PURPOSE

The purpose of this policy is to establish a Code of Conduct for all Public Regulation Commission (PRC) employees, classified and exempt. Violation of this Policy may result in discipline, up to and including termination. These standards shall constitute the required NMPRC Code of Conduct according to Section 10-16-11 NMSA 1978 of the New Mexico Governmental Conduct Act. Employees covered by the State Collective Bargaining Agreement may have other rights. See, CBA.

POLICY

All NMPRC employees shall treat their government position as a public trust. Employees are expected to conduct themselves in a manner that instills public confidence, adheres to the highest standards of honesty, integrity, professionalism and diligence, and at all times maintain integrity and ethically discharge the high responsibilities of public service. Such conduct shall include politeness, frugality, punctuality and respect for others. The public and co-workers shall be treated with respect and courtesy at all times. Conduct that violates any provision of statute may be subject to any penalty (ies) as prescribed by law.

A. Business Conduct:

1. All Employees shall conduct themselves professionally in all dealings with the public, clients and co-workers. Employees shall treat each other and the public with courtesy and respect.

2. Use of language or gestures that is threatening, abusive or profane to the public or any co-worker is prohibited.

3. Bullying is prohibited.

4. Harassment is prohibited.

5. Employees should cooperate with their supervisors and follow direction. Insubordination will not be tolerated. Insubordination means refusal to follow an authorized Supervisor’s reasonable orders or a willful disregard of a Supervisor’s legitimate authority.

6. All furniture and equipment supplied to Employees is state property. Employees do not have a privacy interest in state property, and the agency retains the right to search property (e.g., offices, desks, file cabinets, computer files, and other state issued property) at any time. See, Section I.
7. All Employees will protect and conserve the NMPRC’s property including equipment, supplies, and other property entrusted or issued to them. See, Section I.

8. Employees shall not willfully damage, misuse or misappropriate NMPRC property and doing so may result in termination and referral to law enforcement. See, Section I.

9. Employees shall not alter without authorization, or falsify any NMPRC information or records and doing so may result in termination and referral to law enforcement.

B. Violence, Harassment and Safety in the Workplace:

1. It is the NMPRC’s policy to promote a safe work environment for its employees. The NMPRC is committed to working with its Employees to maintain a work environment free from violence, threats of violence, intimidation, and other disruptive behavior.

2. Employees shall not cause or create unsafe or hazardous condition. This includes maintaining a safe and hazard free office or workspace. Employees must report unsafe or hazardous workplace conditions to management.

3. NMPRC will not tolerate verbal threats, threatening or violent behavior, implied or actual, by any person, including members of the public, directed towards NMPRC personnel or property.

4. Possession of firearms or weapons by Employees in the workplace, either in the Agency premises or while conducting official business, is prohibited.

5. Verbal threats or threatening or violent behavior, actual or implied, by an Employee, directed towards other Employees, to members of the public or to State of New Mexico property, made while conducting official business and/or on the Agency premises, including intimidation, harassment and/or coercion will not be tolerated.

6. Any act or threat of workplace fighting, or physical violence, or stalking conducted in the workplace or while conducting official business, may be referred to law enforcement.

7. When threatening behavior is exhibited or an act of violence is committed, the NMPRC will initiate an appropriate response. This response may include, but is not limited to, evaluation by the State Employee Assistance program and/or termination of any business relationship, reassignment of job duties, suspension or termination of employment, and/or referral to appropriate law enforcement for investigation and criminal prosecution of the person(s) involved.
C. Drug and Alcohol Use/Violations of Law:

1. See Policy No. 6 for Drug and Alcohol Policies.

2. See Policy No. 4 for Smoking Policy.

3. Employees must report the use of any medication which may impair work performance to their immediate Supervisor.

4. Employees, who consume alcohol or possess an open container, while on duty, shall be terminated.

D. Recording:

Employees, while in the workplace or while conducting official duties, shall provide prior verbal notice to all other Employees and all other persons present (within recording distance) that he/she intends to make an audio recording or video recording of any conversation or meeting.

E. Ethical Principles of Public Service, Prohibited Acts and Conflicts of Interest:

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

2. Full disclosure of real, perceived, or potential conflicts of interest shall be a guiding principle for determining appropriate conduct. At all times, reasonable efforts shall be made to avoid undue influence and abuse of office in public service.

3. No employee shall request or receive, and no person shall offer an employee, any money, thing of value or promise thereof that is conditioned upon, or given in exchange for, promised performance of an official act.

4. Employees shall not perform an official act for the primary purpose of directly enhancing their own financial interest, financial position, or for any other form of personal gain.

5. Employees shall disqualify themselves from engaging in any official act directly affecting their or their family’s financial interest.

6. Any person who knowingly and willfully violates the provisions of the Governmental Conduct Act, NMSA 1978, §§ 10-16-1 through 18 is guilty of a fourth degree felony.
7. No employee may request or receive an honorarium for a speech or service rendered that relates to the performance of public duties. "Honorarium" means payment of money, or any other thing of value in excess of one hundred dollars ($100), but does not include reasonable reimbursement for meals, lodging or actual travel expenses incurred in making the speech or rendering the service, or payment or compensation for services rendered in the normal course of a private business pursuit. Such private business interests may only be pursued during non-work hours or when an employee is on approved leave. Employees may not conduct private business with entities with which the PRC has regulatory or supervisory authority contact outside the normal provisions of service available to other consumers.

8. Employees shall not use confidential information acquired by virtue of their state employment for their or another person’s private gain.

9. Any person, who violates the State Procurement Code NMSA 1978 §§13-1-190 and 193 is guilty of a misdemeanor. It is unlawful for any employee who is participating directly or indirectly in the procurement process to become or to be, while such an employee, the employee of any person or business contracting with the governmental body by which the employee is employed.

10. Pursuant to Section 8-8-19 NMSA 1978 of the Public Regulation Act, no employee shall accept anything of value from a regulated entity, affiliated interest or intervenor.

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1 Section 8-8-19 A. contains the following definitions: "(1) "affiliated interest" means a person who directly controls or is controlled by or is under common control with a regulated entity, including an agent, representative, attorney, employee, officer, owner, director or partner of an affiliated interest. For the purposes of this definition, "control" includes the possession of the power to direct or cause the direction of the management and policies of a person, whether directly or indirectly, through the ownership, control or holding with the power to vote of ten percent or more of the person's voting securities; (2) "intervenor" means a person who is intervening as a party in an adjudicatory matter or commenting in a rulemaking pending before the commission or has intervened in an adjudicatory or rulemaking matter before the commission within the preceding twenty-four months, including an agent, representative, attorney, employee, officer, owner, director, partner or member of an intervenor; (3) "pecuniary interest" includes owning or controlling securities; serving as an officer, director, partner, owner, employee, attorney or consultant; or otherwise benefiting from a business relationship. "Pecuniary interest" does not include an investment in a mutual fund or similar third-party-controlled investment, pension or disability benefits or an interest in capital credits of a rural electric cooperative or telephone cooperative because of current or past patronage; and (4) "regulated entity" means a person whose charges for services to the public are regulated by the commission and includes any direct or emerging competitors of a regulated entity and includes an agent, representative, attorney, employee, officer, owner, director or partner of the regulated entity."
For the purposes of this paragraph, "anything of value" does not include: a) the cost of refreshments totaling no more than five dollars ($5.00) a day or refreshments at a public reception or other public social function that are available to all guests equally; b) inexpensive promotional items that are available to all customers of the regulated entity, affiliated interest or intervenor; or c) pension or disability benefits received from a regulated entity, affiliated interest or intervenor.

11. Pursuant to Section 8-8-19 NMSA 1978 of the Public Regulation Act, no employee shall have a pecuniary interest in a regulated entity, affiliated interest or intervenor, and if a pecuniary interest in an intervenor develops, the employee shall divest himself of that interest or recuse himself from the proceeding with the intervenor interest.

12. Pursuant to Section 8-8-19 NMSA 1978 of the Public Regulation Act, no employee shall solicit any regulated entity, affiliated interest or intervenor to appoint a person to a position or employment in any capacity.

13. It is unlawful for a state agency employee who is participating directly or indirectly in the contracting process to become or to be, while such an employee, the employee of any person or business contacting with the governmental body by whom the employee is employed.

F. Prohibited Sales by Employees:

1. Supervisor employees of the NMPRC are required to comply with the prohibition of certain business sales to employees under their supervision as set forth in the Governmental Conduct Act, Section 10-16-13.2 NMSA 1978 (2011).

2. NMPRC employees are required to comply with the prohibition of certain business sales to persons over whom the employee has regulatory authority as set forth in the Governmental Conduct Act, Section 10-16-13.2 NMSA 1978 (2011).

3. An employee of the PRC shall not participate directly or indirectly in a procurement when the employee knows that the employee or any member of the employee’s immediate family has a financial interest in the business seeking or obtaining a contract.

G. Outside Employment and Activities:

Employees of the PRC may hold outside employment, including public, private, or self-employment, or invest, or acquire an interest in a private business so long as the outside employment complies with this Code of Conduct and Section 8-8-19 of the NMPRC Act. Additionally, outside employment or business activity are prohibited from being performed during the hours they are scheduled for work, including paid breaks, unless they have authorized leave. An employee wishing to represent the NMPRC in an official capacity must obtain prior approval from the Chief of Staff.

H. Gambling:

Engaging in gambling or commercial gambling activities during work hours, including paid breaks, or on NMPRC premises or while conducting official duties shall result in disciplinary action. The following statutory definitions apply to such activities:

1. Gambling consists of:
   
   a. making a bet;
   b. entering or remaining in a gambling place with intent to make a bet, to participate in a lottery or to play a gambling device;
   c. conducting a lottery; or
   d. possessing facilities with intent to conduct a lottery.

2. Employees are advised that whoever commits commercial gambling is guilty of a petty misdemeanor. Commercial gambling consists of:
   
   a. participating in the earnings of or operating a gambling place;
   b. receiving, recording or forwarding bets or offers to bet;
   c. possessing facilities with the intent to receive, record or forward bets or offers to bet;
   d. for gain, becoming a custodian of anything of value, bet or offered to be bet;
   e. conducting a lottery where both the consideration and the prize are money, or whoever with intent to conduct a lottery, possesses facilities to do so; or
   f. setting up for use, for the purpose of gambling, or collecting the proceeds of, any gambling device.

H. Use of State Property, Equipment and Supplies:

1. Equipment, furniture, supplies, and other state resources is state property and are to be used only in support of official NMPRC business or activities.

2. State property may not be removed from work premises without a supervisor’s authorization.

3. State telephones and State computers are to be used primarily for official Agency business or activities. Use of State telephones and State computers for personal matters shall be
kept to a minimum and shall not interfere with employee's duties. Supervisors are expected to monitor State telephone and State computers usage so as to ensure that personal use does not interfere with the performance of their Subordinates’ duties.

4. Personal cell phone use shall be minimal while conducting official business or in the workplace and shall not interfere with official duties.

5. Employees shall not use State telephones to place long distance personal calls or accept collect calls billed to the State without approval from their Supervisors. An employee shall reimburse the Agency for the cost of such calls.

6. The unauthorized removal or fraudulent use of State property for personal or other purposes is prohibited and doing so may result in termination and referral to law enforcement.

7. All Employees shall adhere to any and all State of New Mexico and Agency Information Technology protocols on system security.

8. Any implied or express threat to damage or compromise the security of the IT systems and network is prohibited.

J. Legislative Activities

1. Employees interested in a particular bill pertaining to the Agency’s duties and wishing to attend a committee hearing must obtain permission from their Division Director.

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

3. Such employees shall, if speaking to an issue, clearly indicate that they are present in a personal capacity and shall, when voicing a personal opinion on an issue, clearly identify the position or opinion as personal.

K. Political Activities:

1. Permitted political activities:
   a. Employees are encouraged to register and vote;
   b. Employees have a right to express their opinions on all political subjects and candidates; and
   c. Employees may wear no distracting political badges or buttons while on duty.

2. Employees may engage in the following activities so long as they are on approved leave:
   a. serve as convention delegates;
   b. attend political rallies;
c. sign nominating petitions and make voluntary contributions to political organizations;

d. engage in political activity; and

e. serving as election officials.

3. Employees are prohibited from:

a. using official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office or for any other political purpose;

b. directly or indirectly coercing, attempting to coerce, commanding or advising a state or local officer or employee to pay, lend or contribute anything of value to a party, committee, organization, Agency or person for a political purpose;

c. threatening to deny promotions to any employee who does not vote for certain candidates, influencing or advising to contribute to a political fund, influencing to buy tickets to political fundraising dinners and similar events, or to take part in political activity and matters of a similar nature;

d. engaging in political activity while on duty; or

e. serving as an officer of a political organization even if off duty.

4. Employees shall comply with all provisions of the Gift Act, Sections 10-16B-1 etseq. NMSA 1978, including but not limited to: shall not knowingly accept from a restricted donor, and a restricted donor shall not knowingly donate to an employee, or that person's family, a gift of a market value greater than two hundred fifty dollars ($250); and b. shall not solicit gifts for a charity from a business or corporation regulated by the state agency for which the employee works and shall not otherwise solicit donations for a charity in such a manner it appears that the purpose of the donor in making the gift is to influence the state officer or employee in the performance of an official duty.

5. An employee is prohibited from directly or indirectly coercing or attempting to coerce another public officer or employee to pay, lend or contribute anything of value to a party, committee, organization, agency or person for a political purpose and threatening to deny a promotion or pay increase to another employee who does or does not vote for certain candidates, requiring another employee to contribute a percentage of the employee's pay to a political fund, influencing a subordinate employee to purchase a ticket to a political fundraising dinner or similar event, advising an employee to take part in political activity or similar activities.
L. Public Office:

1. Employees covered by the provisions of the Hatch Act [5 U.S.C. §§ 1501 to 1508] may be candidates in nonpartisan elections if, upon filing or accepting the nomination, and during the entire campaign, they are on authorized, full-time, continuous leave without pay. A nonpartisan election is any election for public office when the candidate's party affiliations are neither indicated nor required.

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

3. Employees not covered by the provisions of the Hatch Act may be candidates for any public office if, upon filing or accepting the nomination and during the entire campaign, they are on authorized full-time continuous leave without pay.

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

5. Serving as a local school board member or an elected member of any post-secondary educational institution shall not be construed as holding political office.

M. Dress Code:

1. Employees shall maintain good personal hygiene and dress appropriately for the tasks of their position.

2. Employees are prohibited from wearing Agency uniforms or any Agency clothes with badges when not in the workplace or while not conducting official business.

3. Employees who are assigned uniforms with NMPRC logos are only allowed to wear and use those uniforms while conducting official business.

N. Contact Information:

Every employee is responsible for maintaining his/her current contact information on file with the Human Resources Bureau. Notices mailed to the last address on record or phoned to the last telephone number on record shall be considered properly delivered.

APPROVED:

Ernest D. Archuleta, P.E. Chief of Staff

DATE: 8/16/17