North Central Regional Transit District (NCRTD)

Resolution No. 2019-17

ADOPTING CODE OF CONDUCT FOR DISTRICT EMPLOYEES

WHEREAS, the Governing Body in and for the North Central Regional Transit District, State of New Mexico is responsible for regulating the conduct of its employees through policy directives; and

WHEREAS, the Executive Director is responsible for implementation of the Board's adopted Policies; and

WHEREAS, the District is authorized to adopt a code of conduct pursuant to NMSA 1978, Section 10-6-11 (C ); and

WHEREAS, the NCRTD's vision statement calls for the District "to be the leading rural public transportation organization connecting communities and enhancing cultural, environmental, social, and economic opportunities for the betterment of our region."

WHEREAS, in order to achieve the District's mission and live up to its vision District Employees must conduct themselves in a caring and professional manner that inspires public trust and confidence.

WHEREAS, employees of the District shall aim to advance the District's mission and vision and shall not act in their capacity as an employee for personal gain excepting such compensation or payments as may be called for by the Districts employment policies and rules.

WHEREAS, in order to achieve the preceding goals the District finds that a comprehensive regulation of District employee ethics is desirable.

NOW THEREFORE BE IT RESOLVED THAT, the attached Code of Conduct is adopted as the District's policy for all District Employees and the Executive Director is directed to educate and enforce the District's employees regarding the ethical conduct of their respective duties pursuant to the attached Code of Conduct.
PASSED, APPROVED, AND ADOPTED BY THE GOVERNING BODY OF THE NORTH CENTRAL REGIONAL TRANSIT DISTRICT ON THIS 3rd DAY OF MAY, 2019.

Daniel Barrone, Chair

Approved as to form:

Peter Dwyer, Counsel
1.0 Objective:

The goal of this policy is to establish in clear and simple terms the District's expectations for its Employees. Nothing herein is intended or shall be deemed to alter minimum legal requirements of the Governmental Conduct Act, and the District's Procurement Policy or any other state or federal laws imposing standards of conduct upon the District, its Employees, Officers and agents.

2.0 Coverage:

The district is a "local government agency" within the meaning of NMSA 1978, Section 10-16-2 (G) and its Employees and board members are "public Officers or Employees" within the meaning of NMSA 1978, Section 10-6-2 (I). The Governmental Conduct Act (NMSA 1978, Section 10-16-1 et seq.) imposes mandatory minimum standards for the conduct of District Employees and authorize the creation of this Code of Conduct pursuant to NMSA 1978, Section 10-6-11 (C ) and shall be reviewed "at least once every four years" pursuant to NMSA 1978, Section 10-6-11 (D). For purposes of this Policy an "Officer" is an elected or appointed official who serves on the District Board and an "Employee" is a person employed by the District as further defined in the District's Personnel Rules.

3.0 Roles and Responsibilities:

Each Employee of the District is responsible for familiarizing themselves with this Code of Conduct and complying with the Code of Conduct. Training, and responses to questions and concerns will be the responsibility of the Executive Director, the Human Resources Director and the District's legal counsel.

4.0 Guiding Principles:

The Guiding Principles for conduct are established in the District's Mission and Vision statements and Long Range Strategic Plan. The District's mission is "to provide safe, secure and effective public transportation within North Central New Mexico in order to enhance the quality of life of our citizens by providing mobility options and spur economic opportunities throughout the region." The District's vision is "to be the leading rural public transportation organization connecting communities and enhancing cultural, environmental, social, and economic opportunities for
"the betterment of our region."

In order to achieve the District's mission and live up to its vision District Employees must conduct themselves in a caring and professional manner that inspires public trust and confidence.

All District related actions by Employees of the District shall aim to advance the District's mission and vision and shall not be performed for personal gain excepting such compensation or payments as may be called for by the Districts employment policies and rules.

5.0 Public Trust:

In performing acts on behalf of the District, Employees shall act in a "public trust" capacity pursuant to NMSA 1978, Section 10-6-3 (A) of the Governmental Conduct Act. This means that Employees shall use the powers and resources of the District only to advance the public interest and not to obtain personal benefits or pursue private interests. This includes the requirement that District Employees:

5.1 shall strive in all their actions to bring credit to the District; and
5.2 shall conduct themselves in a manner that justifies the confidence placed in them by the people, at all times maintaining the integrity of and discharging ethically the high responsibilities of public office; and
5.3 shall not use or disclose confidential information obtained by virtue of their employment for their own or another person's benefit or private gain.

6.0 Compliance with Law:

The minimum standard for all persons covered by this Code of Conduct is that they comply with the law. District Employees are expected to comply with all safety and fair dealing laws, and to be ethical and responsible when dealing with the District's finances, property, and in dealing with riders. Specific laws that should be considered include but are not limited to the following state laws:

- The Governmental Conduct Act, NMSA 1978, Sections 10-16-1 et seq, 10-16-6 through 10-16-9, 10-16-11, 10-16-13.1 through 10-16-14 and 10-16-17.
- The Whistleblower Protection Act, NMSA 1978, Section 10-16C-1 et seq.
- The Fraud Against Taxpayers Act, NMSA 1978, Section 44-9-1 et seq.
- The traffic laws of the State of New Mexico, NMSA 1978, Section 66-7-2 et seq.
- The Human Rights Act, NMSA 1978, Section 28-1-1 et seq.

Although the Gift Act (NMSA 178, Section 10-16B-1 et seq.) the Financial Disclosure Act (NMSA 1978, Section 2-11-1 et seq.) and the Procurement Code (NMSA 1978, Section 13-1-1 et seq.) do not technically apply to the District they nevertheless provide useful guidance on the ethical standards for public employees.

7.0 Prescribed Employee Conduct:

It is the policy of the District that certain rules and regulations regarding Employee behavior are necessary for efficient business operations and for the benefit and safety of all Employees and the public. Conduct that interferes with operations, discredits the District, is in violation of District policy, is unsatisfactory or is offensive will not be tolerated. Employees are expected at all times to conduct themselves in a positive manner to
promote the best interests of the District. Examples of behavior that may result in disciplinary action, up to and including possible termination, are:

7.1 treating others in a discourteous manner;
7.2 wearing clothing inappropriate for the work being performed;
7.3 failing to report to work punctually at the assigned times, or failing to be at the proper work-station ready for work as scheduled;
7.4 failing to maintain cleanliness and order in the workplace and work areas;
7.5 fighting with or assaulting others;
7.6 threatening or intimidating others;
7.7 falsifying or altering any District record or report, such as an application for employment, a medical-report, a time record, a financial record;
7.8 stealing, destroying, defacing or misusing District property or another's property;
7.9 engaging in acts of insubordination including, but not limited to, refusing to follow managements instructions concerning a job-related matter;
7.10 using profanity or abusive language;
7.11 sleeping on the job;
7.12 gambling on District property;
7.13 playing malicious or dangerous pranks or practical jokes, or engaging in horseplay.
7.14 alcohol and substance abuse;
7.15 dishonesty;
7.16 sexual and any other form of illegal harassment;
7.17 possession of weapons on District property;
7.18 poor work performance;
7.19 violation of District leave policies; and
7.20 violation of other District policies or directives.

8.0 Respect:

All District Officers and Employees should show respect for one another, for riders, and for all persons having business dealings with the District. Basic standards for showing respect require that Employees refrain from harassment, and treat colleagues equally regardless of class or classifications including such things as race, age and gender. Refraining from the use of profane language and limiting discourse to topics that will elicit anger, hostility and argument are the most basic ways in which to show respect. Refraining from comments that demean others and condemning the ideas or beliefs of another are also signs of respect.

Refusal to follow instructions based upon alleged safety issues, or in the event the instruction is alleged to require a violation of the law or of a Collective Bargaining Agreement shall be handled through the District's Personnel Rules.
9.0 Professionalism:

All District Employees shall maintain a high level of professionalism. The fundamental requirements of professionalism are set forth in the District's Professional Standards and Values. Additional considerations are as follows:

9.1 Personal Appearance shall be maintained through proper attire and hygiene in accordance with the District's dress code;

9.2 Officers and Employees shall familiarize themselves with their authorized role and job duties and shall refrain from actions beyond their authority or outside the scope of their job duties;

9.3 Officers and Employees shall fulfill their duties in a timely manner;

9.4 Employees shall accept and take direction from those persons having direct authority over them including supervisors, managers, directors, the Executive Director,

9.5 Employees shall not take direction from the Board Chair or individual Directors unless expressly authorized by the Executive Director or a written law or policy;

9.6 Officers and Employees shall at all times attempt to mentor and assist persons with less experience by providing useful suggestions and guidance rather than through orders or directions;

9.7 Supervisors and managers shall refrain from abusing their authority and shall delegate work according to the competence and workload of the Employees;

9.8 Employees shall arrive to work on time, prepared for work and shall not absent themselves from work at a time or in a manner that causes their colleagues to have to take on additional work, shifts or work tasks.

10.0 District Property:

All District Employees should treat District property including vehicles, equipment, tools, money, buildings, data, documents and information, with care and protect it against improper use or damage. District property shall be kept clean and in good repair and District tools shall only be used for their intended purposes. Use of District computers, phones and software shall be primarily for the benefit of the District and shall only be used for personal reasons on a limited and incidental basis as set forth in the District's other policies.

11.0 Corruption:

All actions or transactions by Employees which are illegal and/or corrupt are strictly prohibited and will result in referring the matter to the appropriate law enforcement agency. Criminal anti-corruption laws include but are not limited to:

State Criminal Laws

Bribery: § 30-24-2
Concealing campaign funds: § 1-19-34.3
Demanding illegal fees: § 30-23-1
Embezzlement: § 30-16-8
Extortion: § 30-16-9
RICO: § 30-42-4
Soliciting or receiving illegal kickbacks: § 30-41-1
Tampering with public records: § 30-26-1
Unlawful interest in a public contract: § 30-23-6

Federal Criminal Laws

Mail fraud: 18 U.S.C. § 1341
Using fictitious name: 18 U.S.C. § 1342
Wire fraud: 18 U.S.C. § 1343
Tax evasion: 26 U.S.C. § 720

12.0 Gambling:

"Gambling" shall have the meaning given by New Mexico law regarding regulated or illegal gaming. Gambling on District property is prohibited. Fund raising activities that involve raffling off of items to generate funds for Employee benefits is permitted. Other forms of gambling as a fund raising activity are prohibited.

13.0 Drugs and Alcohol:

The use of drugs and alcohol by District Employees are regulated under the District's Personnel Rules and specific Drug and Alcohol related policies. In addition to those requirements all District Employees shall refrain from any use of illegal drugs and shall take care in the use of legal drugs to ensure the public safety.

14.0 Weapons:

District Officers and Employees shall refrain from bringing any weapon prescribed under the District's Personnel Rules onto District property without the prior written approval of the Executive Director. The Executive Director may permit weapons upon District property if the Officer or Employee discloses the weapon and demonstrates to the Executive Director's satisfaction that the weapon will be securely stored (in the persons vehicle or otherwise) in such a manner as to ensure that the presence of the weapon on District property will not create a risk to the District or the public and that the presence of the weapon on the District property will not constitute intimidation or harassment of District Officers, Employees, or the public. Weapons in the possession of Public Safety Officers and Security Officers contracted by the District are exempt.

15.0 Gifts and Favors:

Gifts and favors by and from public Employees are generally regulated by the State of New Mexico Gift Act (NMSA 1978, Section 10-16B-1 et seq.) Although the Gift Act does not apply to the District, it nonetheless provides useful guidance on appropriate ethical standards for public employees. Gifts of District property are generally forbidden by the "Anti-donation" provisions of the State of New Mexico Constitution (Article IX, Section 14). Nothing in this Code of Conduct shall be construed to violate those provisions of law and the requirements of this Code of Conduct shall be deemed supplemental to, and more restrictive than, the existing legal requirements. For purposes of this policy a "Gift" shall have the definition and meaning set forth in the Gift Act but the District's limitation on gifts shall be $100 rather than the $250 set forth in the Gift Act.

2 See footnote 17 to the Attorney General's Governmental Conduct Act Compliance Guide.
15.1 Employees must not accept or permit any member of their immediate family or household to accept any gifts or favors from anyone in exchange for promised performance of an official act.

15.2 Employees shall not accept any gratuity offered for performance of existing job duties including honoraria\(^3\) for job related presentations, tips for District services, or any other form of compensation excepting only compensation for meals, lodging or travel expenses incurred for District related activities.

15.3 Subordinate Employees are prohibited from making any gift or gifts to any supervisory Employee that exceed $100.00 in value in any single calendar year and are expressly prohibited from making a gift of any value to any supervisor that would create an appearance of impropriety including but not limited to gifts intended to secure favorable reviews, evaluations, promotions, or other conditions of employment.

15.4 Employees are prohibited from donating or making gifts of District property to private entities or individuals.

15.5 District Employees are prohibited from granting favors to any vendor, contractor, or customer of the NCRTD where the favor would result in a significant cost or expense to the District or would result in unequal treatment of similarly situated vendors, contractors, or customers.

15.6 District Employees, or their family members are prohibited from accepting gifts exceeding $100.00 in value from a "restricted donor" as that term is defined in the Gift Act.

15.7 Prohibited gifts do not include gifts by Employees to food drives, charitable organizations or other similar fund raising activities so long as the gifts do not incur a cost or expense to the District. Nothing herein shall be deemed to amend or alter any District policy regarding solicitations in the workplace.

15.8 Prohibited gifts do not include any reward or incentive given to an Employee by the NCRTD as an employer.

15.9 Prohibited gifts include soliciting gifts for a charity from a business or corporation in a manner that appears that the purpose of the donor in making the gift is to influence the District's Officers or employees in the performance of their official duties. (See, NMSA 1978, Section 10-16B-3(C)).

15.10 Prohibited gifts do not include gifts by and between district Employees in recognition of birthdays, holidays or for non-work related reasons.

15.11 Prohibited gifts do not include promotional materials given to persons attending a conference or training on behalf of the District.

15.12 Prohibited gifts do not include payment for another Employee's meal by a co-worker.

15.13 Prohibited gifts do not include meals permitted from financial services companies that are expressly exempted under NMSA 1978, Section 10-16-13.3(C).

15.14 Prohibited gifts do not include awards or other forms of recognition by or to the District or its Employees that are strictly commemorative and do not include cash or payments of any kind.

\(^3\) The GCA (NMSA 1978, Section 10-16-4.1) expressly limits honoraria to $100.00 but the subsequent guidance interpreting Article XX, Section 9 of the New Mexico Constitution as prohibiting all additional compensation may apply. Also, Article IV, Section 27 of the constitution may be interpreted as prohibiting any increased compensation to a public servant for services rendered.
16.0 Board Conflicts of Interest:

A Board Member Conflict of Interest shall mean any situation governed and regulated by NMSA 1978, Section 73-25-5 (E) that reads as follows:

"A director of the board shall not vote on an issue when the director has a conflict of interest. A director of the board, Officer of the board or Employee of the board shall not:

16.1 acquire a financial interest in a new or existing business venture or business property of any kind when he believes or has reason to believe that the new financial interest will be directly affected by his official act;
16.2 use confidential information acquired by virtue of his office or employment for his or another's private gain; or
16.3 contract with the district without public notice and competitive bidding and full disclosure of his financial or other interest in the business that is party to the contract."

Board conflicts of interest shall be addressed and disclosed pursuant to 9.08 of the Board's Bylaws and by annual compliance through the filing of a Conflict of Interest disclosure form a copy of which is attached Hereto as Exhibit A.

17.0 Employee Conflicts of Interest/Appearance of Impropriety Standard:

Conflict of interest is difficult to define. The legal definition of conflict of interest, is very specific and covers relatively few situations. Most conflicts fall into a gray area where ethics and public perception are more relevant than statutes or precedents. Conflict of interest arises whenever the personal or professional interests of an Employee are potentially at odds with the best interests of the organization. Transactions that may constitute a conflict of interest are nevertheless acceptable if they benefit the organization and if approved by the Board or the Executive Director in an objective and informed manner. Conversely, even if an action or transaction is legal it may still be improper if action or transaction is vulnerable to legal challenges and public misunderstanding. Loss of public confidence and a damaged reputation are to be avoided even where the action or transaction is legal because public confidence is important to the District. Therefore, it is the policy of the District to avoid even the appearance of impropriety and full disclosure of real or potential conflicts of interest is required of all Employees. Specific limitations on conflicts of interest include the following:

17.1 Employees shall not take any official act for the primary purpose of enhancing their financial interest or financial position.
17.2 Employees are responsible for identifying there own actual or potential conflicts of interest and shall not participate in decisions or official actions directly affecting their financial interests.
17.3 Employees shall not engage in any other employment or activity that creates a conflict of interest, interferes with their duties to the public, compromises their ability to discharge effectively their duties, or otherwise adversely affects the performance of their duties.
17.4 Former Employees shall not represent a person in dealings with the District on a matter in which the former Employee participated personally and substantially.

18.0 Political Activity:

18.1 Employees of the District shall not solicit any contribution of funds, goods or services in aid of any
political campaign while on District property. Employees shall also refrain from using any District property, information obtained through District employment or service and any other District resources in aid of any political campaign. Nothing herein shall prohibit the District, and its Employees from providing information regarding ballot issues involving the District.

18.2 Employees shall refrain from any action that expressly or impliedly compels other District Employees to support a candidate or to contribute goods, money or services to a political fund or effort including but not limited to union related associations and activities. For purposes of this Policy a request to sign a nominating petition or similar requests for aid in a political campaign shall be prohibited upon District Property. Voluntary participation in any political activity including but not limited to union membership and contribution to or payment of union dues, fees and contributions shall be permitted and appropriately documented.

18.3 Employees may run for elected office to the extent permitted by state and federal laws including but not limited to the Hatch Act and the District's Personnel Rules.

18.4 District Employees shall refrain from dissemination of partisan media while in the workplace.

18.5 Political activity by Employees that is in aid of the District and is authorized and approved by the Board is expressly permitted. However, any such political activity shall be subject to the direction and prescription of the Board and the Executive Director. District Employees shall refrain from engaging in lobbying or other political activities on behalf of the District unless they are expressly authorized and directed to take such actions.

18.6 Because the District receives substantial federal funding the District's Officers and Employees may be deemed to fall under the coverage of 5 U.S.C. Section 1501 to 1508 commonly known as the "Hatch Act." The Hatch Act covers government employees whose principal employment is in connection with an activity which is financed in whole or part by federal loans or grants. The Hatch Act restricts or prohibits covered employees from interfering with or affecting the result of an election by using their official authority or influence, soliciting political contributions from public employees, and running for office. All Employees of the District are charged with determining for themselves the application of the Hatch Act to their activities and complying with the law.

19.0 Solicitations:

Non-political solicitations by Employees of the District on behalf of the District are permitted to the extent authorized by the Board or the Executive Director. Non-political solicitations of Employees by other Employees for charitable organizations shall be permitted only to the extent authorized by the Executive Director and shall not be permitted where the solicitation identifies specific individuals and singles them out in front of their peers in a manner which compels participation or causes express or implied pressure to donate to a cause, charity or fund.

20.0 Travel:

Travel paid for by the District shall be scheduled and conducted in a manner that optimizes the benefits to the District. Officers and Employees shall refrain from conduct that creates the appearance of a lack of professionalism when on District travel. Such conduct includes unruly behavior, public intoxication, improper or unprofessional dress or appearance and any other inappropriate conduct that reflects poorly upon the District.

21.0 Confidentiality:

All District Business is public business and the District's Employees shall strive to optimize transparency in the
performance of District work to the maximum extent practicable. Notwithstanding the District's commitment to open and transparent government, it remains essential that certain aspects of public employment and public service be performed in a manner that respects the confidential information and privacy of individuals and mitigates the risk to tax-payer assets caused by disclosure of confidential information. Confidential information includes all personal identification information that might be used for identity theft, all attorney-client privileged communications, all proprietary information of third-party vendors, portions of disciplinary personnel actions, all Employee evaluations and such financial information as may be deemed confidential under New Mexico law.

It is the responsibility of all Employees to maintain confidentiality of confidential information and the disclosure of such information to the public, the press, or the community at large is prohibited.

22.0 **Accuracy of Books, Records and Reports:**

It is incumbent upon all District Employees to ensure that the records, reports and District data is maintained in a current format and accurately reflects the facts regarding the business and operations of the District. All District Employees are required to cooperate with any internal or external auditor, compliance Officers, regulators and other agencies who have regulatory authority over the District. Affirmative disclosure is required for any fact or information that is likely to materially alter a review of the District's finances and operations. Destruction and alteration of District records shall be performed only to the extent permitted by the District's Record Retention and Disposition policies. Alteration of draft documents or dynamic records such as databases, route maps and iterative documents is permitted as necessary but District records shall not be altered or amended in a manner that omits or elides material facts about the District.

23.0 **Outside Employment:**

Pursuant to the Governmental Conduct Act, all Employees of the District are charge with duties as trustees of the public's resources. As public trustees the Employees shall only use the powers and resources of public office and employment to advance the public interest and shall not obtain personal benefits or pursue private interests using District resources.

23.1 All outside employment by District Employees shall be reported to the Executive Director consistent with the District's Personnel Rules.

23.2 All outside employment by District Officers shall be reported to the Board to the extent that the employment may create a conflict of interest.

23.3 Outside employment by Employees that requires the Employee to respond to phone calls, texts, or other forms of communication during their regular work hours at the District is prohibited.

23.4 Outside employment that creates scheduling conflicts or unreasonably limits the availability of District Employees during hours when they can reasonably be expected to be available for District business or operations is prohibited.

23.5 Outside activity by District Employees, whether as an Employee, contractor or a volunteer, that seeks to obtain goods, services, grants, or other aid from the District for a third party (and not the general public) is prohibited.

24.0 **Hiring and Contracting Employees and Officers:**

The District may consider applications from existing and former Officers but shall not hire as an Employee any sitting Board Member. Board Members may volunteer pursuant to the District's Personnel Rules. The District
may contract with former Employees and Officers to the extent that said contract is in the District's best interest as determined by the Board provided that:

24.1 The former Officer or Employee has no actual or apparent conflict of interest;
24.2 The contract is disclosed to the Board;
24.3 The Former Officer or Employee does not receive a direct financial benefit from prior actions taken in their capacity as an Officer or Employee of the District.

25.0 **Reporting Violations:**

All Employees shall report violations of this policy to the Executive Director or the Board.

26.0 **Retaliation Prohibited:**

It shall be deemed a violation of this policy for any Employee of the District to retaliate against another Employee for reporting or alleging a violation of this policy.

27.0 **Sanctions:**

Employees may be sanctioned for a violation of this policy pursuant to the relevant provisions of the District Personnel Rules or any applicable Collective Bargaining Agreement.