

NOTICE OF PROPOSED RULEMAKING

Public Notice: The New Mexico State Personnel Board will hold a public hearing on Friday, December 6, 2024, at 9:00 a.m. The meeting will be held in person in the Willie Ortiz Auditorium, 2600 Cerrillos Road, Santa Fe, NM 87505.

Purpose of Rule Hearing: The purpose of the public hearing is to receive public input on the proposed amendments to 1.7.1 NMAC – General Provisions, the proposed repeal and replacement of 1.7.5 NMAC – Recruitment, Assessment, Selection, the proposed repeal and replacement of 1.7.8 NMAC – Drug and Alcohol Abuse, the proposed repeal and replacement of 1.7.9 NMAC – Performance Appraisals, and the proposed repeal and replacement of 1.7.11 NMAC – Discipline.

Statutory Authority: Personnel Act, Sections 10-9-10 and 10-9-12 NMSA 1978.

Purpose of the Proposed Amendments: The purpose of these changes is to ensure uniform application of the rules, to clarify roles and obligations of the State Personnel Board and the State Personnel Office Director, to better define key terms and definitions, and to conform to state and federal law.

Summary of Proposed Changes to 1.7.1 NMAC General Provisions: The sections being substantively amended are: *Section 1.7.1.7*, removing definitions already defined in statute, defining “Service of notice,” and editing definitions for clarity such as “Anniversary date,” “Disciplinary action,” “Domestic Partner,” “Examination,” and “Supervisor”; *Section 1.7.1.11*, clarifying the circumstances under which three (3) calendar days are added to response times; *Section 1.7.1.13*, clarifying the State Personnel Office Director’s role in approving settlement agreements.

Summary of Proposed Changes to 1.7.5 NMAC Recruitment, Assessment, Selection: Because of the state-required formatting changes (1.24.11.9 NMAC), this rule will be repealed and replaced. The sections being substantively amended are: *Section 1.7.5.7*, defining terms such as “Doublefill,” “Overfill,” “Recruitment Waiver,” and “Underfill”; *Section 1.7.5.9*, clarifying that the State Personnel Office establishes the recruitment process; *Section 1.7.5.10*, removing agency obligation to notify the State Personnel Office Director when rejecting applications under certain circumstances and removing a rejected applicant’s ability to appeal to the State Personnel Board; *Section 1.7.5.11*, removing the requirement that the State Personnel Office Director secure all examinations, administer all examinations, and exempt certain applicants from examinations; *Section 1.7.5.12*, explaining that agencies certify employment lists and removing the prohibition of Human Immunodeficiency Virus (HIV) related testing.

Summary of Proposed Changes to 1.7.8 NMAC Drug and Alcohol Abuse: Because of the state-required formatting changes (1.24.11.9 NMAC), this rule will be repealed and replaced. The sections being substantively amended are: *Section 1.7.8.7*, editing the definition of “Safety-sensitive position” for clarity; *Section 1.7.8.9*, removing the State Personnel Board’s role in approving safety-sensitive positions; *Section 1.7.8.11*, clarifying that the State Personnel Office Director shall maintain a list of positions designated as being safety-sensitive; *Section 1.7.8.13*, citing the federal regulations establishing the drug cutoff concentrations for urine drug tests; *Section 1.7.8.14*, removing the provision that agencies can request to lower the test level for blood alcohol tests.

Summary of Proposed Changes to 1.7.9 NMAC Performance Appraisals: Because of the state-required formatting changes (1.24.11.9 NMAC), this rule will be repealed and replaced. The sections being substantively amended are: *Section 1.7.9.8*, establishing that a performance appraisal shall be initiated within forty-five (45) days of hire, reassignment, promotion, demotion, reduction or transfer; *Section 1.7.9.9*, requiring managers and supervisors to complete a refresher course of study on employee performance appraisal every three (3) years, or as needed.

Summary of Proposed Changes to 1.7.11 NMAC Discipline: Because of the state-required formatting changes (1.24.11.9 NMAC), this rule will be repealed and replaced. The only sections being substantively amended are:

Section 1.7.11.12, explaining that administrative leave pending disciplinary action is paid administrative leave; *Section 1.7.11.13*, clarifying when three (3) calendar days are added to response times.

How to Comment on the Proposed Rules: Public comment addressing the proposed rule changes can be made in person using the Public Comment sign-in sheet, by mail to Denise Forlizzi, State Personnel Office, 2600 Cerrillos Rd., Santa Fe, New Mexico 87505 or by emailing your comment to DeniseM.Forlizzi@spo.nm.gov by 5:00 p.m. Thursday, December 5, 2024. Email comments must include the subject line, “Rule Changes to 1.7.X NMAC”, the commenter’s name and contact information.

Copies of Proposed Rules: Copies of the proposed rules are available for download on the State Personnel Office’s website at www.spo.state.nm.us. A copy of the proposed rules may also be requested by contacting Denise Forlizzi by phone at (505) 365-3691 or by email DeniseM.Forlizzi@spo.nm.gov.

Special Needs: Individuals who require this information in an alternative format or need any form of auxiliary aid to attend or participate in the public hearing are asked to contact Denise Forlizzi at (505) 365-3691 as soon as possible to allow adequate time to provide the requested accommodation(s).