealed its prior rule 1.5.3.1 NMAC - Administration and Use Of State Vehicles (filed 7/16/2015) and replaced it with 1.5.3.1 NMAC - Administration and Use of State Vehicles, Public Property Management, adopted on 9/29/2025, and effective 9/23/2025.

GENERAL SERVICES DEPARTMENT TRANSPORTATION SERVICES DIVISION

TITLE 1 GENERAL GOVERNMENT ADMINISTRATION CHAPTER 5 PUBLIC PROPERTY MANAGEMENT PART 3 ADMINISTRATION AND USE OF STATE VEHICLES

1.5.3.1 ISSUING AGENCY: General Services Department, Transportation Services

Division (TSD).
[1.5.3.1 NMAC - Rp, 1.5.3.1 NMAC, 9/23/2025]

1.5.3.2 SCOPE:
A. This rule applies to all public agencies that use state vehicles.

B. This rule also applies to the legislative and judicial branches, public schools, institutions of higher education, and all other public related institutions, to the extent that they lease motor pool vehicles from the state central fleet authority (SCFA).
[1.5.3.2 NMAC - Rp, 1.5.3.2 NMAC, 9/23/2025]

1.5.3.3 STATUTORY AUTHORITY: Sections 15-8-6 through 15-8-10 NMSA 1978.
[1.5.3.3 NMAC - Rp, 1.5.3.3 NMAC, 9/23/2025]

1.5.3.4 DURATION:
Permanent.
[1.5.3.4 NMAC - Rp, 1.5.3.4 NMAC, 9/23/2025]

1.5.3.5 EFFECTIVE DATE: September 23, 2025 unless a later date is cited at the end of a section.
[1.5.3.5 NMAC - Rp, 1.5.3.5 NMAC, 9/23/2025]

1.5.3.6 OBJECTIVE: The purpose of this rule is to implement the Transportation Services Act, Sections 5-8-6 through 15-8-10 NMSA 1978, by establishing standards and procedures for the administration and use of state vehicles by state agencies or any entity that leases vehicles from SCFA.
[1.5.3.6 NMAC - Rp, 1.5.3.6 NMAC, 9/23/2025]

1.5.3.7 DEFINITIONS:
In addition to the definitions in Sections 15-8-6 through 15-8-10 NMSA 1978, authorization to commute as used in this rule:

A. Terms beginning with the letter "A":

(1) "account manager" means a TSD employee

designated to prepare, manage and enforce short-term and long-term TSD/SCFA vehicle leases; serve as liaison for designated state agency authorized drivers and TSD/SCFA maintenance personnel; prepare monthly billings and utilization reports;

(2) "agency approved authority" means the cabinet secretary of a state department or the agency director who is responsible for the agency;

(3) "agency fleet coordinator" means the individual assigned by an agency head or designee who is responsible for providing fleet management information and reports to TSD;

(4) "alert" means a notice given when specific parameters/barriers that are defined by either the agency or TSD are compromised thereby informing the using agency, or TSD, of the occurrence;

(5) "alternative fuel" means natural gas, liquefied petroleum gas, electricity, hydrogen, a fuel mixture containing not less than eighty-five percent ethanol or methanol, a fuel mixture containing not less than twenty percent vegetable oil or a water-phased hydrocarbon fuel emulsion consisting of a hydrocarbon base and water in an amount not less than twenty percent by volume of the total water-phased fuel emulsion as defined in Section 13-1B-2 NMSA 1978 Section;

(6) authorized driver means:

(a)
a state employee holding a valid New Mexico driver's license or an approved out of state driver's license, a TSD approved DDC and VOT certificates, and who is permitted to use a state vehicle in furtherance of official state business; a valid New Mexico driver's license or an approved out of state driver's license but *does not* include provisional, limited, restricted or administrative permits;

(b)
for full-time, term or temporary

employment candidates with the state of New Mexico, that live out-of-state, the following process is required and;

(c)

once gainfully employed by the state, the out-of-state employee must provide a copy of his driving record to TSD on a semi-annual basis to assure the drivers' license is in good standing.

(7)

“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 director or director's designee to occupy a state vehicle, or where the transport is a part of the daily operations of the department;

(8)

“authorized use” means travel in a state vehicle for official state business only as delegated by appropriate agency representative(s).

B. Terms beginning with the letter “B”: [RESERVED]

C. Terms beginning with the letter “C”:

(1) **“CAFE**

standards” mean the national highway traffic safety administration corporate average fuel economy standards for passenger vehicles and light trucks;

(2)

“commute” means domicile-to-duty privilege authorized by the leasing agency's cabinet secretary or agency head to state authorized drivers where it is in the state's best interest to allow these employees to use a state vehicle to and from work and residence (refer to 1.5.3.20 NMAC, authorization to commute;

(3)

“custody (of a state vehicle)” means the director's or designee's right to exercise final decision-making authority with respect to the purchase, title and registration, use, administration, operation, maintenance, replacement, and disposal of a state vehicle in accordance with state law and regulations.

D. Terms beginning with the letter “D”:

(1) **“declared**

gross vehicle weight or DGVW”

means the maximum weight of a vehicle; the DGVW is used to differentiate between light, medium or heavy duty vehicle utilization;

(2)

“department” means the general services department;

(3)

“director” means the director of the transportation services division of the general services department;

(4) **“DGF”**

means the department of game and fish;

(5) **“division”**

means the transportation services division of the general services department;

(6)

“DHSEM” means the department of homeland security and emergency management;

(7) **“DPS”**

means the department of public safety.

E. Terms beginning

with the letter “E”: **“EMNRD”** means the energy minerals and natural resources department.

F. Terms beginning

with the letter “F”: **“flex fuel vehicle”** means a vehicle that has the capacity of burning a regular unleaded gasoline and an alternative fuel.

G. Terms beginning

with the letter “G”:

(1) **“global**

Positioning System or GPS” means a system that is installed on vehicles that is used to track specific data on the vehicle;

(2)

“GSD” means the general services department;

(3) **G-series**

license plate means a distinctive government license plate issued by the taxation and revenue department for vehicles of institutions of higher learning, public schools and all other subdivisions of government (cities, counties, villages, conservancy, wastewater, landfill districts, etc.), does not include any state level agency state vehicles of the executive, legislative or judicial branches.

H. Terms beginning with the letter “H”: [RESERVED]

I. Terms beginning with the letter “I”: **inclement**

weather means road conditions are unsafe for travel. Inclement weather includes but is not limited to icy or snow packed road conditions, dust storms, or flooding;

(1) TSD will

follow state personnel rulings on inclement weather for state business closures and delays;

(2) TSD

reserves the right to prohibit the use of state vehicles during inclement weather.

J. Terms beginning with the letter “J”: [RESERVED]

K. Terms beginning with the letter “K”: [RESERVED]

L. Terms beginning with the letter “L”: [RESERVED]

M. Terms beginning with the letter “M”: [RESERVED]

N. Terms beginning with the letter “N”:

(1)

“NMDOT” means the department of transportation;

(2) **“NSC”**

means the national safety council;

(3) **“NSC/**

DDC instructor” is someone who has completed the NSC/DDC through NSC and has a current DDC instructor certification.

(4) **“New**

Mexico driver's license” means a valid driver's license issued by the motor vehicle division of the NM taxation and revenue department; this does not include provisional, limited, restricted, or any court-ordered restricted or administrative license or permit; while an “H” restriction may allow an individual to operate their privately owned vehicle (POV) to and from employment; TSD will not authorize an individual to operate a state vehicle with anything other than a valid drivers' license with no limitations or restrictions;

(5) **“new state**

employee” means a person employed by a New Mexico state government agency for the first time or who is returning to state government after having had a break in service.

O. Terms beginning with the letter “O”: [RESERVED]**P. Terms beginning with the letter “P”:****(1)**

“**protective license plate**” means a regular passenger license plate issued to a state vehicle that is in the custody of a state agency, can be traced to that state agency and is being used for sensitive activities;

(2) “public

agency” means an agency other than a state agency as defined in Subsection JJ of this section authorized to use SCFA vehicles; this does include institutions of higher learning and public schools.

Q. Terms beginning with the letter “Q”: [RESERVED]

R. Terms beginning with the letter “R”: “**RMD**” means the risk management division of the general services department.

S. Terms beginning with the letter “S”:**(1) “SCFA”**

means the state central fleet authority of the transportation services division of the general services department;

(2)

“**secretary**” means the cabinet secretary of the New Mexico general services department;

(3) “sensitive

activity” means an activity performed by an employee of the state that;

(a)

is authorized by the state to be performed for a legitimate and appropriate purpose for the state, other than a legitimate undercover law enforcement purpose; and

(b)

would place the employee at a higher risk of personal injury if knowledge of the activity were made public, as determined in writing by an appropriate authority of the employee;

(4) “special-

use vehicles” means state vehicles designated as such by the director or director’s designee, including but not limited to emergency and law enforcement vehicles, buses, tractors, boats, trailers, snow cats, vehicles of a special design or construction that effectively limits their use for

a particular purpose, and all other vehicles that are not passenger vehicles;

(5) “state

agency” means a state department, agency, board or commission, including the legislative and judicial branches, this definition includes any public agency authorizing an officer or employee use of a state vehicle;

(6) “state

employee means any person who has been elected to, appointed to, or hired for any state office and who receives compensation in the form of salary or is eligible for per diem and mileage reimbursement;

(7) “state

vehicle” means an automobile, van, sport-utility truck, pickup truck or other vehicle with a declared gross vehicle weight of less than ten thousand (10,000) pounds used by a state agency to transport passengers or property;

(8) “SG-

series license plate” means an SG license plate designed for the specific use of agencies of the executive, legislative and judicial branches of state government for vehicles marked as required by Section 15-8-6 NMSA 1978: this *does not include* institutions of higher learning, public schools or any other political subdivision of government.

T. Terms beginning with the letter “T”:**(1)**

“**transportation services division or TSD**” means the transportation services division of the general services department;

(2) “TSD

approved NSC/DDC instructor” means an NSC/DDC instructor with a current instructor certification who has been audited and approved by TSD to conduct training for employees who have had their driving privileges suspended;

(3) “TSD

online NSC/DDC” means an online course offered by TSD. This class is presented in two distinct parts, part one covers the administrative use of state vehicle policy, and part two is the direct presentation from the National safety council.

U. Terms beginning with the letter “U”: “**Undercover license plate**” means a regular passenger license plate issued to a state vehicle which is registered in a fictitious name and address that cannot be traced to the state agency having custody of the vehicle and that is being used for legitimate law enforcement purposes only.

V. Terms beginning with the letter “V”: [RESERVED]**W. Terms beginning with the letter “W”: [RESERVED]****X. Terms beginning with the letter “X”: [RESERVED]****Y. Terms beginning with the letter “Y”: [RESERVED]****Z. Terms beginning with the letter “Z”:****(1) “Zero**

emission vehicles (ZEVs)” are

(a)

battery electric vehicles (BEV), powered by a battery on board;

(b)

plug-in hybrid vehicles (PHEV), powered by a combination of a battery on board and a gasoline engine; and

(c)

fuel cell electric vehicles, powered by the conversion of hydrogen to electricity.

(2) “ZEV

vehicle operation training or ZVOT” means training developed and administered by TSD for the operation of ZEVs; [1.5.3.7 NMAC - Rp, 1.5.3.7 NMAC, 9/23/2025]

1.5.3.8 STATE VEHICLE PROCUREMENT PROCESSES, VEHICLE STANDARDS AND EXEMPTIONS: This section establishes the standards by which all state and public agencies shall procure state vehicles with a declared weight up to 10,000 pounds.

A. State agency vehicle requests, application form required requests for exemption: By the 15th of April of each fiscal year, state agencies in conjunction with GSD shall ensure that all requests for new vehicle acquisitions or leases meet the standards established in Subsection

C of this section and meet the highest fuel economy for the intended use, meeting or exceeding the most current CAFE standards and compliance with the Alternative Fuels Acquisition Act or shall submit the appropriate form requesting exemption from the standards established in Subsection C of this section.

B. State procurement cycles – timelines for agencies and independent fleet-controlled entities: State agency vehicles shall be purchased based on procurement specifications set by GSD. NMDOT, DPS, DGF, DHSEM and EMNRD agencies, who maintain statutory custody of their fleets, may develop additional specifications but must first meet the specifications set by GSD. All procurement requests must meet state vehicle availability, fleet needs and available budget. GSD shall issue vehicle purchasing specifications annually and make the specifications available to all agencies on GSD's website. GSD specifications shall address how to prepare for the bid advertisement, pre-bid conference, bid opening and award for the purchase of vehicles for each fiscal year. The order of model year vehicles shall be consistent with the directions established in each bid, with expectations that new model year vehicles will be delivered prior to manufacturer's build-out dates for each subsequent calendar year.

C. Vehicle standards: The standards in this subsection establish the minimum requirements for the procurement or lease of passenger vehicles for the executive, legislative and judicial branches of the state of New Mexico. The default vehicle for all state fleet vehicles is the ZEV. Where one or more ZEV options exist for the appropriate class of vehicles to meet the business needs of the state agency, any vehicle acquisition must be a ZEV unless the agency receives approval from GSD of an exemption pursuant to Subsection A of this section. The GSD, in consultation with NMDOT, who maintain custody of their vehicles, shall institute and maintains state fleet standards consistent with

this rule and make the standards available to all agencies on GSD's website. These standards are to be reviewed annually and are subject to change based on increased fuel efficiencies and the reduction of greenhouse gases. The standards are an administrative attachment to this rule and must be reviewed, amended, published and distributed by July 1 of each year. For NMDOT, DPS, DGF, and EMNRD, vehicle standards are maintained by the respective agency and must align with GSD specifications for vehicle purchase.

D. Exemptions: All requests for exemption shall be submitted to the division with clear justification for the requested exemption from the state's compliance with the Alternative Fuels Acquisition Act and state fleet standards as set forth in Subsection C of this section. Vehicles for construction, maintenance, emergency management, firefighting, or law enforcement vehicles may be exempt when no equivalent ZEV is available, or a ZEV would be substantially less effective for the intended use. The director will review the request for exemption and make a recommendation to the secretary for final decision. The division shall then notify the requesting agency within time to submit their final request to the specification developer. The specification development timeline shall not be expanded due to the agency's failure to comply with this rule.

[1.5.3.8 NMAC - Rp, 1.5.3.8 NMAC, 9/23/2025]

1.5.3.9 LEASE OF MOTOR POOL VEHICLES:

A. A state agency or public agency may lease a motor pool vehicle from the SCFA:

- (1) through a "quick ride" or short-term lease by the hour or day not exceeding six consecutive months;
- (2) through a long-term lease for a period exceeding six consecutive months; or
- (3) through a third-party commercial lease.

B. Rates: Rates for the lease of motor pool vehicles are based on costs for the type of vehicle leased. The SCFA will provide current rates and policies for the lease of motor pool vehicles upon request. There are three types of SCFA long-term leases;

(1) standard lease is a long term lease of a TSD owned vehicle which includes overhead, maintenance and depreciation costs, less residual; divided by the life-cycle term;

(2) operational lease is a long-term lease of a TSD owned vehicle which includes overhead and maintenance costs; or

(3) third-party commercial lease is a long-term lease of a TSD leased vehicle which includes overhead, maintenance and third-party financing costs; third party leased vehicles may be subject to excessive mileage costs.

C. Terms:
(1) standard leases depend on the leasing agency's operational requirements and budget availability. Lifecycles for standard leases are to be five years;

(2) operational leases shall consist of leases for vehicles that have exceeded the standard lease lifecycles or have been procured by the user agency that has chosen not to pay the depreciation cost;

(3) third party commercial leases are determined by a state price agreement, typically three years and 60,000 miles. These leases are subject to mileage overruns and excessive wear and tear costs that are passed on to the customer.

D. Accounts receivable: The SCFA requires the leasing state agency to maintain its accounts receivable current - 30 days or less. The SCFA shall assess a one and one-half percent per month late payment penalty fee on accounts over 30 days past due. The SCFA may take action to cancel any lease agreement(s) and recover the vehicle(s) if the lessee is delinquent over 120 days in making payment. For short-term leasing,

SCFA will charge for one day use for reservations that are not canceled.

E. Encumbrance:

The SCFA requires the leasing state agency to encumber the entire fiscal year cost of the lease at the time the lease is signed at the beginning of each fiscal year. The leasing agency may disencumber funds only after a written request to the director or director's designee is approved. The director or director's designee will act on requests to disencumber funds within ten working days of the date of the receipt of the leasing agency's request.

F. Operating

transfer: To expedite the payment of lease costs to the SCFA, the user agency may choose to pay the annual cost of vehicles leased through an operating transfer within the first 45 days of each fiscal year.

G. Termination:

Either the division or a state agency may terminate the lease of a state vehicle as per the terms and conditions included in the standing lease agreement.
[1.5.3.9 NMAC - Rp, 1.5.3.9 NMAC, 9/23/2025]

1.5.3.10 STATE MOTOR VEHICLE LICENSE PLATES: At the beginning of each fiscal year, the director or director's designee shall determine which type of license plate shall be issued for each state vehicle. This relates to the state of New Mexico government plate, protective license plate or undercover plate.

A. A state agency may submit a written request for an undercover license plate for any SCFA state vehicle it uses for legitimate undercover law enforcement purposes. The state agency must annually justify the need for an undercover license and must provide statutory authority to that effect.

B. A state agency may submit a written request for a protective license plate for any state vehicle it uses for a sensitive activity. The request must be signed off by the cabinet secretary or agency head attesting that this position is

authorized to perform a legitimate and appropriate activity which is sensitive in nature and this activity would place the employee at a higher risk of personal injury if knowledge of the activity was made public. At the beginning of each fiscal year, the state agency must justify the need for a protective license plate and must provide statutory authority regarding the type of work requiring something other than a state government license plate. Based on the justification, the director or director's designee may authorize the protective license plate.

C. The director or director's designee shall issue a state of New Mexico government license plate with permanent decals for all other state agency vehicles:

(1) all vehicles must display the state seal and an identifying decal describing the user agency, i.e. state of New Mexico motor pool, or the appropriate acronym identifying the user agency:
(2) all state vehicles must display the 1-800-627-6639 vehicle abuse program bumper sticker:

(3) all state vehicles must display the #DWI bumper sticker:

(4) user agencies will be billed the cost of replacement of authorized official decals or stickers;

(5) user agencies may use their own non-permanent decals upon acquiring director's or designee's written authorization. Cost for these decals will be the responsibility of the user agency;

(6) deviation from the SCFA official decals and stickers must receive written prior authorization from the director or director's designee.
[1.5.3.10 NMAC - Rp, 1.5.3.10 NMAC, 9/23/2025]

1.5.3.11 REQUIRED

DOCUMENTS: Each state agency shall ensure that authorized drivers have access to the following information in a physical or digital format prior to operating a state vehicle:

A. Auto loss form:

RMD form on how auto accidents in state vehicles are to be dealt with by the authorized driver.

B. Fuel credit cards:

Detailed instructions and procedures for use of the credit card, assigned to that vehicle, with a list of authorized purchases for vehicles.

C. Charging:

Each vehicle will have detailed information on locations of state charging stations for use of the fuel credit card assigned to the vehicle and instructions and procedures for charging the vehicle.

D. How-to brochure:

Instructions regarding the use of the vehicle, telephone numbers, emergency processes, and waivers.

E. RMD financial

responsibility document: Official proof of insurance and letter stating the state's responsibility to have proof of registration in a state vehicle.

F. Vehicle

maintenance manual: The manual provided by the manufacturer which includes the manufacturer's specifications. Additional maintenance requirements or specifications may be required by the director or director's designee and will be provided to the leasing agency.

G. Vendor list:

A current list of SCFA authorized motor vehicle maintenance and repair vendors throughout the state of New Mexico. The list is provided by TSD to be used for preventive maintenance, emergency road service and repair. The list is provided in an acceptable format determined by TSD.

H. Vehicle

registration: The official proof of vehicle ownership/registration document issued by the state motor vehicle division. This document shall remain with the vehicle until ownership is transferred or the vehicle is sold by SCFA, documentation shall be accepted in a format determined by TSD.

I. Vehicle mileage

log: The log should have the date, employee name, beginning and ending mileages, destination, purpose of trip, type of fuel purchased,

number of gallons or hours of charging purchased, total cost, other vehicle related purchases, and a place for a supervisor to make verifications. The log serves as chain of custody documentation for auditing purposes and shall be provided in a format determined to be acceptable by TSD. [1.5.3.11 NMAC - Rp, 1.5.3.11 NMAC, 9/23/2025]

1.5.3.12 AUTHORIZED DRIVERS AND PASSENGERS:

A. Authorized

drivers: The director or director's designee may authorize a state employee who possesses a current valid New Mexico drivers' license or approved out of state license, and who has completed a TSD approved NSC defensive driving course and orientation prescribed by the division to operate a state motor vehicle. The state employee must have the appropriate class of driver's license to drive any state vehicle that is not a passenger vehicle. Upon request each agency must provide a list of all authorized drivers.

B. Authorized

passengers: Only authorized passengers may occupy a state vehicle. A person who is not a state employee must obtain written authorization from the director or director's designee before occupying a state vehicle. Failure to comply may result in suspension of driving privileges.

C. Suspension or

revocation of authorized drivers' privileges: The director or director's designee may suspend or revoke the authorized driver privileges of any state employee who permits a person who is not an authorized driver to operate a state vehicle or who transports, or permits the transportation of a person who is not an authorized passenger. In addition, such state employee may be held personally liable to the extent permitted by law for any liability for personal injury, death or property damage arising out of the unauthorized use or occupancy of the state vehicle

D. Reinstatement of driving privileges: An authorized driver whose state driving privileges have been suspended or revoked must complete a NSC/DDC 6-hour class instructed by a TSD approved instructor before receiving a written driver privilege reinstatement authorization from the director or his designee.

E. Exceptions:

Nothing in this section shall be construed to prohibit the use or occupancy of a state vehicle:

(1) to render emergency aid or assistance to any person; or

(2) by private sector automobile mechanics or maintenance and repair personnel performing required maintenance or repairs.

[1.5.3.12 NMAC - Rp, 1.5.3.12 NMAC, 9/23/2025]

1.5.3.13 DEFENSIVE DRIVING COURSE:

A. Defensive driving

course: TSD will use the on-site instructor taught course material including the TSD online national safety council (NSC) defensive driving and safety curriculum (DDC). Agencies desiring to provide NSC/DDC training independent of TSD must request authorization to provide NSC/DDC instruction from the director or director's designee prior to commencing the utilization of any NSC/DDC tools or materials. In addition, the agencies must follow the curriculum approved by the director or director's designee prior to commencing the utilization of the proposed training tools. It is the responsibility of the proposing agency to incorporate all state of New Mexico TSD requirements into the defensive driving curriculum. All on-line courses are required to be reviewed and permission to utilize these courses must be approved by TSD PRIOR to commencing use.

B. Course

availability: TSD shall offer regularly scheduled defensive driving classes in-person in Albuquerque and Santa Fe. This does not preclude

TSD from offering these classes at the requesting agency's site. A state agency or state employee should contact the division for information about scheduled classes, locations, costs, registration, or scheduling of department trainings.

C. Instructor

certification: To receive a certificate as an NSC/DDC Instructor, it is necessary to submit the written request to the director or director's designee for review and approval. This applies to employees who may have received an NSC/DDC Instructor certification while under the employment of another governmental agency. All prospective instructors may attend the TSD instructed NSC/DDC - six and four-hour classes; and are required to teach one TSD six-hour course and one TSD four-hour course under TSD supervision prior to receiving consideration of approval to teach. Instructors in good standing must complete the TSD certification process every two years. TSD may choose to conduct instructor/class audits.

D. Driver certification

required: All defensive driving certificates are valid for four years. All authorized drivers of state vehicles must have a current TSD approved NSC defensive driving certificate in their possession while driving a state vehicle. TSD requires employees who seek to operate a state vehicle to provide proof of current certification. New employees must successfully take and pass the six-hour TSD prescribed NSC defensive driving class with a grade of eighty percent or better to become an authorized driver. If the new employee provides proof of NSC/DDC certification within two years before the date of employment, at the discretion of the director or director's designee, the employee may only have to take the four-hour NSC/DDC, or the administrative use of state vehicles online certification course.

(1) If a

state employee needs to operate a state vehicle in furtherance of state business but has not successfully completed the NSC defensive driving

course, the state employee must register for the next available NSC defensive driving course, or the TSD online NSC/DDC. The employee's agency head or designee must submit a written request for a temporary waiver not to exceed ten days after the completion of the scheduled class. The waiver request shall include the state employee's name and New Mexico driver's license or an approved out of state driver's license number (accompanied by a valid out of state driving record), the date the state employee is scheduled to attend the NSC defensive driving course. If denied, the director or director's designee will specify the reason for the denial. Driver waivers cannot be renewed.

(2) If the state employee's certification has expired, the employee shall be required to successfully complete a six-hour NSC/DDC certification class taught by an instructor or complete the TSD online NSC/DDC.

E. Vehicle Operation Training (ZEVs): TSD will implement a ZEV-specific driver orientation program that will educated authorized drivers on range optimization, charging procedures, and cold-weather operations. GSD will develop specialized training for law enforcement and emergency response ZEVs. Training will be held on a regular basis regarding the safe and efficient operation of ZEVs. TSD shall provide ZEV training, that meets the vehicle specifications set forth by the division and is applicable to the range of vehicle types and uses across all agencies. Format may be in-person, live virtual, and/or recorded training available online.

F. Vehicle operation training certification required (VOT): Required vehicle operation training certificates are valid for four years. All authorized drivers of state vehicles must have a current TSD approved vehicle operation certificate. TSD requires employees who seek to operate a state vehicle operation training to become an authorized driver.

G. Driver re-certification: Each state employee is required to take the defensive driving and vehicle operations training refresher courses every four years.

(1) An employee may take the four-hour refresher course provided by TSD; however, the employee must provide proof of previous NSC/DDC certification.

(2) Failure to provide the proof required in the previous sub-section will require the employee to register to take the six-hour NSC/DDC course or the TSD online NSC/DDC and the VOT certification course.

H. List of certified state employees: The agency vehicle fleet coordinator shall maintain a list of certified state employees employed by the agency, including a current copy of the employee's valid NM drivers' license. If a new DDC certificate is required the requesting driver is responsible to pay the TSD fee for a reissued certificate. TSD may supply, at a drivers request, a copy of any certification free of charge.'

I. User agency requirements:

(1) The user agency is responsible for checking authorized driver's licenses to assure compliance with motor vehicle division laws.

(2) TSD will provide a template of the TSD database to the instructor.

(3) The maintenance and listing of authorized drivers.

(4) Maintenance and listing of suspended driving privileges including drivers' license revocations, suspensions and DWIs.

(5) The agency is subject to TSD audits of state agency authorized driver records.

(6) Certificates must be printed and have an original instructor signature.

[1.5.3.13 NMAC - Rp, 1.5.3.13 NMAC, 9/23/2025]

1.5.3.14 TRAFFIC LAWS AND OPERATOR CONDUCT:

A. Authorized drivers shall obey all applicable traffic laws while operating a state vehicle.

B. Authorized drivers must exercise appropriate caution and prudence while operating a state vehicle.

C. Authorized drivers shall not engage in discourteous behavior or inappropriate conduct while operating a state vehicle.

D. Authorized drivers shall not use state vehicles for inappropriate or illegal activities including personal use and shall have no reasonable expectation of privacy in the use of any state vehicle.

E. Authorized drivers on official travel, who exceed their post of duty by 35 miles, may utilize the state vehicle to take care of personal business such as visiting eating establishments, grocery stores, etc.

F. Authorized drivers shall only utilize a cell phone with a hands-free device while operating a state vehicle.

G. At no time will the authorized driver be allowed to text or type on any other device(s) such as a smartphone and laptop computer while driving. At no time is reading from any electronic device or paper source permissible while operating a state vehicle.

H. Authorized drivers shall minimize distractions while operating state vehicles. These distractions include but are not limited to eating and playing with the radio/cd player.

I. Authorized drivers shall operate state vehicles at or below posted speed limits.

J. An authorized driver who receives a traffic citation or parking ticket while using a state vehicle must notify TSD. If TSD receives a state employee's traffic citation or parking ticket involving a SCFA motor vehicle, the director or director's designee will forward it to the state agency leasing the state motor vehicle to assure the employee promptly clears the citation/ticket.

(1) The driver shall be personally responsible for any costs (cost of ticket, late fees, court fees or administrative fees) associated with the citation or ticket.

(2) The driver is also required to retake and pass a six-hour TSD approved instructor NSC/DDC certification class before operating a state vehicle. An agency may deem that the employee is responsible for paying for additional classes.

(3) If the driver of the vehicle cannot be identified, the agency shall be held responsible for any costs associated with the citation or ticket.

K. Authorized drivers involved in a traffic accident while operating a state vehicle who are found at fault will have their driving privileges suspended or revoked and are required to immediately register for a six-hour TSD approved instructor NSC/DDC certification class.

L. State employees shall carpool to meetings and conferences whenever feasible.

M. Supervisors will ensure that their employees are fit for duty when operating a state vehicle. This includes ensuring that the employee is not fatigued.
[1.5.3.14 NMAC - Rp, 1.5.3.14 NMAC, 9/23/2025]

1.5.3.15 SUSPENSION OF STATE VEHICLE OPERATOR PRIVILEGES:

A. The director or director's designee shall automatically suspend a state employee's authorization to operate a state vehicle if the state employee's New Mexico driver's license or an approved out of state driver's license is expired, revoked, or suspended. This extends to include disqualifications or administrative actions on driver's licenses. An employee whose driving privileges have been suspended or revoked for an expired driver's license may register for the TSD/NSC online DDC.

B. The director, or their designee, may suspend or

revoke authorized driver privileges of a state employee who permits a person who is not an authorized driver to operate a state vehicle, or who transports, or permits, the transportation of a person who is not an authorized passenger. A state employee may be held personally liable to the extent permitted by law for any liability for personal injury, death or property damage arising out of the unauthorized use of occupancy of the state vehicle. An authorized driver whose state driving privileges have been suspended or revoked must complete the NSC/DDC six hour virtual or in person instructed class by a TSD approved instructor before receiving a driver privilege reinstatement authorization from the director or their designee.

C. An authorized driver who receives a traffic citation or parking ticket while using a state vehicle may have their authorized driver privilege suspended or revoked until provisions of Subsection J of 1.5.3.14 NMAC are met.

D. To determine that state authorized drivers have a valid driver's license, the director or director's designee will at random review the driving record of state authorized drivers. The director or director's designee will review the status of the driving record of any state authorized driver upon receipt of any request for waiver, constituent complaint, registration for DDC, traffic citation, parking ticket, accident, police report or vehicle abuse.

E. The director or director's designee shall review all complaints of alleged fraud, waste, and abuse involving state vehicles, and shall forward them to the state agency fleet coordinator and to the appropriate state agency management team.

(1) If three vehicle abuse allegations are received within a fiscal year for the same allegation, the authorized driver will have their driving privileges suspended. Driving privilege shall remain suspended until the authorized driver retakes a TSD approved instructor six-hour NSC/DDC class.

(2) Failure to comply or respond to final notice of abuse allegations will result in vehicle lease termination.

F. Any agency may require the employee to pay for a DDC class necessary to reinstate their driving privileges.

G. The director or director's designee or the state agency may suspend or revoke driving privileges of an authorized driver for failure to comply with any provision of this rule.

[1.5.3.15 NMAC - Rp, 1.5.3.15 NMAC, 9/23/2025]

1.5.3.16 ALCOHOL, CONTROLLED SUBSTANCE, DRUG, AND TOBACCO USE PROHIBITED - REPORTING REQUIREMENTS:

A. No authorized driver shall operate a state vehicle while under the influence of intoxicating alcohol, controlled substances, or drugs. Nor shall an authorized driver transport an individual who has consumed alcohol, controlled substances, or drugs. State law enforcement officers investigating criminal activities as part of their duties can transport individuals who have consumed alcohol, controlled substances, or drugs.

B. No authorized driver shall transport intoxicating alcohol of any type, whether in open or unopened containers, while operating or occupying a state vehicle, unless the person is an employee of the state alcohol and gaming division of the regulation and licensing department or a state law enforcement officer investigating criminal activities as part of their duties.

C. No authorized driver shall operate a state vehicle when he or she is so impaired by a legal drug that renders him or her incapable of operating a motor vehicle in a safe and responsible manner.

D. No authorized driver or passenger shall smoke or use smokeless tobacco products of any type in any state vehicle.

E. The driving privileges of an authorized driver

that is convicted of a DWI citation while operating a state vehicle are immediately and revoked. Reinstatement of the driving privileges may be requested in writing by the head of the state agency in which the employee works. The director or director's designee will review the request and provide the state agency a written determination as to the employee's state vehicle driving privileges within ten working days of the receipt of the request by the division.

F. It is the sole responsibility of the state employee to report all current convictions of driving while intoxicated to their immediate supervisor and the director. Failure to comply with this section shall cause immediate revocation of their driving privileges of state vehicles. It is the director's responsibility to report DWI convictions to the state employee's immediate supervisor and cabinet secretary or agency head. Disciplinary actions are the responsibility of the state agency.

G. The state authorized driver privileges shall be suspended while the employee goes through the DWI court and administrative process. If convicted, the authorized driver's state vehicle driving privileges shall be revoked. If not convicted, the state agency shall notify the director or director's designee in writing requesting that driving privileges be reinstated along with evidence that the authorized driver was not convicted of the charges. The director or director's designee will review the request and provide the state agency a written determination as to the employee's state vehicle driving privileges within ten working days of receipt of the request for reinstatement by the division.

H. Revocation of state vehicle driving privileges for a DWI conviction extends to the utilization of the employee's personal vehicle if it is to be used to conduct state business. [1.5.3.16 NMAC - Rp, 1.5.3.16 NMAC, 9/23/2025]

1.5.3.17 WEAPONS AND PETS PROHIBITED:

A. No authorized driver or passenger shall possess a weapon while operating a state motor vehicle unless the authorized driver or passenger is a certified correctional or law enforcement officer. This includes individuals with concealed weapons licenses.

B. No pets are allowed at any time in state vehicles. Upon written request, the director or director's Designee may authorize canine patrols or transportation of other animals including assistance or service dogs. The director or director's designee will review the request and provide the state agency a written determination within ten working days of receipt by the division.

[1.5.3.17 NMAC - Rp, 1.5.3.17 NMAC, 9/23/2025]

1.5.3.18 SEAT BELT USE:

A. All authorized drivers and passengers of state vehicles shall wear seat belts.

B. All authorized drivers shall observe child safety and restraint laws at all times when transporting a minor in a state vehicle in furtherance of official state business.

C. Violation of this law may result in loss of state authorized driver privileges.

[1.5.3.18 NMAC - Rp, 1.5.3.18 NMAC, 9/23/2025]

1.5.3.19 USE OF FUEL CREDIT CARDS:

A. All state agencies and authorized drivers are required to use the GSD/TSD contracted fuel credit card for authorized purchases.

B. The state agency shall assign a single fuel credit card to each vehicle using the state issued license plate number or a unique fixed asset number that is tied back to the vehicle that the card is assigned to.

(1) Credit card shall be kept with the assigned vehicle and not with the driver.

(2) Card is stored in the protective sleeve and

out of direct sunlight or other heat sources.

(3) When purchasing items enter exact current mileage (no tenths).

(4) If a problem is encountered at the time of purchase, the driver should contact the credit card company for help.

(5) Lost, damaged, or stolen credit cards need to be reported to their agency vehicle credit card account manager within one working day of the discovery. Card will be suspended and a new card ordered at that time.

C. A personal identification number (PIN) shall be assigned to each authorized driver.

(1) Personal identification number must be six digits long and requested from the fuel/charging account manager in your agency at least 24 hours in advance of anticipated use.

(2) Authorized drivers shall not share the PIN with anyone else or let someone else use the PIN.

(3) Agency fuel account managers are responsible for terminating personal identification numbers for employees who are no longer with the agency.

D. Whenever possible, authorized drivers shall use a state charging station or in other cases a self-service fuel pump when refueling or charging motor pool vehicles. Every attempt shall be made to charge a vehicle at a state station or fill the vehicle at the cheapest location for fuel use vehicles, which is usually a tier II station that sells unbranded fuel. Authorized drivers are required to use alternative fuels when they are approved by the manufacturer and when an alternative fuel vendor is located less than ten miles away at the time fueling is needed.

E. Each agency will evaluate fuel or charging purchase exception reports provided by the vehicle credit card company on a monthly basis.

(1) Each agency shall establish use requirements and parameters on their

fleet. Such parameters will include multiple daily transactions, number of gallons purchase or hours charged at one time, limit dollars per transaction, off hour transactions, non-fuel transactions, and unauthorized purchases (soda, candy, etc.).

(2)

Transactions that cannot be justified must be investigated with a formal report summarizing the findings with recommendations. A copy of the report will be sent to SCFA.

F. The fuel credit card may be used for road-side service, or emergency service or repairs not to exceed \$250 per occurrence.

G. If an authorized driver uses the fuel credit card to purchase an unauthorized item or service, the state agency shall collect the cost of the unauthorized purchase from the authorized driver and an investigation will be conducted. Investigation findings must be sent to SCFA for review. The state agency or the director or director's designee may suspend or revoke the state vehicle operator privileges of an authorized driver for misuse of a fuel credit card.

H. A state agency or authorized driver shall immediately notify the vendor contracted by GSD/TSD if the fuel credit card for a motor pool vehicle is lost.

I. All expenses charged to the contracted GSD/TSD fuel credit card shall be paid by the user agency.

J. Under no circumstance shall state fuel credit cards be used for personal vehicles, even if using a personal vehicle to conduct state business.

K. Misuse of state vehicle credit cards will result in disciplinary actions. Disciplinary actions include, but are not limited to, administrative, disciplinary, and may also include criminal action by the state agency, the director, or designee, up to and including termination. [1.5.3.19 NMAC - Rp, 1.5.3.19 NMAC, 9/23/2025]

1.5.3.20 AUTHORIZATION TO COMMUTE:

A. No authorized driver or passenger shall use a state vehicle for private use.

B. Commuting is defined as the consistent use of a state vehicle from assigned post of duty to domicile and from domicile to assigned post of duty, even if it is for short periods of time, legislative session etc. Occasional use is not considered commuting, i.e. taking the vehicle home the night before an out-of-town trip.

C. A state agency must develop a written policy that allows authorized drivers to use state vehicles to commute between work and residence for security purposes or if doing so is in the best interest of the state. Only the leasing agency's cabinet secretary of an executive department or the director of an independent executive state agency (not part of an executive department but still part of the executive) can approve the commuting policy and commuting of individual authorized drivers.

D. All agency cabinet secretaries or agency heads must acquire approval from the governor's office before allowing an unauthorized driver to use a state vehicle for commuting. Approvals must be forwarded to SCFA.

E. Each state agency permitting authorized drivers to utilize this domicile-to-duty privilege shall maintain current records of and provide a current copy of the following to SCFA:

(1) all state authorized commuters/passengers by name and position;

(2) the number of total miles each state authorized driver, who commutes, drives annually between work and residence using a state vehicle;

(3) the number of times annually a state authorized driver who is given written approval to use a state vehicle to commute between his assigned post of duty and his primary residence and is called back when the state employee is off-duty;

(4) a review of all authorizations to use a state vehicle to commute at least once a year; and

(5) an annual commuting report to SCFA that identifies by authorized commuter, the vehicle state plate, total commuting mileage, and number of call backs for ending fiscal year, this report shall also identify drivers and state vehicle plates authorized to commute for the following year; this report is due 60 days prior to each fiscal year.

F. State vehicles are not to be used to transport employees to and from public transportation drop off points.

G. Failure to provide this report to SCFA will result in vehicle lease termination. [1.5.3.20 NMAC - Rp, 1.5.3.20 NMAC, 9/23/2025]

1.5.3.21 STATE VEHICLE CARE AND MAINTENANCE:

A. An authorized driver must turn off the ignition, close all windows, and lock the doors and trunk of a state vehicle whenever the state vehicle is left unattended.

B. State agencies and authorized drivers are responsible for assuring that state vehicles in their custody are parked in secure areas minimizing exposure to vandalism, damage, destruction, wreckage, sabotage, defacement or harm. If after multiple occurrences of vandalism, damage, destruction, wreckage, sabotage, defacement or harm occur, the agency head shall, in writing, request authorization from the director or director's designee for authorized drivers to take state motor vehicles to their place of residence for security purposes only. The authorization will be provided only if the state agency head or designee can prove that:

(1) the state agency's landlord does not provide a secure space for state vehicles; or

(2) the state agency cannot avail itself of other secure state of New Mexico parking spaces; or

(3) the state agency cannot acquire secure private sector parking spaces.

C. If the director or director's designee provides the approval, the state agency must comply with the reporting and tracking requirements of 1.5.3.20 NMAC, authorization to commute.

D. State agencies must ensure that the subscribed manufacturer's preventive maintenance service is done on all leased state vehicles at regular mileage, or time intervals, in accordance with the manufacturer's specifications, or as otherwise specified by the director or director's designee. For vehicles leased or owned by TSD, without exception, the agency is required to use TSD approved vendors. If there are vendors that are not on the list that are willing to provide repair or maintenance services the user agency must refer them to the TSD procurement office for inclusion to the TSD authorized vendor list. Under no circumstances will it be permitted for the authorized driver to receive services from an unauthorized vendor without a valid purchase order from TSD. Unauthorized expenses will be billed to the user agency.

(1) The state agency is responsible for ensuring that oil and oil filters on all leased state vehicles are changed in accordance with the manufacturer's specifications, TSD maintenance requirements, and that all other preventive maintenance functions performed are in accordance with the prescribed TSD service schedule, which is an attachment to the vehicle lease.

(2) A state agency, may without the prior approval of the director or director's designee, use the fuel credit card to perform minor repairs of emergency equipment, such as changing windshield wipers, repairing a damaged tire, replacing a fan belt, or adding a quart of oil, etc., in an amount not to exceed \$250. If the emergency repairs will cost more than \$250, it is the responsibility of

the user agency to notify the TSD procurement officer of the need to execute an "emergency procurement" in accordance with the New Mexico Procurement Code, Chapter 13, Article 1 of the NMSA 1978.

(3) The state agency is responsible for the care and maintenance of ZEV vehicles including but not limited to, maintaining battery charge within the optimal levels suggested by the manufacturer for battery life and other manufacturer maintenance requirements for ZEVs.

E. State agencies are responsible for the cleanliness of leased state vehicles inside and out. State agencies are also responsible for checking the leased state vehicle's vital engine fluids and tire pressure at each refueling. SCFA will not be responsible for providing emergency roadside kits, first aid kits, ice scrapers, or fire extinguishers for the vehicles under their control. State agencies are responsible for providing any of these types of equipment for their vehicles.

F. No authorized driver or passenger shall abuse or misuse a leased state vehicle. The SCFA or a state agency head or designee may assess authorized drivers and authorized passengers for the costs of loss of or damage to a leased state vehicle if the loss or damage was caused by reckless driving or driving while under the influence of intoxicating liquor, controlled substances or drugs.

G. The SCFA will charge a state agency for the cost of repairing a leased state vehicle damaged due to neglect or abuse. The SCFA will charge the cost of repairs to a state agency if the state agency neglects a leased state vehicle or fails to inform the SCFA of possible damage or a maintenance problem. The director or director's designee may recall a leased state vehicle or suspend or revoke the authorized driver privileges for damage or improper care of a leased state vehicle.

H. State agencies may not display any commercial

advertising on a state vehicle at any time. A state agency may display the agency's toll-free telephone number on a state vehicle. A state agency must follow the decals defined by Subsection C of 1.5.3.10 NMAC with a New Mexico government license plate. The director or director's designee must approve, in writing, any agency written requests for other bumper sticker, plaque or signage prior to the state agency affixing it to a state vehicle. For flex fuel vehicles, a state agency must display a sticker next to the gas port indicating the type of alternative fuel the vehicle can accept.

I. No person shall alter, modify, convert, or improve the original vehicle equipment of any state vehicle without the prior written authorization of the director or director's designee.

J. All TSD leased vehicles must be inspected by TSD at least once a year. Inspections will be held in various locations throughout the state. TSD reserves the right to conduct unannounced inspections of state vehicles.

[1.5.3.21 NMAC - Rp, 1.5.3.21 NMAC, 9/23/2025]

1.5.3.22 STATE VEHICLE RETURN:

A. The director or director's designee may rotate state vehicles within an agency or between agencies if the director or director's designee determines that a state agency is under or over utilizing an assigned vehicle. The director or director's designee will notify the state agency of such occurrences and recommend the rotation. The director or director's designee, in conjunction with the state agency, will make the appropriate changes to the location of the leased state vehicle.

B. Once TSD has notified a state agency that a replacement vehicle is available to exchange for a vehicle that has met or exceeded its life expectancy, or is no longer road worthy, the agency has 30 days to execute the exchange.

C. The SCFA will notify state agencies if there is a

manufacturer's recall applicable to a leased state vehicle. The state agency shall take the leased state vehicle to the appropriate dealer for service or modification, and shall, upon completion of the recall-related work, notify the SCFA.

D. The director or director's designee in conjunction with the SCFA and the state agency shall determine when a state vehicle needs to be replaced. Life cycles are determined primarily from user requirements provided by the agency fleet coordinator. A state agency must return a leased state vehicle to the division upon receipt of a new or different vehicle.

E. A state agency may return a leased state vehicle in accordance with the terms of the lease agreement. In no case will an agency turn in a vehicle that has not reached its life cycle while requesting additional units unless the agency satisfies the remaining balance of the turned in vehicles replacement cost.

F. A state agency shall not transfer; receive control of, or custody of, a leased state vehicle to or from another state agency without the prior written authorization of the director or director's designee.
[1.5.3.22 NMAC - Rp, 1.5.3.22 NMAC, 9/23/2025]

1.5.3.23 EMERGENCY REPAIRS AND MECHANICAL BREAKDOWN: An authorized driver shall immediately take steps to correct any mechanical or operating problem that occurs while a TSD leased state vehicle is in operation. An authorized driver shall, in no case, continue to operate a state vehicle if continued operation could endanger any person or property. Furthermore, the authorized driver is responsible for immediately notifying the state agency fleet coordinator and SCFA account manager of any unsafe vehicle condition. Failure to comply with the notification portion of this section requires any costs to be billed to the user agency or reimbursed to TSD.

[1.5.3.23 NMAC - Rp, 1.5.3.23 NMAC, 9/23/2025]

1.5.3.24 VEHICLE UTILIZATION: The utilization standards establish the minimum requirements for the use of passenger vehicles for the executive, legislative and judicial branches of the state of New Mexico. TSD, NMDOT, EMNRD, DGF and DPS develop and maintain vehicle utilization standards. These utilization standards are to be reviewed annually and subject to change based on increased fuel efficiencies (CAFE) and reduction of greenhouse gas emissions benchmarks.

[1.5.3.24 NMAC - Rp, 1.5.3.24 NMAC, 9/23/2025]

1.5.3.25 UNDER-UTILIZATION OF STATE VEHICLES: The director or director's designee may re-allocate state vehicles that are being under-utilized.

A. The director or director's designee shall analyze monthly leased state vehicle mileage statistics.

B. The director or director's designee may rotate state vehicles within an agency or between agencies if it is determined that a state agency is under or over utilizing an assigned vehicle. The director or director's designee will notify the state agency of such occurrences and recommend the rotation. The director or director's designee in conjunction with the state agency will make the appropriate changes to the location of the leased state vehicle.

C. If the director or director's designee finds that a leased state motor vehicle is accumulating low mileage, the director or director's designee will notify the state agency in writing that a state vehicle assigned to it is being under-utilized.

D. The state agency shall examine its utilization of the state vehicle and respond in writing justifying to the director or director's designee its need for the state vehicle and describing its intra-agency vehicle rotation plan. If the state agency does not provide such a plan, the director or director's designee will rotate vehicles among state agencies.

E. The director or director's designee will continuously monitor mileage utilization of the leased state vehicles. If the agency's use of the leased state motor vehicle does not increase, the director or director's designee may recall the vehicle or replace it with a state vehicle that has more mileage.

F. The director or director's designee will consider under-utilization of state vehicles when evaluating a state agency's requests for additional or different vehicles.

[1.5.3.25 NMAC - Rp, 1.5.3.25 NMAC, 9/23/2025]

1.5.3.26 VEHICLE DISPOSAL PROGRAM: The disposal of vehicles is governed by Chapter 13, Articles 1 and 6 NMSA 1978. The director or director's designee in conjunction with the SCFA will consider disposing of a state vehicle when:

A. the leased state vehicle reaches the end of its predetermined accounting and life cycle;

B. the estimated cost of repairs exceed the value of the leased state vehicle; or

C. the leased state vehicle is unsafe, inoperable or obsolete.

[1.5.3.26 NMAC - Rp, 1.5.3.26 NMAC, 9/23/2025]

1.5.3.27 OUT OF STATE AND OUT OF COUNTRY TRAVEL IN STATE VEHICLES:

A. The director or director's designee must approve in writing all out-of-state and out-of-country travel requests, in state vehicles, in advance.

B. The state agency must request the appropriate approval in writing including the following information:

(1) names of authorized employee drivers and passengers, if passengers are not employees please provide their names, entity they represent and reason why they need to travel in a state vehicle (relatives or friends that

are not conducting business in the furtherance of state of New Mexico business cannot travel in a state car);

(2) NM drivers' license numbers of all authorized drivers;

(3) copies of drivers national safety council/defensive driving certificate;

(4) G or SG-plates of vehicles making the trip;

(5) point of departure;

(6) points of destination, inclusive of starting destination, i.e. Santa Fe, New Mexico to El Paso, Texas; to Ciudad Juárez, Chihuahua; to Chihuahua, Chihuahua; to Torreón, Coahuila, etc.

(7) date of departure;

(8) date of return;

(9) purpose for the travel; and

(10) an agency approved travel request form including per diem costs.

C. The requesting agency must get approval from the governor's office for authorized drivers to take state vehicles out of the state or country.

D. The state agency fleet coordinator must provide the appropriate information to the director or director's designee based on the following schedules:

(1) for a non-state employee passenger waiver to travel in a state vehicle, at least five working days notice;

(2) for an out-of-state waiver, at least 10 working days notice; and,

(3) for an out-of-country waiver at least 10 working days notice.

E. The authorized driver must have the proper insurance, vehicle registration and waiver documentation in-hand prior to the travel date.

[1.5.3.27 NMAC - Rp, 1.5.3.27 NMAC, 9/23/2025]

1.5.3.28 ACCIDENTS AND ACCIDENT REPORTING:

A. An authorized driver, or agency fleet coordinator, of a state vehicle owned or leased by GSD/TSD shall file an auto loss notice for any auto accident in a state vehicle within 24 hours or the next business day regardless of the severity of the accident. A police report and automobile loss notice are required with or without property damage, or bodily injury, regardless of whether the authorized driver is at fault.

B. The authorized driver or agency fleet coordinator shall provide the police accident report, automobile loss notice, and three quotes for repair costs to RMD and a copy of the same to the agency fleet coordinator and the TSD account manager.

C. If the authorized driver did not file a police report, the state agency fleet coordinator must complete the automobile loss notice and include the authorized driver's name and driver's license number, and any witnesses, written and notarized affidavit(s) describing the accident in detail, with distribution of the documents as previously described.

D. If the authorized driver is found to be at fault, the driver will be suspended and is required to take and pass a TSD approved instructor taught six-hour NSC/DDC course.

E. RMD will assist the director or director's designee in maintaining accident reports and filing insurance claims for all state vehicles.

F. Since the premiums for RMD state passenger vehicles are part of the TSD lease rates, the deductible for any loss will be paid by TSD. However, if there is proof that the loss was caused by the negligence or abuse of a state employee, the user agency will bear the costs of the insurance deductibles up to \$2,500 and any other costs as may be determined by the director, or director's designee, and RMD.
[1.5.3.28 NMAC - Rp, 1.5.3.28 NMAC, 9/23/2025]

1.5.3.29 CUSTODY OF STATE VEHICLES:

A. Determination by director or director's designee. The director or director's designee may, on his own initiative or in response to a written request from a state agency, determine that custody of certain state vehicles should reside in a state agency. The director or director's designee shall make such determination in accordance with the criteria set forth in Subsection B of Section 15-8-6 NMSA 1978. All state vehicles in the custody of other state agencies shall be titled in the name of the division in accordance with Section 15-8-9 NMSA 1978.

B. Responsibilities of state agencies with custody of state vehicles. A state agency that has custody of one or more state vehicles shall:

(1) appoint an agency fleet coordinator who shall be responsible for answering any questions from the director or director's designee regarding the owned or leased TSD state vehicles in the state agency's custody;

(2) maintain an accurate inventory of all state vehicles in its custody, including any public property with a license plate;

(3) submit an inventory report to the director or director's designee by June 15th of each year for the fiscal year ending on June 30 of that year;

(4) notify the director or director's designee within 30 days of any change in the name, address, telephone number, or facsimile number of the state agency or the agency fleet coordinator, or any change in the status of state vehicles in the state agency's custody;

(5) register all state vehicles using the name general services department/transportation services division/state central fleet authority as the first lien holder or name:

(a) the name of general services department/transportation services division/state central fleet authority as the first lien holder or name one on the registration; and,

(b) the name of the state agency as name two, on the registration and the state agency accounting code as “VIN 2”;

(6) be responsible for all operation, maintenance, repair, and replacement costs of leased state vehicles in the state agency’s custody;

(7) budget appropriately for replacement of leased state vehicles;

(8) develop written inventory, administrative, operational, and replacement policies;

(9) develop a written policy regarding the use of leased state vehicles for commuting between work and residence, if the state agency permits commuting;

(10) track all special use motor vehicles and motor vehicles leased or purchased totally or partially with federal funds using the vehicle identification number (VIN) instead of the license plate number; and

(11) maintain insurance coverage on non -TSD leased state vehicles in accordance with the requirements established by RMD.

C. License plates. On an annual basis, the director or director’s designee shall determine which type of license plate shall be issued for each state vehicle in the custody of a state agency based on information provided by the requesting agency.

[1.5.3.29 NMAC - Rp, 1.5.3.29 NMAC, 9/23/2025]

1.5.3.30 USE OF STATE VEHICLES DURING INCLEMENT WEATHER:

A. No employee should be expected to travel if they feel unsafe due to inclement weather. The employee should inform their supervisor and request that the trip be delayed until the inclement weather hazard has dissipated.

B. No short-term lease or “quick ride” vehicles will be issued while inclement weather conditions are present. Reservations will be rescheduled for a later time or date,

depending on weather conditions and vehicle availability.

C. TSD reserves the right to prohibit the use of state vehicles during inclement weather. [1.5.3.30 NMAC - N, 9/23/2025]

1.5.3.31 GLOBAL POSITIONING SYSTEMS - GPS:

A. GPS will be used to monitor the location and operation of vehicles in order to protect driver and vehicle safety and to improve fleet efficiency:

(1) TSD will establish statewide vehicle alerts in order to identify improper driving behaviors;

(2) TSD will provide oversight of vehicle monitoring and data reporting;

(3) Each agency assigned a state vehicle with a GPS device installed shall have access to the GPS tracking system to track and run reports for their agency vehicles and shall inform its employees about the use of the GPS device and system alerts, including use for disciplinary reports and related purposes;

(4) All costs associated with an agency’s use of GPS will be billed by TSD through its monthly billing system. Costs will flow through and be identified as an “add on.”

B. Each agency will monitor the vehicles assigned to it to identify and document any unusual patterns or activity associated with specific GPS unit numbers by establishing alerts.

(1) each agency will be responsible for its own policy on informing its employees on the use of GPS including their use in determining disciplinary actions. Reports displaying violations will be deemed a matter for inclusion in an employee’s personnel file;

(2) each vehicle’s travel data must be consistent with the work assignment of the employee operating the vehicle. TSD shall retain GPS data for the current calendar year and the previous calendar year; and

(3) each agency that allows commuting must still report these vehicle activities to TSD.

C. Each agency shall ensure that all personnel actions associated with the use of the GPS are in accordance with that agency’s specific rules and regulations;

(1) TSD recommends that each vehicle that has a GPS device installed have a decal displayed in the interior clearly identifying that a GPS unit is installed and that all activity including speed and location is and will be monitored;

(2) each agency shall establish additional alerts that are specific to their operations such as hours of use and operation, route information, idling time, locations where vehicles travel outside their respective assigned areas, etc.; and

(3) tampering with any GPS equipment is prohibited and offending employees may be subject to disciplinary action. [1.5.3.31 NMAC, 9/23/2025]

1.5.3.32 WAIVER FROM

TSD RULES: The GSD secretary or authorized designee may waive any portion of this rule provided the request is submitted in writing. The director or director’s designee or the state agency may suspend or revoke driving privileges of an authorized driver for failure to comply with any provision of this rule.

[1.5.3.32 NMAC - Rp, 1.5.3.30 NMAC, 9/23/2025]

HISTORY OF 1.5.3 NMAC:

Pre NMAC History: Material in the part was derived from previously filed with the Commission of Public Records - State Records Center and Archives: GSD 85-202, State Motor Vehicle Regulations, filed 10/28/1985; GSD 90-202, State Motor Vehicle Regulations, filed 11/5/1990.

History of Repealed Material: GSD 90-202, State Motor Vehicle Regulations (filed 11/05/90) repealed 11-01-02.

1.5.3 NMAC, Administration and Use of State Vehicles (filed 10/01/2002) repealed 8/14/2008.

1.5.3 NMAC, Administration and Use of State Vehicles (filed 7/30/2008) repealed 1/15/2013.

1.5.3 NMAC, Administration and Use of State Vehicles (filed 12/20/2012) repealed 7/30/2015.

1.5.3 NMAC, Administration and Use of State Vehicles (filed 7/16/2015) repealed 9/23/2025.

Other History:

GSD 90-202, State Motor Vehicle Regulations (filed 11/05/1990) was replaced by 1.5.3 NMAC, Administration and Use of State Vehicles, effective 11/01/2002.

1.5.3 NMAC, Administration and Use of State Vehicles (filed 10/01/2002) was replaced by 1.5.3 NMAC, Administration and Use of State Vehicles, effective 8/14/2008.

1.5.3 NMAC, Administration and Use of State Vehicles (filed 7/30/2008) was replaced by 1.5.3 NMAC, Administration and Use of State Vehicles, effective 1/15/2013.

1.5.3 NMAC, Administration and Use of State Vehicles (filed 12/20/2012) was replaced by 1.5.3 NMAC, Administration and Use of State Vehicles, effective 7/30/2015.

1.5.3 NMAC, Administration and Use of State Vehicles (filed 7/16/2015) was replaced by 1.5.3 NMAC, Administration and Use of State Vehicles, effective 9/23/2025.

HEALTH CARE AUTHORITY INCOME SUPPORT DIVISION

This is an emergency amendment to 8.102.500 NMAC, Section 1, 3, 8 effective 10/1/2025.

8.102.500.1 ISSUING

AGENCY: [~~New Mexico Human Services Department~~] New Mexico Health Care Authority.

[8.102.500.1 NMAC - Rp 8.102.500.1 NMAC, 07/01/2001; A/E 10/1/2025]

8.102.500.3 STATUTORY AUTHORITY:

A. New Mexico Statutes Annotated 1978 (Chapter 27, Articles 1 and 2) authorize the state to administer the aid to families with dependent children (AFDC), general assistance (GA), shelter care supplement, the burial assistance programs and such other public welfare functions as may be assumed by the state.

B. Federal legislation contained in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 abolished the AFDC program. The federal act created the temporary assistance for needy families (TANF) block grant under Title IV of the Social Security Act. Through the New Mexico Works Act of 1998, the New Mexico works program was created to replace the aid to families with dependent children program.

C. Under authority granted to the governor by the federal Social Security Act, the [~~human services department~~] health care authority is designated as the state agency responsible for the TANF program in New Mexico.

D. Effective April 1, 1998, in accordance with the requirements of the New Mexico Works Act and Title IV-A of the federal Social Security Act, the department is creating the New Mexico works program as one of its cash assistance programs.

E. In close coordination with the NMW program, the department administers the food stamp employment and training program (E&T) pursuant to the Food Security Act of 1985 and federal regulations at Title 7, Code of Federal Regulations.

[8.102.500.3 NMAC - Rp 8.102.500.3 NMAC, 07/01/2001; A, 11/15/2007; A/E 10/1/2025]

8.102.500.8 GENERAL REQUIREMENTS:

A. Need
determination process: Eligibility for NMW, state funded qualified aliens and EWP cash assistance based on need requires a finding that:

(1) the benefit group's countable gross monthly income does not exceed the gross income limit for the size of the benefit group;

(2) the benefit group's countable net income after all allowable deductions does not equal or exceed the standard of need for the size of the benefit group;

(3) the countable resources owned by and available to the benefit group do not exceed the \$1,500 liquid and \$2,000 non-liquid resource limits;

(4) the benefit group is eligible for a cash assistance payment after subtracting from the standard of need the benefit group's countable income, and any payment sanctions or recoupments.

B. Gross income limits: The total countable gross earned and unearned income of the benefit group cannot exceed eighty-five percent of the federal poverty guidelines for the size of the benefit group.

(1) Income eligibility limits are revised and adjusted each year in October.

(2) The gross income limit for the size of the benefit group is as follows:

	(a)
one person	[\$1,067] <u>\$1,109</u>
	(b)
two persons	[\$1,448] <u>\$1,499</u>
	(c)
three persons	[\$1,829] <u>\$1,888</u>
	(d)
four persons	[\$2,210] <u>\$2,278</u>
	(e)
five persons	[\$2,592] <u>\$2,667</u>
	(f)
six persons	[\$2,972] <u>\$3,057</u>
	(g)
seven persons	[\$3,353] <u>\$3,447</u>
	(h)
eight persons	[\$3,735] <u>\$3,836</u>
	(i)

add [\$382] \$390 for each additional person.

C. Eligibility for support services only: Subject to the availability of state and federal funds, a benefit group that is not receiving cash assistance but has countable

gross income that is less than one hundred percent of the federal poverty guidelines applicable to the size of the benefit group may be eligible to receive services. The gross income guidelines for the size of the benefit group are as follows:

(1)	one person	[\$1,255] <u>\$1,305</u>
(2)	two persons	[\$1,704] <u>\$1,763</u>
(3)	three persons	[\$2,152] <u>\$2,221</u>
(4)	four persons	[\$2,600] <u>\$2,680</u>
(5)	five persons	[\$3,049] <u>\$3,138</u>
(6)	six persons	[\$3,497] <u>\$3,596</u>
(7)	seven persons	[\$3,945] <u>\$4,055</u>
(8)	eight persons	[\$4,394] <u>\$4,513</u>
(9)	add [\$449]	<u>\$459</u> for each additional person.

D. Standard of need:

(1) The standard of need is based on the number of participants included in the benefit group and allows for a financial standard and basic needs.

(2) Basic needs include food, clothing, shelter, utilities, personal requirements and the participant's share of benefit group supplies.

(3) The financial standard includes approximately \$111 per month for each participant in the benefit group.

(4) The standard of need for the NMW, state funded qualified aliens, and EWP cash assistance benefit group is:

(a)	one person	\$327
(b)	two persons	\$439
(c)	three persons	\$549
(d)	four persons	\$663
(e)	five persons	\$775
(f)	six persons	\$887
(g)	seven persons	\$999

(h) eight persons \$1,134

(i) add [~~\$111~~] \$112 for each additional person.

E. Special needs:

(1) **Special clothing allowance:** A special clothing allowance may be issued to assist in preparing a child for school, subject to the availability of state or federal funds and a specific allocation of the available funds for this allowance.

(a) For purposes of determining eligibility for the clothing allowance, a child is considered to be of school age if the child is six years of age or older and less than age 19 by the end of August.

(b) The clothing allowance shall be allowed for each school-age child who is included in the NMW, TBP, state funded qualified aliens, or EWP cash assistance benefit group, subject to the availability of state or federal funds.

(c) The clothing allowance is not allowed in determining eligibility for NMW, TBP, state funded qualified aliens, EWP cash assistance, or wage subsidy.

(2) **Layette:** A one-time layette allowance of \$25 is allowed upon the birth of a child who is included in the benefit group. The allowance shall be authorized by no later than the end of the month following the month in which the child is born.

(3) **Special circumstance:** Dependent upon the availability of funds and in accordance with the federal act, the HSD secretary, may establish a separate, non-recurring, cash assistance program that may waive certain New Mexico Works Act requirements due to a specific situation. This cash assistance program shall not exceed a four month time period, and is not intended to meet recurrent or ongoing needs.

F. Non-inclusion of legal guardian in benefit group: Based on the availability of state and federal funds, the department may limit the eligibility of a benefit group due to the fact that a legal guardian is not included in the benefit group.

[8.102.500.8 NMAC - Rp 8.102.500.8 NMAC, 07/01/2001; A, 10/01/2001; A, 10/01/2002; A, 10/01/2003; A/E, 10/01/2004; A/E, 10/01/2005; A, 07/17/2006; A/E, 10/01/2006; A/E, 10/01/2007; A, 11/15/2007; A, 01/01/2008; A/E, 10/01/2008; A, 08/01/2009; A, 08/14/2009; A/E, 10/01/2009; A, 10/30/2009; A, 01/01/2011; A, 01/01/2011; A, 07/29/2011; A/E, 10/01/2011; A/E, 10/01/2012; A/E, 10/01/2013; A/E, 10/01/2014; A, 10/01/2015; A, 10/01/2016; A/E, 10/01/2017; A, 02/01/2018; A/E, 10/01/2018; A, 03/01/2019; A/E, 10/01/2019; A, 03/01/2020; A/E, 10/01/2020; A, 03/01/2021; A/E, 10/01/2021; A 04/01/2022; A/E, 10/01/2022; A, 04/01/2023; A/E 10/1/2023; A, 3/1/2025; A/E 10/1/2025]

HEALTH CARE AUTHORITY INCOME SUPPORT DIVISION

This is an emergency amendment to 8.106.500 NMAC, Section 1 and 8 effective 10/1/2025.

8.106.500.1 ISSUING

AGENCY: [~~New Mexico Human Services Department~~] New Mexico Health Care Authority.

[8.106.500.1 NMAC - Rp, 8.106.500.1 NMAC 3/1/2025; A/E 10/1/2025]

8.106.500.8 GA - GENERAL REQUIREMENTS:

A. Limited state funds may result in a suspension or reduction in general assistance benefits without eligibility and need considered.

B. Need determination process: Eligibility for the GA program based on need requires a finding that the:

(1) countable resources owned by and available to the benefit group do not exceed either the \$1,500 liquid or \$2,000 non-liquid resource limit;

(2) benefit group's countable gross earned and unearned income does not equal or exceed eighty-five percent of the federal poverty guideline for the size of the benefit group; and

(3) benefit group's countable net income does not equal or exceed the standard of need for the size of the benefit group.

C. GA payment determination: The benefit group's cash assistance payment is determined after subtracting from the standard of need the benefit group's countable income and any payment sanctions or recoupments.

D. Gross income test: The total countable gross earned and unearned income of the benefit group cannot exceed eighty-five percent of the federal poverty guidelines for the size of the benefit group.

(1) Income eligibility limits are revised and adjusted each year in October.

(2) The gross income limit for the size of the benefit group is as follows:

	(a)
one person	[\$1,067] <u>\$1,109</u>
	(b)
two persons	[\$1,448] <u>\$1,499</u>
	(c)
three persons	[\$1,829] <u>\$1,888</u>
	(d)
four persons	[\$2,210] <u>\$2,278</u>
	(e)
five persons	[\$2,592] <u>\$2,667</u>
	(f)
six persons	[\$2,972] <u>\$3,057</u>
	(g)
seven persons	[\$3,353] <u>\$3,447</u>
	(h)
eight persons	[\$3,735] <u>\$3,836</u>
	(i)
add [\$382] <u>\$390</u> for each additional person.	

E. Standard of need:
(1) As published monthly by the department, the standard of need is an amount provided to each GA cash assistance

benefit group on a monthly basis and is based on availability of state funds, the number of individuals included in the benefit group, number of cases, number of applications processed and approved, application approval rate, number of case closures, IAR caseload number and expenditures, and number of pending applications.

(2) Basic needs include food, clothing, shelter, utilities, personal requirements and an individual benefit group member's share of supplies.

(3) **Notice:** The department shall issue prior public notice identifying any change(s) to the standard of need amounts for the next quarter, as discussed at 8.106.630.11 NMAC.

F. Net income test: The total countable earned and unearned income of the benefit group after all allowable deductions cannot equal or exceed the standard of need for the size of the GA benefit group. After the countable net income is determined it is rounded down prior to the comparison of the household's income to the standard of need to determine the households monthly benefit amount.

G. Special clothing allowance for school-age dependent children: A special clothing allowance may be issued to assist in preparing a child for school, subject to the availability of state or federal funds and a specific allocation of the available funds for this allowance.

(1) For purposes of determining eligibility for the clothing allowance, a child is considered to be of school age as defined by PED.

(2) The clothing allowance shall be allowed for each school-age child who is included in the GA cash assistance benefit group, subject to the availability of state or federal funds.

(3) The clothing allowance is not counted in determining eligibility for GA cash assistance.

H. Supplemental issuance: A one-time supplemental issuance may be distributed to

recipients of GA for disabled adults based on the sole discretion of the secretary of the [~~human services department~~] health care authority department and the availability of state funds.

(1) The one time supplemental issuance may be no more than the standard GA payment made during the month the GA payment was issued.

(2) To be eligible to receive the one time supplement, a GA application must be active and determined eligible no later than the last day of the month in the month the one time supplement is issued.

I. Minimum Benefit Amount: Benefits less than ten dollars (\$10.00) will not be issued for the initial month or subsequent months. ISD shall certify household beginning the month of application. [8.106.500.8 NMAC - Rp, 8.106.500.8 NMAC 3/1/2025; A/E 10/1/2025]

HEALTH CARE AUTHORITY INCOME SUPPORT DIVISION

This is an amendment to 8.119.100 NMAC, Section 7 effective 10/1/2025.

8.119.100.7 DEFINITIONS:
A. Definitions
beginning with "A":

(1) **Alien:**
means an individual residing in the U.S. who does not hold U.S. citizenship.

(2) **Application:** means a written request for assistance, on the appropriate ISD form, signed by or on behalf of an individual or family.

(3) **Asylee:**
means an individual who while in the U.S. is granted permanent residence under Section 208 of the Immigration and Nationality Act (INA) and is unable or unwilling to return to his or her country of origin because of persecution or a well-founded fear of persecution on

account of race, religion, nationality, membership in a particular social group, or political opinion.

(4) **Asylee**

applicant: means an individual who has applied for, but not yet received, asylum in the U.S. and who is therefore ineligible for the RRP.

(5)

Authorized representative: means a person aged 18 years or older who is designated,

in writing, by the applicant and is sufficiently knowledgeable about the applicant/benefit group's circumstances to complete the application form correctly and represent the benefit group.

B. Definitions

beginning with "B": Benefit group: means an individual or group of individuals authorized to receive cash assistance financed by federal or state funds.

C. Definitions

beginning with "C":

(1) **Case**

management services: means the determination of appropriate service(s) to refer a refugee, referral to such services(s), and tracking of the refugee's participation in such services(s).

(2)

Conditional entrant: means an individual who was admitted to the U.S. under Section 203(a)(7) of the INA.

(3) **Cuban/**

Haitian entrant: means a citizen of Cuba or Haiti who is admitted to the U.S. under section 212(d)(5) of the INA.

D. Definitions

beginning with "D":

(1) **Date of**

entry: means the date established by the department of homeland security as the date a refugee or Cuban/Haitian entrant was lawfully admitted to the U.S. for permanent residence. For asylees it means the date on which asylum was granted.

(2)

Department: means the human services department.

(3)

Documentation of immigration

status: means documents issued to the individual by DHS or USCIS that identifies the individual's lawful immigration status. The documentation provided by an individual is copied for the case file.

E. Definitions

beginning with "E":

(1) **Earned**

income: means cash or payments in-kind that are received as wages from employment or payment in lieu of wages; and earnings from self-employment or earnings acquired from direct provision of services, goods or property, production of goods, management of property or supervision of services.

(2) **Economic**

self-sufficiency: means the ability of a refugee to meet his or her basic needs without the need for cash assistance.

(3)

Employability plan: means an individualized written plan for a refugee, registered for employment services, that sets forth a program of services intended to achieve the earliest possible employment of the refugee.

(4)

Employability services: means services designed to enable an individual to attain employment and to improve the work skills of the individual.

F. Definitions

beginning with "F": Form I-94:

means the white arrival/departure card issued by the department of homeland security to each alien entering the U.S. which identifies the date of entry and the immigration status granted to that person.

G. Definitions

beginning with "G": [RESERVED]

H. Definitions

beginning with "H":

[RESERVED]

I. Definitions

beginning with "I":

(1)

Individualized employability plan (IEP): means a written plan, developed by the refugee and the case manager, or the actions to be taken by an employable refugee to achieve

employment and economic self-sufficiency.

(2) **Institution**

of higher education: means any educational institution which normally requires a high school diploma or equivalency certificate for enrollment, including but not limited to colleges, universities, and vocational or technical schools at the post-high school level.

J. Definitions

beginning with "J":

[RESERVED]

K. Definitions

beginning with "K":

[RESERVED]

L. Definitions

beginning with "L":

(1) **Local**

affiliate: means a not-for-profit agency that is affiliated with a national voluntary agency (VOLAG) and has been approved by the U.S. department of state to conduct a refugee resettlement program.

(2) **Local**

resettlement agency: means a local affiliate of a VOLAG that has entered into a grant, contract, or cooperative agreement with the U.S. department of state to provide initial reception and placement services to refugees.

(3) **Local**

sponsor: means an individual, church, or civic organization that has agreed to assist a refugee to resettle in a specific community.

M. Definitions

beginning with "M":

(1) **Match**

grant: means a program sponsored by the office of refugee resettlement (ORR) that provided matching funds to voluntary agencies and local affiliates to provide cash assistance and services to refugees for no more than six months after their lawful arrival in the U.S.

(2) **Medicaid:**

means medical assistance under Title XIX of the Social Security Act, as amended.

(3) **Minor**

unmarried parent: means an unmarried parent, who is under the age of 18 years, or is age 18 and enrolled in high school.

N. Definitions**beginning with “N”:****(1) National**

voluntary agency (VOLAG): means one of the national resettlement agencies that has entered into a contract, or cooperative agreement with the U.S. department of state or other federal agency to provide for the resettlement of refugees and to oversee the work of a national network or local affiliates.

(2) New

Mexico works: means the federally funded temporary assistance for needy families (TANF) program that carries a 60 month term limit for adults in the state of New Mexico and requires participation in a variety of job search and skill development activities to maintain eligibility.

O. Definitions**beginning with “O”:**

[RESERVED]

P. Definitions

beginning with “P”: **Payment:** means the amount of the cash assistance benefit.

Q. Definitions**beginning with “Q”:**

[RESERVED]

R. Definitions**beginning with “R”:****(1) Reception**

and placement grant: means a grant provided by the U.S. department of state or U.S. department of justice that is intended to assist refugees to meet their basic needs during the first 30 to 90 days after admission to the U.S.

(2) Recipient:

means a person receiving cash assistance benefits.

(3) Refugee:

means any person who is admitted into the U.S. under Section 207 of the INA and is unable or unwilling to return to his or her country of origin because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.

(4) Resources:

means tangible assets and property owned by the applicant with the exception of assets and property in the refugee’s country of origin and assets

and property given to the refugee as part of the reception and placement program.

(5) Refugee

cash assistance (RCA): ~~[means a one hundred percent federally funded cash assistance program for non-TANF, non-SSI, eligible needy refugees during their first 12 months in the U.S.]~~ means financial assistance to refugees, including TANF, SSI, refugee cash assistance under title IV of the Social Security Act.

(6) Refugee

medical assistance (RMA): ~~[means a one hundred percent federally funded medical assistance program for non-Medicaid eligible needy refugees during their first 12 in the U.S.]~~ medical assistance to refugees who are ineligible for the medicaid program.

S. Definitions**beginning with “S”:****(1) Secondary**

migrant: means a refugee who was initially resettled in another state but who has relocated their residence to New Mexico.

(2) Spend

down: means to deduct incurred medical expenses from countable income, thereby lowering the amount of countable income to a level that may meet the financial eligibility standard.

(3) Standard

of deed: means a maximum cash benefit amount that is based on federal regulation for TANF standard of need.

(4)**Supplemental security income**

(SSI): means monthly cash payments to income eligible persons over the age of 65 or who are determined to be disabled under the authority of Title XVI of the Social Security Act.

T. Definitions**beginning with “T”:**

[RESERVED]

U. Definitions**beginning with “U”:** **Unearned**

income: means income from one of these sources: old age, survivors and disability insurance payments (social security); railroad retirement benefits; veteran’s administration compensation or pension payments;

military retirement and allotments; pensions, annuities and retirement benefits; lodge or fraternal benefits; other public or private disability or retirement benefits or pensions; shared shelter payments; individual Indian money (IIM); royalty or lease payments for land or property owned by a benefit group member; settlement payments resulting from insurance or litigation; worker’s compensation benefits; child support; unemployment compensation benefits; union benefits paid in cash; gifts and contributions; and real property income.

V. Definitions**beginning with “V”:** **Victim**

of human trafficking: means an individual who has received certification from ORR as a victim of human trafficking.

W. Definitions**beginning with “W”:**

[RESERVED]

X. Definitions**beginning with “X”:**

[RESERVED]

Y. Definitions**beginning with “Y”:** [RESERVED]**Z. Definitions****beginning with “Z”:** [RESERVED]

[8.119.100.7 NMAC - N, 11/01/2013; A, 11/1/2022; AE, 5/1/2025; A, 10/1/2025]

HEALTH CARE AUTHORITY INCOME SUPPORT DIVISION

This is an amendment to 8.119.410 NMAC, Section 8 effective 10/1/2025.

8.119.410.8 GENERAL RECIPIENT REQUIREMENTS:

A. Citizenship:**(1) To be**

eligible for inclusion in the RCA benefit group, the applicant must be classified as a “refugee.”

(2) To be

eligible for inclusion in the RRP benefit group the individual must provide proof, in the form of documentation issued by USCIS, of one of the following statuses under the INA as a condition of eligibility:

(a) paroled as a refugee or asylee under section 212(d)(5) of INA; or

(b) admitted as a refugee under section 207 of the INA; or

(c) granted asylum under section 208 of the INA; or

(d) Cuban and Haitian entrants including:

(i) any individual granted parole status as a Cuban/Haitian entrant (status pending) or granted any other special status subsequently established under the immigration laws for nationals of Cuba or Haiti, regardless of the status of the individual at the time assistance or services are provided; and

(ii) any other national of Cuba or Haiti who was paroled into the U.S. and has not acquired any other status under the INA; is the subject of exclusion or deportation proceedings under the INA; or has an application for asylum pending with the INS; and with respect to whom a final, non-appealable, and legally enforceable order of deportation or exclusion has not been entered; or

(e) certain Amerasians from Vietnam who are admitted to the U.S. as immigrants pursuant to section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as contained in section 101(e) of the 9th proviso under Migration and Refugee Assistance in title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Acts 1989 (Public Law 100-461 as amended)); or

(f) admitted for permanent residence, provided the individual previously held one of the statuses identified above.

(3) An applicant for asylum is not eligible for assistance under title IV of the INA unless otherwise provided by federal law.

[B. Time limits:

(1) Eligibility for RCA is limited to 12 months from

the date of entry, date of asylum, or date deportation was withheld.

(2) For refugee assistance cases involving U.S.-born children, the eligibility for RCA for the child expires when the refugee parent who last arrived in the U.S. has been in the country for eight months.

C. General eligibility requirements:

(1) RCA eligibility is limited to those who are ineligible for TANF. The benefit groups' eligibility for TANF must be determined before determining eligibility for RCA.

(2) An individual who is enrolled full-time in an institution of higher education will be ineligible to participate in the RCA program except where such enrollment has been approved as part of the individual's individual employability plan (IEP) and in which the enrollment will last for a period of less than one year.

(a) An individual is considered to be enrolled in an institution of higher education, if the individual is enrolled in a business, technical, trade or vocational school, that normally requires a high school diploma or equivalency certificate for enrollment in the curriculum or if the individual is enrolled in a regular curriculum at a college or university that offers degree programs regardless of whether a high school diploma is required.

(b) The enrollment status of a student shall begin on the first day of the school term. Such enrollment shall be deemed to continue through normal periods of class attendance, vacation and semester breaks. Enrollment status shall terminate when the student graduates, is expelled, does not re-enroll or is suspended for a period in excess of 30 calendar days.

(3) A refugee must provide the name of the resettlement agency which was responsible for their resettlement.

(4) Possession of a social security number is not a requirement of eligibility for RCA.]

B. General eligibility requirements:

(1) Eligibility for RCA is limited to those who:

(a) are new arrivals who have resided in the U.S. less than the RCA eligibility period determined by the ORR director in accordance with 45 CFR 400.211;

(b) are ineligible for cash assistance under Title IV of the Social Security Act;

(c) meet immigration status and identification requirements in 45 CFR part 400 Subpart D or are the dependent children of, and part of the same family unit as, individuals who meet the requirements in subpart D, subject to the limitation in 45 CFR 400.208 with respect to nonrefugee children; and

(d) are not full-time students in institutions of higher education, as defined by the ORR director.

(2) A refugee may be eligible for refugee cash assistance under this subpart during a period to be determined by the ORR director in accordance with 45 CFR 400.211.

(3) Possession of a social security number is not a requirement of eligibility for RCA. [8.119.410.8 NMAC - Rp 8.119.410.8 NMAC, 7/1/2024; AE, 5/1/2025; A, 10/1/2025]

End of Adopted Rules

Other Material Related to Administrative Law**ENVIRONMENT
DEPARTMENT****NOTICE OF DECOMMISSION
PLAN**

The New Mexico Environment Department (NMED) is hereby providing notice pursuant to Subsection E of 20.3.4.426 NMAC that Thermo Eberline, LLC, whose business address is 27 Forge Parkway, Franklin, MA 02038, a radioactive materials licensee, has submitted a decommissioning plan for its facility located at 5981 Airport Road, Santa Fe, New Mexico 87501, pursuant to 20.3.3.318 NMAC. "Decommission" means to remove a facility or site safely from service and reduce residual radioactivity to a level that permits release of the property for unrestricted use and termination of the license.

This plan is required in order to terminate the facility's radioactive materials license and return the site to a condition that permits unrestricted use. As the licensee, Thermo Eberline is solely responsible for conducting decommissioning activities, including characterization, cleanup, and remediation of any contamination under regulatory oversight.

The NMED's Radiation Control Bureau (RCB) has completed a preliminary technical review of the submitted decommissioning plan and has determined that it meets the minimum requirements for proceeding with public notice and comment. RCB's review ensures the plan aligns with state regulations, protects public health, and provides sufficient information to assess environmental impacts.

NMED's role in this process is to evaluate the adequacy of the licensee's plan, respond to public concerns, and determine whether to approve the decommissioning plan and proceed with license termination.

The department is not responsible for conducting cleanup activities.

During the evaluation period, NMED reviews and comments upon the decommissioning plan. NMED may, at its discretion, retain consultants to assist it in its evaluation of the decommissioning plan. NMED will notify and solicit comments from local governments in the vicinity of the site of the licensed activity and any Indian nation or other indigenous people that have treaty or statutory rights that could be affected by the decommissioning of the site or the licensed activity. Relevant comments and questions received by NMED from various agencies and interested parties will be forwarded to the licensee for response. Correspondence associated with the decommissioning plan will be on file with the Radiation Control Bureau and will be available for inspection by the licensee and any other interested party.

The decommissioning plan is available for review on our website here: <https://www.env.nm.gov/rcb/thermo-eberline-llc-final-decommissioning-plan/>, and at the following location:

New Mexico Environment
Department
Radiation Control Bureau
Robert Bicknell
525 Camino De Los Marquez, Suite
1A
Santa Fe, NM 87505

Written comments and requests for public hearing will be accepted for 30 days after publication of this notice. Written comments regarding the decommissioning plan should be submitted to NMED's Public Comment Portal here: <https://nmed.commentinput.com?id=fZraETHcD>, or mailed to: New Mexico Environment Department, Radiation Control Bureau, ATTN: Thermo Decommissioning, P.O. Box 5469, Santa Fe, New Mexico 87502-5469.

If you are a non-English speaker, do not speak English well, or if you have a disability, you may contact the NMED Permit Contact to request assistance, an interpreter, or an auxiliary aid to learn more about the decommissioning plan or the review process, or to participate in activities associated with the review process. To the extent possible, NMED will arrange for requested interpretation services and accommodations or services for persons with disabilities. Telephone conversation assistance is available through Relay New Mexico at no charge for people who are deaf, hard of hearing, or have difficulty speaking on the phone, by calling 1-800-659-1779; TTY users: 1-800-659-8331; Spanish: 1-800-327-1857. Telephone interpretation assistance for persons that are a non-English speaker or do not speak English well is available at no charge when calling NMED.

**ENVIRONMENT
DEPARTMENT****NOTIFICACION DEL PLAN DE
DESMANTELAMIENTO**

El Departamento de Medio Ambiente de Nuevo México (NMED) notifica, de conformidad con la subsección E del artículo 20.3.4.426 del NMAC, que Thermo Eberline, LLC, con domicilio comercial en 27 Forge Parkway, Franklin, MA 02038, titular de una licencia de materiales radiactivos, ha presentado un plan de desmantelamiento para sus instalaciones situadas en 5981 Airport Road, Santa Fe, Nuevo México 87501, de conformidad con la subsección 20.3.3.318 NMAC. «Desmantelamiento» significa retirar una instalación o emplazamiento del servicio de forma segura y reducir la radioactividad residual a un nivel que permita la liberación de la propiedad para su uso sin restricciones y la rescisión de la licencia.

Este plan es necesario para cancelar

la licencia de materiales radiactivos de la instalación y devolver el lugar a un estado que permita su uso sin restricciones. Como titular de la licencia, Thermo Eberline es el único responsable de llevar a cabo las actividades de desmantelamiento, incluyendo la caracterización, limpieza y remediación de cualquier contaminación bajo la supervisión de las autoridades reguladoras.

La Oficina de Control de Radiación (RCB) del NMED ha completado una revisión técnica preliminar del plan de desmantelamiento presentado y ha determinado que cumple con los requisitos mínimos para proceder con la notificación pública y la recepción de comentarios. La revisión de la RCB garantiza que el plan se ajuste a las regulaciones estatales, proteja la salud pública y proporcione información suficiente para evaluar los impactos ambientales.

La función del NMED en este proceso es evaluar la eficacia del plan del titular de la licencia, responder a las inquietudes del público y determinar si se aprobará el plan de clausura y si se procederá a la rescisión de la licencia. El departamento no es responsable de llevar a cabo las actividades de limpieza.

Durante el período de evaluación, el NMED revisa y comenta sobre el plan de desmantelamiento. El NMED puede, a su discreción, contratar consultores para que le ayuden en la evaluación del plan de desmantelamiento. El NMED notificará y solicitará comentarios a los gobiernos locales de las proximidades del lugar en el que se desarrolla la actividad autorizada y a cualquier nación indígena u otros pueblos indígenas que tengan derechos estatutarios o derivados de pactos que puedan verse afectados por el desmantelamiento del lugar o la actividad autorizada. Los comentarios y preguntas pertinentes recibidos por el NMED de diversas agencias y partes interesadas se remitirán al titular de la licencia para que responda. La correspondencia relacionada con el plan de desmantelamiento se archivará en la Oficina de Control de Radiaciones y

estará disponible para su inspección por parte del titular de la licencia y cualquier otra parte interesada.

El plan de desmantelamiento está disponible para su consulta en nuestro sitio web aquí: <https://www.env.nm.gov/rcb/thermo-eberline-llc-final-decommissioning-plan/>, y en la siguiente ubicación:

Departamento de Medio Ambiente de Nuevo México

Oficina de Control de Radiación

Robert Bicknell

525 Camino De Los Marquez, Suite 1A

Santa Fe, NM 87505

Se aceptarán comentarios por escrito y solicitudes de audiencia pública durante los 30 días posteriores a la publicación de este aviso. Los comentarios por escrito sobre el plan de desmantelamiento deben enviarse al portal de comentarios públicos del NMED aquí: <https://nmed.commentinput.com?id=fZraETHcD>, o por correo postal a: New Mexico Environment Department, Radiation Control Bureau, ATTN: Thermo Decommissioning, P.O. Box 5469, Santa Fe, New Mexico 87502-5469.

Si usted no habla inglés, no lo habla bien o tiene una discapacidad, puede ponerse en contacto con el departamento de permisos del NMED para solicitar ayuda, un intérprete o una ayuda auxiliar para obtener más información sobre el plan de desmantelamiento o el proceso de revisión, o para participar en actividades relacionadas con el proceso de revisión. Hasta donde sea posible, el NMED se encargará de proporcionar los servicios de interpretación solicitados y las adaptaciones o servicios para personas con discapacidades. Se ofrece asistencia telefónica a través de Relay New Mexico sin cargo alguno para las personas sordas, con dificultades auditivas o con dificultades para

hablar por teléfono, llamando al 1-800-659-1779; usuarios de TTY: 1-800-659-8331; español: 1-800-327-1857. La asistencia de interpretación telefónica para personas que no hablan inglés o no lo hablan bien está disponible sin costo alguno cuando se llama al NMED.

HEALTH, DEPARTMENT OF

PUBLIC HEALTH ORDER NEW MEXICO DEPARTMENT OF HEALTH SECRETARY GINA DEBLASSIE

AUGUST 29, 2025

Ensuring Availability of COVID-19 Vaccine for the 2025- 2026 Season

WHEREAS, the U.S. Food and Drug Administration approval and authorization is based on a cumulative body of evidence demonstrating the safety and efficacy of COVID-19 vaccinations;

WHEREAS, the 2025-2026 seasonal formulation, beginning in Fall 2025, is based on best available guidance from the U.S. Food and Drug Administration;

WHEREAS, the currently available COVID-19 vaccines are safe and the most effective way of preventing infection, serious illness, and death;

WHEREAS, the U.S. Food and Drug Administration approved updated COVID-19 vaccine formulations on 8/27/25 including:

* Pfizer's

COMIRNATY for adults 65 years and older, as well as people ages 5 through 64 years who have at least one condition that puts them at high risk for severe outcomes from COVID-19;

* Moderna's

SPIKEVAX is approved for those 65 and older, as well as those 6 months-64 years with at least one underlying

condition that puts them at high risk for severe outcomes;

* Moderna's

MNEXSPIKE is approved for those 65 and older and those 12-64 years with at least one underlying condition that puts them at high risk of severe outcomes;

* Novavax's

NUVOVAXID is approved for those 65 and older and those 12 and older at high risk for severe disease;

WHEREAS, widespread vaccinations protect New Mexico's health system as vaccines decrease the need for emergency services and hospitalization;

WHEREAS, The New Mexico Board of Pharmacy is amending the written vaccine protocol to consider additional recommendations from professional and authoritative bodies, including the New Mexico Department of Health;

NOW, THEREFORE, I, Gina DeBlassie, Cabinet Secretary of the New Mexico Department of Health, in accordance with the authority vested in me pursuant to NMSA 1978, Section 9-7-6(B)(5), do hereby declare that barriers to the administration of COVID-19 vaccine constitute a condition of public health importance as defined in NMSA 1978, Section 24-1-2(A) of the New Mexico Public Health Act,

I FURTHER DIRECT as follows:

a. The New Mexico Department of Health to collaborate with the New Mexico Board of Pharmacy to amend regulations to remove barriers and ensure access to COVID-19 vaccines at pharmacies across the state.

b. The New Mexico Department of Health to issue guidance to providers, pharmacists and the public regarding the safety and efficacy of COVID-19 vaccine.

c. The New Mexico Department of Health to collaborate

with other state agencies and offices to identify and remove barriers to COVID-19 vaccines.

d. This Order shall be broadly disseminated in English, Spanish, and other appropriate languages to the citizens of the State of New Mexico.

THIS ORDER supersedes any previous order, proclamation, or directives to the extent they are in conflict. This Public Order shall take effect immediately and remain in effect until such time as it automatically expires one year from the date of issuance, or until such time as the New Mexico Department of Health Cabinet Secretary rescinds it.

ATTEST:

**THIS 29TH DAY OF AUGUST
2025**

/ S /

**GINA DEBLASSIE
CABINET SECRETARY OF THE
STATE OF NEW MEXICO
DEPARTMENT OF HEALTH**

**PUBLIC REGULATION
COMMISSION**

**NOTICE OF MINOR,
NONSUBSTANTIVE
CORRECTION**

The Public Regulation Commission gives Notice of a Minor, Non-substantive Correction to 17.7.2 NMAC.

Pursuant to the authority granted under State Rules Act, Subsection D of Section 14-4-3 NMSA 1978, please note that the following minor, non-substantive corrections to spelling, grammar and format have been made to all electronic copies of the above rule, as follows:

Section 19: In Subsection C there are two paragraph (2). The

second paragraph (2) was renumbered to paragraph (3).

A copy of this Notification will be filed with the official version of the above amendment.

**End of Other Material
Related to Administrative
Law**

2025 New Mexico Register

Submittal Deadlines and Publication Dates

Volume XXXVI, Issues 1-24

Issue	Submittal Deadline	Publication Date
Issue 1	January 3	January 14
Issue 2	January 16	January 28
Issue 3	January 30	February 11
Issue 4	February 13	February 25
Issue 5	February 27	March 11
Issue 6	March 13	March 25
Issue 7	March 27	April 8
Issue 8	April 10	April 22
Issue 9	April 24	May 6
Issue 10	May 8	May 20
Issue 11	May 22	June 10
Issue 12	June 12	June 24
Issue 13	June 26	July 15
Issue 14	July 17	July 29
Issue 15	July 31	August 12
Issue 16	August 14	August 26
Issue 17	August 28	September 9
Issue 18	September 11	September 23
Issue 19	September 25	October 7
Issue 20	October 9	October 21
Issue 21	October 23	November 4
Issue 22	November 6	November 18
Issue 23	November 20	December 9
Issue 24	December 11	December 23

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2026 New Mexico Register

Submittal Deadlines and Publication Dates

Volume XXXVII, Issues 1-24

Issue	Submittal Deadline	Publication Date
Issue 1	January 2	January 13
Issue 2	January 15	January 27
Issue 3	January 29	February 10
Issue 4	February 12	February 24
Issue 5	February 26	March 10
Issue 6	March 12	March 24
Issue 7	March 26	April 7
Issue 8	April 9	April 21
Issue 9	April 23	May 5
Issue 10	May 7	May 19
Issue 11	May 21	June 10
Issue 12	June 11	June 23
Issue 13	June 25	July 14
Issue 14	July 16	July 28
Issue 15	July 30	August 11
Issue 16	August 13	August 25
Issue 17	August 27	September 9
Issue 18	September 11	September 22
Issue 19	September 24	October 6
Issue 20	October 8	October 20
Issue 21	October 22	November 3
Issue 22	November 5	November 17
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