

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

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Notices of Rulemaking and Proposed Rules

EARLY CHILDHOOD EDUCATION AND CARE DEPARTMENT

NOTICE OF RULEMAKING AND PUBLIC RULE HEARING

The New Mexico Early Childhood Education and Care Department (ECECD) hereby gives notice as required under Section 14-4-5.2 NMSA 1978 and 1.24.25.11 NMAC that it proposes to repeal and replace rule 8.9.6 GOVERNING BACKGROUND CHECKS AND EMPLOYMENT HISTORY VERIFICATION as authorized by the Early Childhood Education and Care Department Act, specifically Subsection E of Section 9-29-6 NMSA 1978, Subsection H of Section 9-29-8 NMSA 1978, Section 9-29-8.1 NMSA 1978; and the Criminal Offender Employment Act, Sections 28-2-1 to 28-2-6 NMSA 1978.

8.9.6 NMAC - GOVERNING BACKGROUND CHECKS AND EMPLOYMENT HISTORY VERIFICATION

No technical scientific information was consulted in drafting these proposed rules.

Purpose of proposed rules: ECECD proposes to repeal and replace all sections of 8.9.6 NMAC to update the language and structure, improve clarity, and align its standards and requirements with recent amendments to the Criminal Offender Employment Act (Chapter 28, Article 2 NMSA 1978). The new rule does not create new background check requirements, but rather, ensures consistency with statutory mandates, clarifies existing standards, and strengthens the framework governing background checks and employment history verification.

Summary of proposed rules: In summary, ECECD proposes revisions to 8.9.6 NMAC to establish a clearer and more coherent structure

for governing background checks. The proposed rule differentiates, in accordance with state and federal requirements, between child care service providers and all other department employees or department-contracted providers who are not child care service providers. The revisions largely reorganize and restructure the existing substantive provisions, while updating definitions, elaborating upon criteria, and clarifying that background check clearances may be denied, suspended, or revoked if ECECD determines the person poses an unreasonable risk.

The new rule separates determinations of unreasonable risk into two sections, one for child care providers and one for everyone else. Each section is then divided between evidence that shall automatically result in a determination of unreasonable risk and evidence that may be considered in making a determination of unreasonable risk. Lastly, the new rule updates and expands upon the rehabilitation petition process, identifying more comprehensive criteria and evidence that may be considered in determining whether an applicant has been rehabilitated.

Copies of the proposed amended rules may be found at ECECD's website at www.nmececd.org/regulation-changes/ 30 days prior to the public rule hearing.

Notice of public rule hearing: A public rule hearing will be held on November 6, 2026, from 10:00 a.m. to 12:00 p.m. for the proposed repeal and replace of 8.9.6 NMAC. The hearing will take place in Apodaca Hall of the PERA Building at 1120 Paseo de Peralta, Santa Fe, New Mexico 87502, and will also be accessible via virtual web platform (Zoom) and by telephone. The hearing will be conducted in a fair and equitable manner by an ECECD agency representative or hearing officer and will be recorded. Any interested member of the public may attend in person, by Zoom, or

by telephone and will be provided a reasonable opportunity to offer public comment on the proposed rules during the hearing, either orally or in writing, including presentation of data, views, or arguments. Members of the public will have two minutes to provide oral comments. To attend by telephone, dial 1-719-359-4580, Webinar ID: 873 8763 6767; callers will be able to hear the full hearing, and comments made by telephone will be recorded. To attend via the internet, go to <https://nmececdorg.zoom.us/j/87387636767> and follow the on-screen instructions using Webinar ID: 873 8763 6767. The hearing will be livestreamed, and comments may also be submitted via the platform's chat feature.

Notice of acceptance of written public comment: Written public comments, including presentation of data, views, or arguments about the proposed rules from any interested member of the public may be submitted by email to ECECD-ECS-PublicComment@ECECD.NM.Gov with the subject line "8.9.6 NMAC Public Comment," or by first class mail to PO. Drawer 5619, Santa Fe, New Mexico 87502-5619. Written comments may also be delivered in person at the PERA Building located at 1120 Paseo De Peralta in Santa Fe, New Mexico, on November 6, 2026, between 10:00 a.m. and 12:00 p.m. Written comments will be accepted from the date this notice is published until the conclusion of the public rule hearing on November 6, 2026.

If you are a person with a disability and would like to request accommodations, or a person with limited English proficiency and need interpretation, please contact the Early Childhood Education and Care Department at ECECD-ECS-PublicComment@ECECD.NM.Gov or call 505-670-8993 at least ten calendar days before the scheduled public rule hearing.

**HEALTH CARE
AUTHORITY
HEALTH CARE
AFFORDABILITY BUREAU**

NOTICE OF HEARING

The Health Care Authority, through the Health Care Affordability Bureau, is proposing that the permanent rule be repealed and replaced, which went into effect on May 5, 2026 to be made permanent. The Health Care Affordability Bureau is proposing a new rule 8.401.2 NMAC HEALTH CARE AUTHORITY - Health Care Affordability Fund HEALTH CARE AFFORDABILITY PLAN.

The New Mexico Health Care Authority (HCA), through the Health Care Affordability Bureau issued permanent rule amendments for the New Mexico Administrative Code (NMAC) rule 8.401.2 NMAC, Health Care Authority -Health Care Affordability Fund on May 5, 2026. The HCA issued this permanent rule to address recent federal changes, thousands of New Mexico residents will lose eligibility for federal Premium Tax Credit (PTC) and marketplace, resulting in the loss of medical coverage, increased costs for care, and health risks. During the Special Legislative Session, the state legislature passed House Bill 2, which authorized the Health Care Authority to establish such programs.

LEGAL AUTHORITY: Section 59A-23F-12 NMSA 1978, authorizes the HCA Secretary to promulgate rules and regulations that may be necessary to carry out the duties of the HCA and its divisions.

This Notice of New Rulemaking is available on the HCA website at: Health Care Coverage Innovations - HCAF - New Mexico Health Care Authority. If you do not have internet access, a copy of the emergency rule may be requested by contacting The Health Care Affordability Bureau at 3900 Masthead St, NE Albuquerque, NM 87109-4485 or by phone at 505-637-2207.

Health Care Coverage Innovations - Initiatives - New Mexico Health Care Authority

If you do not have internet access, a copy of the proposed register and rule may be requested by contacting HCA at (505) 637-2207.

Notice Date: October 6, 2026
Hearing Date: November 10, 2026
Proposed Effective Date: January 1, 2027

A public hearing to receive testimony on the new rule will be held on **November 10, 2026, at 1:00pm** Mountain Time (MT). There are three options for attending the hearing:

1. Attend in person by coming to the 3rd third floor large conference room at the Health Care Authority Bureau, 3900 Masthead ST NE., Albuquerque NM 87109.

2. Join the Zoom webinar on your computer, mobile app or room device:

Webinar ID: <https://us02web.zoom.us/j/87606629125?pwd=4evBxqClSAwNpO3rhxltWXg3U6Yppl.l>
Passcode 597795

3. Or call in (audio only):

+1 719 359 4580 US
+1 253 205 0468 US
+1 253 215 8782 US (Tacoma)
+1 346 248 7799 US (Houston)
+1 669 444 9171 US
+1 669 900 6833 US (San Jose)
+1 564 217 2000 US
+1 646 931 3860 US
+1 689 278 1000 US
+1 929 436 2866 US (New York)
+1 301 715 8592 US (Washington DC)
+1 305 224 1968 US
+1 309 205 3325 US
+1 312 626 6799 US (Chicago)
+1 360 209 5623 US
+1 386 347 5053 US
+1 507 473 4847 US
Webinar ID: 876 0662 9125
Passcode: 597795
International numbers available:

<https://us02web.zoom.us/j/87606629125?pwd=4evBxqClSAwNpO3rhxltWXg3U6Yppl.l>

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 HCA at (505) 637-2207. The Bureau requests at least 10 working days advance notice to provide requested alternative formats and special accommodation.

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

Interested persons may address written comments to:

Health Care Authority Bureau
ATTN: HCA New Rule Public Comments
3900 Masthead St NE ste 340
Albuquerque, New Mexico 87109-4485

Recorded comments may be left at (505) 637-2207. Interested persons may also address comments via electronic mail to: HCAF@hca.nm.gov. Written mail, electronic mail and recorded comments must be received **no later than 5 p.m. MT on November 10, 2026**. 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 HCA website at Health Care Coverage Innovations - Initiatives - New Mexico Health Care Authority along with the applicable register and rule. The public posting will include the name and any contact information provided by the commenter.

**HEALTH CARE
AUTHORITY
MEDICAL ASSISTANCE
DIVISION**

NOTICE OF RULEMAKING

The New Mexico Health Care Authority (HCA), through the Medical Assistance Division (MAD), is proposing to amend the New Mexico Administrative Code (NMAC) rule 8.310.2, *Health Care Professional Services, General Benefit Description*. HCA/MAD is also proposing a new NMAC, 8.310.16, *Health Care Professional Services, State Funded Benefits*.

Section 9-8-6 NMSA 1978, authorizes the Department Secretary to promulgate rules and regulations that may be necessary to carry out the duties of the Department and its divisions.

Notice Date: October 6, 2026
Hearing Date: November 6, 2026
Adoption Date: Proposed as January 1, 2027
Technical Citations: 2023 Legislative HB 73; 2025 Legislative HB 56; 42 CFR 410.78

The HCA is proposing to amend the rule as follows:

8.310.2 NMAC**Section 10**

Language has been amended in the Relationship to Medicare section to align with current reimbursement methodologies.

Section 12

Language regarding the medical practitioners has been amended to align with CMS and AMA guidelines for unbundling global maternity care to itemized maternity care.

Language regarding the medical practitioners related to the birthing options program (BOP) has been amended to align with the 2025 Legislative House Bill 56.

Language has been amended to add biomarker services to align with the 2023 Legislative House Bill 73.

Language for telehealth services has

been amended to align with the 42 CFR 410.78.

Pregnancy termination services have been removed from NMAC 8.310.2 and will be added into a new NMAC 8.310.16, *Health Care Professional Services, State Funded Benefits*.

Language related to experimental or investigational services (qualified clinical trials) has been amended and updated to align with the Centers for Medicare & Medicaid Services (CMS).

Language has been amended to include new benefits and requirements for: lactation care services, prenatal maternal genetic screening, dental, medically tailored meals, client medical transportation, gender affirming care, community health workers/community health representatives, chiropractic services and medical respite.

Section 14

Language has been amended to provide clarification on dental services regarding criteria and prior authorization requirements.

8.310.16 NMAC

Pregnancy termination services have been moved from NMAC 8.310.2 and will be included in the new NMAC 8.310.16, *Health Care Professional Services, State Funded Benefits*.

I. RULE

These proposed rule changes will be contained in 8.310.2 & 8.310.16 NMAC. This register and the proposed rules are available on the HCA website at: <https://www.hca.nm.gov/lookingforinformation/registers/> and <https://www.hca.nm.gov/2026-comment-period-open/>. If you do not have internet access, a copy of the proposed register and rule may be requested by contacting MAD at (505) 827-1337.

II. EFFECTIVE DATE

The HCA proposes implementing this rule effective January 1, 2027.

III. PUBLIC HEARING

A public hearing to receive testimony on this proposed rule will be held on **November 6, 2026, 2026, at 11:00 a.m., Mountain Time (MT)**. The hearing will be held in the Large Conference Room at the Administrative Services Division (ASD), 1474 Rodeo Rd, Santa Fe, NM 87505 and via Microsoft Teams.

Join Teams Meeting

Join: <https://teams.microsoft.com/meet/25604335268768?p=qcv0i29sTM MGKIY0fL>

Meeting ID: 256 043 352 687 68

Passcode: hi2XW6MR

Dial in by phone

+1 505-312-4308,,98058573# United States, Albuquerque
Phone conference ID: 980 585 73#

If you are a person with a disability and you require this information in an alternative format or require special accommodation to participate in the public hearing, please contact the MAD in Santa Fe at (505) 827-1337. The HCA requests at least ten (10) working days advance notice to provide requested alternative formats and special accommodations.

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

IV. ADDRESS

Interested persons may address written comments to:

New Mexico Health Care Authority
Office of the Secretary
ATTN: Medical Assistance Division
Public Comments
P.O. Box 2348
Santa Fe, New Mexico 87504-2348

Recorded comments may be left at (505) 827-1337. Interested persons may also address comments via electronic mail to: HCA-madrules@hca.nm.gov. Written mail, electronic mail and recorded comments must

be received **no later than 5:00 p.m. MT on November 6, 2026**. 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 HCA website at <https://www.hca.nm.gov/lookingforinformation/registers/> and <https://www.hca.nm.gov/2026-comment-period-open/> along with the applicable register and rule. The public posting will include the name and any contact information provided by the commenter.

HEALTH CARE AUTHORITY MEDICAL ASSISTANCE DIVISION

NOTICE OF RULEMAKING

The New Mexico Health Care Authority (HCA), through the Medical Assistance Division (MAD), is proposing to amend the New Mexico Administrative Code (NMAC) rule 8.311.2, *Hospital Services*.

Section 9-8-6 NMSA 1978, authorizes the Department Secretary to promulgate rules and regulations that may be necessary to carry out the duties of the Department and its divisions.

Notice Date: October 6, 2026
Hearing Date: November 6, 2026
Adoption Date: Proposed as January 1, 2027

Technical Citations: Centers for Medicare & Medicaid Services (CMS) State Medicaid Director letter, SMD #21-005, related to qualifying clinical trial (QCT) for experimental and investigational services.

Background

1. HCA MAD is amending the NMAC to update coverage and separate reimbursement for pasteurized human donor milk (PHDM), long-acting reversible contraceptive (LARC) devices and Comprehensive Addiction and

Recovery Act (CARA) plans of safe care (POSC) in the hospital setting.

2. HCA MAD is amending language and providing updates and clarity to Inpatient and Outpatient services related to experimental, investigational services.

The HCA is proposing to amend the rule as follows:
8.311.2

Section 8

The Mission Statement has been updated to include HCA's current mission statement.

Section 14

Subsection G has been amended to remove the reference to expired MAD-765 form, *Experimental or Investigational Procedures or Therapies*, and clarifies and adds language referring to NMAC 8.310.2 that details coverage for qualifying clinical trial (QCT) for experimental or investigational services.

Subsection K has been amended to add language that allows hospitals to bill and be reimbursed separately for PHDM, LARC devices, and CARA POSC.

Section 15

Language has been amended to clarify and add language referring to NMAC 8.310.2 that details coverage for QCT for experimental or investigational services.

Throughout the NMAC updates have been made to comply with formatting and language requirements and to update outdated NMAC references.

I. RULE

These proposed rule changes will be implemented in NMAC 8.311.2. This register and the proposed rule are available on the HCA website at: <https://www.hca.nm.gov/lookingforinformation/registers/> and <https://www.hca.nm.gov/2026-comment-period-open/>. If you do not have internet access, a copy of the proposed register and rule may be requested by contacting MAD at (505) 827-1337.

II. EFFECTIVE DATE

The HCA proposes to implement this rule effective January 1, 2027.

III. PUBLIC HEARING

A public hearing to receive testimony on this proposed rule will be held on **November 6, 2026, at 9:00 a.m., Mountain Time (MT)**. The hearing will be held in the Large Conference Room at the Administrative Services Division (ASD), 1474 Rodeo Rd, Santa Fe, NM 87505 and via Zoom.

Join Zoom Meeting

Join: <https://teams.microsoft.com/meet/229912860055385?p=thdLETOO MuvMuZ4SS6>
Meeting ID: 229 912 860 055 385
Passcode: Ar3CN7jC

Dial in by phone

+1 505-312-4308,,268496404#
United States, Albuquerque
Phone conference ID: 268 496 404#

If you are a person with a disability and you require this information in an alternative format or require special accommodation to participate in the public hearing, please contact the MAD in Santa Fe at (505) 827-1337. The HCA requests at least ten (10) working days advance notice to provide requested alternative formats and special accommodation.

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

IV. ADDRESS

Interested persons may address written comments to:

New Mexico Health Care Authority
Office of the Secretary
ATTN: Medical Assistance Division
Public Comments
P.O. Box 2348
Santa Fe, New Mexico 87504-2348

Recorded comments may be left at (505) 827-1337. Interested persons may also address comments via

electronic mail to: HCA-madrules@hca.nm.gov. Written mail, electronic mail and recorded comments must be received **no later than 5:00 p.m. MT on November 6, 2026**. 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 HCA website at <https://www.hca.nm.gov/lookingforinformation/registers/> and <https://www.hca.nm.gov/2026-comment-period-open/> along with the applicable register and rule. The public posting will include the name and any contact information provided by the commenter.

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

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

The New Mexico Board of Optometry and the Regulations and Licensing Department will hold a rule hearing on Friday, November 13, 2026, at 1:00 p.m., immediately followed by a meeting of The New Mexico Board of Optometry 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 2550 Cerrillos Rd 2nd Floor, Santa Fe, New Mexico 87505.

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

Meeting Link: <https://teams.microsoft.com/meet/245914882048094?p=yNnDkl0eV4AOpD6HfP>

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

Meeting ID: 245 914 882 048 094

Passcode: iM2Jt7pk

Dial in by phone

+1 505-312-4308, 326640960# United States, Albuquerque
Phone conference ID: 326 640 960#

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

**16.16.3 – Requirements for
Licensure by Examination**

16.16.4 – Expedited Licensure

**16.16.10 – Renewal of New Mexico
Optometry License**

**16.16.11 – License Expiration Due
to Non-Renewal: Reactivation**

16.16.13 – Continuing Education

16.16.22 – Disciplinary Proceedings

On Friday, October 9, 2026, copies of the proposed rules may be obtained through the New Mexico Board of Optometry website at <https://www.rld.nm.gov/boards-and-commissions/individual-boards-and-commissions/optometry/statutes-rules-and-rule-hearings/> or by contacting the Senior Board Administrator, Emma Quintana at Optometry.bd@rld.nm.gov or (505) 476-4622.

The New Mexico Board of Optometry and Regulation and Licensing Department will begin accepting written public comment regarding the proposed rule changes on Friday, October 9, 2026, at 8:00 a.m. and ending Thursday, November 12, 2026, 8:00 a.m. Written comments may be submitted by email to Optometry.bd@rld.nm.gov or by postal mail to the following address:

New Mexico Regulation and
Licensing Department

Attn: New Mexico Board of
Optometry

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 9, 2026 – November 12, 2026) will be posted to the website 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 Optometry 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 Optometry 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 Senior Board Administrator, Emma Quintana at Optometry.bd@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 Senior Board Administrator Emma Quintana at Optometry.bd@rld.nm.gov or (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 Optometry Act (Act), Section 61-2-1 through 61-2-18 NMSA 1978, which provides explicit authority for the Board of Optometry 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 through 1.24.25.16 NMAC.

Purpose of the Proposed Rules: The proposed rule changes are intended to update and clarify the New Mexico Board of Optometry's requirements for licensure by examination, expedited licensure, license renewal, license expiration and reactivation, continuing education, and disciplinary proceedings. The proposed changes include clarifying definitions and application documentation requirements; updating expedited licensure provisions, including requirements for applicants from jurisdictions with differing pharmaceutical agent requirements and examination requirements for renewal; establishing a June 1 renewal deadline and a 30-day grace period during which a license remains temporarily active for optometric practice; updating the timing of renewal notifications; clarifying requirements for reactivation of expired licenses; updating continuing education provisions, including increasing the maximum number of allowable internet-based continuing education hours from six to eight hours annually; and clarifying disciplinary procedures, including requirements related to complaints, responses, continuing education audits, and other disciplinary matters. More generally, the proposed rules are intended to provide greater clarity and consistency in the Board's

regulatory requirements, support continued professional competence, and promote, preserve, and protect the public health, safety, and welfare.

Summary of Proposed Changes:

16.16.3 NMAC – Clarify licensure, examination, and application documentation requirements.

16.16.4 NMAC – Expedited Licensure. Update expedited licensure eligibility, application, and examination requirements.

16.16.10 NMAC – Renewal of New Mexico Optometry License. Change the renewal deadline to June 1, establish a 30-day grace period, and update renewal notification requirements.

16.16.11 NMAC – License Expiration Due to Non-Renewal: Reactivation.

Update expiration and late-renewal provisions and clarify requirements for reactivation of expired licenses.

16.16.13 NMAC – Continuing Education. Update continuing education requirements, including increasing allowable internet-based education from six to eight hours annually and clarifying audit requirements.

16.16.22 NMAC – Disciplinary Proceedings Update complaint response and disciplinary procedures and clarify continuing education audit compliance.

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 11.1.2 (the Public Works Minimum Wage Act 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 November 12, 2026, from 10:00 am to 12:00 pm.

The purpose and summary of the public comment hearing will be to obtain input and public comment on proposed prevailing wage rates and subsistence and zone pay for Public Works projects for 2027 and some minor changes to the job descriptions for public works projects.

Under Section 9-26-4, NMSA 1978, the Workforce Solutions Department is responsible for the administration of the Labor Relations Division ("LRD" or "Division"), which oversees setting prevailing-wage and fringe-benefit rates for public works projects. Pursuant to Section 13-4-11, NMSA 1978, the Director of the Division shall determine the prevailing-wage rates and the prevailing fringe-benefit rates and shall issue rules necessary to administer and accomplish the purposes of the Public Works Minimum Wage Act.

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. Written comments must be received no later than 5 p.m. on November 11, 2026. However, the submission of written comments as soon as possible is encouraged.

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@dws.nm.gov. The proposed rule will be 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 11.2.3.12 (State Apprenticeship Council (SAC)) 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 November 12, 2026 from 2:00 pm to 4:00 pm.

The purpose and summary of the public comment hearing will be to obtain input and public comment on proposed changes to the SAC meeting schedule.

Under Section 9-26-4, NMSA 1978, the Workforce Solutions Department is responsible for the administration of the Labor Relations Division (“LRD” or “Division”), which oversees setting prevailing-wage and fringe-benefit rates for public works projects. Pursuant to Section 13-4-11, NMSA 1978, the Director of the Division shall determine the prevailing-wage rates and the prevailing fringe-benefit rates and shall issue rules necessary to administer and accomplish the purposes of the Public Works Minimum Wage Act.

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. Written comments must be received no later than 5 p.m. on November 11, 2026. However, the submission of written comments as soon as possible is encouraged.

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@dws.nm.gov. The proposed rule will be 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.

**End of Notices of
Rulemaking and
Proposed Rules**

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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.

CHILDREN, YOUTH AND FAMILIES DEPARTMENT

The New Mexico Children, Youth and Families Department repeals its rule NMAC 8.10.5 Comprehensive Addictions and Recovery Act (CARA) Guidelines, (filed 2/22/2022), so as not to conflict with the New Mexico Health Care Authority rule NMAC 8.3.2 Plan of Safe Care for Substance-Exposed Infants (filed 7/1/2026).

HEALTH, DEPARTMENT OF

TITLE 7 HEALTH CHAPTER 30 FAMILY AND CHILDREN HEALTH SERVICES PART 16 DOULA CREDENTIALING FOR MEDICAID REIMBURSEMENT

7.30.16.1 ISSUING AGENCY: Department of health, public health division.
[7.30.16.1 NMAC - N, 10/06/2026]

7.30.16.2 SCOPE: This rule applies to any person seeking to practice as a credentialed doula in the state of New Mexico and to the doula credentialing advisory council.
[7.30.16.2 NMAC - N, 10/06/2026]

7.30.16.3 STATUTORY AUTHORITY: This rule is promulgated pursuant to the following statutory authorities: the Department of Health Act, Subsection E of Section 9-7-6 NMSA 1978, which authorizes the secretary of the department of health to "...make and adopt such reasonable and procedural rules and regulations as may be necessary to carry out the duties of

the department and its divisions," Subsection A and Subsection S of 24-1-3 NMSA 1978 and the Doula Credentialing and Access Act, Sections 24-36-1 through 24-36-8 NMSA 1978.
[7.30.16.3 NMAC - N, 10/06/2026]

7.30.16.4 DURATION: Permanent.
[7.30.16.4 NMAC - N, 10/06/2026]

7.30.16.5 EFFECTIVE DATE: October 6, 2026, unless a later date is cited at the end of a section.
[7.30.16.5 NMAC - N, 10/06/2026]

7.30.16.6 OBJECTIVE: The objective of this rule is to implement the Doula Credentialing and Access Act. This rule governs the voluntary credential of doulas in New Mexico and the doula credentialing advisory council.
[7.30.16.6 NMAC - N, 10/06/2026]

7.30.16.7 DEFINITIONS:
A. Definitions
beginning with "A":

(1) "Action against a credential" means any formal action taken by the department that adversely affects credentialing status, including but not limited to denial of initial credentialing or re-credentialing, suspension or revocation of a credential, probation or reprimand.

(2) "Appeal" means a request by the applicant for review of denial, suspension action made by the department.

(3) "Applicant" means a doula applying to be credentialed or recertified by the department.

(4) "Approval" means acceptance and authorizing a doula applicant as credentialed.

(5)

"Authority" means the New Mexico health care authority.

B. Definitions

beginning with "B": "Bureau" means the family health bureau of the public health division of the department of health.

C. Definitions

beginning with "C":

(1) "Client"

means any person domiciled, residing, or receiving care, service or treatment from a New Mexico credentialed doula. This includes but is not limited to patients, residents, or consumers.

(2) "Closure"

means a written administrative action by the department terminating an existing, previously approved credential or case and closing the individual or entity from active credential status.

(3)

"Committee denial" means rejection or disapproval of credential due to decision made by the credential committee.

(4)

"Community elder" means experienced member of a community who provides cultural, emotional, and traditional guidance to the doula profession.

(5)

"Community organization" means any organized group, whether formally incorporated or not, that works collectively to address community needs, support local interests, or pursue shared goals.

(6)

"Continuing education" or "CE" means a planned learning activity that builds upon a credentialed doula's training program, education, and work experience and enables a credentialed doula to acquire or improve skills, knowledge and practices that promote professional development, and is approved by the department.

(7)
“Conviction” means a plea or adjudication of guilt, a plea of nolo contendere, or an Alford plea, and does not include a conditional discharge or deferred adjudication that results in dismissal of a charge.

(8) **“Core competencies”** means a combination of qualities, practical skills and knowledge, defined by the department as essential to the provision of services by credentialed doulas, demonstration of which is required for credentialing.

(9)
Credentialed doula” or “CD” means a doula to whom the department has issued a credential to allow the doula to enroll as a medicaid provider and provided a document issued by the department to qualified applicants who have successfully completed the application process.

D. Definitions
beginning with “D”:

(1)
“Department” means the department of health.

(2) **“Division”**
 means the department’s public health division.

(3) **“Doula”**
 means a trained, nonmedical professional who provides services, including health education, advocacy or physical, emotional or social support, to a client during the pre-conception period, pregnancy, childbirth or the postpartum period regardless of pregnancy outcome to promote positive health outcomes.

E. Definitions
beginning with “E”: **“Eligible person”** means a person who is eligible for medicaid, and who elects to receive services from a credentialed doula, while pregnant or during the first twelve months of the postpartum period, regardless of the person’s birth outcome.

F. Definitions
beginning with “F”: [RESERVED]

G. Definitions
beginning with “G”: [RESERVED]

H. Definitions
beginning with “H”: [RESERVED]

I. Definitions

beginning with “I”: [RESERVED]

J. Definitions
beginning with “J”: [RESERVED]

K. Definitions
beginning with “K”: [RESERVED]

L. Definitions
beginning with “L”: [RESERVED]

M. Definitions
beginning with “M”: [RESERVED]

N. Definitions
beginning with “N”: [RESERVED]

O. Definitions
beginning with “O”: [RESERVED]

P. Definitions
beginning with “P”: **“Procedural denial”** means a written

determination issued by the department refusing to grant an initial application request for credential after review of the submitted materials and a determination that the applicant has failed to meet one or more statutory, regulatory, or published eligibility requirements.

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

R. Definitions
beginning with “R”:

(1)
“Reinstatement” means the process whereby a credential, which has been terminated or ended as a result of failure to comply with the necessary recredential requirements or disciplinary action, will be restored by the department with the original credential number and date.

(2)
“Recredential” means the process of renewing a current credential as valid and complying with the necessary requirements.

S. Definitions
beginning with “S”:

(1) **“Scope of practice”** means the roles and related tasks performed by CDs in the provision of services including the knowledge, skills and attributes needed to perform work-related functions, as defined by the department.

(2)
“Secretary” means the secretary of department of health.

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

U. Definitions

beginning with “U”: [RESERVED]

V. Definitions
beginning with “V”: [RESERVED]

W. Definitions
beginning with “W”:

[RESERVED]
X. Definitions

beginning with “X”: [RESERVED]
Y. Definitions

beginning with “Y”: [RESERVED]
Z. Definitions

beginning with “Z”: [RESERVED]
 [7.30.16.7 NMAC - N, 10/06/2026]

7.30.16.8 GENERAL PROGRAM DESCRIPTION:

A. The regulations establish policy, standards, and criteria relating to administration of a voluntary program for credentialing doulas including the requirements for education, training, experience and other qualifications that the secretary deems appropriate in accordance with the provisions of the Doula Credentialing and Access Act.

B. Department credentialed doula status is accessible through online registry administered by the department. The registry shall contain the name, credential number, credential status, and geographic location of the CD. Registry information is subject to public inspection.

C. Grounds for actions against a credential: A credential may be denied, suspended, or revoked or may be subject to any lesser action, including but not limited to reprimand or probation, in accordance with this rule.

[7.30.16.8 NMAC - N, 10/06/2026]

7.30.16.9 DOULA CREDENTIAL REQUIREMENTS:

An applicant seeking credential as a New Mexico department of health credentialed doula shall submit a completed application in a form and manner prescribed by the department and shall provide documentation demonstrating compliance with the eligibility requirements established in this rule. In order to use the title “credentialed doula,” or the initials “CD” or other designation

that indicates that an individual is a credentialed doula, the individual shall be credentialed by the department pursuant to the provisions of the Doula Credentialing and Access Act.

A. Identity

verification: The applicant and or authorized representative of the applicant must be 18 years of age or older at the time of submission and must provide proof of identity in the form of a valid driver's license or state-issued identification card issued by any of the fifty United States, the District of Columbia, or its territories.

B. Cardiopulmonary

resuscitation credential (CPR): The applicant shall provide documentation demonstrating current certification in adult and infant CPR from a nationally recognized certifying body, including but not limited to the American heart association or the American red cross. A doula shall maintain current CPR certification at all times in order to maintain credentialed doula status with the department. If the CPR certification provided with an initial doula credential application will expire prior to submission of application for recredential pursuant to this rule, a doula must obtain an updated CPR certification and provide documentation of the updated certification to the department prior to expiration of the initial CPR certification. The department may recognize equivalent CPR credential programs that meet or exceed nationally recognized training standards, as determined by the department through program policy or guidance.

C. Health insurance

portability and accountability act (HIPAA) training: The applicant shall attest that they have completed training on the requirements of the Health Insurance Portability and Accountability Act of 1996 and related privacy protections and shall attest that they will adhere to all HIPAA requirements. A certificate of completion of HIPAA training shall accompany the application for any of the delineated credentialing pathways.

The department may identify approved HIPAA training modules or equivalent training programs that satisfy this requirement.

D. The practice for which the applicant seeks the doula credential shall be located within the 50 U.S. states, the District of Columbia, or its territories.

E. Credentialing pathways: Applicants shall apply for credential under one of the following pathways established by the department.

(1) Training

pathway: This pathway is for applicants who have successfully completed a doula training program approved by the department or determined by the department to be substantially equivalent to an approved program based on curriculum content that is in scope, duration, methodology, and demonstrated competency outcomes comparable to those of a department-approved training program. The approved training shall be listed at <https://www.nmhealth.org/about/phd/fhb/mch/doula/>, and include:

(a)

BeboMia;

(b)

international center for traditional childbirth (ICTC)/shafia monroe consulting;

(c)

birthing project USA;

(d)

our earth full spectrum birth & postpartum attendant program;

(e)

CAPPA doula training;

(f)

commonsense childbirth institute;

(g)

raeanne madison indigenous full spectrum doula training and postpartum doula training;

(h)

doulas of North America (DONA) doula training;

(i)

doula trainings international;

(j)

the black doula Inc., dba birthing advocacy doula trainings;

(k)

healthconnect one (or a healthconnect one replication site);

(l)

Tewa women united - Yiya Vi Kagingdi full spectrum doula training;

(m)

international childbirth education association (ICEA); and

(n)

Zaagi'idiwin full spectrum indigenous doula training.

(2) Core

competencies pathway: This pathway is for applicants who have completed education or training programs that demonstrate competency in core doula practice areas identified by the department. The applicant shall submit:

(a)

Doula training certificate of completion. If the certificate of completion does not detail the total number of hours completed and topics covered or if the doula applicant does not have a certificate of completion, the doula applicant is required to provide a copy of a syllabus from the completed course(s) and complete the applicable attestation provided within the application attesting that they have satisfactorily completed course(s) covering the required topics below with the name of the organization providing the training course, the total number of hours completed and the date the course was completed. The training shall contain the following five core competencies:

(i)

cultural knowledge and learnings in perinatal care.

(ii)

foundations on anatomy and physiology of pregnancy and childbirth and postpartum.

(iii)

nonmedical comfort measures, support, and labor support techniques.

(iv)

lactation support.

(v)

developing a community resource list.

(b)

An attestation that the applicant has provided support to three clients in the capacity of a doula in either

paid or voluntary capacity, which shall include the three dates of doula service and a description of the type of doula service provided.

(3)

Experience pathway: This pathway is for applicants who have at least two years of experience providing doula services without formal doula program training but who have acquired experience through community-based learning or mentorship. The applicant shall submit:

(a)

An attestation that they have provided support to three clients in the capacity of a doula in either paid or voluntary capacity, which shall include an explanation of the type of doula service provided.

(b)

Three letters of recommendation using department-provided templates at <https://www.nmhealth.org/about/phd/fhb/mch/doula/> from among the following:

(i)

a licensed provider (physician, licensed behavioral health provider, nurse practitioner, nurse midwife or licensed midwife);

(ii)

a credentialed doula;

(iii)

a community organization;

(iv)

a former doula client; and

(v)

a community elder.

F. Approval of

training programs: The department may review and approve doula training programs that meet the minimum curriculum requirements and competency standards established by the department as identified in this rule.

(1)

The curriculum requirements for doula training programs shall include a minimum of 15 hours from among the following topics:

(a)

maternal and infant health concepts and approaches, including:

(i)

provision of perinatal support services

from first trimester to 12 months postpartum; and

(ii)

provision of emotional and social support, including navigating pregnancy loss;

(b)

lactation anticipatory guidance and support;

(c)

service coordination and health system navigation, including:

(i)

provision of in-home prenatal and postpartum care support;

(ii)

assessment of psychosocial and health needs, including perinatal mood and anxiety disorders (PMADs) screening;

(iii)

goal setting and prioritization of psychosocial and health needs;

(iv)

antepartum (high-risk) maternal care support;

(v)

labor support;

(vi)

education and referrals for developmental screenings; and

(vii)

resource navigation for wraparound services (i.e., intimate partner violence, domestic violence, oral health, family planning).

(d)

health promotion and prevention, including:

(i)

provision of perinatal health education;

(ii)

provision of newborn parenting education;

(iii)

provision of wellness and self-care coaching;

(e)

advocacy, outreach and engagement, including:

(i)

serving as an advocate for respectful maternal care;

(ii)

intentional reflection of the community served;

(iii)

care coordination and social service navigation;

(iv)

provision of reproductive rights education, informed choice and decision-making, and birth planning; and

(v)

child abuse and neglect mandatory reporting.

(f)

communication skills, including:

(i)

respectful, client-centered maternal care;

(ii)

active listening;

(iii)

navigating patient families, medical support staff, and other support systems; and

(iv)

responding to challenges.

(g)

cultural humility and responsiveness, including:

(i)

intersectionality and cultural humility, including language access;

(ii)

health literacy;

(iii)

trauma-informed care;

(h)

ethical responsibilities and professionalism, including:

(i)

code of ethics, standards of practice, and HIPAA;

(ii)

required charting and documentation; and

(iii)

serving as an accountability partner.

(2) Persons

or entities who wish to be approved by the department of health as a doula training program shall submit a completed application form and application packet to the department for review and approval. An approved training program shall submit a new application form and packet to the department for review and re-approval whenever substantive changes are made to the curriculum or program scope.

(a)

All application packet materials shall be submitted to the department

in a three-ring binder or electronic packet. Binders or electronic packets shall be organized to include a table of contents, a labeled divider or cover sheet for each application part, and such other content as required by this rule and the training approval application form. Application packets shall be submitted in the manner identified on the application form. Applicants are advised to retain a complete copy of the application materials for their records. Application materials for doula training program approval shall include the following:

(i) overview of training, to include, at a minimum, contact information, name of sponsoring organization, physical and mailing address, organization telephone and fax numbers, website address, organization type, and non-profit status;

(ii) training information, to include, at a minimum, the training title, description, and focus; target audience; plan for recruitment; eligibility, application, and registration criteria for participants; anticipated cost and available support; training location, format, instructional hours, and frequency; training language; a sample attendance record; information concerning training, approach, development, and delivery; involvement of doulas in training; evaluation method(s); and organizational experience in providing trainings previously, to include information concerning individual trainings and any core competencies addressed;

(iii) instructor and trainer information, to include, at a minimum, names, job titles, telephone and fax numbers, e-mail addresses; education and work experience; doula supervision history; training experience; the doula core competencies in which the applicant provides training; specialty knowledge and skills; and training delivery methods; and

(iv) designee signature.

(3) Determination of equivalency. The department may determine whether a training program, curriculum, or educational experience is substantially equivalent to an approved doula training program listed in this rule and at <https://www.nmhealth.org/about/phd/fhb/mch/doula/>.

(4) Evaluation criteria. In determining approval or equivalency of a training program, the department may consider factors including but not limited to:

(a) curriculum content and instructional hours;

(b) demonstration of core doula competencies;

(c) instructor qualifications;

(d) evaluation or competency verification methods; and

(e) alignment with nationally recognized doula practice standards.

(5) The department may approve, deny, suspend, or revoke approval of training programs that do not meet the standards established by the department identified in this rule.

G. While engaging in practice as a credentialed doula, an individual shall not engage in or perform any act or service for which another professional certificate, license or other legal authority is required. Nothing in this section shall be construed to prevent or restrict the practice, service or activities of an individual simultaneously credentialed as a credentialed doula and licensed, certified, registered or otherwise legally authorized in the state to engage in the practice of another profession if that individual does not, while engaged in the authorized practice of another profession, use any name, title or other designation indicating that the individual is a credentialed doula. [7.30.16.9 NMAC - N, 10/06/2026]

7.30.16.10 Doula scope of practice: The following is the

scope of practice for New Mexico department of health credentialed doulas. A doula operating under this scope of practice shall perform services in accordance with their authorized non-clinical role and within the limitations established herein. A credentialed doula shall defer to the clinical judgment and direction of a licensed medical professional in matters involving medical necessity, client safety, and clinical care.

A Services rendered:

(1) Credentialed doulas shall provide non-clinical prenatal, labor, or postpartum support including physical comfort measures, emotional support, and evidence-based education, and shall assist clients with linkages to community-based resources.

(2) Credentialed doulas may provide support related to pre-conception, pregnancy loss, infant loss, and termination of pregnancy. Doulas may utilize supportive modalities, including but not limited to childbirth education, comfort techniques, relaxation strategies and similar non-clinical methods intended to support the client's health and wellbeing, provided such practices are consistent with the doula's training and experience, and the scope of practice of the doula's training and experience organization or mentorship program.

B. Limits to practice:

The scope of practice for credentialed doulas is limited to emotional, physical, and informational support. Credentialed doulas shall not represent themselves as providing medical care. A credentialed doula shall not perform clinical or medical tasks including but not limited to:

- (1) taking blood pressure or temperature;
- (2) fetal heart tone monitoring;
- (3) vaginal examinations;
- (4) clinical postpartum care; and
- (5) medical diagnosis or treatment.

C. Advocacy:
(1) The doula supports and encourages the client to express their preferences, ask questions of their care provider, and participate in informed decision-making regarding their care.

(2) The doula may assist the client in communicating their birth plan and preferences and may support the client in adapting to changes in care when necessary.

(3) The advocacy role of the doula does not include speaking on behalf of the client without consent or making medical or personal decisions for the client.

D. Referrals: When client needs fall outside the scope of doula training or practice, the doula shall refer the client to appropriate health care providers, community resources, or support services.

E. Record keeping: Credentialed doulas shall maintain clear and accurate records of services provided to each client, in accordance with the following:

(1) Records shall be maintained for at least ten years. A credentialed doula shall retain all client records of minors for at least ten years, or at least one year after the person reaches the age of majority, whichever period of time is greater. All client records are subject to inspection by the bureau and shall be maintained so that they are reasonably accessible.

(2) Records shall be maintained consistent with New Mexico Administrative Code 8.302.1.17 NMAC - "Record keeping and documentation requirements".

F. Confidentiality:
(1) A doula shall maintain the confidentiality of client information obtained in the course of practice. Client information shall only be accessed, used, or disclosed for purposes of providing services or fulfilling program responsibilities, unless the client provides written or documented consent for disclosure.

(2) Confidential information shall not be shared through social media, text messaging, email, or other communication methods unless appropriate consent and privacy safeguards are in place.

G. Mandated reporting: Credentialed doulas shall comply with all applicable mandated reporting requirements under New Mexico Statutes Section 32A-4-3 NMSA 1978 - Duty to report child abuse and neglect.
 [7.30.16.10 NMAC - N, 10/06/2026]

7.30.16.11 Doula standards of practice: All credentialed doulas shall adhere to standards of professional conduct, client safety, ethical practice, body sovereignty and self-determination, and community-based care while providing doula services.

A. Professional conduct: A credentialed doula shall maintain professional conduct and accountability while providing services. This includes but is not limited to:

(1) practicing in an ethical manner consistent with professional standards established by the doula's training organization, mentorship program, or other recognized professional body;

(2) accurately representing services, policies, and practices to clients;

(3) providing a copy of the written contract to the client;

(4) interacting with clients in a manner that respects the integrity and dignity of both the client and the doula;

(5) encouraging participation, communication, and feedback from the client; and

(6) maintaining respectful and professional relationships with other health care providers and professionals.

B. Client safety: A credentialed doula shall promote and protect client safety while providing services. A doula shall:

(1) maintain truthful and accurate records and shall not falsify client documentation;

(2) take reasonable steps to promote a safe environment for clients, including awareness of suspected abuse or neglect in accordance with applicable law;

(3) establish and maintain appropriate professional boundaries with clients;

(4) refrain from conduct that may cause physical, verbal, mental, or emotional harm to a client;

(5) refrain from being present at a birth without a medical professional in attendance;

(6) refrain from exploiting clients for financial or personal gain or misappropriating client property;

(7) refrain from sexual conduct, sexually suggestive behavior, or sexually demeaning language toward a client;

(8) treat each client with courtesy, respect, dignity, and recognition of individuality; and

(9) provide reasonable privacy for clients during the provision of doula services.

C. Ethical practice: A credentialed doula shall adhere to ethical standards in the provision of services. A credentialed doula shall:

(1) conduct themselves in a respectful and appropriate manner toward clients and families;

(2) support the client's decision-making without making decisions on behalf of the client; and

(3) refrain from providing medical advice or performing medical or clinical procedures.

D. Body sovereignty and self-determination: A credentialed doula shall promote and respect the client's autonomy and right to self-determination. A credentialed doula shall:

(1) support the rights of individuals to bodily autonomy and informed decision-making;

(2) respect the dignity, individuality, and diversity of each client;

(3) demonstrate cultural humility and cultural safety in the provision of services; and

(4) support shared decision-making within the context of the client's family, community, and health care setting.

E. Community-based care: A credentialed doula shall support community-centered and culturally responsive care. A credentialed doula shall:

(1) recognize that health and care experiences are influenced by social, cultural, legal, economic, historical, and community factors;

(2) engage collaboratively with clients, communities, and health professionals to support positive health outcomes;

(3) encourage the involvement of support persons as appropriate to the client's wishes.
[7.30.16.11 NMAC - N, 10/06/2026]

7.30.16.12 APPLICATION PROCESS:

A. Credentialing requirements: A doula shall be credentialed by the department prior to enrolling as a medicaid provider with the authority. A doula credential is not transferable, and the initial application credential will be approved for two years.

B. Initial application:

(1) An applicant may submit applications to the department office located in Santa Fe, through the department approved website, by fax or mail.

(2) All applicants for initial credential in New Mexico shall submit to the department a completed application in a form specified by the department to include verification that applicant has met the eligibility requirements in this rule.

C. Completed application: The department considers an application complete when it includes all required

information on the prescribed form, and all required supporting documentation necessary for the department to review, process, and make a disposition on the application.

D. Application date:

The department considers the date the department receives a fully completed application as the application date. The department shall use the application date to establish timelines for any required administrative actions by the applicant or the department.

E. Incomplete application: An application submitted to the department that lacks required information, documentation, or supporting materials necessary for the department to review, process, or make a determination regarding the application is considered incomplete. An incomplete application shall not be processed until all required information and documentation are received by the department. The department may notify the applicant of the deficiency and request submission of the missing information within a timeframe established by the department. Failure to provide the requested information may result in denial or administrative closure of the application.

F. Recredential application: When a doula's credential period expires, their credential to participate as a doula provider with medicaid ends unless they recredential. Timely applications for recredential, defined as those received by the fifth day of the month of credential expiration, will be approved or denied before the end of the month of expiration date. An approved application will be recredentialed for two years beginning the month after the current recredential date.

(1) An applicant for recredential shall submit to the department a completed application in a form specified by the department to include verification that applicant has met the eligibility requirements identified in this rule, and current certificates in CPR and HIPAA training dated within three

months of the date of recredential application submission.

(2) Documentation shall be submitted with the application verifying that the applicant has completed the following CE requirements within two years of the date of recredential application submission:

(a) 12 hours shall be completed in primary CE topics below with a minimum of three hours in each topic:

(i) maternal mental health;

(ii) prenatal and postpartum care for individuals experiencing substance use disorders;

(iii) lactation support; and

(iv) cultural humility in reproductive health

(b) 12 hours shall be completed in secondary CE topics; below are examples of secondary CE topics applicable to the doula practice:

(i) perinatal care for indigenous families;

(ii) perinatal nutrition or gestational diabetes;

(iii) support for special birth circumstances;

(iv) perinatal care for families from various backgrounds;

(v) trauma informed care;

(vi) grief and loss;

(vii) postpartum care and recovery;

(viii) maternal morbidity and mortality;

(ix) fertility and preconception; and

(x) support for pregnancy termination.

(3) Continuing education program approval:

(a) The department approves doula continuing education programs and activities that meet specific criteria.

Doulas who complete approved programs or activities may then receive credits towards meeting the CE requirement for credential renewal. Department-approved programs or activities include but are not limited to CE programs or activities that satisfy continuing education requirements for licensed lactation professionals, midwives, and nurses in New Mexico. Doulas may also submit materials such as agendas or syllabi from other CE programs or activities for CE credit. To be approved by the department for CE credit, a proposed CE program or activity shall contain curricular, practical or clinical content primarily related to one or more of the required topics identified in this rule. The following programs and activities are illustrative of the types of continuing education programs and activities which may be approved by the department if they otherwise satisfy the requirements identified in this rule:

(i) attendance at or participation in meetings, conferences, workshops, seminars, or courses, including those sponsored or presented by the department, with topics relevant to health equity;

(ii) completion of academic courses related to specific knowledge or skills required for practicing as a birth worker at an accredited postsecondary, graduate, or postgraduate education institution; and

(iii) internet-based learning programs.

(b) A CE provider may seek department approval of a CE program or activity by submitting a completed CE application. Applications must be received at least four weeks prior to the program start date; applications received after that date will not be reviewed or approved.

(c) A CE provider's application for approval of a CE program or activity shall satisfy the following criteria:

the CE provider has responsibility for and control over all aspects of the CE program(s) sufficient to ensure that educational objectives and standards are met;

(ii) the CE provider has in place a system for selection and supervision of qualified instructors;

(iii) the CE provider has in place a system for evaluation of each approved program by program participants;

(iv) program presenters, instructors, or trainers are credentialed doulas who have at least three years of working experience, or if they are not credentialed doulas, have demonstrated subject matter expertise and experience related to health equity, doula work, birth, or perinatal care.

(v) any research referenced in the training shall be based on current empirical research and known best practices;

(vi) the program or activity has in place a system for documenting participants' attendance or assessing participants' knowledge or skills gained from the CE.

(d) Retention of approved program materials by providers: It is the responsibility of the continuing education provider to maintain CE program information as well as attendance records for all participants, and to issue certificates of completion of each approved program. Such records should be retained for a minimum of three years from the date of the program and be made available to participants upon request. CE providers are not required to submit attendance sheets to the department.

(e) Evaluations: The CE provider shall collect program evaluations from participants. Evaluations are for the provider's records only; however, if the program is more than three CE credits, an evaluation review (no more than one page) shall be submitted to the department within one month of the date that the program is held.

(f) Internet-based learning: For internet-based learning programs, contact hours are determined on content, time to review the content, and an appropriate number of test questions that reflect whether the learning objectives have been met. Post-test on all distance learning products with a passing score of not less than seventy percent is required.

(g) Credit hour determination: One continuing education hour equals one clock-hour of instruction. Breaks, lunches, introductions, and social events do not count toward CEs.

(h) Department approval of a CE program is valid for two years.

(4) The department shall provide to a credentialed doula notice of expiration ninety days before the first day of the last month of the credentialed period.

(5) A doula who fails to submit the recredential application by the recredential expiration date shall lose their credential and be required to submit a new application.

G. Reinstatement of credential: A lapsed credential occurs on the first day of the month following the expiration date of the current credential.

(1) A credential may be reinstated if the applicant completes all required documents for recredentialing before the last day of the credential month.

(2) A credential may also be reinstated if the department has requested additional documentation and the applicant provides all required documents/ information within the time frame set by the department.

(3) Credential will be reinstated with original credential number and recredential month.

(4) Applications missing requirements are considered incomplete and will not be reinstated.

H. Change of address or other contact information: A

credentialed doula shall submit a change of any contact information to the department office located in Santa Fe, through the department approved website, by fax or mail within 30 days of the change; failure to update information within this time frame may result in delay or termination of credential.

[7.30.16.12 NMAC - N, 10/06/2026]

7.30.16.13 APPLICATION PROCESSING TIME LIMITS:

A. New application:

The department shall complete review and make a determination on an application within 30 calendar days of receipt of the completed application.

B. Recredential application: The department shall review and make a determination on a timely submitted and complete recredential application before the credential expires.

C. Reinstatement:

The department shall review and make a determination on a complete recredential application received after the fifth day but prior to credential expiration at the end of the following month. A credential may be reinstated after the credential expiration date, if the credentialed doula provides all required documentation within the timeframe outlined by the department. Failure to provide a complete recredential application will automatically terminate the credential, and a notice will be sent to the applicant and to the authority.

[7.30.16.13 NMAC - N, 10/06/2026]

7.30.16.14 CRIMINAL HISTORY SCREENING:

A. Criminal records; fingerprinting: The department shall require fingerprinting of applicants for the purposes of this section and as determined by the department, consistent with applicable statutory authority.

B. Procedure:

(1) Upon conditional approval of an application for credential or recredential, the department shall require the applicant to submit a request to DPS or a DPS vendor for a current state and national criminal history screening.

(2) The department shall provide applicants with the department's originating agency identification (ORI) number or other department identifier for the purposes of criminal history screening.

(3)

Applicant shall provide to DPS or a DPS vendor a background check request, fingerprints, and supporting documentation including an authorization for release of information to the department in accordance with DPS or the designated vendor's procedures.

The results of the criminal history screening shall be received by the department before a credential or recredential can be issued.

(4)

DPS or the designated DPS vendor shall review state records and also transmit the fingerprints to the FBI for a national screening. The results of the screening shall be made available to the department for review.

(5)

The department shall make a determination whether the applicant has been convicted of a felony that bears upon the applicant's fitness to provide services.

(6)

Applicant shall bear any costs associated with ordering or conducting criminal history screening. Fees are determined by and payable to DPS or the designated DPS vendor. Fees cannot be waived by the department.

(7)

The department shall comply with applicable confidentiality requirements regarding the maintenance, dissemination, and destruction of criminal background check information.

(8)

For applicants with no criminal history, or with no history of felony convictions, the department shall issue a credential or recredential in accordance with this rule if all other requirements for credential or recredential have been satisfied.

C. Committee review of criminal history screening results:

(1) The credential review committee established pursuant to this rule shall conduct an individualized review of applications with an associated history of felony convictions that could reasonably bear upon the applicant's fitness to provide services and shall determine whether to pursue action against a credential by a majority vote. Committee members shall meet any applicable requirements regarding individuals who handle criminal history information.

(2)

The committee may request that applicants provide additional information in writing in order to make a final determination of credential, such as evidence of acquittal, dismissal, conviction of a lesser included crime or rehabilitation.

(3)

The provisions of the Criminal Offender Employment Act, Section 28-2-1 through 28-2-6 NMSA 1978 shall govern any consideration of criminal records required or permitted by the Doula Credentialing and Access Act. The following factors may also be considered in order to make a final determination on credential:

(a)

total number of felony convictions and types of crimes;

(b)

time elapsed since last conviction or since discharge of sentence;

(c)

circumstances of the crime including but not limited to whether violence was involved;

(d)

activities evidencing rehabilitation, including but not limited to substance abuse or other rehabilitation programs;

(e)

false or misleading statements in the application; and

(f)

relation of crimes to the scope of practice.

(4)

For the purposes of this section and pursuant to the Criminal Offender Employment Act, Section 28-2-4 NMSA 1978:

(a) if an applicant has been convicted of a felony, and the conviction does not directly relate to the scope of practice, there is a presumption of sufficient rehabilitation if the applicant has completed probation or parole supervision or a period of three years has lapsed after final discharge or release from any term of imprisonment without subsequent conviction; and

(b) if an applicant has been convicted of a felony, and the conviction directly relates to the scope of practice, then the burden is on the applicant to prove by a preponderance of the evidence that he or she has been sufficiently rehabilitated.

(5) Applicants shall be notified in writing of the decision to pursue action against a credential based on the results of a criminal history review, including a statement of the grounds or subject upon which the action is based.

(6) An applicant whose credential or recredential is denied, suspended or revoked based on information obtained in a criminal history background check, shall be entitled to review the information obtained and to appeal the decision pursuant to the procedure in accordance with this rule.

[7.30.16.14 NMAC - N, 06/18/2027]

7.30.16.15 DOULA CREDENTIALING ADVISORY COUNCIL:

A. Advisory council membership:

(1) the secretary of the department or the secretary's designee, who shall serve as chair of the council;

(2) the secretary of the health care authority or the secretary's designee;

(3) the secretary of early childhood education and care or the secretary's designee; and

(4) twelve members appointed by the secretary of the department from diverse

linguistic and cultural backgrounds and varied geographic regions, at least eight of whom shall be doulas;

(5) the department will work towards assuring underrepresented, marginalized and underserved communities are represented in the councils. However, if such groups are not able to be represented due to lack of qualified application, the department will make decision to best fit the purpose of the council;

(6) members from underserved communities with experience advocating for or providing or receiving services relating to promoting positive pregnancy-related health outcomes;

(7) members may receive reimbursement as provided for in the per Diem and Mileage Act, Section 10-8-1 *et seq.* NMSA 1978 and shall receive no other compensation, perquisite or allowance. However, reimbursement is dependent upon availability of funds;

(8) non-designated members of the council shall serve a term of three years and shall not serve consecutive terms and shall have at least one-calendar year break-in between terms in any capacity;

(9) the designated members appointed by the secretary shall initially serve a three-year term. Each member shall hold office until his or her successor is appointed.

B. Meetings:

Appointed members shall convene at least once per quarter at the call of the department and as frequently as reasonably necessary to review and make recommendations regarding the doula training, education, workforce development plan and information collection.

(1) Meetings shall be conducted in accordance with the Open Meetings Act, Section 10-15-1 through 10-15-4 NMSA 1978. A simple majority of the members of the council shall constitute a quorum for the purpose of transacting official business.

(2) Members are required to attend at least seventy-five percent of the council meetings.

(3) The department shall arrange and record attendance and meeting notes.

(4) The department shall take the lead for recommendation of council members removal for non-participation or any other good cause.

C. Duties and responsibilities:

The doula credentialing advisory council's duties shall include making recommendations to the secretary on the following matters:

(1) Developing standards and requirements for minimal levels of education, training and experience for credentialing;

(2) Developing standards and requirements for approval or acceptance of continuing education courses and programs that the secretary may require for the recredential of a credential;

(3) Reviewing the materials approved for training and education to ensure that they include practices for providing culturally and linguistically appropriate services to address the needs of underserved communities;

(4) Creating a workforce development plan to support the establishment and growth of the credentialed doula workforce, with a focus on practices that promote diversity and equitable access to the credentialing process; and

(5) Developing methods for collecting information regarding the provision of services by credentialed doulas and the pregnancy-and postpartum-related health outcomes of eligible persons.

[7.30.16.15 NMAC - N, 10/06/2026]

7.30.16.16 NEW MEXICO REGISTRY OF CREDENTIALLED DOULAS:

The New Mexico registry of credentialed doulas shall be maintained at the department. The registry shall contain the name, credential number, credential status, and geographic location of the CD.

Registry information is subject to public inspection.
[7.30.16.16 NMAC - N, 10/06/2026]

7.30.16.17 CREDENTIAL REVIEW COMMITTEE:

A. A credential review committee is hereby established:

(1) The committee shall be composed of five employees of the department's public health division, including the director of the center for healthy and safe communities, family health bureau chief and the maternal health program manager.

(2) The committee shall conduct an individualized review of the grounds for action against a credential and shall determine whether to pursue action against a credential by a majority vote.

(3) A credential may be denied, suspended or revoked, or may be subject to any lesser action, including but not limited to reprimand or probation.

(4) If a credential is denied, suspended or revoked due to disciplinary action, re-application will only be considered after the denial, suspension or revocation period has been completed, and the re-application shall be accompanied by a demonstration of rehabilitation and a full disclosure and complete record of previous action.

(5) To ensure compliance with the provisions of the Doula Credentialing and Access Act or any rule that the secretary has adopted and promulgated pursuant to that act, the department may issue cease-and-desist orders to persons who violate the provisions of the Doula Credentialing and Access Act.

B. Grounds for action against a credential:

(1) Conviction of a felony that bears upon the applicant's fitness to provide services.

(2) Fraud, deceit, or misrepresentation during the credential application process.

(3) Failure to possess and apply the knowledge, skill or care that is ordinarily

possessed and exercised by a credentialed doula or as defined by the core competencies.

(4) Failure to meet the standard of care as defined by the department.

(5) Failure to meet the scope of practice as defined by the department.

(6) Unprofessional conduct, which includes but is not limited to:

(a) verbally or physically abusing a client;

(b) unauthorized practice or practice which is beyond the defined scope of practice for credentialed doulas, including unauthorized use of the credentialed doula designation;

(c) unauthorized disclosure of medical or other confidential information;

(d) obtaining or attempting to obtain any fee for client services for oneself or for another through fraud, misrepresentation or deceit;

(e) false or misleading statements in any contract with a client; or

(f) physical or mental incapacity which could result or has resulted in performance of a credentialed doula's duties in a manner which endangers or could endanger the health and safety of others.

C. Committee review of grounds for action:

(1) The committee shall conduct an individualized review of the grounds for action against a credentialed doula or applicant and shall determine whether to pursue action against a credential by a majority vote.

(2) The committee may request that applicants provide additional information in writing in order to make a final determination of credential.

(3) Applicants shall be notified in writing of the decision to pursue action against a credential based on the results of the committee's review, including a

statement of the grounds or subject upon which the proposed action is based.

(4) An applicant whose credential or recredential is denied, suspended or revoked shall be entitled to review the information obtained and to appeal the decision pursuant to the procedure in accordance with this rule.

D. An applicant who is subjected to an action against a credential other than denial, suspension, or revocation may, upon good cause, submit a verbal or written request to the credential review committee for a secondary review. Requests for review must be submitted within 10 working days of the original decision to take action against a credential. All decisions by the committee after a secondary review are considered final and are not subject to appeal within the department.

[7.30.16.17 NMAC - N, 10/06/2026]

7.30.16.18 HEARINGS:

A. Right to appeal:

A credentialed doula or applicant for credential may appeal a decision by the department to deny, suspend, revoke, or take other adverse action against a credential, by requesting a hearing by mailing a certified return receipt letter to the address provided in the notice of action within 20 days after service of notice. A doula training program provider or CE provider may appeal a decision by the department to deny the program's application for approval of the training program or CE program, or to suspend or revoke a prior approval of such an application, by requesting a hearing by mailing a certified return receipt letter to the address provided in the notice of action within 20 days after service of notice.

B. Notice: The department shall serve upon the affected person or entity written notice describing the contemplated action against a credential, training program, or CE program and a statement of the grounds or subject upon which the action is based and instructions for requesting a hearing.

C. Notice of hearing:

Upon receipt of a timely request for a hearing, the department shall appoint a hearing officer and schedule a hearing within 60 working days of receipt of the request. Hearings will be held in Santa Fe, New Mexico.

(1) Either

party may request a continuance at least 10 days prior to the scheduled hearing, to be approved or denied by the hearing officer.

(2) If an

affected person or entity fails to appear after requesting a hearing, the hearing officer may proceed to consider the matter and render a report and recommendation.

(3) If no

request for a hearing is made in the time and manner specified, the committee shall take the action against the credential, training program, or CE program and such action shall be final.

D. Hearing officer

duties: The hearing officer shall preside over the hearing, administer oaths, take evidence and decide evidentiary objections and rule on any motions or other matters that arise prior to the hearing. A motion for a virtual hearing may be made by either party with appropriate advanced notice and good cause shown.

E. Admissible

evidence: The hearing officer may admit evidence and may give probative effect to evidence that is of a kind commonly relied on by reasonably prudent persons in the conduct of serious affairs. Rules of evidence shall not apply but may be considered in determining the weight to be given to any item of evidence. Action against a credential, training program or CE program must not be based solely on hearsay evidence.

F. Discovery:

Any party is entitled to obtain the names and addresses of witnesses who will or may be called by the other party to testify and to inspect and copy any documents or items which the other party will or may introduce in evidence at the hearing. Additional discovery may be ordered at the hearing officer's discretion.

G. Burden of proof:

When the action against a credential is not based on a review of the applicant's criminal history report, the department has the burden of proving by a preponderance of the evidence the basis for the action.

H. Conduct of

hearing: Hearings shall be open to the public but may be closed at either party's request, at the discretion of the hearing officer. The hearing officer shall state on the record the reasons for holding a closed hearing.

I. Legal

representation: An individual or entity entitled to a hearing under this rule shall have the right to be represented by an attorney licensed to practice in New Mexico or by a member of his or her profession or occupation, or both.

J. Hearing

officer written report and recommendation(s): The hearing officer shall issue a report and recommend findings to the secretary or their designee within 30 working days of the final submission in the case.

K. Decision of the

department: The secretary or their designee shall render a final determination in writing, including the basis for the decision, within 30 calendar days of the submission of the hearing officer's written report. A copy of the final decision shall be mailed to the applicant by credentialed mail, return receipt requested to the most current address provided by the applicant. It is the responsibility of the applicant to provide current contact information to the program.

L. Reinstatement of a suspended or revoked credential:**(1)** Requests

for reinstatement for a revoked credential shall not be considered by the department prior to the expiration of three years from the date of the revocation indicated in the department's final decision. Requests for reinstatement of a suspended credential shall not be considered by the department prior to the expiration of one year from the

date of the suspension indicated in the department's final decision.

(2) Individuals

who request reinstatement of their credential shall provide the department with substantial evidence to support their request in the form of notarized written reports or sworn statements from individuals who have personal knowledge of the individual's activities and progress during the time that the credential is suspended or revoked.

(3)

Reinstatement of a suspended or revoked credential requires proof of meeting the recredential requirements as set forth in this rule.

(4)

If reinstatement of a suspended or revoked credential is denied, individuals have a right to appeal in accordance with the hearing procedures set forth in this rule. [7.30.16.18 NMAC - N, 10/06/2026]

7.30.16.19 DATA COLLECTION AND REPORTS:**A.** The authority

shall provide data to the department consistent with the Doula Credentialing and Access Act, Section 24-36-6 NMSA 1978, collaboration information sharing and reporting.

B. The department

shall receive and compile the report and submit it annually to the governor and the legislature. All demographic information will be reported in a disaggregated, non-personal identifying manner. [7.30.16.19 NMAC - N, 10/06/2026]

7.30.16.20 INSPECTION OF RECORDS:

The following records are not subject to public inspection, and shall be maintained in a confidential manner:

A. Health information protected by state and federal laws.**B.** Materials

associated with reviews conducted by the credential review committee, including but not limited to criminal history information.

C. Protected personal identifier information, as that term is used in the Inspection of Public Records

Act at Section 14-2-1.1 NMSA 1978, that are contained in an application, including all but the last four digits of a

date of birth and social security numbers.

[7.30.16.20 NMAC- N, 10/06/2026]

History of 7.30.16 NMAC -
[RESERVED]

STATE PERSONNEL OFFICE

This is an amendment to 1.7.1 NMAC, Sections 7, 8, and 12 effective 10/6/2026.

1.7.1.7 DEFINITIONS:

A. “Anniversary date” means the date of hire or reemployment and is changed as of the date of promotion, demotion, reduction, or transfer. The assignment of an employee to a new classification which best represents the job performed by the employee does not affect the employee’s anniversary date. The State personnel office (SPO) director shall resolve disputes over how an anniversary date is derived.

B. “Applicant” means any person, who has applied for a position in the classified service.

C. “Appointment” means the assumption of job duties by a candidate who was offered and then accepted a classified position in a state agency.

D. “Audit” means an examination or inspection of an agency’s personnel and human resources functions and activities, including but not limited to personnel transactions, recruitment, leave administration, collective bargaining agreement administration, and completion of personnel evaluations.

E. “Break in employment” means any period of time of at least one workday of not being in the classified service.

F. “Candidate” means any applicant who is on the employment list for a position.

G. “Classified service” means all positions in the executive branch of state government which are not exempt by law.

H. “Classification” means a job that is occupationally and quantifiably distinct.

I. “Compa-ratio” means pay expressed as a percentage of the midpoint of a pay band.

J. “Demotion” means an involuntary downward change for disciplinary reasons with a reduction in pay within an employee’s pay band or from a classified position in one pay band to a classified position in a lower pay band with a reduction in pay, and/or removal of supervisory responsibilities and pay for disciplinary reasons.

K. “Disciplinary action” means any action taken by an agency to influence change in an employee’s performance or behavior to the expected standard, including suspensions, demotions and dismissals.

L. “Dismissal” means the involuntary separation from employment.

M. “Diversity in the workplace” means an acknowledgment of all people in the workplace equally, regardless of their differences. Agencies’ management of diversity will ensure that efforts are made to adapt to and accept the importance of all individuals who fall within a group identified for protection under equal employment laws and regulations.

N. “Domestic partner” means two individuals who have shared a common, primary residence for at least 12 consecutive months, sign an affidavit of domestic partnership, and meet all of the following criteria:

(1) Both domestic partners must be unmarried.

(2) Domestic partners must have been in a mutually exclusive relationship, intending to do so indefinitely, and the relationship is

similar to a marriage relationship in the state of New Mexico.

(3)

Domestic partners must meet the age requirements for marriage in New Mexico (18 years of age) and be mentally competent to consent to contract.

(4)

Domestic partners must not be related by blood to the degree prohibited in a legal marriage in the state of New Mexico.

(5)

Domestic partners must be jointly responsible for the common welfare of each other and share financial obligations.

(6)

Domestic partner must not be a member of another domestic partnership; nor have been so during the past 12 months. If domestic partnership dissolves and the same two people want to become partners again, they must once again meet the 12-month requirements.

(7)

Domestic partners must provide proof of one of the following: joint mortgage or lease; joint ownership of a motor vehicle; joint bank account; joint credit account; domestic partner named as beneficiary of life insurance; domestic partner named as beneficiary of retirement benefits; domestic partner named as primary beneficiary in the employee’s will; domestic partner assigned durable property or health care power of attorney; or documentation of sharing of household expenses by both partners.

O. “Employment list” means the list of names of candidates referred to a hiring manager by the agency’s human resources, from which a candidate may be selected for an interview, and from which a candidate may be selected for appointment.

P. “Employment records” means documents that contain information related to a person’s employment or application for employment.

Q. “Examination” means assessment of qualifications, knowledge, skills, and abilities of an applicant.

R. “Exempt service”

means all positions in the executive branch of state government exempt from the classified service by law.

S. “Filed” means received by the office.

T. “Involuntary separation” means involuntary removal of an employee from the classified service without prejudice as provided for in 1.7.10.13 NMAC.

U. “Line authority” means the assignment of activities or approval authority by the SPO director to state personnel office staff or an agency in a manner that does not relinquish the SPO director’s administrative oversight or authority.

V. “Manager” means an employee in a position that manages internal staff or external staff, or who plans, organizes, integrates, coordinates, and controls the activities of others. A manager also is held accountable for the performance of people, services, systems, programs, projects and resources and can change their direction, objectives and assignments to meet performance and business needs.

W. “Midpoint” means the salary midway between the minimum and maximum pay rates of a pay band for positions in the classified service. Midpoint represents a compa-ratio value of 1.00 or one hundred percent.

X. “Minimum qualifications” means requirements approved by the board that must be met to be considered for a position.

Y. “Office” means the State Personnel Office.

Z. “Pay band” means the range of pay rates, from minimum to maximum.

AA. “Promotion” means the change of an employee from a classified position in one pay band to a classified position in a higher pay band.

BB. “Reduction” means a voluntary change without prejudice, within an employee’s pay band, or from a classified position in one pay band to a classified position in a lower pay band.

CC. “Relation by blood or marriage within the third degree”

includes spouse, domestic partner, parent, mother-in-law, father-in-law, step-parent, children, domestic partner children, son-in-law, daughter-in-law, step-child, brother, step-brother, brother-in-law, sister, step-sister, sister-in-law, grandparent, grandchild, uncle, aunt, nephew, niece, great-grandchild, and great-grandparent.

DD. “Resignation” means the voluntary separation of an employee from the classified service.

EE. “Rules” means the rules and regulations of the personnel board.

FF. “Service of Notice” shall be complete on the date the notice is mailed via certified mail to the address of record, delivered to a courier for delivery to the address of record, or hand delivered.

GG. “Signature” means handwritten or electronic signature(s), provided that the mechanism for electronic signatures is approved for use by the SPO director, provides for authentication, and otherwise complies with the Uniform Electronic Transactions Act, Sections 14-16-1 to 21 NMSA 1978.

HH. “Status” means all of the rights and privileges of an appointment.

II. “Supervisor” means an employee in a non-manager classification who devotes a substantial amount of work time to supervisory duties, regularly directs the work of other employees and has the authority in the interest of the employer to hire, promote, evaluate the performance of, or discipline other employees or to recommend such actions effectively, but does not include an individual who performs merely routine, incidental or clerical duties, or who occasionally assumes supervisory or directory roles or whose duties are substantially similar to those of subordinates, and does not include lead employees, employees who participate in peer review or occasional employee evaluation programs.

JJ. “Suspension”

means an involuntary leave of absence without pay for disciplinary reasons for a period not to exceed 30 calendar days.

KK. “Transfer” means the movement of an employee from one position to another in the same pay band without a break in employment.

LL. “Without prejudice” means a declaration that no rights or privileges of the employee concerned are waived or lost except as may be expressly conceded or decided.

MM. “Writing or written” means in the written form and/or an alternative format, where deemed appropriate, and when requested, including electronic records that comply with the Uniform Electronic Transactions Act, Sections 14-16-1 to 21 NMSA 1978. [1.7.1.7 NMAC - Rp, 1 NMAC 7.1.7, 1/1/2020; A, 1/14/2025; A, 10/6/2026]

1.7.1.8 APPROVAL AUTHORITY:

A. Pursuant to the provision of Subsection A of Section 10-9-12 NMSA 1978, the SPO director shall supervise all administrative and technical personnel activities of the state classified service. The SPO director may audit the administrative and technical personnel activities of the state. The SPO director shall submit any findings of non-compliance with these rules to the board.

B. If it is established that an agency has violated the rules, an applicable collective bargaining agreement in place with the state, or the agency’s policies, and the agency is given adequate opportunity to correct violations and fails to do so, the SPO director may suspend the agency’s line authority or right to approve personnel actions, to approve employment lists, to advertise employment positions, to negotiate with or to make agreements with exclusive bargaining representatives, or to perform any activities related to the agency’s violations and require SPO director approval until the SPO director rescinds the suspension.

C. The SPO director reserves the right to assign line authority under these rules so long as such line authority maintains the SPO director's administrative oversight and authority.

D. The SPO director shall establish criteria governing the requirements which must be met to achieve and maintain line authority status.

E. The SPO director may modify or withdraw line authority status.
[1.7.1.8 NMAC - Rp, 1 NMAC 7.1.8, 1/1/2020; A, 1/14/2025; A, 10/6/2026]

1.7.1.12 EMPLOYMENT RECORDS:

A. Agencies shall maintain a record of each employee's employment history in accordance with operational necessity and applicable state and federal law requirements. Former or current employees shall have access to review their own file. Employment-related confidential records shall be available for inspection by agencies during the process of interviewing for employment when the employee has provided a signed release. No materials shall be placed in an employee's employment history without providing the employee with a copy. Employees may submit written rebuttal to any material placed in their employment history. Agencies shall transfer the complete record of an employee's employment history upon inter-agency transfer.

B. Employment records, except confidential records, are subject to inspection by the general public. Confidential records may be inspected with the written permission of the employee or pursuant to a lawful court order or subpoena.

C. For the purpose of inspection of public records under Subsection B of 1.7.1.12 NMAC, the following material shall be regarded as confidential and exempted from public inspection: records and documentation pertaining to physical or mental illness, injury or examinations, sick leave and

medical treatment of persons; records and documentation maintained for purposes of the Americans with Disabilities Act [42 U.S.C. Section 12010 et seq.]; letters of reference concerning employment, licensing, or permits; records and documentation containing matters of opinion; interview notes; documents concerning infractions and disciplinary actions; performance appraisals; opinions as to whether a person should be re-employed; college transcripts; military discharge; information on the race, color, religion, sex, national origin, political affiliation, age, and disability of employees; home address and personal telephone number unless related to public business; social security number; laboratory reports or test results generated according to the provisions of 1.7.8 NMAC; and as otherwise provided by state or federal law.

[1.7.1.12 NMAC - Rp, 1 NMAC 7.1.12, 1/1/2020; A, 10/6/2026]

STATE PERSONNEL OFFICE

This is an amendment to 1.7.4 NMAC, Sections 12, 13, 14, 16, and 18, effective 10/6/2026.

1.7.4.12 ADMINISTRATION OF THE SALARY SCHEDULES:

A. Entrance salary:
Upon entrance to a classified position, a newly hired employee's salary, subject to budget availability, should reflect appropriate placement within the pay band. Any entrance salary at or above one hundred and fifteen percent compa-ratio must receive approval from the SPO director prior to hire.

B. Legislative authorized salary increase:
(1) Subject to specific statutory authorization for each state fiscal year, employees may be eligible for a salary increase within their assigned pay band.

(2) Employees with a salary at or above the maximum of the position's pay band shall not be eligible for an increase unless authorized by statute.

C. Salary upon in pay band adjustment: Agencies may increase an employee's base salary within the assigned pay band, subject to SPO director approval, budget availability and reflective of appropriate placement. In pay band adjustments may not result in the employee's base salary exceeding the maximum of the assigned pay band. When reviewing requests for in pay band adjustments the SPO director will take into consideration those instances where the requesting agency has employees with a current rate of pay that falls below the minimum of their pay band. In pay band adjustments for demonstrated performance, or skill and competency development shall be capped at ten percent per fiscal year.

D. Salary upon promotion: Upon promotion, an employee's salary subject to budget availability should reflect appropriate placement within the pay band. A salary increase of less than five percent shall require approval of the SPO director. A salary increase greater than ten percent per pay band increase shall require approval of the SPO director. A salary increase greater than ten percent to bring an employee's salary to the minimum of the pay band or less than five percent to prevent an employee's salary from exceeding the maximum of the pay band does not require the approval of the SPO director. The salary of a promoted employee shall be in accordance with Subsection B of 1.7.4.11 NMAC.

E. Salary upon demotion: Upon demotion, an employee's salary shall be decreased by no more than fifteen percent, unless a greater decrease is required to bring the salary to the maximum of the new pay band.

F. Salary upon transfer:

(1) Upon transfer an employee's salary, subject

to budget availability and reflective of appropriate placement, may be increased or decreased by up to ten percent. The SPO director may approve a salary increase greater than ten percent due to special circumstances that are justified in writing.

(2)

Employees shall be compensated, in accordance with agency policy, for all accumulated leave, other than sick, annual, or personal leave, prior to inter-agency transfer.

G. Salary upon pay

band change: When a change of pay band is authorized in accordance with the provisions of 1.7.4.9 NMAC, 1.7.4.10 NMAC, or 1.7.4.11 NMAC the salaries of affected employees shall be determined in accordance with Subsection C of 1.7.4.11 NMAC. Employees whose pay band is adjusted upward or downward shall retain their current salary in the new pay band. Employees' salaries may be addressed through in pay band adjustment unless otherwise allowed by statute.

H. Salary upon

reduction: The salary of employees who take a reduction may be reduced by up to fifteen percent. An employee's salary should reflect appropriate placement within the pay band. The SPO director may approve a salary reduction greater than fifteen percent due to special circumstances that are justified in writing.

I. Salary upon return

to work or reemployment: The salary of former employees who are returned to work or re-employed in accordance with the provisions of 1.7.10.10 NMAC, 1.7.10.11 NMAC, 1.7.10.12 NMAC, or 1.7.10.14 NMAC shall not exceed the hourly rate of their base salary at the time of separation, unless a higher salary is necessary to bring the employee to the minimum of the pay band.

J. Salary upon

temporary promotion: Pay for a temporary promotion under [Subsection F] Subsection E of [1.7.5.12] 1.7.5.13 NMAC, will be administered in accordance with Subsection D of 1.7.4.12 NMAC, except that payment of a temporary

promotion increase shall be separate from the employee's base salary. The agency shall discontinue the temporary promotion increase when the temporary conditions cease to exist or at the end of the 12-month period, whichever occurs first.

K. Temporary salary

increase: An agency may, with the approval of the SPO director, grant a temporary salary increase of an employee's base pay for a period not to exceed 1 year, from the effective date of the salary increase, for temporarily accepting and consistently performing additional duties which are characteristic of a job requiring greater responsibility/accountability or a higher valued job. The SPO director may approve temporary salary increases above the maximum of the employee's current pay band. Payment of a temporary salary increase shall be separate from the employee's base salary. The agency shall discontinue the temporary salary increase when the temporary conditions cease to exist or at the end of the 12-month period, whichever occurs first.

L. Salary adjustment

to minimum: An employee whose salary falls below the minimum of the pay band will be adjusted in accordance with Paragraph (2) of Subsection C of 1.7.4.11 NMAC. [1.7.4.12 NMAC - Rp, 1.7.4.12 NMAC, 8/1/2021; A, 7/29/2025; A, 2/24/2026; A, 10/6/2026]

1.7.4.13 PAY

DIFFERENTIALS:

A. Temporary

recruitment differential: The SPO director may authorize, in writing, a pay differential of up to fifteen percent of an employee's base pay to an employee who fills a position which has been documented as critical to the effective operation of the agency and has been demonstrated and documented to be a severe recruitment problem for the agency.

(1) A

temporary recruitment differential authorized under this provision shall be tied to the position and may not

transfer with the employee should the employee leave that position. Payment of this differential shall be separate from the employee's base salary. Agencies shall demonstrate to the office, at least biennially, the circumstances which justified the differential to determine the necessity for its continuance.

(2) A

temporary recruitment differential of more than fifteen percent of an employee's base pay or that results in an employee's pay exceeding the maximum of the pay band may be authorized by the SPO director.

B. Temporary

retention differential: The SPO director may authorize, in writing, a pay differential of up to fifteen percent of an employee's base pay to an employee in a position which the agency has documented and has been designated as critical to the effective operation of the agency and the employee's departure would disrupt the agency's ability to fulfill its mission.

(1) A

temporary retention differential authorized under this provision may be approved up to one year. The agency shall demonstrate to the office, at least annually, the circumstances which justify the continuance of the differential. The agency must provide a detailed plan that outlines how they intend to resolve the problems associated with the retention difficulties. Payment of this differential shall be separate from the employee's base salary and may not transfer with the employee should the employee leave that position.

(2) A

temporary retention differential of more than fifteen percent of an employee's base pay or that results in an employee's pay exceeding the maximum of the pay band may be authorized if approved by the SPO director.

C. The temporary

recruitment differential and the temporary retention differential are separate and distinct pay differentials that are administered separately.

D. Pay for dusk to dawn work: Employees shall be paid, in addition to their hourly pay rate, no less than \$0.60 per hour for each hour of regularly scheduled work between 6:00 p.m. and 7:00 a.m.

(1) Agencies shall notify the SPO director of any change to the dusk to dawn differential or hours of eligibility.

(2) Agencies may choose not to pay the dusk to dawn differential to an employee whose alternative work schedule request results in the employee working any hours between 6:00 p.m. and 7:00 a.m.

E. Multi-lingual Pay: An agency may authorize a pay differential of \$0.35 per hour to an employee who has been assigned to perform multi-lingual duties in a facility, office or worksite where it is deemed necessary to facilitate multi-lingual communications with members of the public.

F. Differential for temporary licensure or certification: The SPO director may authorize a pay differential of \$1.00 to \$5.00 per hour for an employee who has obtained a licensure or certification that the agency has documented is relevant and enhances the employee's position. The differential shall be removed when the licensure or certification expires. The following conditions must be met:

(1) The licensure or certification is not required by the classification; and

(2) The licensure or certification is subject to renewal.

[1.7.4.13 NMAC - Rp, 1.7.4.13 NMAC, 8/1/2021; A, 7/29/2025; A, 2/24/2026; A, 10/6/2026]

1.7.4.14 OVERTIME:

A. Agencies are responsible for the evaluation of each employee's position and duties in order to determine their overtime status as set forth under the Fair Labor Standards Act.

B. Agencies shall provide documentation to employees as to the determination of their overtime status.

C. Employees have the right to appeal the determination of their overtime status according to the provisions of 1.7.6.13 NMAC. Agencies shall notify employees in writing of their appeal decision within 30 calendar days. ~~[The employee may file an appeal of the agency's decision to the SPO director within 30 calendar days of the agency's decision. Agencies shall notify employees that their appeal to the SPO director must be in writing and must include the reason(s) why the employee believes he or she is improperly identified for overtime coverage. The appeal must include documentation describing the work currently being performed by the employee and any other relevant information. All information contained in the appeal shall be verified by the employing agency]~~

D. Agencies shall maintain a record on each employee containing information required by the provisions of the Fair Labor Standards Act.

E. Workweek is a period of time which begins at 12:01 a.m. Saturday, and ends at 12:00 midnight, the following Friday. The SPO director may approve an alternative work week.

F. Time worked in excess of 40 hours during the designated workweek shall be compensated in accordance with the provision of the Fair Labor Standards Act [29 U.S.C. Sections 201 to 262] for Fair Labor Standards Act covered, non-exempt employees.

G. Agencies shall not change the workweek to avoid payment of overtime. A change to the scheduled work hours within the workweek shall not be considered a change to the workweek.

H. Agencies shall determine the need for employees to work overtime, and be responsible for authorizing overtime work.

I. Paid holiday leave in accordance with the provisions of Subsection A of 1.7.4.17 NMAC, annual leave taken in accordance with the provisions of Subsection F of 1.7.7.8 NMAC, and administrative

leave for voting taken in accordance with the provisions of Subsection C of 1.7.7.14 NMAC shall also count as time worked in the consideration of overtime for Fair Labor Standards Act covered, non-exempt employees.

J. Agencies shall pay Fair Labor Standards Act covered, non-exempt employees for overtime worked unless the employee, in advance, agrees in writing to compensatory time off. Employees may accrue a maximum of 240 hours of compensatory time, unless otherwise authorized by statute and shall be paid for accrued compensatory time upon separation.

K. Employees not covered or exempt from the overtime provisions of the Fair Labor Standards Act may be compensated for overtime if an agency's policy permits.

L. Any additional regular hours worked shall not be substituted for approved paid leave time during the same week additional regular hours were worked.

[1.7.4.14 NMAC - Rp, 1.7.4.14 NMAC, 8/1/2021; A, 7/29/2025; A, 10/6/2026]

1.7.4.16 ON-CALL PAY:

~~**[A:]**~~ In accordance with the provisions of the Fair Labor Standards Act, agencies shall develop a policy to compensate employees directed to remain on-call after their normal or alternative work schedule.

~~**[B:]**~~ ~~Agencies shall file their on-call compensation policy with the office. Subsequent revisions to the on-call policy shall be filed with the office prior to implementation.]~~

[1.7.4.16 NMAC - Rp, 1.7.4.16 NMAC, 8/1/2021; A, 10/6/2026]

1.7.4.18 GOVERNMENT COST SAVINGS INCENTIVE AWARDS:

Agencies may provide cash awards to employees with the approval of the board in accordance with the provisions of Section 10-7-12 NMSA 1978. The SPO director ~~[and the secretary of the department of finance and administration]~~ shall ~~[jointly]~~ issue and administer guidelines for submitting proposed awards to the board.

[1.7.4.18 NMAC - Rp, 1.7.4.18 NMAC, 8/1/2021; A, 10/6/2026]

STATE PERSONNEL OFFICE

This is an amendment to 1.7.5 NMAC, Sections 7, a new section 10, and re-numbered Sections 11, 12, and 13 effective 10/6/2026.

1.7.5.7 DEFINITIONS:

A. "Doublefill" is when two employees are paid to work in the same position.

B. "Open for recruitment" means soliciting applications from the general public and state employees for vacant positions.

C. "Overfill" is when an employee is assigned to a position with a higher pay band than the position's budgeted pay band.

D. "Rapid hire event: means an event that is approved by the SPO director and hosted by a state agency to fill low level classifications.

~~D.~~ E. "Recruitment waiver" means a candidate for hire is identified through a non-competitive process in lieu of the position being posted and advertised.

~~E.~~ F. "Underfill" is when a candidate is hired for a position that they are not fully qualified for, but who can gain the necessary skills and experience through on the job training. Once the candidate has met the minimum experience requirements, they will be promoted to the position's actual pay band. [1.7.5.7 NMAC - Rp, 1.7.5.7 NMAC, 1/14/2025; A, 10/6/2026]

1.7.5.10 RECRUITMENT WAIVERS:

A. The SPO director may approve an exception to normal recruitment when:

(1) The vacant position is filled through a rapid hire event;

(2) Requested as part of an Americans

with Disabilities Act (ADA) accommodation;

(3) Requested as part of discipline, reinstatement, or a settlement agreement; or

(4) Requested to satisfy a critical business need.

B. To ensure compliance with Subsection E of 1.7.4.12 NMAC, a request for a recruitment waiver related to a demotion must be submitted to the SPO director no later than seven calendar days after the employee responds to the NCA, or, if the employee does not respond, seven calendar days after the response deadline.

[1.7.5.10 NMAC – N, 10/6/2026]

~~1.7.5.10~~ 1.7.5.11 APPLICATIONS:

A. The SPO director shall establish application procedures which include, among other things, criteria that will ensure compliance with federal and/or state law. Information on gender, ethnicity, and age of applicants shall be utilized only for affirmative action and other non-discriminatory purposes.

B. The agency shall reject an application and not accept any application from the applicant if the applicant:

(1) has made any false statement or produced any false document in support of the application; or

(2) has directly or indirectly given, paid, offered, solicited, or accepted any money or other valuable consideration or secured or furnished any special or secret information for the purpose of affecting the rights or prospects of any person with respect to employment in the classified service.

[1.7.5.11 NMAC – Rn., 1.7.5.10 NMAC, 10/6/2026]

~~1.7.5.11~~ 1.7.5.12 ASSESSMENT OF QUALIFICATIONS:

A. Assessments shall measure critical or important knowledge, skills, and abilities necessary for successful job performance.

B. Except as provided in Subsection C of 1.7.5.11 NMAC no agency shall administer any test to an applicant or employee without the test and the test administration having been approved by the SPO director unless otherwise authorized by statute.

C. An agency may request a description or demonstration of the skill or ability needed to perform an essential job function in accordance with the *Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 Note 29C.F.R. Part 1630.14(a))* Pre-employment inquiry).

D. Preference Points: **(1)** In

accordance with the provisions of Section 10-9-13.2 NMSA 1978 and Section 20-4-9 NMSA 1978, veterans honorably discharged from the United States armed forces and applicants currently serving in the national guard shall have five points added to their final passing numerical scores on applications. Veterans honorably discharged from the United States armed forces with a service-connected disability shall have 10 points added to their final passing numerical scores on applications. A veteran with or without a service-connected disability has his/her name placed on the employment list in accordance with numerical rating of other veterans and non-veterans.

(2) In accordance with the provisions of Section 10-9-13, NMSA 1978, applicants who meet minimum qualifications shall have two preference points added for each year of residency in New Mexico, not to exceed 10 points.

[1.7.5.12 NMAC – Rn., 1.7.5.11 NMAC, 10/6/2026]

~~1.7.5.12~~ 1.7.5.13 SELECTION:

A. In accordance with the purpose of the *Personnel Act, Section 10-9-2 NMSA 1978*, selection shall be based solely on qualification and ability. Selection for any positions in the classified service shall be justified in writing and made from employment lists.

B. All employers subject to the Criminal Offender Employment Act. Sections 28-2-1 to 28-2-6 NMSA 1978, may take into consideration a conviction, but the conviction will not operate as an automatic bar to obtain public employment. Employer may only take into consideration a conviction after the applicant has been selected as a finalist for the position.

C. Agencies shall follow all established procedures approved by the SPO director unless otherwise provided by law.

D. Agencies shall be sensitive to creating diversity in the workplace.

E. Employment lists shall include names of ranked candidates who have made application and met the established requirements plus any candidates certified by the New Mexico department of education, division of vocational rehabilitation, the commission for the deaf and hard of hearing, or the commission for the blind, in accordance with the provisions of Section 28-10-12, NMSA 1978.

(1)

Agencies shall certify the names of former employees who are currently receiving temporary total or permanent partial workers' compensation benefits, resultant from an injury sustained while employed in the classified service and who apply for a position in accordance with the provisions of 1.7.10.12 NMAC.

(2)

Agencies shall certify only the name(s) of former employees who are currently eligible for reemployment from a reduction in force per 1.7.10.10 NMAC.

F. Temporary promotions: Employees may be temporarily promoted for a period not to exceed 12 months to a temporary or effectively vacant position for which the agency certifies that the employee holds the qualifications and abilities necessary for successful job performance. At the end of the temporary promotion period, employees shall return to their former position without right of appeal.

G. Intra-agency transfers: An agency may transfer an employee without the employee's consent to a position in the same classification within the same geographic location as the employing agency, which is 35 miles from the boundaries of the community where the employee is employed if the established requirements state that willingness to accept a change of geographic location is a condition of employment.

H. Exempt to career service: Employment in the exempt service shall not count towards the probationary period required by Subsection A of 1.7.2.8 NMAC.

I. Emergency appointments/Hires: Emergency appointments/hires shall be made in accordance with 1.7.2.12 NMAC.

J. Reduction: Employees may request a classification reduction to a position for which the agency certifies that the employee holds the qualifications and abilities necessary for successful job performance.

K. Physical examinations: Agencies may require physical examinations of candidates who have been selected for a position contingent upon their meeting the prescribed physical health standards. The costs of such physical examinations shall be borne by the agency.

[1.7.5.13 NMAC – Rn., 1.7.5.12 NMAC, 10/6/2026]

STATE PERSONNEL OFFICE

This is an amendment to 1.7.7 NMAC, Sections 3, 7, 8, 9, 15, 20, and new section 21, effective 10/6/2026.

1.7.7.3 STATUTORY AUTHORITY: [NMSA 1978, Section 10-9-13(G); Section 11: NMSA 1978, Section 10-7-10; Section 13: 29 U.S.C. Sections 201 and 2601 et seq.; Section 15: NMSA 1978, Section 1-12-42; Section 17:

NMSA 1978, Sections 20-4-7, 20-5-14 and 20-7-5 and 38 U.S.C. Section 2024] Subsection G of Section 10-9-13 NMSA 1978; Section 10-7-10 NMSA 1978; Section 10-7-13 NMSA 1978; 29 U.S.C. Sections 201 and 2601 et seq.; Section 1-12-42 NMSA 1978; Sections 20-4-7, 20-5-14 and 20-7-5 and 38 NMSA 1978; U.S.C. Section 2024.

[1.7.7.3 NMAC - Rp, 1 NMAC 7.7.3, 7/7/2001; A, 11/14/2002; A, 10/6/2026]

1.7.7.7 DEFINITIONS:

A. "Child" or "children" means a person or persons 18 years of age or younger who is enrolled in school, and who is or are the biological child(ren), legally adopted child(ren), foster child(ren), stepchild(ren), or legal ward(s) of an employee.

B. "Covered active duty or call to covered active duty status" means duty during the deployment of a regular member or reservist to a foreign country.

C. "Covered servicemember" means a current member of the armed forces (including a member of the national guard or reserves) who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list for a serious injury or illness; or a covered veteran (member of the armed forces, including a member of the national guard or reserves, who was discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the employee takes FMLA leave to care for the covered veteran) who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness.

D. "Extra-curricular activities" means events or appointments not falling within the normal school curriculum, including but not limited to sporting events, orientations, ceremonies, field trips, registrations.

E. "Fall semester" means August through December.

F. “Family member”

means an individual who is the spouse or domestic partner of or is by blood, marriage or legal adoption a parent, grandparent, great-grandparent, child, foster child, grandchild, great-grandchild, brother, sister, niece, nephew, aunt or uncle, or is living in the household of an of an employee.

G. “Health care

provider” means a physician, dentist, podiatrist, clinical psychologist, or optometrist who is authorized to practice medicine or surgery in the state in which the individual practices. In cases limited to treatment consisting of manual manipulation of the spine to correct a subluxation, medical certification may be provided by a chiropractor. Others capable of providing health care services include podiatrists, dentists, clinical psychologists, optometrists, nurse practitioners, nurse-midwives, clinical social workers and physician assistants authorized to practice in the state; Christian science practitioners listed with the first church of Christ, scientist in Boston, Massachusetts; any health care provider from whom an employer or the employer’s group health plan’s benefits manager will accept certification for the existence of a serious health condition to substantiate a claim for benefits, including a foreign physician.

H. “Medical

emergency” means an unexpected medical condition of an employee or a family member of such employee that is likely to require an employee’s absence from duty for a prolonged period of time and to result in a substantial loss of income to the employee because of the unavailability of paid leave.

I. “School”

means a single attendance center in which instruction is offered by one or more teachers and is discernible as a building or group of buildings generally recognized as either a licensed child care center, preschool, elementary, middle, junior high, or high school, or any combination of those, including charter schools, state institutions, and private schools, but not including home schools.

J. “Serious health

condition” means an illness or injury that may involves an overnight stay in a health care facility and any subsequent treatment in connection with such stay; or, continuing treatment by a health care provider including any one or more of the following:

- (1) a period of incapacity of more than three consecutive, full calendar days and subsequent treatment by a health care provider in-person two or more times within 30 days of the first day of incapacity;
- (2) treatment by a health care provider in-person on at least one occasion which results in a regimen of continuing treatment;
- (3) pregnancy and prenatal care;
- (4) chronic condition which requires visits at least twice a year for treatment by a health care provider over an extended period of time and may cause episodic rather than a continuing period of incapacity;
- (5) permanent or long-term conditions; and
- (6) conditions requiring multiple treatments by a health care provider including recovery time.

K. “Serious illness

or injury” means an injury or illness that was incurred by the covered servicemember in the line of duty on active duty in the Armed Forces, or existed before the beginning of the servicemember’s active duty and was aggravated by service in the line of duty in the Armed Forces, and that may render the covered servicemember medically unfit to perform the duties of the servicemember’s office grade, rank or rating. In the case of a veteran who was a covered servicemember, “serious illness or injury” means the same as above but the injury or illness manifested itself before or after the member become a veteran.

L. “Son” or

“Daughter” means a biological, adopted, or foster child, a step child, a legal ward, or a child of a person

standing in loco parentis, who is either under age 18, or age 18 or older and “incapable of self-care” because of a mental or physical disability at the time that FMLA leave is to commence.

M. “Spring semester”

means January through May.

N. “Spouse”

is defined in the Family and Medical Leave Act regulations [29 CFR 825.122(b)]. [1.7.7.7 NMAC - Rp, 1 NMAC 7.7.7, 7/7/2001; A, 1/1/2020; A, 10/6/2026]

1.7.7.8 ANNUAL LEAVE:

A. Employees, except those on full-time educational leave with pay, absence without leave, leave without pay, unpaid FMLA leave, or suspension without pay shall accrue annual leave at the rate of:

- (1) 3.08 hours per pay period if less than three years of cumulative employment,
- (2) 3.69 hours per pay period if three years or more but less than seven years of cumulative employment,
- (3) 4.61 hours per pay period if seven years or more but less than eleven years of cumulative employment,
- (4) 5.54 hours per pay period if eleven years or more but less than fifteen years of cumulative employment; or
- (5) 6.15 hours per pay period if fifteen years or more of cumulative employment.

B. For purposes of Subsection A of 1.7.7.8. NMAC, any employment in the classified or exempt service and judicial or legislative branches of New Mexico state government shall be counted in determining years of cumulative employment in the classified service.

C. For purposes of Subsection A of 1.7.7.8. NMAC, employment in programs transferred into the classified service by legislation or executive order shall count as cumulative employment.

D. Employees employed on a part-time basis and employees on furlough who work at least eight hours in a pay period shall accrue annual leave on a prorated basis.

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

F. Annual leave may be requested before it is accrued. The employer, at its discretion, may authorize such a request. However, annual leave shall not be used before it is accrued and must be authorized before it is taken in accordance with agency policy.

G. Employees separating from the classified service, except by a reduction in force, shall be paid for accrued annual leave, as of the date of separation, up to a maximum of 240 hours at the current hourly rate of their base salary. This payout shall not exceed 240 hours.

H. Employees separating from the classified service as the result of a reduction in force shall be paid for all accrued annual leave, as of the date of separation, at their current [hourly] base rate.

I. The estate of an employee who dies while in the classified service shall be paid for the employee's total accrued annual leave.
[1.7.7.8 NMAC - Rp, 1 NMAC 7.7.8, 7/7/2001; A, 11/14/2002; A, 1/1/2021; A, 8/1/2021; A, 5/20/2025; A, 10/6/2026]

1.7.7.9 DONATION OF ANNUAL OR SICK LEAVE:

A. Employees may donate annual or sick leave to another employee in the same agency for a medical emergency or serious health condition with approval of the head of the agency. Employees may also make and receive donations of annual leave to and from employees in the exempt service in the same agency for a medical emergency or serious health condition with approval of the head of the agency, as set forth by the department of finance and administration's policies for governor exempt employees.

B. Employees may donate annual leave to the full amount of their accumulated hours.

C. In accordance with the provisions of Section 10-7-10

NMSA 1978, the donation of sick leave is governed by the following restrictions:

(1) employees who have accumulated more than six hundred hours of sick leave can transfer the additional amounts over 600 hours to another employee;

(2) the dollar value of the transferred leave shall equal fifty percent of the monetary value of the total hours transferred by the donor employee;

(3) no more than 120 hours of sick leave may be transferred by the donor in any one fiscal year, with the exception of the year in which an employee retires, when an employee may transfer up to 400 hours of sick leave;

(4) donations of sick leave may be made only once per fiscal year on either the pay date immediately following the first full pay period in January or the first full pay period in July, unless the employee is retiring.

D. An agency shall maintain the following documentation:

(1) the name, position title, and hourly rate of base pay of the proposed leave recipient;

(2) a licensed health care provider's description of the nature, severity, and anticipated duration of the emergency involved which has been provided by the employee or legally authorized representative and a statement that the recipient is unable to work all or a portion of their work hours; and

(3) any other information which the employing agency may reasonably require.

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

F. The agency shall transfer the leave to the leave account of the employee converting the dollar value of the donor's leave based on the donor's hourly rate of base pay to hours of leave based on the recipient's hourly rate of base pay.

G. The recipient of donated leave may not use such leave until first exhausting all accrued annual and sick leave, compensatory time and personal leave day.

H. Donated leave shall revert to the employees who donated the leave on a prorated basis when the medical emergency or serious health condition ends or the employee separates from the agency.

[1.7.7.9 NMAC - Rp, 1 NMAC 7.7.9, 7/7/2001; A, 11/14/2002; A, 7/5/2005; A, 1/1/2021; A, 8/1/2021; A, 10/6/2026]

1.7.7.15 EDUCATIONAL LEAVE:

A. An agency may grant employees educational leave with or without pay to pursue training related to their employment that is of immediate or potential value to the agency, including new ideas and innovation that could result from an employee's education on a variety of subjects, expansion of employee skill sets for later promotional or leadership opportunities, and retention. "Educational leave" means time away from work, paid or unpaid, for approved coursework at an academic institution, including participation in classes and travel between an employee's normal work site and the academic institution. Educational leave may be requested as part-time administrative leave with pay or full-time Educational Leave without pay.

B. Employees on full-time educational leave with pay shall not accrue annual or sick leave.

C. Employees who are working part-time while on educational leave shall accrue annual and sick leave in accordance with the provisions of Subsection D of 1.7.7.8 NMAC and Subsection B of 1.7.7.10 NMAC.

D. Employees who are granted paid educational leave and who leave the employ of the agency within one year of the conclusion of the educational leave, [~~must~~] may be required to reimburse the agency for any tuition, expenses, or costs that the agency paid on behalf of

the employee. Employees who are granted paid educational leave and who fail to complete any coursework, testing, or requirements of the educational program must reimburse the agency for any tuition, expenses, or costs that the agency paid on behalf of the employee.

[1.7.7.15 NMAC - Rp, 1 NMAC 7.7.15, 7/7/2001; A, 1/1/2020; A, 10/6/2026]

1.7.7.20 BEREAVEMENT LEAVE:

A. Agencies may grant bereavement leave to employees who have experienced the death of a relation by blood or marriage within the third degree or a person residing in the employee's household.

B. Bereavement leave is a form of administrative leave that an agency may grant to employees in accordance with Subsection A of 1.7.7.14 NMAC. The agency may authorize bereavement leave for up to five consecutive workdays when it is in the best interests of the agency to do so. Bereavement leave in excess of five consecutive workdays must have the prior written approval of the SPO director.

C. An agency may supplement bereavement leave by authorizing an employee to use accrued annual or sick leave or compensatory time to attend the funeral of a relation by blood or marriage within the third degree or a person residing in the employee's household.

[1.7.7.20 NMAC – N, 8/1/2021; A, 10/6/2026]

1.7.7.21 PAID PARENTAL LEAVE

A. Employers shall provide 12 work weeks of fully paid parental leave to eligible employees following the birth or adoption of a child. An eligible employee means a full-time classified employee who has completed the one year probationary period prior to the start of Paid Parental Leave (PPL).

B. PPL shall be paid based upon the eligible employee's base salary (excluding temporary

increases of pay, such as temporary promotion increases, temporary recruitment differentials, temporary retention differentials, or temporary salary increases) determined by the employee's regularly scheduled work hours.

C. Domestic partners are eligible for PPL when children join their household via birth or adoption. If both parents, including a domestic partner of a parent, are eligible employees, each parent or partner shall receive PPL.

D. Eligible employees must take PPL during the first six months following the birth or adoption of a child. Eligible employees may utilize one term of PPL (up to 12 work weeks) per birth or adoption event.

E. Employees utilizing PPL shall continue to accrue vacation and sick leave in accordance with Subsection A of 1.7.7.8 NMAC and Subsection A of 1.7.7.10 NMAC during the period of PPL. If an official holiday occurs during the eligible employee's PPL, the eligible employee will receive holiday pay in lieu of PPL, provided the eligible employee is in pay status the day before and the day after the official holiday.

F. PPL may not be donated and any such leave not utilized within the six-month period explained above shall be forfeited.

G. PPL shall run concurrently with leave under the federal Family Medical Leave Act (FMLA) as applicable.

H. Eligible employees cannot receive short-term disability benefits and PPL benefits at the same time.

I. Eligible employees shall be required to notify their employer at least 30 days in advance of their intention to use PPL so that the employer may secure backfill coverage as necessary. When 30 days' notice is not possible, the employee must provide this notice as soon as practicable.

[1.7.7.21 NMAC – N, 10/6/2026]

ECONOMIC DEVELOPMENT DEPARTMENT

TITLE 2 PUBLIC FINANCE CHAPTER 96 RESEARCH, DEVELOPMENT AND DEPLOYMENT FUND ACT PART 1 GENERAL PROVISIONS

2.96.1.1 ISSUING AGENCY: Economic Development Department.
[2.96.1.1 NMAC - N, 10/06/2026]

2.96.1.2 SCOPE: All public entities or businesses registered to transact business in New Mexico applying for Research, Development and Deployment funds through the Economic Development Department and meeting the eligibility requirements of the Economic Development Department technology and innovation division.
[2.96.1.2 NMAC - N, 10/06/2026]

2.96.1.3 STATUTORY AUTHORITY: Section 6-31A-4, NMSA 1978.
[2.96.1.3 NMAC - N, 10/06/2026]

2.96.1.4 DURATION: Permanent.
[2.96.1.4 NMAC - N, 10/06/2026]

2.96.1.5 EFFECTIVE DATE: October 6, 2026, unless a later date is cited at the end of a section.
[2.96.1.5 NMAC - N, 10/06/2026]

2.96.1.6 OBJECTIVE: To drive innovation, stimulate economic growth, and create jobs by offering early-stage capital and financial support for emerging technologies, start-up enterprises, and research initiatives that align with the state's economic development strategy through project awards pursuant to the act.
[2.96.1.6 NMAC - N, 10/06/2026]

2.96.1.7 DEFINITIONS:
A. "Act" means

the Research, Development and Deployment Fund Act, Sections 6-31A-1 through 6-31A-7, NMSA 1978, as the same may be amended and supplemented.

B. “Applicant match” means money for a project provided by an applicant or a partnering entity that is not a political subdivision of the state.

C. “Application” means a written document or other information filed with the division for the purpose of evaluating an applicant’s proposal for funding opportunities.

D. “Business” means any corporation, partnership, limited liability company, joint venture or other similar legal entity registered in the state.

E. “Department” means the economic development department.

F. “Division” means the technology and innovation division of the department.

G. “Documented Need” has the meaning given in the act and refers to a non-state funding source’s own requirements, such as cost-sharing, matching, or institutional or regional commitments used in evaluating proposals for that funding rather than an applicant’s general need for project funding.

H. “Eligible applicant” means a public entity or a business registered to transact business in New Mexico.

I. “Sleeve” means a portion of the fund with its own investment strategy aligned with the purpose of the Act.

J. “Solicitation” means a call for applications for funding from one or more sleeves.

K. “State” means the state of New Mexico.
[2.96.1.7 NMAC - N, 10/06/2026]

2.96.1.8 ELIGIBILITY, APPLICATION, EVALUATION, AND AWARD: The division, in consultation with the board, will develop policies and consider a variety of factors in reviewing and evaluating applications from eligible

applicants for project funding opportunities.

A. Applicant Eligibility. To be eligible for funding, applicants must meet all eligibility requirements established by the division.

B. Project Eligibility. To be eligible for funding, a project must reasonably expect to result in at least two of the following in New Mexico:

(1) advance innovation in at least one of the target sectors;

(2) foster collaboration between at least two of the following: private industry, a national laboratory, a federal agency or a public entity;

(3) leverage federal or private investment;

(4) create new economic opportunities;

(5) create new jobs and workforce training opportunities; and

(6) advance the commercialization of a technology in at least one of the target sectors;

C. Solicitations. The division will release solicitations that specify the application, evaluation, and award processes and procedures for one or more sleeves consistent with this rule, the Act, and other applicable laws and regulations. In solicitations or otherwise, the division shall establish a streamlined application process pursuant to the requirements of the act. Notwithstanding the foregoing, the division may at its discretion source projects independently of any solicitation.

D. Application Requirements. The division will set forth application requirements in each solicitation.

E. Matching Requirements of Complementary Programs. If an applicant is seeking project funding in connection with or as part of a separate application for grant money that requires cost sharing, matching funds, institutional support or regional financial commitments as a condition of

eligibility for that grant money, the applicant shall submit written evidence from the entity providing that grant money that clearly states such requirements will be used in the evaluation of applications for that grant money. If no such written evidence exists of the requirements for institutional support or regional financial commitment, the applicant may submit alternative proof of the requirements and the division shall establish criteria and, on a case-by-case basis, evaluate whether the proof is sufficient.

F. Alternative to Documented Need. In lieu of evidence of documented need as defined by the act for project funding, an applicant may include with the applicant’s application a justification for why project funding is necessary for the project to be successful and effectively promote state interests in one or more target sectors.

G. Applicant Match. The division may or may not require applicant match for a particular project, solicitation, sleeve, or for the fund overall and will set forth any such requirement in the relevant solicitation, in policy, or in another appropriate form and manner. In cases where the division does require applicant match, the division may reduce applicant match requirements by up to fifty percent for projects:

(1) that primarily benefit communities that are rural or part of Indian nations, tribes or pueblos;

(2) that are led by minority-serving public post-secondary educational institutions as defined in federal law; or

(3) that address critical state needs as determined by the department in its statewide economic plan.

H. In-Kind Contributions. The division may allow in-kind contributions as permitted by the act and as set forth in the relevant solicitation, in policy, or in another appropriate form and manner. An in-kind contribution to a project may qualify as a portion of an applicant’s required match when the:

- (1) value of the in-kind contribution can be independently verified;
- (2) in-kind contribution is essential to the project's success, as determined by the division;
- (3) in-kind contribution would otherwise be a legitimate project expense; and
- (4) total in-kind contributions to a project constitute no more than fifty percent of the applicant match.

I. Timing of Application Submissions.

Applications are submitted in response to the division's solicitations or as otherwise sourced by the division. Consistent with the act, the division will design solicitations and other sourcing mechanisms to accommodate applications submitted:

- (1) up to three hundred sixty-five days prior to anticipated federal or private sector grant deadlines for new or recurring published opportunities;
- (2) for pending proposals with multistage reviews that have been submitted but have not had an award finalized or, subject to division approval, within ninety days after such an award is finalized;
- (3) for project funding awards pending successful non-state funding or private grant applications; and
- (4) for re-application by an applicant who has previously been denied project funding, provided that the applicant makes changes and improvements based on any feedback received from the prior application.

J. Application Evaluation and Award. The division will:

- (1) award project funding in consultation with the board's recommendations;
- (2) verify applicant match funding requirements for a project when a match is applicable or match funding is being requested; and
- (3) consider applications in light of any priorities

and of any other requirements or goals set forth in the relevant solicitation.

K. Project Priority.

The division shall set forth any such priorities in the relevant solicitation, in policy, or in another appropriate form and manner. Priority shall be given to projects that

- (1) create high-quality, high-wage jobs in New Mexico;
- (2) when applicable, have higher percentages of matching funds from non-public entities;

(3) demonstrate strong potential for commercialization in a target sector;

(4) support the growth of New Mexico-based companies;

(5) benefit communities that are rural or in an Indian nation, tribe or pueblo;

(6) provide opportunities for broad regional participation; and

(7) fulfill any other requirement or advance any other goal established by the division and consistent with the act as set forth in any solicitation, with respect to one or more sleeves, or with respect to the fund overall.

L. Timing and Use of Project Funding. Awards of project funding shall:

(1) allow for multiyear project periods aligned with federal or private sector grant or other non-state funding opportunity timelines;

(2) permit pre-award project spending by applicants when necessary to meet non-state grant application deadlines, provided that applicants shall use non-state funding or other institutional funding for pre-award spending; and

(3) provide that a certain amount of the funding may be used for an applicant's administrative costs to implement the project.

[2.96.1.8 NMAC - N, 10/06/2026]

2.96.1.9 ADMINISTRATION OF THE RESEARCH,

DEVELOPMENT AND DEPLOYMENT FUND:

A. Nature and Makeup of the Fund. The fund is a nonreverting fund in the state treasury and is administered by the department. The fund consists of distributions, appropriations, gifts, grants, donations and income from investment in the fund, including appropriations from the technology and innovation fund as permitted by Section 9-15-19, NMSA 1978, as the same may be amended or supplemented.

B. Purpose of Awards. Money in the fund may be used for the purposes of catalyzing innovation, economic growth and job creation by providing early-stage capital and financial support to emerging technologies, start-up businesses and research initiatives that align with the state's economic development plan through project awards made pursuant to the act.

C. Monitoring and Oversight. The division shall monitor and oversee projects in accordance with the act and as set forth in any applicable solicitation, policy, or award document or in another appropriate form and manner.

D. Mechanism of Expenditures. Expenditures from the fund shall be by warrant of the secretary of finance and administration pursuant to vouchers signed by the secretary or the secretary's authorized representative. [2.96.1.9 NMAC - N, 10/06/2026]

2.96.1.10 REPORTING: On or before December 1, 2026, and every year thereafter, the department shall provide a report to the governor, the legislative finance committee and the appropriate interim committees that study economic development regarding the administration, efficacy and performance of the fund, including:

A. projects that have been awarded funding;

B. for each project, the dollar amounts awarded, the amount of non-state matching funds the project received, if applicable,

and the amount of non-state funding leveraged;

C. updates on the progress, performance, outcomes and impacts of each project that was awarded funding;

D. total jobs created and retained in the state;

E. return on investment of state money spent pursuant to the act;

F. any additional investment that was attracted to the state and state-owned businesses; and

G. other relevant performance metrics, including those recommended by the board, to measure the success of the act and the state's investment of public money pursuant to the act.

[2.96.1.10 NMAC - N, 10/06/2026]

2.96.1.11 AMENDMENT

OF RULES: This rule may be amended or repealed at any time by the department in accordance with the provisions of the state rules act.

[2.96.1.11 NMAC - N, 10/06/2026]

HISTORY OF 2.96.1 NMAC:

[RESERVED]

End of Adopted Rules

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Other Material Related to Administrative Law

ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT OIL CONSERVATION COMMISSION

NOTICE OF MINOR, NONSUBSTANTIVE CORRECTION

The Energy, Minerals and Natural Resources Department, Oil Conservation Division, gives Notice of a Minor, Non-substantive Correction to 19.15.8 NMAC.

Pursuant to the authority granted under State Rules Act, Subsection D of Section 14-4-3 NMSA 1978, , and after explanation given by agency, 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 9: re-numbered
Subsection F is corrected to read:

~~[D] E. [Inactive wells]~~ Wells that are in approved temporarily abandoned status for more than two years, inactive wells, and wells that are in expired temporarily abandoned status. [An operator shall provide financial assurance for wells that are covered by Subsection A of 19.15.8.9 NMAC that have been in temporarily abandoned status for more than two years] An operator shall provide financial assurance for wells that are in approved temporarily abandoned status for more than two years, in inactive status, or in expired temporarily abandoned status [or for which the operator is seeking approved temporary abandonment pursuant to 19.15.25.13 NMAC] in one of the following categories:

A copy of this Notification will be filed with the official version of the rule. All future electronic versions of

this rule shall not have the deleted text within this subsection of Section 9.

End of Other Material Related to Administrative Law

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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
Issue 23	November 19	December 8
Issue 24	December 10	December 22

The *New Mexico Register* is the official publication for all material relating to administrative law, such as notices of rulemaking, proposed rules, adopted rules, emergency rules, and other similar material. The Commission of Public Records, Administrative Law Division, publishes the *New Mexico Register* twice a month pursuant to Section 14-4-7.1 NMSA 1978. The New Mexico Register is available free online at: <http://www.srca.nm.gov/new-mexico-register/>. For further information, call 505-476-7941

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