

**TITLE 1            GENERAL GOVERNMENT ADMINISTRATION**  
**CHAPTER 7        STATE PERSONNEL ADMINISTRATION**  
**PART 1            GENERAL PROVISIONS**

**1.7.1.1            ISSUING AGENCY:** State Personnel Board.  
[1.7.1.1 NMAC - Rp, 1 NMAC 7.1.1, 07/07/01]

**1.7.1.2            SCOPE:** All state agencies in the classified service.  
[1.7.1.2 NMAC - Rp, 1 NMAC 7.1.2, 07/07/01]

**1.7.1.3            STATUTORY AUTHORITY:** NMSA 1978, Section 10-9-10(A); Section 7: NMSA 1978, Section 10-9-3; Section 12: NMSA 1978, Section 10-9-12 (A); Section 13: 42 U.S.C Section 101 et seq.; Section 14: NMSA 1978, Section 14-2-1 and 42 U.S.C Section 101 et seq; Chapter 173, laws of 1997.  
[1.7.1.3 NMAC - Rp, 1 NMAC 7.1.3, 07/07/01; A, 11/14/02]

**1.7.1.4            DURATION:** Permanent.  
[1.7.1.4 NMAC - Rp, 1 NMAC 7.1.4, 07/07/01]

**1.7.1.5            EFFECTIVE DATE:** 07/07/01 unless a later date is cited at the end of a section.  
[1.7.1.5 NMAC - Rp, 1 NMAC 7.1.5, 07/07/01]

**1.7.1.6            OBJECTIVE:** The objective of Part 1 of Chapter 7 is: to define words and phrases used throughout Chapter 7, to cite provisions pertaining to different Parts of Chapter 7, to require maintenance of employment records, and to detail provisions that do not warrant a separate Part.  
[1.7.1.6 NMAC - Rp, 1 NMAC 7.1.6, 07/07/01]

**1.7.1.7            DEFINITIONS:**

- A.** "Agency" means any state department, bureau, division, branch or administrative group which is under the same employer.
- B.** "Anniversary date" means the date of appointment or reemployment and is changed as of the date of promotion, demotion, reduction, or change to a different classification in the same pay band. The director shall resolve disputes over how an anniversary date is derived.
- C.** "Applicant" means any person, who has applied for a position in the classified service.
- D.** "Board" means the personnel board.
- E.** "Break in employment" means any period of separation of at least one workday of not being in the classified service.
- F.** "Candidate" means any person 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.** "Director" means the state personnel director.
- L.** "Dismissal" means the involuntary separation from employment for disciplinary reasons.
- M.** "Diversity in the workplace" means an acknowledgment of all people 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.** "Employee" means a person in a position in the classified service. [note: For purposes of brevity and consistency, this definition differs from *NMSA 1978, Section 10-9-3-(I)* but in no way confers a greater right on certain persons than contemplated by *Section 10-9-3(I)*].
- O.** "Employer" means any authority having power to fill positions in an agency.
- P.** "Employment list" means the list of names, certified by the director, from which a candidate may be selected for appointment.

**Q.** “Established requirements” means a position’s individual job related qualification standards established by the agency and the office in accordance with the specific requirements and/or needs of the position and are subject to review by the director.

**R.** “Examination” means quantitative competitive assessment of qualifications, knowledge, skills, fitness and abilities of an applicant including tests.

**S.** “Exempt service” means all positions in the executive branch of state government exempt from the classified service by law.

**T.** “Filed” means received by the office.

**U.** “First line supervisor” means an employee in a non-manager classification who devotes a substantial amount of work time to supervisory duties, customarily and regularly directs the work of two or more 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.

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

**W.** “Line authority” means the assignment of activities and/or approval authority in a manner that does not relinquish the director’s administrative oversight or authority.

**X.** “Manager” means an employee in a position that manages internal staff and/or external staff, and 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 and resources and can change their direction, objectives and assignments to meet performance and business needs.

**Y.** “Midpoint” means the salary midway between the minimum and maximum pay rates of a pay band or pay opportunity that represents the competitive market rate for jobs of the same relative worth in the relevant labor market(s). Midpoint represents a compa-ratio value of 1.00 or 100% percent.

**Z.** “Minimum qualifications” means statutory requirements as required by law, which shall be used to reject applicants.

**AA.** “Office” means the state personnel office.

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

**CC.** “Probationer” means an employee in the classified service who has not completed the one-year probationary period.

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

**EE.** “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, or voluntary removal of supervisory or leadworker responsibilities and pay.

**FF.** “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.

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

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

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

**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 to be considered as thereby waived or lost except in so far 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.

[1.7.1.7 NMAC - Rp, 1 NMAC 7.1.7, 07/07/01; A, 11/14/02; A 10/30/03; A, 7-15-05; A, 12-30-05; A/E, 1-30-06; A, 3-31-06; A, 10-15-08]

### **1.7.1.8 APPROVAL AUTHORITY:**

**A.** Pursuant to the provision of *NMSA 1978, Section 10-9-12(A)* the director shall supervise all administrative and technical personnel activities of the state.

**(1)** The director, pursuant to direction from the board, will establish a quality assurance review program, and will ensure that a copy of the program is provided to each agency. The board will review the quality assurance review program on an annual basis.

**(2)** The director shall ensure that all agencies are reviewed, as outlined in the quality assurance review program, which will enable the director the ability to supervise all administrative and technical personnel activities of the state and ensure compliance with the rules. The director shall submit the findings to the board.

**B.** If it is established that an agency has violated the rules or their agency's policies which require office approval, and they are given adequate opportunity to correct violations and fail to do so, the director may suspend the agency's right to approve such actions as provided in the rules and all such actions will require director approval until the director rescinds the suspension.

**C.** The director reserves the right to assign line authority under these rules so long as such line authority maintains the director's administrative oversight and authority. Such decisions are subject to the board's review. Such authority shall be derived from the director through written instruction which shall specify the responsibility(ies) and accountability(ies) which are being assigned.

**D.** The director, with the approval of the board, shall establish criteria governing the requirements which must be met to achieve and maintain line authority status.

**E.** The director may modify or withdraw line authority status. Such decisions are subject to the board's review.

[1.7.1.8 NMAC - Rp, 1 NMAC 7.1.8, 07/07/01; A, 11/14/02; A, 7-15-05; A, 6-15-10]

**1.7.1.9 INTERPRETATIONS:** The board shall establish a procedure for the issuance of interpretations of these Rules.

[1.7.1.9 NMAC - Rp, 1 NMAC 7.1.9, 07/07/01]

**1.7.1.10 METHOD OF SERVING NOTICE:** Any notice required of an agency by these rules, except for *1.7.1.13 NMAC*, shall be delivered by a method that provides proof of service or attempted service.

[1.7.1.10 NMAC - Rp, 1 NMAC 7.1.10, 07/07/01]

**1.7.1.11 COMPUTATION OF TIME:**

**A.** In computing any period of time prescribed or allowed by these rules, the day from which period of time begins to run shall not be included. The last calendar day of the time period shall be included in the computation unless it is a Saturday, Sunday or a day on which a legal holiday is observed. In such a case, the period of time runs to the close of business on the next regular workday. If the period is less than 11 days, a Saturday, Sunday or legal holiday is excluded from the computation.

**B.** Whenever an employee is permitted or required by these rules to respond or do some other act within a prescribed period after service of a notice or paper upon the employee and the notice or paper is served by mail or courier service, 3 calendar days shall be added to the prescribed period.

[1.7.1.11 NMAC - Rp, 1 NMAC 7.1.11, 07/07/01; A, 11/14/02]

**1.7.1.12 EMPLOYMENT RECORDS:**

**A.** The director and agencies shall maintain a record of each employee's employment history in accordance with operational necessity and applicable state and federal law requirements. Employees shall have access to 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.

**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; 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, 07/07/01; A, 11/14/02; A, 7-15-05; A, 6-15-10]

**1.7.1.13 SETTLEMENT AGREEMENTS:** Any settlement agreement reached by an agency and an employee to resolve a matter between them, that incorporates provisions covered by these rules, must conform to the provisions of these rules and have the prior approval of the director. The director may approve a settlement agreement, which does not conform to the provisions of these rules if, in the judgment of the director, the settlement is in the best interest of the state of New Mexico with the joint approval of the cabinet secretary of the department of finance and administration signifying budget availability.  
[1.7.1.13 NMAC - Rp, 1 NMAC 7.1.13, 07/07/01; A, 7-15-05]

**1.7.1.14 AGENCY HUMAN RESOURCE POLICIES:** Each agency shall provide a copy of their human resource policies to the office and these policies must conform to the provisions of these rules and other statutory requirements as required by law and include, among other things, policies regarding diversity in the workplace.  
[1.7.1.14 NMAC - Rp, 1 NMAC 7.1.14, 07/07/01]

**1.7.1.15 TRAINING AND DEVELOPMENT:** The director shall establish, pursuant to direction from the board, and maintain a training and development work plan. The board will review the training and development work plan on an annual basis.  
[1.7.1.15 NMAC - N, 07/07/01; A, 11/14/02; A, 07/15/05; A, 12/1/10]

**1.7.1.16 SEVERABILITY:** A determination by a court of competent jurisdiction that any provision of **1.7.1 NMAC** is unconstitutional or invalid shall not adversely affect the constitutionality, validity or enforceability of the remaining provisions.  
[1.7.1.16 NMAC - N, 07/07/01]

#### **HISTORY OF 1.7.1 NMAC:**

##### **Pre-NMAC History:**

Material in this part was derived from that previously filed with the commission of public records - state records center and archives as:

SPB Rule 1, Definitions, filed 05-22-80;  
SPB Rule 1, Definitions, filed 06-03-81;  
SPB Rule 1, Definitions, filed 07-22-82;  
SPB Rule 1, Definitions, filed 10-21-82;  
SPB Rule 1, Definitions, filed 06-28-83;  
SPB Rule 1, Definitions, filed 03-07-86;  
SPB Rule 1, Definitions, filed 10-17-86;  
SPB Rule 1, Definitions, filed 07-30-87;  
SPB-A, Glossary, filed 04-04-90;  
SPB-A, Glossary, filed 10-19-90;  
SPB 1, Definitions, filed 12-15-92;  
SPB 1, Definitions, filed 02-10-94;  
SPB Rule 2, General Provisions, filed 05-22-80;  
SPB Rule 2, General Provisions, filed 06-03-81;  
SPB Rule 2, General Provisions, filed 07-22-82;  
SPB Rule 2, General Provisions, filed 10-21-82;  
SPB Rule 2, General Provisions, filed 06-28-83;  
SPB Rule 2, General Provisions, filed 03-07-86;  
SPB Rule 2, General Provisions, filed 10-17-86;  
SPB-1, General Applicability filed 04-04-90;  
SPB-1, General Applicability filed 10-19-90;

SPB-1, General Applicability filed 12-24-91;  
SPB 2, General Provisions, filed 12-15-92;  
SPB 2, General Provisions, filed 02-10-94;  
SPB 2, General Provisions, filed 12-29-94.

**History of Repealed Material:**

1 NMAC 7.1, General Provisions, filed 06-13-97.

**Other History:**

1 NMAC 7.1, General Provisions, filed 01-12-96 replaced SPB 1, filed 02-14-94 and SPB 2, filed 12-29-94;

1 NMAC 7.1, General Provisions, filed 05-02-96;

1 NMAC 7.1, General Provisions, filed 06-13-97 replaced by 1.7.1 NMAC, General Provisions, effective 07/07/01.