NORTH CENTRAL REGIONAL TRANSIT DISTRICT
BOARD MEETING AGENDA

August 3, 2012
9:00 AM - 1:00 PM
Jim West Regional Transit Center
Board Room

CALL TO ORDER:

1. PLEDGE OF ALLEGIANCE
2. MOMENT OF SILENCE
3. ROLL CALL
4. INTRODUCTIONS
5. APPROVAL OF AGENDA
6. APPROVAL OF MINUTES - June 1, 2012 and July 6, 2012
7. PUBLIC COMMENTS

PRESENTATION ITEMS: None

ACTION ITEMS FOR APPROVAL/DISCUSSION:

A. Approval of Resolution No. 2012-15, Relating to Collective Bargaining for the NCRTD Providing Rights, Responsibilities, and Procedures In The Employment Relationship Between Employees and The Employer:
Sponsor: Anthony J. Mortillaro, Executive Director. Attachment

B. Review and Adoption by Resolution No. 2012-17, Amending the Records and Email Retention Policy:
Sponsor: Anthony J. Mortillaro, NCRTD Executive Director and Jim Nagle, Public Information Officer. Attachment

C. Review and Adoption by Resolution No. 2012-16, Amending the Personnel Rules and Regulations:
Sponsor: Anthony J. Mortillaro, NCRTD Executive Director and Finance Sub Committee. Attachment

D. Review and Adoption by Resolution No. 2012-14, Adopting the FY 13 Compensation Plan:
Sponsor: Anthony J. Mortillaro, NCRTD Executive Director and Finance Sub Committee. Attachment

E. Review and Adoption by Resolution No. 2012-18, A Revised Charter Service Policy:
Sponsor: Anthony J. Mortillaro, NCRTD Executive Director and Mike Kelly, Transit Operations and Facilities Manager. Attachment

F. **Review and Adoption by Resolution No.2012-19, Adopting the FY 13 Regional Service Plans from the City of Santa Fe and Los Alamos County and acknowledging the Service Plan from Santa Fe County:**
   Sponsor: Anthony J. Mortillaro, NCRTD Executive Director and Linda Trujillo, Service Development and Projects Manager. Attachment

G. **Presentation of Annual Route Assessment Summary and Board Direction on Route Additions or Adjustments:**
   Sponsor: Anthony J. Mortillaro, NCRTD Executive Director and Linda Trujillo, Service Development and Projects Manager. Attachment

**DISCUSSION ITEMS:**

H. **Financial Report for June 2012 and July 2012:**
   Sponsor: Anthony J. Mortillaro, NCRTD Executive Director and Pat Lopez, Financial Analyst. Attachment

I. **Finance Subcommittee Report: NA**
   Sponsor: Chair Tim Vigil and Anthony J. Mortillaro, NCRTD Executive Director. No Attachment next meeting August 24, 2012.

J. **Tribal Subcommittee Report:**
   Sponsor: Chair Mary Lou Valerio and Anthony J. Mortillaro, NCRTD Executive Director. Attachment.

K. **Executive Report for July 2012 and Comments from the Executive Director:**
   Sponsor: Anthony J. Mortillaro, NCRTD Executive Director. Attachment

**MATTERS FROM THE CHAIR**

**MATTERS FROM THE BOARD**

**MISCELLANEOUS**

**ADJOURN**

**NEXT BOARD MEETING:** September 7, 2012 at 9:00 a.m.

If you are an individual with a disability who is in need of a reader, amplifier, qualified Sign Language interpreter or any other form of auxiliary aid or service to attend or participate in the hearing of the meeting, please contact the NCRTD Executive Assistant at 505-438-3257 at least one week prior to the meeting, or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats.
CALL TO ORDER:

A regular meeting of the North Central Regional Transit District Board was called to order on the above date by Daniel Barrone, Chair, at 9:12 a.m. at the Buffalo Thunder Resort, Pojoaque, New Mexico.

1. Pledge of Allegiance

2. Moment of Silence

3. Roll Call

Roll call indicated the presence of a quorum as follows:

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<th>Members Present:</th>
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<td>Los Alamos County</td>
<td>Councilor Geoff Rodgers [T]</td>
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<td>Commissioner Dan Barrone</td>
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<td>Rio Arriba County</td>
<td>Commissioner Barney Trujillo</td>
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<td>Ms. Mary Lou Valério</td>
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<td>City of Santa Fé</td>
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<td>Mr. Jon Bulthuis</td>
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<td>City of Española</td>
<td>Councilor Tim Salazar</td>
<td>Councilor Peggy Martinez</td>
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Staff Members Present
Mr. Anthony J. Mortillaro, Executive Director
Mr. Mike Kelly, Transit Operations Manager
Ms. Kelly Muniz, Financial Manager
Mr. Jim Nagel, PIO
Mr. Pal López, Financial Analyst
Ms. Monica Sartelle, Administrative Assistant
Ms. Lirida Trujillo, Service Development and Projects Manager
Mr. Gus Martinez, Fleet Manager
Mr. Mitch Davenport, Contractual Construction Manager

Others Present
Mr. Peter Dwyer, Legal Counsel
Mr. Pablo Sedillo, Sen. Bingaman's staff
Mr. Andrew Jandáček, Santa Fé County
Mr. Greg White, NMDOT
Councilor Chuck Ring, Town of Edgewood
Ms. Elizabeth Martin, Stenographer

4. INTRODUCTIONS

Those present introduced themselves to the Board.

5. APPROVAL OF AGENDA

Commissioner Holian moved to approve the agenda as presented. Commissioner Trujillo seconded the motion and it passed by unanimous voice vote.

6. APPROVAL OF MINUTES

• Minutes of Regular Meeting on April 13, 2012

Chairman Barrone moved to approve the minutes of April 13, 2012 as submitted. Commissioner Holian seconded the motion and it passed by unanimous voice vote.

7. PUBLIC COMMENTS

There were no comments from the public.

PRESENTATIONS
• Recognition of Former Chair, Rosemary Romero

Chair Barrone presented a plaque to Ms. Romero and a certificate of appreciation of her four years’ service to the NCRTD and for serving as Chair of the Board from 2010 to 2012. He thanked her for standing up for the NCRTD during times of criticism and stress.

Ms. Romero thanked the Chair for the honor. She acknowledged that cooperation was necessary in organizations like this. She was grateful for the opportunity and was able to use her strategic planning skills in serving as Chair. To be honored in this way was gratifying. She thanked everyone on the Board for serving to represent their constituencies and encouraged them to keep up the great work and going forward. She gave kudos to staff for their hard work, the Executive Director and especially to Kelly for getting finance audits on track.

Mr. Sedillo thanked Ms. Romero on behalf of the Senator and thanked the board members for their hard work.

ACTION ITEMS FOR APPROVAL/DISCUSSION:

A. Public Hearing and Review of Proposed FY 13 Budget:

The FY 13 Budget was presented by Mr. Mortillaro and staff members. Mr. Mortillaro began with an overview of the budget. He briefly explained how it was divided into departments. He said they took a conservative approach on revenue projections. They experienced an decrease in funding from Los Alamos County. Their agreement was for five years and had no commitment beyond five years. They were being more conservative now in contributing to the NCRTD because of the uncertainties over federal funding of new LANL projects.

The District recently made a request for more funding from NMDOT to subplant GRT for $50,000 and anticipated receiving it.

He hoped that all bills for the Jim West Center would have been received before the end of the fiscal year and if not we might have to carry over some of them to be paid in FY 2013. He was thankful that they had been able to balance the budget. No new grants were anticipated. In July or August staff would present all adjustments to routes and would ask for Board approval of the routes at that time.

Two new full time positions were added to the budget. There is custodial service for the new building and before hiring someone would consider contracting it out through an RFP. There was also a facility maintenance position anticipated that would include landscaping, bus shelters, etc.

Contractual services would increase slightly and there were some other adjustments staff would address.

Allocations for regional services included Santa Fé Trails, The NM Railrunner and Atomic City Transit.
The Railrunner worked on a formula basis that depended on GRT revenue generated.

Mr. Vigil, as chair of the Finance Committee, made comments regarding their review of the budget and reported that the Finance Committee recommended approval of the budget to the Board.

Mr. Mortillaro asked several staff members to share in the budget presentation. He asked the Board to turn to page 24 for the revenue projections. Mr. López made the presentation on the revenue projections. Page 24 presented the summary; the break out for FY11 revenue; budget for FY12 and receipts year to date and the budget for FY13. He explained each of the sources of funding as shown in the packet and described the uses for the federal grants. He detailed the amounts that would be carried over into the new fiscal year from federal grants. He then went through the GRT revenues. He noted that Los Alamos County was pledging $500,000 for 2013 as their contribution to NCRTD. He said they were taking a conservative approach for the last three months of the fiscal year: March, April and May. They anticipated about $502,000 less this year from Los Alamos County. He briefly reviewed the GRT revenue from the other counties. He pointed out the bottom line that showed a deficit of $259,000 revenue. He felt confident they could balance the budget with position vacancies and other expenditure reductions.

Mr. Mortillaro presented the budget report for Administration. He explained the contractual obligations that included IT services.

Mr. Nagle presented the marketing report and reviewed the advertising budget. Most of the expense was in printing and production of schedules and other marketing pieces. It also was used for promotions. He would be focusing on community outreach in an effort to increase ridership.

Mr. López explained the increases necessitated by occupying the new facility including janitorial services, etc.

Ms. Muniz presented the budget report for Finance.

Mr. Kelly presented the budget report for Administration/Operations. Personnel was essentially flat and there had been no contractual services but would have some in the new facility. He commented on a few line items and said most were just minor adjustments. He went to the drivers’ portion of the budget where again they just had minor adjustments.

Mr. Mortillaro spoke briefly about putting wireless internet on the buses.

The Fleet and Facility portion of the budget report was presented by Mr. Gus Martinez.

Mr. Mortillaro said fuel prices were fairly stable at the moment. They had some vehicles using diesel fuel which had gotten cheaper recently and were working on having wholesale rates instead of retail.

Mr. Bulthuis asked about the insurance costs. Money for the facility came from federal sources and the District needed to have enough coverage for replacement costs if ever needed.

Mr. Mortillaro said it would be adequately insured to meet that obligation.
Operations - non RTD was presented by Mr. Mortillaro. He explained that the non-RTD portion was for operations by partner entities covered in contractual obligations to provide regional services.

He also presented the capital portion of the budget which included the construction costs for the new facility as well as furniture and fixtures, a fueling facility, vehicle location software, mobile radios and new buses. He briefly addressed some of the changes that were made to improve the appearance of the new facility. Some carryover funds would be used for furniture and fixtures during FY13. Federal funds would also be used for shelter signage.

Chair Barrone commented on the water situation in the proposed parking area.

Mr. Vigil thanked Mr. Mortillaro and the staff for putting the presentation together, especially for Ms. Muniz who had additional responsibilities placed on her.

Commissioner Holian asked about having surplus vehicles in the fleet in case of a bus breakdown. Mr. Kelly replied that they kept sufficient vehicles to keep the system running in case of a break down. They had 20% replacement plan in place for that purpose. He explained that it took into account the various sizes of vehicles, some of which required CDL drivers. He agreed it was a tight ratio.

Commissioner Holian asked if that would be evaluated this year. Mr. Kelly agreed.

Ms. Valerio asked for clarification on the budget section that showed base salaries going down by $60,000 but number of positions going up. She asked how that was possible.

Mr. Mortillaro explained that this was the first year they had a good handle on the number of full-time, part-time and temporary positions so they could show the correct salaries and calculate the benefits accurately. He explained that some part-time drivers received benefits and others were without benefits. This year they made an effort to make it accurate from this time forward. The calculations were based on the routes that needed to be covered and took into account absences and illnesses of drivers that had to be covered by other drivers. Because of declining revenue they had to be very careful in the coverage.

Chair Barrone closed the public hearing.

B. Approval of Resolution No. 2012 - 10, FY 2012 Final Budget

Mr. Mortillaro had no additional comments on the budget.

Mr. Bulthuis moved to approve Resolution No. 2012-10 - FY 2012 Final Budget. Commissioner Trujillo seconded the motion and the motion passed by unanimous roll call vote with Taos County, Los Alamos County, Rio Arriba County, Santa Fé County, Pojoaque Pueblo, Santa Clara Pueblo, City of Española and City of Santa Fé voting in favor and none voting against.

Mr. Mortillaro said that the approved final budget would now be submitted to DFA for their approval.
Chairman Barrone thanked Mr. Mortillaro and staff for the thorough presentation on the budget.

Upon motion by Commissioner Holian, second by Mr. Vigil and unanimous voice vote, the Board took a five minute break.

C. Review and Adoption by Resolution No. 2012-09, Rider Suspension Policy

Mr. Kelly spoke about misbehaving riders and how they needed to address the issue so drivers could continue safe operation of the route. This policy would clarify that management would step in and direct the person not to ride the bus. He explained the details of the policy that were included in the packet. The policy provided for various levels of suspension and criteria to use in deciding to suspend a person from riding. The policy allowed for an investigation in cases where it was not clear.

Ms. Martinez excused herself from the meeting.

Ms. Valerio asked about what would happen if the driver didn’t notice at first that the rider was intoxicated.

Mr. Kelly said that had happened from time to time. Depending on the disruption on the bus determined how it was to be handled. Sometimes the driver would put them off at the next stop and for those more disruptive, the driver would stop the bus at the next safe place and put the rider off the bus. Anytime bodily harm was likely, the driver would use that alternative.

Mr. Dwyer added that clear and comprehensive training for drivers would be provided so it could be done while maintaining the safety of all.

Mr. Mortillaro responded to another question about young children riding the bus and informed the Board that the District’s policy was that they could provide transportation for riders from age 10 and up without parents being present. It was left up to the driver to ascertain the passenger was at least ten years old.

Ms. Trujillo said in the past the minimum age was 13 and the Board subsequently lowered it to 10. The policy included how to deal with disruptive children.

Mr. Mortillaro explained how the process was reflected in the policy for drivers to deal with those minors.

Chair Barrone raised an issue if an intoxicated rider was ejected on the road and subsequently was killed what liability the District would incur.

Mr. Dwyer said the driver was supposed to leave the rider at a safe and well-lighted area. That was not in the policy but in the driver training.
Mr. Kelly said they used the language of the federal motor carrier regulations in the training. So they were operating under the federal guidelines.

Mr. Rodgers said he understood the policy to suspend riders but wondered about allegations made against a driver and what the policy was for that.

Mr. Kelly described a situation where a specific rider made allegations against two different drivers and the investigation saw no reason to suspend either driver. If the allegation was serious enough, the District could suspend the driver.

Mr. Rodgers asked if the District’s policy would allow for suspension of a driver for certain reasons. He wanted to make sure the policy covered such circumstances.

Mr. Dwyer responded that the personnel policies had enough flexibility to cover that situation.

Mr. Rodgers wanted to make sure it was a balanced approach.

Mr. Bultuis asked how a determination made by the Executive Director or other supervisors about suspension of a rider would be communicated to the drivers and staff (internally).

Mr. Kelly said they would issue a memo and description of the person and also a photo if available.

Mr. Dwyer said the policy didn’t cover requiring personal identification but would give a description of the individual.

Mr. Bultuis said there was sometimes an issue of personality conflicts and Santa Fé Trails had not come up with a good way to deal with that. He suggested considering how best to deal with that would be important in training drivers.

Mr. Kelly agreed it would be included in training and if it persisted, some disciplinary action might be in order.

Commissioner Holian moved to approve Resolution 2012-09 - Rider Suspension Policy. Mr. Vigil seconded the motion and it passed by unanimous roll call vote with Taos County, Los Alamos County, Rio Arriba County, Santa Fé County, Pojoaque Pueblo, Santa Clara Pueblo and City of Santa Fé voting in the affirmative and none voting against. City of Española was not present for the vote.

D. Review and Adoption by Resolution No. 2012-08, Commercial Advertising Policy

Mr. Mortillaro explained an oversight by the past administration that allowed the advertising policy to expire and his desire to have a policy in place. He pointed out the policy that was included in the packet which was revised from Board member comments and feedback reflected in past minutes.
Mr. Nagle said the RTD would continue the policy as previously approved with some changes to clarify things and tighten things up. It included changes recommended by Mr. Dwyer as well. He said they would not interfere with branding of buses and limit wrapping of buses. The largest change was to add to the prohibition list. He reviewed the minutes from 2010 regarding trade outs and addressed that as well.

Mr. Dwyer made some comments about it in the context of freedom of speech considerations. It was a difficult area because the District needed to regulate some content. He used tobacco or alcohol as an example. He urged the Board members to look at that section of the policy. He reminded them that the District always reserved the right to deny some or all advertising on buses. The discretion went also to religious advertising. He thought this was a good policy. He said they discussed public service announcements a lot. There was an exception for PSAs that were found to be objectionable in some way.

Former Board member Elias Coriz was introduced to the Board.

Mr. White commented on the policy and pointed out some corrections and changes needed. The first was in section 1.2, regarding property being used for advertising to exclude "or managed by." In 2.5 he suggested adding "or controlled or managed by" in the policy. He also proposed a slight change in 3.8 that "facilities" be changed to "properties."

Mr. Dwyer accepted the proposed.

Commissioner Holian requested a change of two words in 5.3.4 of "is" to "are."

Commissioner Holian moved to approve Resolution 2012-08 - Amended NCRTD Advertising Policy as amended at this meeting. Ms. Valério seconded the motion and it passed by unanimous roll call vote with Taos County, Los Alamos County, Rio Arriba County, Santa Fé County, Pojoaque Pueblo, Santa Clara Pueblo, City of Santa Fé and City of Española voting in favor and none against.

E. Review and Adoption by Resolution No. 2012-11 Inspection of Public Records Policy

Mr. Mortillaro reviewed the policy for inspection of public records.

Mr. Nagle said it was important as a public entity to adhere to this policy. It was just an update and would serve as a guide for employees to respond to the requests. The changes were the result of updates to the IPRA. The policy included exhibits for the form and procedures. The policy included electronic requests and electronic files.

Chair Barrone moved to approve Resolution No. 2012-11 Inspection of Public Records as presented. Commissioner Holian seconded the motion and it passed by unanimous roll call vote with Taos County, Los Alamos County, Santa Fé County, Pojoaque Pueblo, Santa Clara pueblo, City of Santa Fé and City of Española voting in favor and none against. Rio Arriba County was not present for the vote.
F. Public Hearing and Approval of Resolution No. 2012-12 Adding the Town of Edgewood as New Member of the NCRTD

Mr. Mortillaro gave a brief overview of the request. A summary of the history was included in the packet. He took the liberty of doing the voting strength analysis which was included in the document. He used the analysis as amended in April, 2012. It would change the voting requirements.

Mr. Vigil said he had to step away from the meeting and his alternate was present to vote on motions for the Pojoaque Pueblo.

Chair Barrone thanked him for hosting the meeting.

Councilor Chuck Ring, Town of Edgewood thanked the Board for considering this request and confirmed the interest of the Town of Edgewood in becoming a member of NCRTD. He said the population of Edgewood was 3375. They had no plans to create a public transportation system. Their town was located in Santa Fé County and participated in GRT through the county.

After some discussion, the Board decided that further information regarding financial matters from Edgewood was needed.

Mr. Dwyer shared the rules involved and emphasized that the Board needed a good turnout for voting on this issue because a 2/3 vote was required.

Commissioner Holian requested this issue be brought back for a vote along with the information needed to be considered at the regular September meeting rather than August to have a good turnout.

There were no comments from the public regarding this matter and the public hearing was closed.

Commissioner Holian moved to table Resolution No. 2012-12 adding the Town of Edgewood as a New Member of the NCRTD to the regular September meeting. Commissioner Trujillo seconded the motion and it passed by unanimous voice vote.

G. Resolution No. 2012-13 Authorizing the Submittal of Applications for Federal Funding for Federal Fiscal Year 2014

Ms. Trujillo provided an overview of the resolution. She asked for approval of the resolution that would allow the District staff to file the letter of intent so the appropriate applications for federal assistance could be filed in August 2012.

Commissioner Trujillo moved to approve Resolution No. 2012-13 Authorizing the Submittal of Applications for Federal Funding for Federal Fiscal Year 2014. Commissioner Holian seconded the motion and it passed by unanimous roll call vote with Taos County, Los Alamos County, Rio Arriba County, Santa Fé County, Pojoaque Pueblo, Santa Clara Pueblo, City of Santa Fé and City of Española voting in favor and none voting against.
Commissioner Holian moved to recess the meeting for lunch. Commissioner Trujillo seconded the motion and it passed by unanimous voice vote.

The meeting reconvened when everyone got their food.

DISCUSSION ITEMS:

H. Update of the Jim West Regional Transit Center

Mr. Davenport provided an update on the completion of the Jim West Regional Transit Center. Mr. Mortillaro announced that August 17, 2012 was the date for ribbon cutting.

I. Financial Report for May 2012

Ms. Muniz provided a review of the financial report for May 2012 which was included in the packet.

J. Finance subcommittee Report

Mr. Mortillaro provided an overview of the Finance Subcommittee Report. The minutes of the Finance Subcommittee meeting on April 27, 2012 were included in the packet.

K. Tribal Subcommittee Report

Ms. Valério reported that there was no Tribal Subcommittee Report since their last meeting was in April. She had nothing further to report.

L. Executive Report for May 2012 and Comments from the Executive Director

Mr. Mortillaro referred to his report in the packet.

MATTERS FROM THE CHAIR

Chair Barrone said he had a tour of the facility and thought everyone would be pleased with it.

MATTERS FROM THE BOARD

Mr. Bulthuis announced the State Transit Association was hosting a training event for services to
seniors with a trainer of trainers from Washington DC in Los Lunas on June 20 and in Santa Fé on June 22. They were all-day events and had a minimal membership requirement but no other fee.

MISCELLANEOUS

The next meeting was scheduled for July 6, 9:00 as a location to be announced later.

ADJOURN

Commissioner Holian moved to adjourn the meeting. Mr. Bulthuis seconded the motion and it passed by unanimous voice vote.

The meeting was adjourned at 12:20 p.m.

Approved by:

______________________________
Dan Barrone, Chair

Attest:

______________________________
Geoff Rodgers, Secretary-Treasurer

Submitted by:

______________________________
Elizabeth Martin, Stenographer
North Central Regional Transit District
Board Meeting
Friday, July 6, 2012

CALL TO ORDER:

A regular meeting of the North Central Regional Transit District Board was called to order on the above date by Commissioner Daniel Barrone, Chair, at 9:38 a.m. at the Buffalo Thunder Resort, Caldera Room A, Pojoaque, New Mexico.

1. Pledge of Allegiance

2. Moment of Silence

3. Roll Call

Roll call indicated the absence of a quorum as follows:

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Staff Members Present
Mr. Anthony J. Mortillaro, Executive Director
Mr. Mike Kelly, Transit Operations Manager
Mr. Jim Nagle, Public Information Officer

Others Present
Mr. Peter Dwyer, Legal Counsel
Mr. Andrew Jandáček, Santa Fé County
Mr. David Harris, New Mexico Department of Transportation
Mr. Carl Boaz, Stenographer

Chair Barrone said that without a quorum they could not conduct business at this meeting but the members present could get an update on the Jim West Transit Center.

Chair Barrone urged the members who were present to remember if they could not attend to send their alternate to the meeting so the Board could have a quorum. He reminded everyone that the August meeting would be held at the brand new Jim West Transit Center and wanted to make sure they had a quorum for that meeting. He noted this was the second time they lacked a quorum. He didn't know if the quorum requirement could be changed.

Mr. Dwyer agreed to look at that in view of new members and bring a recommendation.

4. INTRODUCTIONS

Those present introduced themselves to the Board.

5. APPROVAL OF AGENDA

The agenda was not considered.

6. APPROVAL OF MINUTES

• Minutes of Regular Meeting on June 1, 2012

The minutes were not considered.

7. PUBLIC COMMENTS

There were no comments from the public.
PRESENTATIONS

There were no presentations.

ACTION ITEMS FOR APPROVAL/DISCUSSION:


This item was not considered because there was no quorum.

B. Review and Adoption by Resolution No. 2012-17, Amending the Records and Email Retention Policy

This item was not considered because there was no quorum.

C. Review and Adoption by Resolution No. 2012-16, Amending the Personnel Rules and Regulations

This item was not considered because there was no quorum.

D. Review and Adoption by Resolution No. 2012-14, Adopting the FY 13 Compensation Plan

This item was not considered because there was no quorum.

DISCUSSION ITEMS:

E. Update of the Jim West Regional Transit Center

Mr. Mortillaro reported that all concrete was in and the site work completed. Next week they were starting paving for the parking lots and the roadway. They expected to get a city water connection today. So we will have water and flush the plumbing system. The inside was almost complete with all doors and locks installed. They just needed to install baseboard and flooring. They did touch up painting last week.

The staff was planning to move with a contractor on July 27-28. They were moving the fleet to the site so that on the following Monday things would operate okay. The phone system will be installed on 27th as well as the computer system. Fiber optic had been installed. So it was all lining up and hopefully there would not be any last minutes hitches.
Chair Barrone asked if the phone numbers would remain the same for the public.

Mr. Mortillaro said they were porting their Rio Arriba County numbers and the numbers for Española and Taos would remain the same. The numbers were through the county system and Windstream.

Chair Barrone asked if the reimbursement agreement for Silkey Way had been done with Española.

Mr. Mortillaro said it dropped away when the previous Espanola City Manager left so he copied the documents to the acting city manager who implied that he would take it to Council and Mr. Mortillaro agreed to be present at that meeting.

Mr. David Harris said DOT looked at the outside of the facility a few weeks ago and he was quite impressed. It was a transformed place. The FHWA would be happy with the way NCRTD spent their money, especially if they could have seen the way it was as a tire store beforehand. It is very pleasing.

Chair Barrone thought it would be a nice place for people to work and take care of.

Mr. Mortillaro said the signage would be going up tomorrow. The ribbon cutting was planned for August 17th. That was a Friday and they would be sending out a preliminary notice to everyone who was being invited. They would have catered food with a nice appropriate ceremony.

F. Financial Report for June 2012

There was no Financial Report for June 2012 presented.

G. Finance Subcommittee Report

There was no Finance Subcommittee Report.

H. Tribal Subcommittee Report

There was no Tribal Subcommittee Report.

I. Executive Report for June 2012 and Comments from the Executive Director

The Executive Report for June 2012 was in the packet for review.

Mr. Mortillaro announced that the Rail Runner had agreed to provide NCRTD a seat as a non-voting member of their board and asked that they be provided a non-voting member seat on NCRTD’s board.

So in September, Edgewood would be put on the agenda to become a voting member and Rio Metro
as a non-voting member.

Mr. Mortillaro reminded members that they should have received the intergovernmental contract from him. It had to be processed through the governmental entity to get it signed. It was amended because the analysis of voting strength was done and the increased population of Española gained an additional vote. They wouldn't get it until all intergovernmental contracts were signed. He asked members to put it through the process now.

Mr. Dwyer added that when Edgewood joined in September the agreement would have to be done again. He explained that they didn't take nonvoting members in the bylaws and if they become a voting member it would require 2/3 vote of the current board members.

Councilor Bushee asked if all members were contributing as well.

Mr. Mortillaro said it was only through GRT.
Councilor Bushee asked if the board had ever taken a vote on any new members.

Mr. Mortillaro said they did with Taos County. The Town of Taos and Chama were interested but never joined. He explained that when municipalities or pueblos became members that population was subtracted from the county total.

Mr. Dwyer said Edgewood would have one member and one vote.

Mr. Mortillaro said the total potential was 29 votes with Edgewood.

Mr. Dwyer said when Edgewood joined the Board would need 15 votes for a majority and 20 for 2/3 votes.

Mr. Harris clarified that it was not the Rail Runner but actually Rio Metro that was asking for a non-voting position. Mr. Mortillaro agreed.

Mr. Mortillaro said they would receive $272,000 for the new software program for route planning, route scheduling and to track vehicles and make sure they were on schedule. It would provide data collection and provide an app that would allow potential riders to access locations from their computer or smart phone.

Mr. Harris said the program also allowed real time scheduling.

MATTERS FROM THE CHAIR

Chair Barrone announced that the next meeting would be Aug 3rd in their new conference room.

Chair Barrone said he met's with Mr. Mortillaro every Wednesday so if anything comes up we can deal with it.
MATTERS FROM THE BOARD

There were no matters from the Board.

MISCELLANEOUS

There were no miscellaneous items.

ADJOURN

Councilor Bushee moved to adjourn the meeting. Commissioner Holian seconded the motion and the meeting was adjourned at 10:05 a.m.

Approved by:

Attest:

Geoffrey Rodgers, Secretary

Submitted by:

Carl Boaz, Stenographer

Daniel Barrone, Chair
Title: Resolution No. 2012-15 Providing Rights, Responsibilities, and Procedures in the Employment Relationship between Employees and the Employer

Prepared By: Anthony J. Mortillaro, Executive Director

Summary: The Public Employee Bargaining Act (PEBA) creates the Public Employee Labor Relations Board (PERLB) which has authority to administer portions of PEBA. Title 11, Chapter 21, Part 5 of PEBA allows for the approval of local boards which serve in lieu of the PELRB as the body resolving PEBA related claims and matters. In order to have a local board the NCRTD needs to file an application with the PELRB and obtain approval for establishing and operating the local labor board. There are also some post-approval reporting requirements. Upon final approval from the PERLB, the primary functions of the State Board will transferred to the local board. These primary functions are:

1. Establish procedures for:
   a. the designation of appropriate bargaining units;
   b. selection, certification, and decertification of exclusive bargaining agents; and
   c. the filing of, hearing and determination of prohibited practice complaints;
2. selection, certification, and decertification of exclusive bargaining agents;
3. Hold hearings for determination of appropriate bargaining units;
4. Hold hearings for determination of prohibited practice complaints;
5. Conduct studies and educate both public employees and employers as to their rights for the purpose of promoting harmonious relationships;

Background: On May 8, 2012 an election was held for the purpose of determining whether a collective bargaining unit would be formed by the District’s drivers and dispatchers. The outcome of the vote was in favor of forming a collective bargaining unit. The PERLB meet on June 6, 2012 to review and ratify the certification of the unit represented by the Brotherhood of Teamsters, Local 492. The unit is now duly formed and the NCRTD may now elect to utilize a local board if it adopts the attached Resolution.

Recommended Action: It is recommended that the Board adopt Resolution No. 2012-15. In addition this resolution has been discussed with and reviewed by the NCRTD’s legal counsel.

Options/Alternatives:
• Take no action and continue to have local labor relations matters under the pervue of the PERLB; or
• Adopt the resolution, (recommended).

**Fiscal Impact:** There will be impact on staff time due to additional responsibilities as they relate to Board preparation and meetings, however this is considered part of the routine responsibilities of a Human Resources function.

**Attachments:**

Resolution 2012 -15
NORTH CENTRAL REGIONAL TRANSIT DISTRICT (NCRTD)
Resolution No. 2012 -15

ADOPTION OF A RESOLUTION PROVIDING RIGHTS, RESPONSIBILITIES, AND PROCEDURES IN THE EMPLOYMENT RELATIONSHIP BETWEEN EMPLOYEES AND THE EMPLOYER

BE IT ENACTED BY THE NORTH CENTRAL REGIONAL TRANSIT DISTRICT

SECTION 1. SHORT TITLE. -- This Resolution may be cited as the "The North Central Regional Transit District Labor Management Relations Resolution".

SECTION 2. PURPOSE. -- The purpose of the Labor Management Relations Resolution is to guarantee employees the right to organize and bargain collectively with their employer, to protect the rights of the employer and the employees and to promote harmonious and cooperative relationships between the employer and the employees; and to acknowledge the obligation of the employer and the employees to provide orderly and uninterrupted services to the citizens.

SECTION 3. CONFLICTS. — In the event of conflict with other North Central Regional Transit District Resolutions, the provisions of the North Central Regional Transit District Labor Management Relations Resolution shall supersede other previously enacted Resolutions. North Central Regional Transit District sanctioned rules and regulations, administrative directives, departmental rules and regulations, and work place practices shall control unless there is a conflict with a collective bargaining agreement. Where a conflict exists, the collective bargaining agreement shall control.

SECTION 4. DEFINITIONS. -- As used in the Labor Management Relations Resolution:
A. "Appropriate bargaining unit" means a group of employees designated by the Board for the purpose of collective bargaining;
B. "Board" means the North Central Regional Transit District Labor Management Relations Board;
C. "certification" means the designation by the Board of a labor organization as the exclusive representative for all employees in an appropriate bargaining unit;
D. "collective bargaining" means the act of negotiating between the employer and an exclusive representative for the purpose of entering into a written agreement regarding wages, hours, and other
terms and conditions of employment;

E. "confidential employee" means a person who devotes a majority of his/her time to assisting and acting in a confidential capacity with respect to a person who formulates, determines, and effectuates management policies;

F. "emergency" means a one-time crisis that was unforeseen and unavoidable;

G. "employee" means a regular employee of the North Central Regional Transit District

H. "employer" means the North Central Regional Transit District

I. "exclusive representative" means a labor organization that, as a result of certification by the Board, represents all employees in an appropriate bargaining unit for the purposes of collective bargaining;

J. "fair share" means the payment to a labor organization which is the exclusive representative for an appropriate bargaining unit by an employee of that bargaining unit who is not a member of that labor organization equal to a certain percentage of membership dues. Such figure is to be calculated based on United States and New Mexico statutes and case law identifying those expenditures by a labor organization which are permissibly chargeable to all employees in the appropriate bargaining unit under United States and New Mexico statutes and case law, including, but not limited to, all expenditures incurred by the labor organization in negotiating the contract applicable to all employees in the appropriate bargaining unit, servicing such contract, and representing all such employees in grievances and disciplinary actions;

K. "governing body" means the North Central Regional Transit District Board;

L. "impasse" means failure of the employer and an exclusive representative, after good faith bargaining, to reach agreement in the course of negotiating a collective bargaining agreement;

M. "labor organization" means any employee organization one of whose purposes is the representation of public employees in collective bargaining and in otherwise meeting, consulting, and conferring with employers on matters pertaining to employment relations;

N. "lockout" means an act by the employer to prevent its employees from going to work for the purpose of resisting demands of the employees' exclusive representative or for the purpose of gaining a concession from the exclusive representative;

O. "management employee" means an employee who is engaged primarily in executive and management functions and is charged with the responsibility of developing, administering, or effectuating management policies. An employee shall not be deemed a management employee solely because the employee participates in cooperative decision making programs on an occasional basis;

P. "mediation" means assistance by an impartial third party to resolve an impasse in contract negotiation between the employer and an exclusive representative through interpretation, suggestion, and advice;

Q. "professional employee" means an employee whose work is predominantly intellectual and varied in character and whose work involves the consistent exercise of discretion and judgment in its performance and requires knowledge of an advanced nature in a field of learning customarily requiring specialized study at an institution of higher education or its equivalent. The work of a professional employee is of such character that the output or result accomplished cannot be standardized in relation to a given period of time;

R. "strike" means an employee's refusal, in concerted action with other employees, to report for duty or his willful absence or withholding of service in whole or in part from the full, faithful, and proper performance of the duties of employment for the purpose of inducing, influencing, or coercing a change in the working conditions, compensation, rights, privileges, or obligations of employment;

S. "supervisor" means an employee who devotes a majority amount of work time to supervisory duties, who customarily and regularly directs the work of two or more other employees, and who has the authority in the interest of the employer to hire, promote, or discipline other employees or to recommend such actions effectively. This definition does not include individuals who perform merely routine, incidental, or clerical duties or who occasionally assume supervisory or directory roles or whose duties are substantially similar to those of their subordinates and does not include lead
employees or employees who occasionally participate in peer review or evaluation of employees.

SECTION 5. RIGHTS OF EMPLOYEES.--
Employees, other than management, supervisory, confidential, and probationary employees, may form, join, or assist any labor organization for the purpose of collective bargaining through a representative chosen by the employees without interference, restraint, or coercion. Employees also have the right to refuse to form, join, or assist any labor organization.

SECTION 6. MANAGEMENT RIGHTS.-- Unless limited by the provisions of a collective bargaining agreement or by other statutory provision, the employer's rights shall include, but are not limited to, the following:
A. to direct the work of, hire, promote, assign, transfer, demote, suspend, discharge, or terminate public employees;
B. to determine qualifications for employment and the nature and content of personnel examinations;
C. to take actions as may be necessary to carry out the mission of the employer in emergencies; and
D. the employer retains all rights not specifically limited by a collective bargaining agreement or by the Public Employee Bargaining Act.

SECTION 7. LABOR MANAGEMENT RELATIONS BOARD CREATED TERMS.
A. The "Labor-Management Relations Board" is hereby created. The Board shall be composed of three members appointed by the North Central Regional Transit District Board. One member shall be appointed on the recommendation of individuals representing labor, one member shall be appointed on the recommendation of the Executive Director, and one member shall be appointed on the recommendation of the first two appointees.
B. Board members shall serve for a period of one (1) year with terms commencing in the month of September, except in the initial appointment, which will be a shorter term effective, the same day as this Resolution. Vacancies shall be filled in the same manner as the original appointment, and such appointments shall only be made for the remainder of the unexpired term. A Board member may serve an unlimited number of terms.
C. During the term of appointment, no Board member shall hold or seek any other political office or public employment or be an employee of a union, an organization representing public employees or a public employer.
D. Each Board member shall be paid per diem and mileage in accordance with the provisions of the Per Diem and Mileage Act.

SECTION 8. BOARD-POWERS AND DUTIES.--
A. The Board shall promulgate rules and regulations necessary to accomplish and perform its functions and duties as established in the Labor Management Relations Resolution, including the establishment of procedures for:
1) the designation of appropriate bargaining units;
2) the selection, certification, and decertification of exclusive representatives; and
3) the filing, hearing, and determination of complaints of prohibited practices. This does not apply to negotiation impasse or grievances subject to the required negotiated grievance process.
B. The Board shall:
1) hold hearings and make inquiries necessary to carry out its functions and duties; and
2) request from employers and labor organizations the information and data necessary to carry out the functions and responsibilities of the Board.
C. The Board may issue subpoenas requiring, upon reasonable notice, the attendance and testimony of witnesses and the production of any evidence, including books, records correspondence, or
documents relevant to the matter in question. The Board may prescribe the form of the subpoena, but it shall adhere insofar as practicable to the form used in civil actions in the district court. The Board may administer oaths and affirmations, examine witnesses, and receive evidence. Subject to the approval of funds, the board may contract with a third party to assist it in carrying out its functions.

D. The Board shall decide all issues by majority vote and shall issue its decisions in the form of written orders and opinions. The decisions of the Board on interpretation and applications of the Resolution are final and binding on the parties subject to the appeal process provided in Section 20. The Board’s hearing authority does not apply to negotiation impasses or issues dealing with the collective bargaining agreement where a grievance procedure has been negotiated for that purpose by the parties as required by law.

E. The Board has the power to enforce provisions of the North Central Regional Transit District Labor-Management Relations Resolution and the Board’s Labor-Management Relations Rules and Regulations through the imposition of appropriate administrative remedies.

F. The Board shall have no power to promulgate policy other than for its own operation.

G. No rule or regulation promulgated by the Board shall require, directly or indirectly, as a condition of continuous employment, any employee covered by the Labor Management Relations Resolution to pay money to any labor organization that is certified as an exclusive representative. This issue of fair share shall be a permissive as opposed to a mandatory subject of bargaining between the employer and the exclusive representative.

SECTION 9. HEARING PROCEDURES. --

A. The Board may hold hearings for the purposes of:

1) information gathering and inquiry;
2) adopting rules and regulations; and
3) adjudicating disputes and enforcing the provisions of the Labor Management Relations Resolution, and rules and regulations adopted pursuant to the Resolution.

B. The Board shall adopt regulations setting forth procedures to be followed during hearings of the Board. Such regulations shall meet minimal due process requirements of the state and federal constitution.

C. Proceedings against the party alleged to have committed a prohibited practice shall be commenced by service upon it and the Board of a written notice together with a copy of the charges and relief requested.

D. All adopted rules and regulations shall be filed in accordance with applicable laws.

E. A verbatim record made by electronic or other suitable means shall be made of every rule-making and adjudicatory hearing. The record shall not be transcribed unless required for judicial review or unless ordered by the Board. The party requesting the transcript shall pay for the transcription. In the case of judicial review the payment shall be made by the party filing the appeal.

F. Each party to a prohibited labor practice shall bear the cost of producing its own witnesses and paying its representative for hearings under this Resolution.

G. No regulation proposed to be adopted by the Board that affects any person or governmental entity outside of the Board and its staff shall be adopted, amended, or repealed without public hearing and comment on the proposed action before the Board. The public hearing shall be held after notice of the subject matter of the regulation, the action proposed to be taken, the time and place of the hearing, the manner in which interested persons may present their views, and the method in which copies of the proposed regulation, proposed amendment, or repeal of an existing regulation may be obtained. All meetings shall be held at a North Central Regional Transit District Administration facility. Notice shall be published once at least thirty (30) days prior to the hearing date in a newspaper of general circulation in the City of Española, and notice shall be mailed at least thirty (30) days prior to the hearing date to all persons who have made a written request for advance notice of hearings.
SECTION 10. APPROPRIATE BARGAINING UNITS. --

A. The Board shall, upon receipt of a petition for a representation election filed by a labor organization, designate the appropriate bargaining unit. Appropriate bargaining units shall be established on the basis of occupational groups or clear and identifiable community of interest in employment terms, employment conditions, and related personnel matters among the employees involved. Occupational groups shall generally be identified as blue collar, secretarial clerical, technical, para-professional, professional, corrections, firefighters, and police officers. Department, craft, or trade designations other than as specified above shall not determine bargaining units. The parties, by mutual agreement and approval of the Board, may further consolidate occupational groups. The essential factors in determining appropriate bargaining units shall include the principles of efficient administration of government, the history of collective bargaining, and the assurance to employees of their rights guaranteed by the Resolution.

B. If the labor organization and the employer cannot agree on the appropriate bargaining unit within thirty (30) days, the Board shall hold a hearing concerning the composition of the bargaining unit. Any agreement as to the appropriate bargaining unit between the employer and the labor organization is subject to the approval of the Board.

C. The Board shall not include in any appropriate bargaining unit, probationary, supervisory, managerial, or confidential employees.

SECTION 11. ELECTIONS. --

A. Whenever, in accordance with regulations prescribed by the Board, a petition is filed by a labor organization containing the signatures of at least thirty percent (30%) of the employees in an appropriate bargaining unit, the Board shall post a notice to affected employees regarding the filed petition and proceed with the process for conducting a secret ballot representation election.

B. Once a labor organization has filed a petition with the Board requesting a representation election, other labor organizations may seek to be placed on the ballot. Any labor organization may file a competing petition containing the signatures of not less than thirty percent (30%) of the employees in the appropriate bargaining unit no later than ten (10) calendar days after the Board has posted a written notice that a petition for a representation election has been filed by a labor organization.

C. All representation elections shall include the option for "no representation", except in a runoff election where the choice of "no representation" was not one of the two choices that received the highest votes.

D. In the event of an election with two or more labor organizations on the ballot and none of the choices on the ballot received a majority of the votes cast, then a runoff election shall be held within fifteen (15) calendar days. The choices on the runoff election shall consist of the two (2) choices that received the greatest number of votes in the original election.

E. A valid election requires that at least forty percent (40%) of the eligible employees in an appropriate bargaining unit cast a vote. In an election with only one labor organization, and in which the majority of the votes cast are in favor of representation, the Board shall certify that labor organization as the exclusive representative for all the employees in the bargaining unit.

F. No election shall be conducted if an election has been conducted in the twelve (12) month period immediately preceding the proposed representation election. No election shall be held during the term of an existing collective bargaining agreement, except as provided in Section 13.B. of this Resolution, or after the expiration of the third year of a collective bargaining agreement with a term of more than three (3) years.

G. Election disputes shall be resolved by the Board.

H. As an alternative to the provisions of Subsection A of this section, the employer and a labor organization with a reasonable basis for claiming to represent a majority of the employees in an appropriate bargaining unit may establish an alternative appropriate procedure for determining majority status. The procedure may include a labor organization's submission of authorization cards from a majority of the employees in an appropriate bargaining unit. The local board shall not certify an
appropriate bargaining unit if the employer objects to the certification without an election.

SECTION 12. EXCLUSIVE REPRESENTATION. -- A labor organization that has been certified by the Board as the exclusive representative for employees in an appropriate bargaining unit shall represent all employees in the bargaining unit. The exclusive representative shall act for all employees in the bargaining unit and negotiate a collective bargaining agreement covering all employees in the bargaining unit. The exclusive representative shall represent the interests of all employees in the bargaining unit without discrimination or regard to membership or non-membership in the labor organization. The existence of an exclusive bargaining representative shall not prevent employees from taking their grievances through the grievance process or filing prohibited practices with the Board. Any settlement of a grievance or relief given on a prohibited practice brought by an individual shall not be inconsistent with or in violation of the collective bargaining agreement in effect between the employer and the exclusive representative or inconsistent with or in violation of a memorandum of understanding between the employer and the exclusive representative applicable to the day-to-day administration of the collective bargaining agreement. The exclusive representative shall be afforded the opportunity to be present at such hearings and make its views known.

SECTION 13. DECERTIFICATION OF EXCLUSIVE REPRESENTATIVE. —

A. Any member of a labor organization or the labor organization itself may initiate decertification of a labor organization as the exclusive representative if thirty percent (30%) of the employees in the appropriate bargaining unit make a written request to the Board for a decertification election. A decertification election shall be valid only if at least forty percent (40%) of the eligible employees in the bargaining unit vote in the election.

B. When there is a collective bargaining agreement in effect, a request for a decertification election shall be made to the Board no earlier than ninety (90) days and no later than sixty (60) days before the expiration of the collective bargaining agreement, provided however, that a request for a decertification election may be filed at any time after the expiration of the third year of a collective bargaining agreement with a term of more than three (3) years.

C. When, within the time period prescribed in subsection B. of this section, a competing labor organization files a petition containing signatures of at least thirty percent (30%) of the employees in the appropriate bargaining unit, a representation election rather than a decertification election shall be conducted.

D. When an exclusive representative has been certified but no collective bargaining agreement is in effect, the Board shall not accept a request for a decertification election earlier than twelve months subsequent to a labor organization's certification as the exclusive representative.

SECTION 14. SCOPE OF BARGAINING. --

A. Except for retirement programs provided under the Public Employment Retirement Act, the parties shall bargain in good faith on all wages, hours, and other terms and conditions of employment and other issues agreed to by the parties. The parties shall enter into a written agreement covering employment relations regarding the issues agreed to in collective bargaining.

B. Bargaining in good faith shall not require either party to agree to a proposal or to make a concession.

C. The obligation to bargain collectively imposed by the Labor Management Relations Resolution shall not be construed as authorizing employers and exclusive representatives to enter into any agreement that is in conflict with state statutes or federal statutes. In the event of conflict between the provision of any federal or state statutes and any agreement entered into by the employer and the exclusive representative, the former shall prevail.

D. Payroll deduction of the exclusive representative's membership dues shall be a mandatory subject of bargaining if either party chooses to negotiate the issue. The amount of dues shall be certified in writing.
by an official of the labor organization and shall not include special assessments, penalties, or fines of any type levied by the exclusive representative. During the time that a Board certification is in effect for a particular exclusive representative, the employer shall not deduct dues for any other labor organization from members of the same bargaining unit.

E. Any agreement or impasse resolution by the employer and an exclusive representative that requires the expenditure of funds shall be contingent upon the specific appropriation of funds by the governing body and the availability of funds to fund the agreed upon provision. An arbitrator's decision shall not require the re-appropriation of funds.

F. The parties have a requirement that a grievance procedure culminating with final and binding arbitration be negotiated. This applies only to grievances and the interpretation and application of the agreement between the par ties and does not apply to negotiation impasses. The parties shall share the cost of any proceedings conducted pursuant to this subsection equally. Each party is responsible for paying any cost related to its witnesses and representation.

G. The impact of professional and instructional decisions made by the employer shall be a mandatory subject of bargaining

SECTION 15. NEGOTIATIONS AND IMPASSE RESOLUTION. --

A. The following meetings shall be closed:
   1) meetings for the discussion of collective bargaining strategy between the governing body and the employer's negotiating team preliminary to negotiations sessions;
   2) collective bargaining sessions; and
   3) consultations and impasse resolution procedures at which the employer and/or the exclusive representative of the appropriate bargaining unit are present.

B. The following negotiation procedures shall apply to the employer and exclusive representatives:
   1) The negotiations for the first contract shall be opened upon written notice by either party to the other requesting that negotiating sessions be scheduled. Subsequent requests for negotiations shall be post marked no earlier than 120 days nor later than 60 days prior to the contract ending date or as negotiated by the parties. The parties may open negotiations at any time by mutual agreement.
   2) All negotiations will be conducted in closed sessions. Negotiations will be held at a facility and at a time mutually agreed upon by the parties.
   3) Recesses and study sessions may be called by either team. Prior to the conclusion of any negotiating sessions, the reconvening time will be agreed upon. Caucuses may be taken as needed. Tentative agreements reached during negotiations will be reduced to writing, dated, and initialed by each team spokesperson. Such tentative agreements are conditional and may be withdrawn should later discussion change either party's understanding of the language as it related to another part of the agreement.
   4) Agreement on contract negotiations is accomplished when the Union President and the District Executive Director sign the agreement. Provisions in multi-year agreements providing for economic increases for subsequent years shall be contingent upon the governing body appropriating the funds necessary to fund the increase for the subsequent year(s). Should the governing body not appropriate sufficient funds to fund the agreed upon increase, either party may reopen negotiations.

C. The following impasse procedure shall be followed by the employer and exclusive representative:
   1) If an impasse occurs, either party shall request mediation assistance. If the parties cannot agree on a mediator, either party may request the assistance of the federal mediation and conciliation service;
2) if the impasse continues after thirty (30) calendar days, either party may request an unrestricted list of seven (7) arbitrators from the federal mediation and conciliation service. The parties shall choose one arbitrator by alternately striking names from such list. Which party strikes the first name shall be determined by coin toss. The arbitrator shall render a final, binding, written decision resolving unresolved issues no later than thirty (30) calendar days after the arbitrator has been notified of his or her selection by the parties. The arbitrator's decision shall be limited to a selection of one of the two parties' complete, last, best offer. However, an impasse resolution decision of an arbitrator or an agreement provision by the employer and an exclusive representative that requires the expenditure of funds shall be contingent upon the specific appropriation of funds by the governing body and the availability of funds. An arbitrator's decision shall not require the employer to appropriate funds. The parties shall share all of the arbitrator's costs incurred pursuant to this subsection equally. Each party shall be responsible for paying any costs related to its witnesses and representation. The decision shall be subject to judicial review pursuant to the standards set forth in the Uniform Arbitration Act; in the event that an impasse continues after the expiration of a contract, the existing contract will continue in full force and effect until it is replaced by a subsequent written agreement. However, this shall not require the employer to increase any employees' levels, steps, or grades of compensation contained in the existing contract.

SECTION 16. EMPLOYERS -- PROHIBITED PRACTICES

A public employer or his representative shall not:

1) Discriminate against an employee with regard to terms and conditions of employment because of the employee's membership in a labor organization;

2) interfere with, restrain, or coerce any employee in the exercise of any right guaranteed under the Labor Management Relations Resolution;

3) dominate or interfere in the formation, existence, or administration of any labor organization;

4) discriminate in regard to hiring, or any term or condition of employment in order to encourage or discourage membership in a labor organization;

5) discharge or otherwise discriminate against an employee because the employee has signed or filed an affidavit, petition, grievance, or complaint or given any information or testimony under the provisions of the Labor Management Relations Resolution or because an employee is forming, joining, or choosing to be represented by a labor organization;

6) refuse to bargain collectively in good faith with the exclusive representative;

7) refuse or fail to comply with any provisions of the Labor Management Relations Resolution, Board regulations, or the Public Employee Bargaining Act; or

8) refuse or fail to comply with any collective bargaining agreement. This issue is subject to the required grievance procedure negotiated by the parties.

During the negotiation and the impasse procedure, North Central Regional Transit District Board members, Official Board designees and management employees are prohibited from negotiating issues which are the subject of negotiations and from making any offers, commitment, or promise whatsoever to employees or the exclusive representative, other than through the appointed North Central Regional Transit District negotiating team. It is the intent of this language that the integrity of the negotiating process be maintained. All negotiations and concessions shall occur only between the respective appointed negotiating teams.

SECTION 17. EMPLOYEES - LABOR ORGANIZATIONS - PROHIBITED PRACTICES. -- A.

An employee, a labor organization, or its representative shall not:
1) Discriminate against an employee with regard to labor organization membership because of race, color, religion, creed, age, disability, sex, or national origin;
2) solicit membership for an employee or labor organization during the employee's duty hours. This does not include the work breaks or lunch periods;
3) restrain or coerce any employee in the exercise of any right guaranteed by the provisions of the Labor Management Relations Resolution;
4) refuse to bargain collectively in good faith with the employer;
5) refuse or fail to comply with any collective bargaining agreement with the employer. This issue is subject to the required negotiated grievance procedure negotiated by the parties;
6) refuse or fail to comply with any provision of the Labor Management Relations Resolution;
7) picket homes or private businesses of employees, appointed individuals, or Board Members or Official Board designees of the North Central Regional Transit District; or
8) restrain or coerce the employer in the selection of its agent for bargaining.

During the negotiation and the impasse procedure the employees, the exclusive representative or any of its employees are prohibited from negotiating issues which are the subject of negotiations with anyone other than the appointed North Central Regional Transit District negotiating team. It is the intent of this language that the integrity of the negotiating process be maintained. All negotiations and concessions shall occur only between the respective appointed negotiating teams.

SECTION 18. STRIKES AND LOCKOUTS PROHIBITED. --
A. No employee or labor organization shall engage in a strike. No labor organization shall cause, instigate, encourage, or support a strike. The employer shall not cause, instigate, or engage in an employee lockout.
B. The employer may apply to the district court for injunctive relief to end a strike, and an exclusive representative of public employees affected by a lockout may apply to the district court for injunctive relief to end a lockout.
C. The Board, upon a clear and convincing showing of proof at a hearing that a labor organization directly caused or instigated an employee strike, may impose appropriate penalties on that labor organization, up to and including decertification of the labor organization with respect to any of its bargaining units which struck as a result of such causation or instigation. A strike means an employee's refusal, in concerted action with other employees, to report for duty or his willful absence or withholding of service in whole or in part from the full, faithful, and proper performance of the duties of employment for the purpose of inducing, influencing, or coercing a change in the working conditions, compensation, rights, privileges, or obligations of employment.

SECTION 19. AGREEMENTS VALID -- ENFORCEMENT. --
All collective bargaining agreements and other agreements between the employer and exclusive representative are valid and enforceable according to their terms when entered into in accordance with the provisions of this Labor Management Relations Resolution.

SECTION 20. JUDICIAL ENFORCEMENT -- STANDARD OF REVIEW. --
A. The Board may request the District Court to enforce any order issued pursuant to the Labor Management Relations Resolution, including those for appropriate temporary relief and restraining orders. The Court shall consider the request for enforcement on the record made before the Board. The Court shall uphold the action of the Board and take appropriate action to enforce it unless the
Court concludes that the order is:
1) arbitrary, capricious, or an abuse of discretion;
2) not supported by substantial evidence on the record considered as a whole; or
3) otherwise not in accordance with law.
B. Any person or party, including any labor organization, affected by a final regulation, order, or decision of the Board, may appeal to the District Court for further relief. All such appeals shall be based upon the record made at the Board hearing. All such appeals to the District Court shall be taken within thirty (30) calendar days of the date of the final regulation, order, or decision of the Board. Actions taken by the Board shall be affirmed unless the Court concludes that the action is:
1) arbitrary, capricious, or an abuse of discretion;
2) not supported by substantial evidence on the record taken as a whole; or
3) otherwise not in accordance with law.

SECTION 21. SEVERABILITY.--
If any part or application of the North Central Regional Transit District Labor Management Relations Resolution is held invalid, the remainder or its application to other situations or persons shall not be affected.

SECTION 22. EFFECTIVE DATE.--
The effective date of the North Central Regional Transit District Labor Management Relations Resolution is August 3, 2012.

APPROVED, SIGNED AND ADOPTED THIS 3rd DAY OF August, 2012.

______________________________
Chairman, North Central Regional Transit District Board

Approved as to form:

______________________________
Peter Dwyer, Counsel
Title: Resolution No. 2012-17 Adopting and Amending the NCRTD Record and Email Retention Policy

Prepared By: Jim Nagle, Public Information Officer

Summary: This resolution approves amendments to the NCRTD Records and Email Retention Policy which incorporates specific language pertaining to retention of "Accounting Records" that the Federal Transit Administration (FTA) noted in their recent Financial Management Overview. Additional retention guidelines have been added that pertain to Aboveground Storage Tanks.

Background: NCRTD is required by law to maintain certain types of records, usually for a specified period of time. Failure to retain those records for minimum periods could subject the District to liability. The District adopted Resolution 2011-13 on November 4, 2011 establishing its initial policy on records and email retention.

Recommended Action: It is recommended that the Board adopt Resolution No. 2012-17 amending the Records and Email Retention Policy. This resolution and policy have been discussed and reviewed by the Executive Director, Anthony Mortillaro and NCRTD's legal counsel.

Options/Alternatives:
- Take no action; or
- Adopt the resolution, (recommended); or
- Amend the resolution and policy items and then take action to adopt.

Fiscal Impact: None

Attachments:
- Resolution No. 2012-17
- Records and Email Retention Policy and Disposition Schedule (Exhibit A)
North Central Regional Transit District (NCRTD)
Resolution No. 2012-17

ADOPTION OF AN AMENDED NCRTD RECORDS AND
EMAIL RETENTION POLICY

WHEREAS, the records of the North Central Regional Transit District (NCRTD) are important assets and include essentially all records the NCRTD produces, whether paper or electronic; and

WHEREAS, the law requires the NCRTD to maintain certain types of records, usually for a specified period of time and failure to retain those records for those minimum periods would be improper and could subject the NCRTD to spoliation of evidence claims or civil liability; and

WHEREAS, the NCRTD on November 4, 2011 adopted Resolution No. 2011-13 establishing a Records and Email Retention Policy and Disposition Schedule; and

WHEREAS, the Federal Transit Administration (FTA) in their Financial Management Overview found the NCRTD Records and Email Retention Policy to be incomplete in regards to specific language pertaining to Accounting Records; and

WHEREAS, the NCRTD wishes to incorporate the FTA comments as addressed in the Records Retention and Disposition Schedule, Appendix A, page 7, item 8, “Accounting Records”; and

WHEREAS, the NCRTD wants to add an additional category regarding “Aboveground Storage Tank Facility Files” to the Records Retention and Disposition Schedule, Appendix A, page 11, item 23; and

WHEREAS, the NCRTD desires to implement and move forward with an updated and amended policy.

NOW THEREFORE BE IT RESOLVED BY THE NCRTD BOARD THAT, the NCRTD Records and Email Retention Policy is approved and adopted as amended and attached hereto as “Exhibit A” on this 3rd day of August 2012.

Approved as to form:

Daniel Barrone, Chair

Peter Dwyer, Counsel
Exhibit A

NORTH CENTRAL REGIONAL TRANSIT DISTRICT

RECORDS AND EMAIL RETENTION POLICY AND DISPOSITION SCHEDULE

1.0 Objective

To establish a records retention schedule for the orderly management and retirement of records necessary for carrying out the Public Records Act.

The records of The North Central Regional Transit District ("NCRTD") are important assets. Records include essentially all records the NCRTD produces, whether paper or electronic. A record may be as obvious as a memorandum, an email, a contract or a case study, or something not as obvious, such as a computerized desk calendar, an appointment book or an expense record.

The law requires the NCRTD to maintain certain types of records, usually for a specified period of time. Failure to retain those records for those minimum periods could subject the NCRTD to liability.

2.0 Applicable Staff

The NCRTD expects all employees to fully comply with any published records retention or destruction policies and schedules including the retention and disposition schedule module incorporated as part of this policy, provided that all employees should note the following general exception to any stated destruction schedule: If you believe, or the NCRTD informs you, that NCRTD records are relevant to litigation, or potential litigation (i.e., a dispute that could result in litigation), then you must preserve those records until Legal Counsel determines the records are no longer needed. That exception supersedes any previously or subsequently established destruction schedule for those records. If you believe that exception may apply, or have any question regarding the possible applicability of that exception, please contact the Executive Director.

Failure to comply with this Document Retention Policy may result in an action against an employee, including suspension or termination. Questions about this policy should be referred to the Executive Director of the NCRTD, who is responsible for enforcing and directing the administration and updating of this policy.
3.0 Reference to Future Compliance

From time to time the NCRTD will establish, maintain or supplement retention or destruction policies or schedules for specific categories of records in order to ensure compliance, and also to accomplish other objectives, such as preserving intellectual property and cost management. Several categories of documents that bear special consideration are identified below; also incorporated is a retention and disposition schedule modeling the schedule provided by the NM Commission of Public Records, Department of Transportation Executive Records Retention and Disposition Schedules (ERRDS). While minimum retention periods are suggested, the retention of the documents identified below and of documents not included in the identified categories should be determined primarily by the application of the general guidelines affecting document retention within this document.

4.0 Definitions

A. "Administrator" means the NCRTD records administrator

B. "Agency" and/or "District" means the NCRTD

C. "Archives" means the NCRTD archives.

D. "Disadvantaged business" means a for-profit small business that is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals; and whose management and daily business operation are controlled by one or more of the socially and economically disadvantaged individuals who own it.

E. "Disposition" means final action that puts into effect the results of an appraisal decision for a series of records (i.e., transfer to archives or destruction).

F. "Electronic document management system" means a system that manages electronic documents contained in an information technology system, using computer equipment and software to manage, control, locate, and retrieve information in the electronic system.

G. "Let or Letting" means the process of preparing bid for release on NCRTD construction projects.

H. "Non-record" means extra copies of documents kept solely for convenience of reference, stocks of publications, records not usually included within the scope of the official records of the NCRTD, and library material intended only for reference or exhibition. The following specific types of materials are non-records: materials neither made nor received in pursuance of statutory requirements nor in
connection with the functional responsibility of the officer of the NCRTD; extra copies of correspondence; preliminary drafts; blank forms, transmittal letters or forms that do not add information; sample letters; and reading file or informational files.

I. "Public record" means all books, papers, maps, photographs or other documentary materials, regardless of physical form or characteristics, made or received by the NCRTD in pursuance of law or in connection with the transaction of public business and preserved, or appropriate for preservation, by the agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations or other activities of the government, or because of the informational and historical value of data contained therein.

J. "Records custodian" means the statutory head of the agency using or maintaining the records or the custodian's designee.

K. "Records management" means the systematic control of all records from creation or receipt through processing, distribution, maintenance and retrieval, to their ultimate disposition.

L. "Records retention and disposition schedule" means rules adopted by the NCRTD Board of Directors describing records of an agency, establishing a timetable for their life cycle and providing authorization for their disposition.

M. "Retention" means the period of time during which records must be maintained by an organization because they are needed for operational, legal, fiscal, historical or other purposes.

ABBREVIATIONS AND ACRONYMS:

A. "ARC" stands for accident, records, citation
B. "ADA" stands for Americans With Disabilities Act
C. "CRR" stands for certified return receipt
D. "DOT" stands for Department of Transportation
E. "EMS" stands for emergency medical service
F. "FSR" Financial Status Report
G. "FTA" Federal Transit Administration
H. "GPS" stands for global positioning system
I. "HUD" stands for housing and urban development
J. "MPO" stands for metropolitan planning organization
K. "MVDO" stands for motor vehicle division
L. "NCIC" stands for national crime information center
M. "NMAC" stands for New Mexico administrative code.
N. "NMSA" stands for New Mexico statutes annotated
O. "RPO" stands for rural planning organization
P. "TRADAS" stands for traffic data analysis system
Q. "US" stands for United States
5.0 **Instructions**

A. For records of a general administrative nature, financial nature, personnel nature and medical nature refer to "Appendix A" labeled "Records Retention and Disposition Schedule."

B. Retention periods shall be extended until six months after all current or pending litigation; current claims, audit exceptions or court orders involving a record have been resolved or concluded.

F. The descriptions of files are intended to be evocative, not complete. For example, there will always be some documents that are filed in a file that are not listed in the description, and similarly, not every file will contain an example of each document listed in the description.

G. Confidentiality is denoted for files likely to contain confidential materials, but files without a confidentiality note nonetheless may contain confidential or privileged materials, and failure to include an express confidentiality note in the description of a file does not waive the confidential or privileged nature of those materials. Some or all materials in a file may be confidential. Refer questions concerning the confidentiality of a file or portions of a file to legal counsel for the agency.

H. Access to confidential documents or confidential files shall be only by authorization of the NCRTD Executive Director or attorney general or by court order, unless otherwise provided by law. Release of confidential documents to law enforcement and other government agencies shall only be upon specific statutory authorization subpoena or court order. Nothing herein shall prohibit duly designated NCRTD personnel from performing their job functions including the review of personnel files and other confidential records where such review is necessary to perform a job duty.

I. Records, papers or documents may be photographed, microfilmed, microphotographed or reproduced on film. Such photographs, microfilm, photographic film or microphotographs shall be deemed to be an original record for all purposes, including introduction in evidence in all courts or administrative agencies.

J. Public records placed on magnetic tapes, disks or other data processing media shall be retained for the length of time specified in "Appendix A of the Records Retention and Disposition Schedules" and are subject to the same confidentiality and access restrictions as paper records.

K. Appendix A, North Central Regional Transit District ("NCRTD") Records Retention and Disposition Schedule, and Appendix B, North Central Regional Transit District ("NCRTD") Email and Email Retention and Disposition Policy are incorporated herein.
Appendix A

North Central Regional Transit District ("NCRTD")
Records Retention and Disposition Schedule

1.) ELECTRONIC DOCUMENT MANAGEMENT SYSTEM:
A. Program: NCRTD records custodian
B. Maintenance System: [NCRTD preference]
C. Description: document management system that stores images and electronic records produced by the NCRTD. Data may include payroll and personnel data, contracts and agreement data, project files, environment reference files, etc.
D. Data retention:
   (1) Metadata: until related records are destroyed.
   (2) Federal reports: 10 years after close of calendar year in which report is created.
   (3) Local government project files: permanent, transfer to archives 25 years after project completion.
   (4) District maintenance project files: permanent, transfer to archives 25 years after project completion.
   (5) Request for property abandonment files: permanent, transfer to archives 25 years after date of request.
   (6) Abandonment document forms: permanent, transfer to archives 25 years after abandonment filed.
   (7) Encroachment files: 30 years after final disposition of encroachment, then transfer to archives for review and final disposition.
   (8) Property sales files: permanent, transfer to archives 25 years after date of sale.
   (9) Disclaimer files: five years after date property is disclaimed, transfer to archives for review and final disposition.
   (10) Contract award recommendations files: six years after project completion date.
   (11) Payroll records: 10 years after end of federal fiscal year in which created.
   (12) Accident reports: seven years after end of federal fiscal year in which created.
E. Output: Because the electronic document management system is a data-based system, ad hoc and regularly scheduled reports may be generated upon request or demand. When produced, these reports are forwarded to the requesting entity.

2.) FEDERAL PLANNING REPORTS:
A. Program: NCRTD records custodian
B. Maintenance System: [NCRTD preference]
C. Description: reports containing various federally-mandated information. Some of these reports may include performance monitoring system report, monthly volume summary reports, monthly and quarterly audit reports.

D. Retention: 10 years after close of calendar year in which created

3.) FEDERAL AND STATE APPORTIONMENTS REPORTS FILES:
A. Program: NCRTD records custodian
B. Maintenance System: [NCRTD preference]
C. Description: reports concerning obligated federal and state funds for various transit related projects (i.e., construction, planning programs, feasibility studies, consultants, etc.).
D. Retention: five years after end of federal fiscal year in which created

4.) DAMAGE CLAIM FILES:
A. Program: NCRTD records custodian
B. Maintenance System: [NCRTD preference]
C. Description: damage claims submitted by the NCRTD to individuals or representatives of individuals that have negligently damaged NCRTD property. File may include police reports, estimate of damage, cost reports, final demand notices, receipt of payments, correspondence, etc.
D. Retention: three years after final disposition

5.) INTERNET SITE VISIT MONITORING REPORTS:
A. Program: NCRTD records custodian
B. Maintenance System: [NCRTD preference]
C. Description: monthly report, if any showing NCRTD employee internet visits to both agency permitted and agency blocked internet addresses. Report may include NCRTD employee name, date, time, source, destination, internet protocol address, protocol, category, etc.
D. Retention: six months after report created

6.) ACCIDENT FILES:
A. Program: NCRTD records custodian
B. Maintenance System: [NCRTD preference]
C. Description: records concerning accidents involving any NCRTD Bus and Driver
File may include copies of accident reports, medical information, annual summary of accident information,
D. Retention: 10 years after date of accident, then transfer to archives for review and final disposition
E. Confidentiality: Portions of record may be considered confidential pursuant, but not limited to 5 USC, Section 552a and 42 U.S.C. § 405(c)(2)(C)(vii)(I). (i.e., social security number), Section 14-6-1 NMSA 1978 (i.e., health information) and Section 14-2-1 NMSA 1978 (i.e., "law enforcement records that reveal confidential sources, methods, information or individuals accused but not charged with a crime").

7.) ACCIDENT RECORDS CITATION SYSTEM:
A. Program: NCRTD records custodian
B. Maintenance System: [NCRTD preference]
C. Description: database or other records maintenance system that maintains accident report information for statistical purposes. Data may include personal identifiers of individuals involved in an accident (i.e., name, social security number, address, license number, age, etc.), location of accident, accident detailed information, etc.
D. Data retention: seven years after end of federal fiscal year in which created
E. Confidentiality: Portions of record may be confidential pursuant, but not limited to 5 USC, Section 552a (i.e., social security number), Section 66-7-508 NMSA 1978 Confidentiality of records, Section 29-10-4 NMSA 1978 (i.e., arrest records) and Section 14-2-1 NMSA 1978 (i.e., "law enforcement records that reveal confidential sources, methods, information or individuals accused but not charged with a crime").
F. Input: All records used as input for the accident records citation system are destroyed once input to system is verified and complete.

8.) ACCOUNTING RECORDS
A. Program: NCRTD records custodian
B. Maintenance System: [NCRTD preference]
C. Description: records must be maintained that adequately identify the source and application of funds provided through Federal and State grants and subgrants for financially-assisted activities. These records must contain information pertaining to grant or subgrant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays or expenditures and income.
D. Retention: Except as otherwise specified, records must be retained for three years from the starting date.
   Starting date of retention period:
   (1) General Records. The starting date for retention of records related to multi-year projects is the date of submission of the final FSR upon project completion or, if waived, the date it would have been due.
   (2) Equipment Records. The three year retention period for equipment records starts from the date of the equipment’s disposition or replacement or transfer at FTA’s direction.
9.) **BID LETTING AND AWARD SYSTEM:**
   A. Program: NCRTD records custodian
   B. Maintenance System: [NCRTD preference]
   C. Description: database or other method of record retention that captures letting, bidding and award information for NCRTD projects. Data may include contractor bids for a specific project, advertising documentation, district office recommendations for award, authorization from a federal administration, bid reviews, preliminary award of contract, project estimates, cost list, items list to generate proposals for contractors, bid letting information, data used to analyze bids, etc.
   D. Data retention: six years after project completion date
   E. Confidentiality: Portions of this file may contain confidential information pursuant, but not limited to Section 13-1-122 NMSA 1978 (i.e., Competitive sealed qualifications-based proposals; award of architect, engineering, landscape architect and surveying contracts) and CFR 40 Subsection 53.15 (i.e., trade secrets and confidential or privileged information).

10.) **AUTHORIZATION FILES:**
    A. Program: NCRTD records custodian
    B. Maintenance System: [NCRTD preference]
    C. Description: records concerning authorization for project advertising and letting requirements that are going to be let in a given month. Files may include letting schedule, licensing requirements, project information work sheet, invitation for bid, addendum to projects, preliminary design plans, work sheet for working days, disadvantaged business goal, and certifications from appropriate in-house offices, etc.
    D. Retention: six years after project completion date
    E. Confidentiality: Portions of this file may contain confidential information pursuant, but not limited to Section 13-1-122 NMSA 1978 (i.e., Competitive sealed qualifications-based proposals; award of architect, engineering, landscape architect and surveying contracts) and CFR 40 Subsection 53.15 (i.e., trade secrets and confidential or privileged information).

11.) **CONTRACT AWARD RECOMMENDATIONS FILES:**
    A. Program: NCRTD records custodian
    B. Maintenance System: [NCRTD preference]
    C. Description: records concerning recommendations and award information from the DOT bid review committee to award a contract to a particular bidder. Files may include advertising documentation, recommendations for award, authorization from federal highway administration, DOT contract goal for disadvantaged business in highway construction, bid review work sheets, bid tabulations, copy of preliminary award of contract letter, etc.
    D. Retention: six years after project completion date
E. Confidentiality: Portions of this file may contain confidential information pursuant, but not limited to Section 13-1-122 NMSA 1978 (i.e., Competitive sealed qualifications-based proposals; award of architect, engineering, landscape architect and surveying contracts) and CFR 40 Subsection 53.15 (i.e., trade secrets and confidential or privileged information).

12.) SITE MANAGEMENT SYSTEM:
   A. Program: NCRTD records custodian
   B. Maintenance System: [NCRTD preference]
   C. Description: system that tracks and maintains information for all aspects of construction management. Data may include construction contract data, daily diaries, change orders, contractor payments, finalization, disputes, claims, materials used, etc.
   D. Retention: six years after project completion date

13.) CALLED IN LOAD LOG:
   A. Program: NCRTD records custodian
   B. Maintenance System: [NCRTD preference]
   C. Description: log used to record the overload permits issued by the department of public safety to travel on state bridges. Log may show date, load number, requester, time, firm name, load type, gross weight, height, width, length, axle number, weight, distance, origin, truck unit number, destination, number of axles, route numbers, remarks, rejected, notified, etc.
   D. Retention: three years after close of calendar year in which created

14.) REQUEST FOR PROPERTY ABANDONMENT FILES:
   A. Program: NCRTD records custodian
   B. Maintenance System: [NCRTD preference]
   C. Description: records concerning NCRTD's recommendations and decisions regarding incoming requests from entities on properties owned and abandoned by NCRTD. File may include right of way maps showing parcels of land, copy of associated easement, survey of intended abandonment, legal land description, interdepartmental comments and recommendations for or against abandonment, declaration of vacation and abandonment, etc.
   D. Retention: permanent, transfer to archives 25 years after date of request

15.) ABANDONMENT DOCUMENT FORMS:
   A. Program: NCRTD records custodian
   B. Maintenance System: [NCRTD preference]
   C. Description: form that documents property abandonment
   D. Retention: permanent, transfer to archives 25 years after abandonment filed
16.) ENCROACHMENT FILES:
   A. Program: NCRTD records custodian
   B. Maintenance System: [NCRTD preference]
   C. Description: records concerning encroachments onto NCRTD property. Files may include surveys, copies of deeds, contracts, notice of encroachment on highway right of way, license for encroachment, correspondence, etc.
   D. Retention:
      (1) Structural encroachment files: 25 years after final disposition of encroachment, then transfer to archives for review and final disposition
      (2) All others: transfer to archives 25 years after disposition of encroachment for review and final disposition

17.) PROPERTY SALES FILES:
   A. Program: NCRTD records custodian
   B. Maintenance System: [NCRTD preference]
   C. Description: records concerning the sale of NCRTD property. Files may include right of way maps, quitclaim deeds, correspondence, etc.
   D. Retention: permanent, transfer to archives 25 years after date of sale

18.) DISCLAIMER FILES:
   A. Program: NCRTD records custodian
   B. Maintenance System: [NCRTD preference]
   C. Description: records concerning the NCRTD disclaimer of interest or ownership of specific property. Files may include right of way maps, disclaimer, correspondence, etc.
   D. Retention: five years after date property is disclaimed, transfer to archives for review and final disposition

19.) AIRSPACE FILES:
   A. Program: NCRTD records custodian
   B. Maintenance System: [NCRTD preference]
   C. Description: records concerning the leasing of the NCRTD right of way airspace. File may include lease agreements, right of way maps, correspondence, etc.
   D. Retention: six years after termination of lease agreement

20.) BILLBOARD OWNER PERMIT FILES:
   A. Program: NCRTD records custodian
   B. Maintenance System: [NCRTD preference]
   C. Description: records concerning the approved issuance of permits to erect or maintain outdoor advertising along the city, county, interstate and other federally funded primary highways. File may include application for permit, inspection
documentation of proposed advertising location, check copies, billing
information, plats, local government permit copy, renewal notice copy, copy of
permit plates issued, correspondence, etc.

D. Retention:
   (1) Approved permit: permanent, transfer to archives 25 years after termination of
   permit
   (2) Rejected application: five years after date of rejection

21.) CULTURAL RESOURCE REPORT FILES:
A. Program: NCRTD records custodian
B. Maintenance System: [NCRTD preference]
C. Description: records concerning investigation and assessments conducted to
determine any historic or archeological site issues affecting proposed or existing
NCRTD properties or rights of way. Files may include site investigation report,
surveys, clearance letter, denial letter, correspondence, etc.
D. Retention: permanent, transfer to archives 25 years after date of letter of clearance
   or denial
E. Confidentiality: Portions of record may be confidential pursuant, but not limited
to Section 18-6-11.1 NMSA 1978, Confidentiality of site location.

22.) ENVIRONMENTAL REFERENCE FILES:
A. Program: NCRTD records custodian
B. Maintenance System: [NCRTD preference]
C. Description: environmental assessments conducted on NCRTD properties and
potential property acquisitions. Files may include site investigation reports (i.e.,
detailed site investigation, field notes, drill logs, laboratory results, disposal
manifest, etc.), hazardous materials assessments, photos, clean up report,
correspondence, etc.
D. Retention: permanent, transfer to archives 25 years after file assessment
   conducted

23.) ABOVEGROUND STORAGE TANK FACILITY FILES
A. Program: NCRTD records custodian
B. Maintenance System: [NCRTD preference]
C. Description: Records concerning the design and construction, maintenance,
inspection, repair and removal of aboveground storage tanks located on the
grounds of any NCRTD property. Files may include contracts for removal, work
plans and approvals, photos, authorizations to work, correspondence, etc.
D. Retention: seven years after facility is closed or tank is removed

24.) UNDERGROUND STORAGE TANK FACILITY FILES:
A. Program: NCRTD records custodian
B. Maintenance System: [NCRTD preference]  
C. Description: records concerning the maintenance, inspection and removal of underground storage tanks located on the grounds of any NCRTD property. Files may include contracts for removal, work plans and approvals, photos, authorizations to work, correspondence, etc.  
D. Retention: permanent, transfer to archives 25 years after date storage tank removed

25.) LABORATORY INFORMATION MANAGEMENT SYSTEM:  
A. Program: NCRTD records custodian  
B. Maintenance System: [NCRTD preference]  
C. Description: database or any records retention method that maintains information regarding the testing of materials used for maintenance and construction projects. Data may include test sample name, lab number, project number, hours worked, materials used, maintenance activity, date reported, district number, test, date sampled, nature of source, location of source, date received, test results, identifiable marks, manufactured by, district number, refinery source, weekly asphalt report number, tested by, approved by, etc.  
D. Data retention: permanent

26.) PRODUCT EVALUATION DATABASE:  
A. Program: NCRTD records custodian  
B. Maintenance System: [NCRTD preference]  
C. Description: database or any records retention method that maintains information regarding products available for construction projects. Data may include product name, evaluation of product, approved date and status, product specifications, representative name and demographic information, comments, etc.  
D. Data retention: until product is no longer approved or use is discontinued

27.) PRODUCT FILES:  
A. Program: NCRTD records custodian  
B. Maintenance System: [NCRTD preference]  
C. Description: records concerning approved products available for construction projects. Files may include application for product evaluation, data sheet on use of product, product specifications, material safety sheets, correspondence, etc.  
D. Retention:  
(1) Approved products: 20 years after product evaluation approved  
(2) Rejected products: three years from date of rejection

28.) EQUIPMENT MANAGEMENT SYSTEM:  
A. Program: NCRTD records custodian  
B. Maintenance System: [NCRTD preference]
C. **Description:** database or any records retention method that maintains information on all heavy equipment and fleet vehicles. Data may include district information, class unit, item number, contract number, vendor, base price, options to be ordered, total cost, date paid, budget balance, warranties, serial number, dealer name, body style, fuel type, shipping weight, vehicle description, activity code, mileage (beginning and end), daily miles, project code, account code, part number, labor, parts (i.e., task code, part number, vendor, quantity, unit price and part description, etc.), fixed assets number, inventory value, mile or hour readings, servicing information, inspections, book value, resale value, etc.

D. **Data retention:** two years after date of disposition of heavy equipment or vehicle

E. **Input:** All records used as input for the equipment management system are filed in fixed asset (equipment) acquisition history files

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**29.) EQUIPMENT MAINTENANCE FILES:**

A. **Program:** NCRTD records custodian

B. **Maintenance System:** [NCRTD preference]

C. **Description:** complete service and maintenance history on heavy equipment and vehicles. Files may include equipment inspection report, equipment registration, equipment transfer form, change report, preventative maintenance report, inspection condemnation report, certificate of property loss, equipment usage report, copy of authorization to purchase surplus equipment, copy of verification of public entity funds for purchase of surplus equipment, etc.

D. **Retention:** two years after date of disposition of heavy equipment or vehicle

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**30.) PUBLIC ENTITY BUDGET AUTHORIZATION FILES:**

A. **Program:** NCRTD records custodian

B. **Maintenance System:** [NCRTD preference]

C. **Description:** records relating to purchase of NCRTD equipment by public entities. Files may include authorization to purchase surplus equipment, verification of public entity funds for purchase of surplus equipment form, copy of memo of charge, request for waiver, hardship analysis report from department of finance and administration, correspondence, etc.

D. **Retention:** three years after close of fiscal year in which authorization received

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**31.) AUCTION DATABASE:**

A. **Program:** NCRTD records custodian

B. **Maintenance System:** [NCRTD preference]

C. **Description:** database maintains or records maintenance system containing information pertaining to the auction of NCRTD equipment. Data may include inventory lot number, description, fixed asset number, serial number, meter reading, location, inspection and condemnation number, transfer number, bid number, bid amount, bidder name, bidder address, etc.

D. **Data retention:** five fiscal years after date in which sale occurred
32.) **AUCTIONEER REPORT FILES:**
   A. Program: NCRTD records custodian
   B. Maintenance System: [NCRTD preference]
   C. Description: report listing all equipment sold at auction. File may include equipment acquisition packet (i.e., dealer name, registration, equipment inspection report, etc.) and disposal packet (i.e., inventory lot, description, fixed asset number, serial number, meter reading, location, inspection and condemnation number, transfer number, bid number, bid amount, sold with, bidder name, bidder address, transfer title request, etc.), copy of memo of charge, etc.
   D. Retention: five fiscal years after date of sale

33.) **FACILITY INSPECTION FILES:**
   A. Program: NCRTD records custodian
   B. Maintenance System: [NCRTD preference]
   C. Description: routine inspections of the department facilities. Files may include inspection reports, cover letter to supervisor of facility, listing of areas inspected, discrepancies noted, response from supervisor on corrective action, correspondence, etc.
   D. Retention: five years after date of inspection

34.) **SAFETY RESEARCH FILES (STUDIES):**
   A. Program: NCRTD records custodian
   B. Maintenance System: [NCRTD preference]
   C. Description: records concerning research conducted on safety issues (i.e., workplace violence, safety vests, safety processes, etc.). File may include study, employee safety analysis, notes, etc.
   D. Retention: 10 years after research is completed

35.) **RESOLUTION FILES**
   A. Program: NCRTD records custodian
   B. Maintenance System: [NCRTD preference]
   C. Description: formal statements expressing the opinion, will, or intent of the NCRTD governing body.
   D. Retention: permanent

36.) **CAPITAL PROJECT FILES**
   A. Program: NCRTD records custodian
   B. Maintenance System: [NCRTD preference]
   C. Description: records concerning the use of capital funds. Records document the progress and completion of capital projects (e.g., construction, redesigning, renovation, remodeling of NCRTD structures, streets, utility lines, etc.). Files may contain bid or quote documentation, contracts, payroll documentation.
expenditure reports, blueprints, architectural drawings, soil tests or analyses, engineering specification, payment documentation, etc.

D. Retention:
   (1) Fiscal or contractual documents (e.g., bids, quotes, agreements, contracts, etc.): 10 years after completion of project
   (2) Technical documents (e.g., blueprints, architectural drawings, soil tests or analyses, engineering specifications, etc.): permanent
   (3) All other documents: two years after close of fiscal year in which project completed

37.) NCRTD BONDS, NOTES, INTEREST COUPONS, AND CERTIFICATES OF INDEBTEDNESS
A. Program: NCRTD records custodian
B. Maintenance System: [NCRTD preference]
C. Description: record of debt in form of a bond, note, certificate of indebtedness, or interest coupon incurred by the NCRTD.
D. Retention:
   (1) When paying agent is a bank, savings and loan association, or other third party: until paid and certificate of destruction has been prepared
   (2) When paying agent is the debtor agency (i.e., NCRTD): two years following payment and certificate of destruction has been prepared

38.) INDUSTRIAL REVENUE BOND FILES
A. Program: NCRTD records custodian
B. Maintenance System: [NCRTD preference]
C. Description: records concerning the issuance of NCRTD revenue bonds to acquire, own, lease, or sell projects for the purpose of promoting industry and trade other than retail trade. Files may include agreement for the abatement of taxes, project descriptions, industry or trade information, correspondence, memoranda, etc.
D. Retention: six years after termination of agreements

39.) NCRTD BOND CERTIFICATE OF DESTRUCTION
A. Program: NCRTD records custodian
B. Maintenance System: [NCRTD preference]
C. Description: shows the number and maturity of the bond, note, certificate, coupon, the date paid, etc.
D. Retention: six years after date created

40.) NCRTD BOND REGISTER
A. Program: NCRTD records custodian
B. Maintenance System: [NCRTD preference]
C. Description: record of bonds or notes issued and paid. Register shows the bond or note issue numbers, amount of issue date bond or note canceled, coupon numbers, payment information, etc.

D. Retention: 10 years after date of maturity

41.) PETITION FILES
A. Program: NCRTD records custodian
B. Maintenance System: [NCRTD preference]
C. Description: records concerning requests on a variety of issues (e.g., special election, ordinance change, traffic light installation, speed bump installation, etc.).
D. Retention:
   (1) All other petitions: one year after close of fiscal year in which received

42.) ADA COMPLIANCE FILES
A. Program: NCRTD records custodian
B. Maintenance System: [NCRTD preference]
C. Description: records concerning the Americans With Disabilities Act. File may contain ADA plan, policies, grievance procedures, grievances, resolutions, etc.
D. Retention:
   (1) Plans, policies, and procedures: until superseded or one year after affected grievances have been resolved
   (2) Grievances and resolutions: one year after date closed
   [Note: Policies and plans adopted by ordinance or resolution.]

43.) COLLECTIVE BARGAINING FILES
A. Program: NCRTD records custodian
B. Maintenance System: [NCRTD preference]
C. Description: records concerning transactions with labor organizations representing employees in collective bargaining. Files may contain copy of certification of labor organization as the exclusive representative of employees, mediation documentation and recommendations, agreements, grievances and resolutions, decertification, correspondence, memoranda, etc.
D. Retention:
   (1) Agreements: six years after termination of agreement
   (2) Grievances and resolutions: three years after date of resolution
   (3) All other documentation: until no longer needed for reference

44.) CLAIM OF LIEN FILES
A. Program: NCRTD records custodian
B. Maintenance System: [NCRTD preference]
C. Description: records concerning liens placed against private property for services rendered by the NCRTD. Files may contain claim of lien, assessment table, copy
of notice of public hearing, copy of notice of violation, court order, copy of work order, copy of billing, release of lien, correspondence, memoranda, etc.

D. Retention: six years after close of fiscal year in which lien released

45.) VEHICLE FILES
A. Program: NCRTD records custodian
B. Maintenance System: [NCRTD preference]
C. Description: records concerning the history of NCRTD-owned or leased vehicles. Files may include purchase or lease information, warranty documentation, maintenance documentation, maintenance expenditure information, disposal information, etc.
D. Retention: three years after disposition of vehicle

46.) VEHICLE MAINTENANCE FILES
A. Program: motor pool records
B. Maintenance System: [NCRTD preference]
C. Description: records concerning the maintenance performed on NCRTD-owned vehicles. Files may include work orders, repair orders, work schedules, maintenance orders, maintenance schedules, work reports, etc.
D. Retention: three years after close of fiscal year in which created

47.) BUS ROUTE PLANNING FILE
A. Program: transportation and transit records
B. Maintenance System: [NCRTD preference]
C. Description: records used to establish and modify the NCRTD transit route system. File may include studies, maps, population surveys, schedule plans, route schedules, etc.
D. Retention:
   (1) Route schedules and maps: until superseded
   (2) All other records: three years after close of calendar year in which created

48.) CHARTER BUS FILES
A. Program: NCRTD records custodian
B. Maintenance System: [NCRTD preference]
C. Description: records concerning charter rentals of transit system buses to private groups. Files may include rental information, fiscal documentation, related correspondence, etc.
D. Retention: three years after close of fiscal year in which created
49.) **DAILY BUS PASSENGER REPORT**
   A. Program: transportation and transit records
   B. Maintenance System: [NCRTD preference]
   C. Description: records concerning all NCRTD buses, including airport-shuttle buses per route in the NCRTD transit system, used to summarize operational statistics for management review purposes. Report may show name of operator, number of regular fares, senior citizen fares, handicapped persons fares, etc.
   D. Retention: three years after close of fiscal year in which created

50.) **BUS DRIVERS DAILY CHECKLIST**
   A. Program: NCRTD records custodian
   B. Maintenance System: [NCRTD preference]
   C. Description: record concerning the condition and appearance of NCRTD buses including airport-shuttle buses used to identify maintenance problems on vehicles.
   D. Retention: three years after close of fiscal year in which created

51.) **TRANSIT OPERATION SUMMARY REPORTS**
   A. Program: NCRTD records custodian
   B. Maintenance System: [NCRTD preference]
   C. Description: reports documenting daily fares received. Reports may include monthly reports documenting ridership, revenue, route information, fuel usage, and other operational details.
   D. Retention: three years after close of fiscal year in which created

52.) **TAX RECORDS**
   A. Program: NCRTD records custodian
   B. Maintenance System: [NCRTD preference]
   C. Description: Include but may not be limited to, documents concerning payroll expenses, accounting procedures and regarding the NCRTD’s revenues.
   D. Retention: six years from the date of filing a return if applicable.

53.) **EMPLOYMENT RECORDS/PERSONNEL RECORDS**
   A. Program: NCRTD records custodian
   B. Maintenance System: [NCRTD preference]
   C. Description: State and federal statutes require the NCRTD to keep certain recruitment, employment and personnel information. The NCRTD should also keep personnel files that reflect performance reviews and any complaints brought against the NCRTD or individual employees under applicable state and federal statutes. The NCRTD should also keep all final memoranda and correspondence reflecting performance reviews and actions taken by or against personnel in the employee’s personnel file.
   D. Retention: six years
54.) PRESS RELEASE/PUBLIC FILINGS
A. Program: NCRTD records custodian
B. Maintenance System: [NCRTD preference]
C. Description: Permanent copies of all press releases and publicly filed documents should be retained under the theory that the NCRTD should have its own copy to test the accuracy of any document a member of the public can theoretically produce against the NCRTD.
D. Retention: All in perpetuity

55.) LEGAL FILES
A. Program: NCRTD records custodian
B. Maintenance System: [NCRTD preference]
C. Description: Legal counsel should be consulted to determine the retention period of particular documents.
D. Retention: should generally be maintained for a period of ten years.

56.) MARKETING AND SALES DOCUMENTS
A. Program: NCRTD records custodian
B. Maintenance System: [NCRTD preference]
C. Description: Copies of marketing and sales documents, invoices, contracts, leases, licenses and other legal documents
D. Retention:
   (1) Marketing and Sales Documents should be maintained for at least six years
   (2) Sales invoices, contracts, leases, licenses and other legal documentation; Three years beyond the life of the agreement.

57.) CONTRACTS
A. Program: NCRTD records custodian
B. Maintenance System: [NCRTD preference]
C. Description: Final, execution copies of all contracts entered into by the NCRTD should be retained.
D. Retention: three years beyond the life of an agreement, and longer in the case of publicly filed contracts.

58.) EMAIL
A. Program: NCRTD records custodian
B. Maintenance System: [NCRTD preference]
C. Description: Email and Email Retention and Disposition is hereby incorporated as Appendix B, Email and Email Retention and Disposition Policy.
D. Retention: printed in hard copy and kept in the appropriate file; or downloaded to a computer file and kept electronically or on disk as a separate file. The retention period depends upon the subject matter of the e-mail, as covered elsewhere in this policy.
Appendix B

North Central Regional Transit District ("NCRTD")
Email and Email Retention and Disposition Policy

Objective

The purpose of this policy is to provide guidance to NCRTD employees in managing information sent or received through email transmissions and to ensure the proper use of the NCRTD email system.

Applicable Staff

All NCRTD employees

Definitions

"Email" means a message transmitted electronically over a communications network. A system that enables users to compose, transmit, receive and manage electronic messages and images across networks and through gateways connecting to other local area networks.

"Electronic record" means a computer-generated item such as an email message, a document file, an image file, etc.

"Non-record" means extra copies of documents kept solely for convenience of reference, stocks of publications, records not usually included within the scope of official records of an agency or government entity, personal correspondences that do not pertain to NCRTD business and library material intended only for reference or exhibition. The following specific types of materials are non-records: materials neither made nor received in pursuance of statutory requirements or in connection with the functional responsibility of the officer or agency; extra copies of correspondence; preliminary drafts; blank forms, transmittal letters or forms that do not add information; sample letters and reading or informational files.

"Public records" means all books, papers, maps, photographs or other documentary materials, regardless of physical form or characteristics, made or received by any agency in pursuance of law or in connection with the transaction of public business.
Policy Statement

It is the policy of the NCRTD to provide employees email resources and services to assist them in the performance of their work. All email resources and services are to be managed in a lawful and effective manner. To assure this, the NCRTD has the right to monitor all aspects of the email system to ensure compliance with this policy and applicable law. Employees should not have the expectation of privacy in anything they create, send or receive on the NCRTD email system. Employees shall conduct themselves in a manner consistent with appropriate behavior standards as established in existing NCRTD policies. All NCRTD policies relating to intellectual property protection, privacy, misuse of NCRTD equipment, sexual harassment, sexually hostile work environment, data security and confidentiality shall apply to the use of email.

Public Records

All email transmissions made or received by the NCRTD in pursuance of law or in connection with the transaction of business are public records. Employees shall determine if email transmissions, both "sent" and "received," are public records; separate "public records" from "non-records"; and store only that information that is a public record. Records shall be stored and retained based on the retention period for the particular records series established in records retention and disposition schedules and agency procedures.

Electronic documents, including email, are subject to the provisions of the Public Records Act and the Inspection of Public Records Act.

Destruction of a public record before its retention period has been met is illegal and is a fourth degree felony pursuant to Section 30-26-1 NMSA 1978, Tampering with Public Records.

Passwords

All passwords upon request must be made known to the Executive Director and Financial Manager. The use of passwords to gain access to the email system or to secure specific files does not provide employees with an expectation of privacy in the respective system or document.

Encryption

Employees may not encrypt any emails without obtaining written permission from their supervisor. If approved, the encryption key(s) must be made known to the agency's Executive Director.
Privacy and Access

Subject to tribal sovereignty rights, email messages sent or received in conjunction with NCRTD business may be releasable to the public under the Inspection of Public Records Act with several exceptions such as medical records, letters of reference, matters of opinion, attorney-client information, trade secrets, tactical response information and law enforcement investigative files. Employees are prohibited from disclosing, copying, distributing or forwarding email messages exempted from public disclosure under state and federal laws.

Personal Use

Personal email shall not impede the conduct of NCRTD business. Employees shall not subscribe to mailing lists or mail services that fall outside of the employees scope of work. Use of social media during working hours for non-work related purposes shall not impede the conduct of NCRTD business.

Questionable Email

The NCRTD will provide employees with periodic Anti-Virus updates for personal computers. It is the employee's responsibility to update his or her assigned computer when notified. Employees shall not willfully and knowingly open email messages that look questionable nor shall they open attachments unless the user is certain that the attachment is from a known sender, is expected and is pertinent to the employee's job. Questionable emails and attachments are to be deleted immediately and then "double deleted" by emptying the Trash bin.

Unacceptable Use of Email

Employees shall not use email resources and services for commercial purposes, including but not limited to, on-line trading and e-bay operations.

Employees shall not send or forward emails containing libelous, defamatory, offensive, racist or obscene remarks. If an employee receives an email of this nature, they must promptly notify their supervisor.

Employees shall not use email to conduct prohibited political activities or business activities related to the holding of public office.

Employees shall not establish user profiles or forward, import or create email accounts other than the profile and account established on their behalf by the NCRTD. Serious disciplinary action up to and including termination of employment may result from evidence of prohibited activity obtained through monitoring or inspection of electronic messages, files, or electronic storage devices. Illegal activity involving NCRTD IT resource usage may be referred to appropriate authorities for prosecution.
Title: Discussion and consideration of adoption of Resolution No. 2012-16 Amending the Personnel Rules and Regulations.

Prepared By: Anthony J. Mortillaro, NCRTD Executive Director

Summary: To discuss and consider the recommended modifications to the existing Personnel Rules and Regulations

Background: The existing Personnel Rules and Regulations were adopted on December 14, 2007. These rules and regulations have not been reviewed or modified since their adoption. Many state and federal regulations have changed over the course of time and it is incumbent that our Personnel Rules and Regulations are consistent with State and Federal law. In addition, organizational experience with these Rules and Regulations has shown that the policies in some cases lack clarity and specificity and the proposed revisions provide for clarification and enhancement.

The Finance Sub-committee has met several times to discuss the proposed modifications to the Personnel Rules and Regulations. An Employee Advisory Committee (EAC) was established consisting of 3 employees from the Driver/Dispatcher ranks and 1 from the Administrative ranks that were nominated by their respective working units. The EAC met on June 4 and 19. The attached draft incorporates the changes that have been suggested by the EAC and concurred to by the Executive Director and Finance Sub-committee.

During discussions with the Finance Sub-committee it was also discerned that a sick leave incentive program would be developed. The Sub-committee reviewed a number of sick leave incentive concepts and directed that the Executive Director provide the employees with the opportunity to choose among two programs: Sick Leave Transfer or Sick Leave Sell Back. Based upon the votes received: Sick Leave Transfer (22 votes) and Sick Leave Sell Back (12 votes); the Sick Leave Transfer program was incorporated into the amended Personnel Rules and Regulations.

Recommended Action: It is recommended that the Board discuss and consider approval of Resolution No. 2012-16 amending the Personnel Rules and Regulations.

The Finance Subcommittee met on June 22, 2012 and recommended that the Board adopt the resolution providing for the amendment of the Personnel Rules and Regulations.

Options/Alternatives: The Board may consider the following options/alternatives:
1. Take no action; or
2. Adoption of the recommendation of the Finance Subcommittee and Resolution; or
3. Provide further direction in relation to amendment of the Personnel Rules and Regulations and then take action to adopt the resolution.

**Fiscal Impact:** N/A

**Attachments:**

- Resolution No. 2012-16
- Amended Personnel Rules and Regulations
North Central Regional Transit District (NCRTD)

Resolution 2012-16

ADOPTION OF A RESOLUTION AMENDING THE NORTH CENTRAL REGIONAL TRANSIT DISTRICT PERSONNEL RULES AND REGULATIONS ADOPTED IN DECEMBER 14, 2007

WHEREAS, the NCRTD was created through legislative enactment (NMSA 1978, Sections 73-25-1 through 73-25-19); and

WHEREAS, the NCRTD is a subdivision of the State of New Mexico with all the authority and duties of the same; and

WHEREAS, the Board has the authority to make and pass resolutions necessary for the execution of the powers vested in the District; and

WHEREAS, personnel rules and regulations may be established to serve as guidelines to be followed in the administration of the District’s personnel system to ensure uniform understanding and application of human resource polices; and

WHEREAS, the NCRTD Board adopted by voice vote at the December 14, 2007 meeting the NCRTD’s initial Personnel Rules and Regulations; and

WHEREAS, the NCRTD Board desires to amend the North Central Regional Transit District Personnel Rules and Regulations for the purpose of compliance with Federal and State law and to ensure that the District’s practices are contemporary in nature.

NOW THEREFORE BE IT RESOLVED THAT THE ATTACHED PERSONNEL RULES AND REGULATIONS ARE APPROVED AND ADOPTED AS ATTACHED HERETO AS EXHIBIT “A” ON THIS 3RD DAY OF AUGUST 2012.

__________________________________________________________________________

Daniel Barrone, Chair

Approved as to form:

__________________________________________________________________________

Peter Dwyer, Counsel
NORTH CENTRAL REGIONAL TRANSIT DISTRICT
PERSONNEL RULES AND REGULATIONS

2/13/12 version with Attorney's changes

6/8/12 version with changes per discussion with EAC on 6/4/12 & 6/19/12
6/22/12 version final review with Finance Sub Committee

3600 Redee Lane, Suite B-6
Santa Fe, New Mexico 87507
INTRODUCTION

On behalf of the Board of Directors and District staff, I am pleased to welcome you to our team. One of the most important points for you to understand as a new employee is the relationship between the District and its employees. The District's goal is to create an atmosphere that reinforces and supports the basic values of integrity, personal responsibility, and professionalism in order to ensure that the needs of the customers of the North Central Regional Transit District are met. District employees are expected to conduct themselves in accordance with these values.

The district believes in the dignity of the individual and that each employee who is hired has the potential to make a unique contribution to the organization and the constituencies we serve. The district is committed to diversity in its workforce and practices equal employment and non-discrimination in the workplace. The district complies with all state and federal employment mandates.

The district believes that its employees are capable of playing a decisive role in the shaping of the district and its varied departments and divisions. To that end, employees are provided with the best opportunities that existing resources allow for individual growth and development. The district is committed to the concept of fair pay for work performed and results achieved. The recognition of outstanding individual and team performance is a priority.

The district's form of governance is established by the New Mexico State Statutes. The Executive Director has the responsibility to assure that the districts constituents' needs for transit services are met, and to oversee services so they are provided in a cost-effective, efficient, and professional manner.

Within the district, there are operating departments as well as internal services. Depending upon the type of internal service, the requirement for structured procedures varies widely. Each department or operation is therefore responsible for developing and implementing operational guidelines to ensure the most efficient delivery of services.

Standardized guidelines are necessary for issues of district-wide concern. The Personnel Rules and Regulations address these issues in general terms. These rules and regulations are reflective of varying degrees of the most contemporary practices.

Due to the nature of these rules and regulations and their effect on the efficient operation of the district, the information outlined in this manual is subject to change or revision at any time, with or without notice, by the Executive Director and the district board. The information contained in this manual is for general information purposes. The language used is not intended to be, nor does it constitute, an employment contract between the district and its employees. The district reserves the right to make final decisions concerning the interpretation and application of the contents of this manual. Questions regarding issues in this manual should be addressed to your supervisor or to the Human Resources Office.

The provisions contained in this manual are meant to serve as guidelines. In keeping with the values of integrity, personal responsibility, and professionalism, and it is the district's desire that situations be resolved through mutual collaboration and cooperation whenever possible. When this is not possible, each situation will be evaluated on a case-by-case basis.

Again, welcome to the North Central Regional Transit District. I look forward to a mutually beneficial relationship with you as a member of our team.

Sincerely,
Anthony J. Mortillaro, Executive Director

All Employees are expected to meet certain work standards, especially faithful attendance to the job and compliance with safety rules and operating procedures. The District’s Management maintains an “open door” policy with regard to problems that you may experience on the job. We assure you that your Supervisor and Management personnel will be open to comments or questions you may have regarding your employment and working conditions.

No personnel rule and regulation can anticipate every circumstance or question that may arise. As the North Central Regional Transit District continues to grow, the District reserves the right to revise, supplement, or rescind any rule, regulation or policy as it deems appropriate. Employees will be informed as quickly as possible of revisions.

All Employees are expected to meet certain work standards, especially faithful attendance to the job and compliance with safety rules and operating procedures. The District’s Management maintains an “open door” policy with regard to problems that you may experience on the job. We assure you that your Supervisor and Management personnel will be open to comments or questions you may have regarding your employment and working conditions.

Authority is delegated to the Executive Director for the administration of the District’s Personnel Rules and Regulations. The Executive Director may issue interpretive memoranda as may be necessary to interpret and enforce the provisions of the Rules and Regulations.

Again, these Rules and Regulations are subject to revision by District Board as necessary and/or as determined and recommended by the Executive Director to comply with relevant federal, state and local law.

Policy statements in this manual are intended to provide guidance on most situations that arise. In cases where circumstances are not specifically covered, the Executive Director should be contacted.

Policies and procedures are subject to modification and/or further development in response to growth and the changing environment. The District reserves the right to delete, change, and/or add policies at any time for any reason without notice. In addition, policies in this manual are not contracts in nature; employment continues to be at-will and cannot be altered verbally. No contracts of or offers of employment may be made without the consent and signature of the Executive Director.

NORTH CENTRAL REGIONAL TRANSIT DISTRICT

The North Central Regional Transit District is governed by a Board made up of members/Directors appointed by the respective governing bodies. The Board determines and ratifies District personnel policy.

AUTHORITY AND RESPONSIBILITY OF THE EXECUTIVE DIRECTOR

The Executive Director serves as the chief administrative executive officer of the North Central Regional Transit District (“District”) and is responsible for the administration of the entire District including any divisions or departments which may be created. The Executive Director executes the policies and directives promulgated or enacted by the Board and supervises the expenditure of
appropriated funds. The Executive Director is an exempt employee and serves at the pleasure of the Board and may be removed at any time for any reason deemed appropriate by a majority vote of all Board members.

Authority is delegated to the Executive Director for the administration of the District’s Personnel Rules and Regulations. The Executive Director may issue interpretive memoranda as may be necessary to interpret and enforce the provisions of the Rules and Regulations. No contracts of or offers of employment may be made without the consent and signature of the Executive Director.

The Executive Director, at his or her discretion, may delegate any such authority to those within the District as he or she deems necessary, unless prohibited by the Board.

The Executive Director, or designee, will develop, maintain and update from time to time, the Agency’s District’s Classification and Compensation Plan.

Lastly, policies in this manual are not contractual in nature; employment continues to be at-will and cannot be altered verbally. No contracts of or offers of employment may be made without the consent and signature of the Executive Director.

RULE 1 GENERAL PROVISIONS AND PURPOSE

1.1 Prior Rules.

The District Personnel Rules and Regulations in effect prior to December 14, 2007 January February 2012, and all amendments thereto are hereby superseded. These policies also supersede all previous written and unwritten guidelines and past personnel practices of the District and also supersede any current department or division policy or procedure inconsistent with those set forth herein. Separate department or division policies that are more restrictive due to the operational needs of the department or division shall remain in effect, subject to the approval of the Executive Director.

1.2 Compliance.

All persons operating under the provisions of these Rules shall conform to, comply with, and aid in all proper ways in carrying out the provisions of these Rules.

1.3 Purpose.

These Rules are prescribed for the purpose of providing a modern personnel system, thereby promoting efficiency in the conduct of public business and assuring fair and impartial treatment to all applicants for employment and to all employed by the District.

1.4 Management Authority

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Footnote: An "exempt employee" is an at-will employee and does not have a property right in his or her employment.
The District retains the full right and responsibility to direct the operations, promulgate policies, rules and regulations and otherwise exercise the prerogatives of management, which more particularly include but are not limited to the following:

a. To manage and direct employees including the right to select, hire, promote, transfer, assign, evaluate, lay off, or to reprimand, suspend, discharge or otherwise correct personnel and to appropriately administer District policies on compensation and benefits;
b. To promulgate and enforce rules and regulations;
c. To manage and determine the location, type and number of physical facilities, equipment, programs and the work to be performed;
d. To determine goals, objectives, programs, services, and budget and to utilize personnel and technology in a manner designed to effectively meet these purposes;
e. To determine work methods, the size and composition and duties of the work force, and the organizational structure;
f. To determine the hours of work, the number of shifts required and work schedules;
g. To relieve employees from duty due to lack of work, lack of funds, reorganization, job abolishment or other legitimate reason;
h. To determine when a job vacancy exists, the duties to be included in all classifications, and the standards of quality and performance to be maintained;
i. To determine the necessity to schedule authorize overtime and the determine the amount required thereof;
j. To maintain the security of personnel and financial records and other important data or information;
k. To maintain and improve the efficiency and effectiveness of the operations; and;
l. To determine and implement necessary actions in emergency situations.

1.5 Coverage.

The Personnel Rules and Regulations cover all District employees except Members of the District Board, the Executive Director to the extent that his contract of employment varies from these Rules and Regulations, and employees designated as exempt by the Executive Director and approved by the Board. Notwithstanding the general application of these Rules and Regulations to all employees the District can and shall, within the prescribed limits of the law, provide different standards for performance, review, and disciplinary action based upon the duly adopted Classification and Compensation policies of the District. These Rules and Regulations do not apply to independent contractors who are not covered by the District Classification and Compensation policies.

1.5 Merit Principles.

The District adopts the following merit standards:

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* The Executive Director is covered by an employment agreement and is an at-will employee.
* An "exempt employee" is an at-will employee and does not have a property right in his or her employment.
A. Recruiting, selecting, and advancing employees will be on the basis of their ability, knowledge, and skill, including open consideration of qualified candidates for initial employment.

B. Equitable and adequate compensation will be provided.

C. Employees will be trained as needed to assure high-quality performance.

D. Employees will be retained on the basis of the adequacy of their performance and provisions will be made for correcting inadequate performance and separating employees from employment if whose inadequate performance cannot be corrected.

E. Fair treatment of candidates and employees will be treated fairly in all aspects of personnel administration without regard to race, color, religion, disability, national origin, ancestry, sex, sexual orientation, age, political affiliation, veteran status, or other non-merit factors, and with proper regard for their primary and constitutional rights as citizens will be assured.

1.6 Equal Employment Opportunity-Discrimination and Harassment Prohibited.

A. The District is an “equal opportunity employer”. The following acts of discrimination on the part of any person (employee) are expressly prohibited, and if such discriminatory acts occur, the person responsible for the act(s) is subject to dismissal or suspension from District employment or other appropriate disciplinary action. No District employee shall:

1. Unless based on a bona fide occupational qualification, refuse to hire, discharge, promote or demote or to discriminate in matters of compensation against any person otherwise qualified, because of race, color, religion, disability, national origin, ancestry, sex, sexual orientation, age, political affiliation, veteran status;

2. Deny equal treatment or otherwise favor any employee on the basis of race, color, religion, disability, national origin, ancestry, sex, sexual orientation, age, political affiliation, veteran status;

3. Print or circulate or cause to be printed or circulated any statement, advertisement or publication or to use any form of application for employment or membership to make any inquiry regarding prospective membership or employment which expresses, directly or indirectly, any limitation, specification or discrimination as to race, color, religion, disability, national origin, ancestry, sex, sexual orientation, age, political affiliation, veteran status, unless based on a bona fide occupational qualification;

* bona fide occupational qualifications: Means a qualification reasonably related to the satisfactory performance of the duties of a job and for which there is a factual basis of for believing that a person of the excluded group would be unable to perform satisfactorily the duties of the job with safety and efficiency.
4. Do not discriminate, intimidate, or retaliate against any person because he/she has filed a complaint, testified or participated in any proceedings under this section;

5. Aid, abet, incite, compel or coerce the doing of any of the acts forbidden under this section; or attempt to do so;

6. Attempt to favor or deny treatment to any employee or prospective employee or attempt to cause any person to violate the terms of these District Personnel Rules and Regulations on the basis of race, color, religion, national origin, disability, ancestry, sex, sexual orientation, age, political affiliation, veteran status;

B. Employment in the District is to be in a workplace environment free of harassment because of race, color, religion, national origin, disability, ancestry, sex, sexual orientation and age, political affiliation, and veteran status. By policy, the District provides procedures for reporting of illegal harassment conduct so that prompt remedial action can occur.

C. Charges of violations of this section shall be presented to the Executive Director or any supervisor or manager, who shall report it to the Executive Director. The Executive Director shall order an investigation necessary and may take any other appropriate action to enforce the purposes and intent of this section.

1.7 American with Disabilities Act.

A. The District will not discriminate against qualified individuals with disabilities in regard to the application procedures, hiring, advancement, discharge, compensation, training, or other terms and conditions of employment.

B. The District will provide reasonable accommodation to qualified individuals with a disability so that they can perform the essential functions of the job.

C. An individual who can be reasonably accommodated for a job, without undue hardship, will be given the same consideration for a position as any other applicant.

1.8 Immigration Reform and Control Act, 1986.
The U.S. Department of Homeland Security, Immigration Control and Reform Act of 1986, requires that all newly hired, or re-hired, employees present documented proof of identity and eligibility to work in the U.S. Employees will be required to complete the Employment Eligibility Verification form, I-9 within three days of hire.

1.9 Drug and Alcohol Free Workplace.

A. As mandated by Federal law, it is the District’s policy that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance, including alcohol, in or on any District owned property is prohibited.

B. All employees who hold a commercial driver’s license and are required to operate vehicles for the District as part of their employment are subject to the U.S. Department of Transportation substance abuse testing procedures as outlined in Rule 4.34 of these Rules the District’s Drug and Alcohol policies including but not limited to the testing programs.

C. The District recognizes that employees are a valuable resource and wants to assist any employee who voluntarily comes forward and requests assistance with chemical dependency provided that the employee:

1. has not received notification to report for drug/alcohol testing in the six week period prior to his request for assistance,

2. has not been identified as a violator nor is under investigation for a violation of this District’s Drug and Alcohol policy, and

3. has agreed to utilize the Employee Assistance Program services available through the District’s Health Insurance carrier.

D. Administrative policy may be developed further defining terms used in this Rule as well as procedures for implementation of Federal laws.

E. Employees found in violation of this Rule are subject to disciplinary action up to and including dismissal.

F. Employees who are not subject to U.S. Department of Transportation substance abuse testing will be subject to the District’s Drug and Alcohol policies for safety sensitive positions with the exception of those requirements related to random drug testing.

1.10 Employee Responsibilities.

A. It is the duty and responsibility of every employee to be aware of and abide by existing work rules and regulations.

B. It is the responsibility of the employee to perform his/her duties to the best of his/her ability and to the standards set forth in his/her job description or as otherwise established for the type of work performed.
C. Employees are expected to be at their designated work place on time and ready to work and to properly report any and all leave as explained in these Rules. Employees are required to be at their work stations in accordance with the established working hours for their respective work units. Supervisors are responsible for maintaining attendance and tardiness records on their employees.

D. **Customer Service Standards for Dress and Appearance:** The District is a professional organization. All employees present a professional appearance by wearing attire appropriate for their job classification in order to promote a positive image to its customers. The general public frequently forms its initial impression of professional credibility solely on employee appearance. The appropriateness of attire as seen by the general public has a bearing on how other agencies and departments view employee professionalism and ultimately working relationships. This policy is intended to provide standards on dress and appearance and is not meant to address all situations. There may be differences in some divisions dress standards depending on the nature of the work environment, nature of the work performed, involvement with the public, required uniforms or other circumstances as defined by the supervisor. District employees are encouraged to dress in a manner that is appropriate for the workplace.

1. All clothing and accessories should be functional, in good repair and, and safe.

2. Employees not required to wear uniforms should wear clothing that is neat and clean, and suitable for business.

3. Employees required to wear uniforms should wear uniforms that are clean, fresh, and mended if necessary. Uniforms bearing a District identification patch may not be worn, unless on duty.

4. Personal hygiene is essential. Therefore it is necessary that all employees maintain a clean, presentable appearance. Personal hygiene includes bathing/showering, and such other steps as are reasonably necessary to ensure that employees do not offend customers or coworkers due to lack of hygiene, use of deodorant, and appropriate oral hygiene.

E. Upon separation from the District, any and all District issued equipment, including but not limited to uniforms, identification patches, and keys must be returned to the District.

4. Employees are required to notify their department manager or the Manager’s Designee, their supervisor, and Human Resources Office if they have a change of residence or telephone number within ten (10) business days. Employees are required to notify the Human Resources Office if they have a change in domestic partnership, marital status (marriage, divorce, widowed) or change in number of dependents within thirty (30) calendar days. New dependents not enrolled in the employees' dependent insurance benefits within thirty (30) calendar days may be enrolled during the next open enrollment period.

1.11 Temporary Modifications to the Rules.

The Executive Director may recommend to the Board that they consider modification of the may temporarily modify or waive any of these Rules if it would be reasonable, appropriate, lawful,
and necessary for the orderly and efficient administration of the District. The Executive Director shall promptly notify the Board of any temporary modifications made pursuant to this section.

1.12 Permitted Political Activity.

A. All employees are permitted to engage in political activities but shall not do so while engaged in NCRTD business, nor upon the vehicles, premises, or any other facilities of the NCRTD, nor in a manner that creates the appearance of NCRTD involvement in political activity. Employees of the NCRTD:

1. are encouraged to register and vote and have a right to express their opinions on all political subjects and candidates on their own time or on authorized leave;

2. may serve as convention delegates on their own time or on authorized leave;

3. may attend political rallies on their own time or on authorized leave;

4. may engage in political activity on their own time or on authorized leave to include signing nominating petitions and making voluntary contributions to political organizations;

5. may serve as an election official on their own time or on authorized leave;

6. may be a member of a local educational board or any other non-partisan elected office, which shall not be construed to be either holding political office or being an officer of a political organization, provided the employee is on their own time or authorized leave as necessary.

1.13 Prohibited Political Activity.

A. All employees are prohibited from:

1. using official District property, letterhead, 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;

2. using official District property, letterhead, authority or influence for coercing, attempting to coerce, commanding or advising an employee to pay, lend or contribute anything of value to a party, committee, organization, agency or person for a political purpose;

3. threatening to deny promotion to any employee who does not vote for certain candidates, requiring employees to contribute a percentage of their pay to a political fund, influencing subordinate employees to buy tickets to political fund-raising events, advising employees to take part in political activity and matters of a similar nature;

4. engaging in political activity while on duty, including but not limited to the following:

a. Wearing campaign buttons or displaying campaign literature in public view for any federal, state or local election;
b. Displaying political advertisements on District-owned vehicles;
c. Using any District equipment, supplies, or property for political campaign purposes for any federal, state or local election;
d. Circulating partisan political nominating petitions;
e. Soliciting political contributions or participating in partisan fund raising activities;
f. Introducing or meeting with political candidates for the purpose of soliciting support for their campaign.

5. being an officer or a partisan political organization.

1.14 Public Office—Holding or Running for.

A. The Hatch Act (5 U.S.C. Sections 1501 to 1508) restricts the political activity of individuals principally employed by state or local agencies who work in connection with programs financed in whole or in part by federal loans and grants. District employees who are considering political activity should consult their own legal counsel to determine whether the Hatch Act applies to them. The following are District restrictions for employees covered by the Hatch Act:

1. Employees covered by the provisions of the Hatch Act may be candidates in nonpartisan elections, if, upon filing or accepting the nomination and during the entire campaign, the employee is authorized to use leave without pay.

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, the employee is authorized leave to use leave without pay.

For more details on the Hatch Act and its application to District employees see:


B. Although NMSA 1978, Section 10-9-21 does not apply to the District it is the grounds for state policies limiting political activities and the District chooses to follow the state policies by limiting political activities of District Employees as follows.

1. No District Employee shall hold elected political office except for non-partisan positions, school board positions, or any post-secondary educational institutional positions, and election official positions.

2. All District Employees shall be responsible for seeking and obtaining leave upon filing or accepting a nomination for any elected office whether or not said office is covered by section B. 1. Above. Leave without pay shall not be denied by the District unless the Executive Director determines that the employees duties are essential to the continued operation of the District and that the required
leave would compromise the Districts ability to perform work deemed essential for the day to day operation of the District.

D. Employees may not hold political office during employment with the District.

E. In accordance with the provisions of Section 10-9-24(2), NMSA 1978, being a member of a local school board, or community college board shall not be construed to be holding political office.

1.5 Anniversary Date.

For salary and benefit purposes, an employee’s anniversary date shall be the beginning of the pay period closest to the employee’s hire date. Personnel actions which affect an employees pay (promotion, extended probationary period, demotion or reclassification) will result in the employee’s anniversary date being changed to coincide with the beginning of the pay period closest to the date of the aforementioned actions for any future compensation adjustment.

RULE 2 EMPLOYMENT—The Selection Process

2.1 Job Posting.

A. Unless due to a position is filled by promotion or internal lateral transfer, all vacant, or to become vacant, classified positions shall be posted on designated District bulletin boards and advertised internally for a minimum of eight (8) days to allow current interested employees the opportunity to apply and advance in their careers in the District. Internal posting and recruitment does not preclude the NCRTD from performing concurrent external recruitment efforts.

B. The Executive Director may lower the recruitment period to three (3) working days if deemed in the best interest of the District.

C. Once a position is posted filling During the 10 day internal recruitment period the position may be filled without recourse to a List of Eligibles. Following the 10 day internal recruitment period the vacant position may only be filled by a candidate of the List of Eligibles.

2.2 Vacant Positions may be filled by Promotion or Internal Transfers.

A. Promotion.
1. Any classified regular employee\(^9\) who has demonstrated continuous satisfactory service may be eligible to be promoted.

   a. Employees may be eligible to be promoted to any classification\(^9\), within the same career ladder for which they meet the minimum qualifications without having to take the test for that classification.

   b. Employees may be eligible to be promoted to any classification outside of their career ladder if they meet the minimum qualifications and pass the appropriate test, if applicable.

2. Department Management may select any candidate, or (employee), from the appropriate list of eligible\(^10\) for promotion.

3. Promotions approved by the Executive Director will be effective at the beginning of the pay period during which the Personnel Action Request Form\(^7\) is approved by the Executive Director.

4. Promotional increases are awarded in line with the District’s Compensation Plan. The salary of an employee who is promoted shall be adjusted to the new salary range with a ten (10) percent increase in pay, unless a higher or lower rate is authorized by the Executive Director due to salary compaction, experience and qualifications, correction of salary inequities; or other valid reasons.

B. Transfers.

1. Department Management, with approval of the Executive Director, may transfer an employee from one work site, position, or division within the District to another without the employee’s written consent, if deemed in the best interest of the District, provided the employee meets the minimum qualifications for the new classification.

2. An employee is eligible to transfer to another available position in the same classification or to another classification with the approval of the Executive Director.

3. An employee shall retain all accrued annual and sick leave and personal leave day, if applicable, upon transfer.

C. Temporary Promotion.

1. The District may fill a vacant, classified, classified regular, regular, or limited term position by the temporary promotion of an employee who meets the minimum qualifications.

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\(^9\) Classified\(\text{ regular employee}^{11}\) Means the status acquired by an employee who has successfully completed his/her probationary period and is, therefore, classified to serve in the position he/she holds.

\(^{11}\) Classification\(\text{ regular employee}^{11}\) Means one or more positions so similar in the essential character of their duties and responsibilities that the same pay range, title, and qualification requirements can be applied.
a. A temporary promotion must be for a period of at least thirty (30) days or greater, but not more than twelve (12) months.

b. The employee shall receive a temporary, up to a two-step, such salary increase as is permitted under the then current compensation plan but said salary increase shall not exceed two steps within any step plan that would provide an increase of at least five percent (5%) or to the minimum of the grade rate of the position, whichever is greater.

c. At the end of the temporary promotion period, the employee will revert to his/her previous classification and salary without right of appeal or hearing, with but shall receive any salary increases that were received during the promotion period by all similarly situated employees, may have fallen due.

2.3 Recruitment for Posted, Advertised Positions.

A. Recruitment shall be tailored to the number and nature of authorized positions to be filled and to labor market conditions.

B. Subject to budget and other valid constraints, the Executive Director may:

1. utilize trade journals, newspapers, radio and television media, internet resources and other local sources to publicize job opportunities;

2. maintain and use mailing lists of schools, vocational counseling offices, organized occupational groups, and other special interest groups for the dissemination of data about job and career opportunities;

3. invite individuals to specify their vocational interests for future reference;

4. prepare and distribute written information on job opportunities in the District; and

5. make periodic visits, displays, and programs directed at schools in order to interest students in jobs with the District.

2.4 Application for Employment or Promotion-Filing.

A. All applications for positions with the District shall be made on forms prescribed by the Executive Director. Such applications shall include information, which is determined necessary or is mandated by State or Federal law, or regulations. All applications shall be signed, dated and the truth of the statements contained therein certified by the candidate's signature.

B. No question on any form of application shall be so worded as to elicit information concerning race, color, religion, national origin, ancestry, disability, sex, sexual orientation, age, political affiliation, or veteran status of any candidate, except, that information required to assist with equal employment opportunity efforts, nor shall inquiry be made concerning such origin, opinions or affiliations during any interview, and all such disclosures, thereof,
shall be disregarded, unless such information is deemed a bona fide occupational qualification.

2.5 Applicant Preference.

Candidates may, as provided by law, be given preference for appointment to positions if they are current classified employees or veterans, or as otherwise allowed by state or federal law.

2.6 Proof of Veteran Status.

Proof of eligibility for veteran preference shall be presented to the District at the time the application is filed.

2.7 Rejection of Application.

A. Applications may be rejected if the candidate:

1. fails to meet the required minimum qualifications as stated in the job description;

2. has been convicted of a felony or a misdemeanor and the provisions of the Criminal Offender Employment Act, Sections 28-2-1, to 28-2-6, et seq., NMSA 1978, permit such rejection:

   a. Subject to the provisions of the Criminal Offender Employment Act, in determining eligibility for employment, the District may take into consideration the conviction after the applicant has been selected as a finalist for the position; however, such conviction shall not operate as an automatic bar to obtaining public employment unless otherwise provided by law to the contrary.

   b. The following criminal records shall not be used, distributed, or disseminated in connection with an application for any District employment:

      1) Records of arrest not followed by a valid conviction; and

      2) Misdemeanor convictions not involving moral turpitude.

   c. The Executive Director may refuse to grant or renew, or may suspend or revoke the application of any candidate or employee for District employment for any of the following causes:

      1) where the candidate or employee has been convicted of a felony or a misdemeanor involving moral turpitude and the criminal conviction directly relates to the particular employment;

      2) where the candidate or employee has been convicted of a felony or a misdemeanor involving moral turpitude and the criminal conviction does not directly relate to the particular employment and if the Executive Director
d. The Executive Director shall explicitly state in writing the reasons for a decision which prohibits the person from engaging in District employment, if the decision is based in whole or in part on conviction of any crime described in Paragraph two of this section. Completion of probation or parole supervision or of a period of three years after final discharge or release from any term of imprisonment without any subsequent conviction, shall create a presumption of sufficient rehabilitation for purposes of Subsection c, 2), above in this Section;

3. Has made any material omission, false statement or produced any false document in support of the application;

4. Has failed to complete the application correctly or submit the application within prescribed time limits;

5. Has submitted an application for a classification that is closed for recruitment;

6. Has attempted to use political influence in securing an interview or appointment to a District position;

7. Has otherwise violated these Rules.

B. The District shall notify each candidate whose application is rejected.

2.8 Examinations-General.

A. Examinations shall be confined to those matters which test the candidate’s ability to be trained for the position and which are directly job-related and which fairly, validly, and reliably test the capacity and fitness of the applicant to successfully discharge the duties of the position for which the examination is administered.

B. Examinations may be written, oral, physical, performance tests, rating of training, or experience or any combination of these.

C. No test shall be administered by the District without such test having been approved by the Executive Director or by a duly authorized state or federal agency.

2.9 Exemption from Examination.

A. The Executive Director may exempt from competitive entrance tests those professional and technical persons who possess recognized registration or certification who are applying for classified positions, which require such registration or certification.

B. The Executive Director may also exempt from competitive entrance tests certain classifications where job-related ranking measures are not practical or appropriate. These
classifications shall be limited to unskilled positions with no identifiable entrance requirements of experience or education.

2.10 Character of Examination.

A. Testing for a position in the District may be accomplished by one or a combination of the following types of tests: written tests, rating of education, training and experience, oral tests, assessment center, performance test, or any other appropriate selection device.

B. New tests will be developed in accordance with established professional techniques and relevant federal laws, regulations, and guidelines with the intent of measuring critical or important knowledge, skills, abilities, job duties, work behavior, or work necessary for successful job performance.

C. No question or other mode of inquiry in any examination shall be so worded or designed to elicit information that may discriminate for or against any applicant for reasons of sex, sexual orientation, age, race, color, physical or mental disability, national or ethnic origin, political or religious opinions or affiliation of any candidate, and all disclosures thereof shall be disregarded.

2.11 Removal of Names from List of Eligibles.

A. The Executive Director may remove the name of a candidate from any list of eligibles, if the candidate:

1. advises the District that he/she is not interested in that position in that classification;

2. fails to respond within five (5) working days of receipt of mail or email inquiry as to availability for appointment employment, or

3. fails to appear for a scheduled interview without a valid reason, or for any other legitimate business reason.

2.12 Selection for Employment.

A. Applicants shall be selected who are best suited for positions without regard for race, color, religion, disability, national origin, ancestry, sex, sexual orientation, age, political affiliation or other non-merit factors.

B. The selected candidate may not start employment until background checks, pre-employment physical and drug tests are complete and passed—if required.

C. Those candidates interviewed but not selected shall be notified in writing of their non-selection by the District Management Director or Human Resources Office in a timely fashion.

D. Interviewers shall return the list of eligibles to the Human Resources Office with a note made on the disposition of all candidates on the list of eligibles.
2.13 Exceptions to Use of List of Eligibles

Former employees who separated from the District in good standing may be re-hired by the District within one (1) year from the date of separation without recourse to a list of eligibles.

A. The individual must submit an application and meet the minimum qualifications for the classification and the re-hire must be approved by the Executive Director.

B. Such individuals will be recognized as a new employee regarding probationary period, leave accrual, seniority, and other employee privileges.

C. Former classified employees, who were laid off as a result of a reduction in force, shall be offered reemployment by the District as per pursuant to the Rules and Regulations regarding reduction in force, Rule 4.29.

2.14 Nepotism-Prohibited.

A. Persons shall not be employed by the District in a position where they would supervise or be directly supervised by any person related to them by blood or marriage to the third degree, or by whom they would supervise or be directly supervised by a domestic partner.

B. The following persons are relatives within the third degree:

- Employee’s spouse or domestic partner,
- Child
- Brother
- Sister
- Grandparent
- Grandchild
- Great-grandparent
- Great-grandchild
- Aunt (sister of parent)
- Uncle (brother of parent)
- Nephew (son of brother or sister)
- Niece (daughter of brother or sister)

If the employee is married, or with domestic partner, relatives of such spouse or domestic partner, as listed above, are included in this prohibition.

C. The Executive Director, manager, or any other supervisor may neither immediately supervise nor directly hire relatives as defined above.

D. The District shall be authorized to take any steps necessary, up to and including transfers, demotions and termination of employees, in order to ensure that this prohibition on nepotism is upheld.
2.15 Probationary Appointment.

A. A probationary period of six (6) months shall be required of all new and re-employed employees. New employees shall satisfactorily complete a trial work period referred to as probation and are considered classified regular or limited term employees after the satisfactory completion of their probationary period.

1. The probationary period for new, promoted or re-employed employees is six (6) months.

2. Prior to the expiration of the probationary period a supervisor may extend the probationary period up to an additional ninety (90) day period of evaluation if in the opinion of the management it is necessary and it is approved by the Executive Director.

D. If leave without pay is taken during the probationary period, the probationary period shall be extended by the number of days of leave.

B. An employee may be separated from the District without right of appeal or hearing at any time during the probationary period for any lawful reason so long as the reason is not contrary to the express limitations on bias contained in these Rules and Regulations. A probationary employee is an "at-will" employee.

2.16 Term of Appointments: Employees

A. A classified regular appointment employee is defined as one assigned a budgeted, full or part-time position, duties of which do not terminate at any stated time. An employee working 40 hours minimum per week is eligible to receive full fringe benefits. An employee working not less than 21 hours and not more than 39 hours per week is entitled to partial fringe benefits on a pro rata basis.

B. Exempt Employee (Non-classified) is a budgeted, full or part-time position, exempt from the classified service and FLSA.

BC. A limited term appointment employee means is the employment of a person when the need for an employee's services is for a designated period of time, usually in excess of one (1) year for a limited and specified time period, e.g., one year or longer subject to funding for the project or program, with benefits and subject to all personnel rules and regulations, except for the right of appeal regarding the expiration of the appointment or as otherwise stated herein.

1. Selection shall be made from an appropriate list of eligibles.

2. The employee’s signature on the Human Resources Action Request Form will acknowledge willingness to accept a term position.

3. The duration of the appointment will be dependent upon the funding for the project or program.
B. Employees of term status who satisfactorily complete the probationary period shall be accorded all the privileges of classified employees except for the right of appeal regarding expiration of appointment.

2.17 Temporary Appointment.

A. Temporary Appointment is employee means the employment of a person when the need for an employee’s services is for a period of less than one year or is on a seasonal basis hired to perform a job which is limited in nature or is on a seasonal basis and which will not exceed twenty-four months of employment, except in special circumstances with the approval of the Executive Director. Temporary employees are not eligible for benefits and are subject to the right of appeal or have limited remedies for employment disputes as otherwise stated herein. Temporary employees who work twenty (20) or more hours per week for more than twenty (20) weeks in a fiscal year are required to contribute to New Mexico Public Employees Retirement System. Temporary employees are not eligible for benefits and are subject to the right of appeal or as otherwise stated herein.

1. Temporary appointments shall be made from the appropriate list of eligibles.

2. The employee’s signature on the Human Resources Action Request Form will acknowledge willingness to accept a temporary appointment.

3. Employees of temporary status may be converted to probationary, regular, or limited term status in the same classification and credited with up to six months service towards completion of the probationary period at the time of the conversion with the approval of the Executive Director. From temporary status to probationary status, temporary employees may filing in for Classified Regular Employees on Long Term Disability, Family Medical Leave, Workers’ Compensation or Extended Leave without pay, and if the temporary assignment lasts for more than six (6) months, these employees will receive the same insurance and leave benefits as Classified Regular Employees beginning the seventh (7th) month of their employment. However, these employees will remain temporary for all other purposes.

2.18 Emergency Hiring Appointment.

A. An emergency appointment is the employment of a person when an emergency condition exists that would, in the opinion of the Executive Director, compromise the public health, safety, and welfare or severely curtail the normal operations of the District, and there are no candidates available on an appropriate list of eligibles.

B. If no candidates are available for the classification, the employee-District may hire an apparently qualified person without testing.

C. The employee’s signature on the Human Resources Action Request Form will acknowledge willingness to accept an emergency appointment.
D. An emergency appointment may be converted to a probationary, classified, regular, limited term, or temporary appointment with the approval of the Executive Director if the individual:

1. passes the appropriate test; or

2. has taken but not passed the appropriate test; the Department Management certifies that the employee is performing at a satisfactory level; and there are no available candidates for the position.

E. No individual shall hold an emergency appointment longer than ninety (90) days in any twelve (12) month period, unless approved by the Executive Director.

RULE 3 – CLASSIFICATION AND COMPENSATION

3.1 Authority.

As directed by the Board, these Rules shall require the classification of District positions based on the duties and responsibilities of each position with provisions for the reclassification and combining, expanding or reducing any District position when warranted. Compensation and Classification may be the subjects of separate District policies which may be changed from time to time independent of these Rules and Regulations. Also, a pay compensation plan is directed by the Board that properly establishes pay, including merit and productivity pay increases based on performance of the employees and based on funding approved by the Board.

3.2 Preparation of Classification System.

The Executive Director or designee shall prepare and maintain a Classification System which provides for a grouping of all positions in the District into classifications on the basis of essential duties, responsibilities, and minimum qualifications required. Compensation and Classification may be the subjects of a separate District policy which may be changed from time to time independent of these Rules and Regulations.

3.3 Content of Classification System.

A. The Classification System shall include the descriptions for the various classifications, which may be subdivided or grouped as deemed appropriate.

B. Written descriptions for each classification shall be prepared by the Human Resources Office, and approved and may be amended as necessary by approval of the Executive Director. These descriptions shall include:

1. The title of the classification;

2. Examples of typical essential tasks performed, responsibilities, and working conditions;
3. A statement of the minimum qualifications required, including the kind and amount of training and experience, knowledge, skills, and abilities, physical requirements, and job-related personal attributes that an employee should possess; and

4. Signature by the Executive Director and the date of the last revision.

3.4 Revisions to the Classifications.

A. Whenever the creation, abolition, subdivision, or consolidation of individual classifications appears necessary, due to the creation of a new position, change in organization, or change in the duties of an individual position, a classification may be revised and the revision must be submitted to the Executive Director for approval.

B. Any revisions that may reflect a major change in policy should be submitted to the affected Managers, Supervisors and interested parties in order to obtain input concerning such revisions.

C. When a classification is revised, the title of classification and in some cases the salary range assignment may be affected. The salary of the individual employee in the revised classification may not be reduced or increased without the approval of the Executive Director.

D. When there are revisions to the classification system as a whole the revisions shall be submitted to the District Board for approval.

3.5 Allocation of Positions to Classifications.

A. Every position in the District shall be allocated to a salary range; all positions substantially similar as to the tasks performed, as to the responsibilities exercised, and as to the minimum qualification requirements shown in the classification descriptions, shall be allocated to that same salary range.

B. The title of a classification shall become the title of such position and shall be used on all official records and correspondence relating to the position.

C. Department Management may recommend the allocation or reclassification of positions to one of the classifications in the Classification System or a new classification, subject to approval by the Executive Director.

D. Department Management shall submit adequate documentation to support the recommended reclassification of a position to a different classification.

E. Periodic audits to determine whether or not positions are properly allocated shall be conducted. If it is determined that a position is improperly allocated, the Executive Director shall reallocate it to its proper classification.

F. When a new position is contemplated, the Executive Director shall ensure that the position is formally established before it may be filled. Except as otherwise
provided by these Rules, no person shall be appointed to or employed in a position until the position has been allocated to a classification and approved by the Executive Director.

3.6 Pay Compensation Policy.

It is the policy of the District that the comprehensive Pay Compensation Plan, (Pay Schedule), for all classifications of the District is subject to and limited to availability of funding as may be determined by the Board. The Board shall be the final arbiter of available funds.

3.7 Preparation of the Pay Plan Compensation Plan—Salary Ranges.

A comprehensive Pay Compensation Plan for all classifications in the District shall be prepared under the direction of the Executive Director. The Pay Compensation Plan shall take into consideration experience in recruiting for positions for the District, prevailing rates of pay in comparison to similar services in public and private employment, cost of living, and other benefits received by District employees, and the District’s financial condition and ability to pay.

3.8 Adoption of the Pay Compensation Plan.

The Pay Compensation Plan (whether a part of a Compensation and Classification policy or otherwise) shall be adopted by resolution of the Board.

3.9 Revision to the Pay Compensation Plan.

The Pay Compensation Plan may be revised upon the recommendation of the Executive Director and the approval of the Board.

3.10 Administration of the Pay Compensation Plan.

A. The approved Compensation Pay Plan shall constitute the official schedule of salaries for all classifications in the District to which such Compensation—Pay Plan Compensation Plan is applicable. The rates of pay for all persons in the District shall be approved by the Executive Director and no salaries shall be approved unless they conform to the approved Compensation Pay Plan.

B. No employee in the District shall be paid a salary less than the minimum nor greater than the maximum of the salary range for the classification as fixed by the Compensation Pay Plan unless otherwise provided for in the Rules or approved by the Executive Director.

1. The entrance rate payable to any employee upon appointment to a position in the District shall be the minimum rate in any applicable salary range, unless a higher rate, in-grade hire, is authorized by the Executive Director because of the candidate’s exceptional qualifications, difficulty in recruitment, or other valid reason.

11 In-grade hire: Means the authorized hiring of an employee at a rate higher than the initial or beginning rate in the pay range assigned to the position.
2. The salary of an employee who is promoted shall be adjusted to the new salary range with up to a two step increase of adopted pay-compensation plan. A higher or lower rate may be authorized by the Executive Director because of salary compaction; experience and qualifications; correction of salary inequities; or other valid reasons.

3. The salary of an employee who is demoted for disciplinary reasons shall be reduced by at least two steps in the event that the then current pay-compensation plan provides for steps, but never below the newly assigned salary range.

4. The salary of an employee who voluntarily takes a classification reduction will be reduced by at least two steps in the event that the then current pay-compensation plan provides for steps, but never below the newly assigned salary range.

5. The salary of an employee who is laterally transferred to a comparable position shall normally remain the same unless the Executive Director finds cause for a salary increase due to any change in employment conditions.

6. The salary of an employee who is re-employed after being called to military active duty in accordance with the provisions of Rule 4.21 shall be at a rate equal to what the employee would have attained had the employee not been called to active duty.

C. Market adjustments may be awarded upon a market adjustment formula as-if approved by the Board.

3.11 Salary Schedule.

The salary schedule shall include a series of salary ranges to which the various classifications in the District are to be allocated with the range assignment of each classification consistent with the functions outlined in the job descriptions and any current classification policy. Each salary range shall include minimum and maximum rates of pay.

3.121 Salary Performance Based Increases.

A. Productivity Performance increases shall not be granted on an automatic basis but shall be granted upon the demonstrated quality of performance as promulgated by the Board and based on the availability of funding.

1. Exempt, classified regular, and limited term employees who are considered to be deserving as evidenced by average or above job performance, may be granted a productivity performance increase based on a productivity formula as approved by the Board, as may be determined periodically within the limits of the salary range after one (1) year from the date of:

   a. re-hire or re-employment;
   b. initial appointment;
   c. the last productivity performance increase; or
   d. promotion.
2. Any period of leave without pay in excess of thirty (30) calendar days shall not be credited as continuous service toward eligibility for a productivity performance increase.

3. Service in emergency limited term, or temporary status, when followed without a break in service by probationary appointment to the same classification, will be credited toward eligibility for a productivity performance increase.

B. The Executive Director may authorize a salary increase to any rate in the salary range as an incentive for the emergency retention of exempt, classified regular employees and limited term employees who are offered employment outside of the District to retain them in their current positions. The following will be required:

1. Documented proof of outside job offer.
2. Increase, computed as a percent of the employee's salary, may be granted as a lump sum at the end of a service period, in installments over the course of service period but never to be provided in advance.
3. Before receiving an emergency retention, an employee must sign a written agreement to complete a specified period of service with the District.

C. When an employee's salary reaches the maximum pay rate in the range for his/her position, the employee may be eligible for a cost of living adjustment based on a performance review by the Executive Director and determined and funded by the Board.

D. The Board may, upon appropriate notification of economic changes, approve a cost of living adjustment for some or all employees.

3.312 Salary Decreases.

A. Salaries of all employees may be decreased uniformly and equitably for budgetary reasons upon the recommendation of the Executive Director and approval of the Board.

B. Affected employees shall be given at least twenty-eight (28) calendar days notice.

1. In no case shall a salary be reduced below the minimum rate in the salary range.
2. Salary decreases may be made to classes of employees, when deemed necessary, in the following order:
   a. Emergency.
   b. Temporary.
   c. Probationary.
   d. Limited Term-grant-funded.
   e. Exempt.
   f. Classified Regular.
3.14.3 Classification Reduction.

An employee may, as the result of reorganization or when deemed in the best interest of his or her supervisor, receive a reduction from their current classification to a lower classification with no reduction in salary.

3.14.4 Overtime Compensation.

In order to meet the demands of work, employees may be required to work in excess of the hours designated in their normal work week. Overtime compensation will be paid to employees, as spelled out indicated below, only for actual hours worked. Overtime work will be held to a minimum consistent with the needs of the District and service to its constituents. Overtime work is usually performed is normally allowed by management only in emergency situations or when service demands present no other reasonable alternative. However, when a supervisor has determined the need for overtime to be worked, employees are expected to work a proportionate share of the overtime assigned to the employee’s classification or work unit. Refusal to accept an overtime assignment and/or continued refusal to participate in voluntary overtime offered to the employee’s classification may result in disciplinary action. All overtime must be scheduled and/or approved by the employee’s supervisor in advance, except in emergency situations where advance approval cannot be obtained.

A. Any employee, except those determined not to be covered by the overtime provisions of the FLSA, who are authorized and approved in advance by their supervisor and required to work in excess of the normal work week (forty [40] hours), shall be compensated for such excess overtime at one and one-half (1 1/2) times their hourly rate or unless otherwise specified in the Fair Labor Standards Act (FLSA). Such compensation shall be paid overtime unless the employee elects to receive compensatory time in lieu of paid overtime. Such compensatory time shall be accrued at time and one-half.

B. The following hours are considered as hours worked for the purpose of qualifying for overtime pay at the rate of time and one-half:

1. Hours actually worked;
2. Paid holidays;
3. Hours allowed for voting time;
4. Jury duty;
5. Hours allowed for court duty when appearing as a witness on behalf of the District or because of an official capacity with the District; and
6. Training time.

C. The following are considered hours not worked and will not be counted toward overtime/comp-time eligibility. Excepting only the provisions of B, above, an employee must be physically at work more than forty (40) hours per week and cannot use the following time to obtain overtime/comp-time eligibility:

1. Vacation;
2. Sick leave;
3. Military leave;
4. Jury leave;
5. Funeral leave;
6. Injury leave;
6. Lunch break;  
7. Comp-time hours used;

D. Travel time may or may not be work time.  
1. Travel from home to work and from work to home is not work time. Time spent by an employee in travel as part of his/her normal activities, such as travel from job site to job site during the employee's regular working hours, or operation of a transit vehicle for public transit, is work time and must be recorded.  
2. Travel performed outside of an employee's normal work schedule as a result of assigned duties may constitute work time. The Human Resources Office must be consulted in advance to determine whether or not such travel time is work time.

E. In some cases, compensatory time may be granted in lieu of cash payment. FLSA-covered employees may accrue and use up to forty (40) hours of compensatory time annually. In the last pay period of the fiscal year, all accrued but unused compensatory time shall be paid to the employee at the employee's then current regular rate of pay.

F. An FLSA-covered employee who separates from the District shall be compensated for all accrued compensatory time.

F.G.E. FLSA Exempt employees (non-FLSA-covered) who work in excess of the normal workweek (forty [40] hours), are not eligible for FLSA overtime pay. The basic compensation of exempt employees is based on the amount of work necessary to complete the assigned functions and is not based upon a set number of hours per work week. Time worked in excess of forty (40) hours per week is not eligible for compensation during the course of employment or upon termination. However, at the discretion of the Executive Director, exempt employees may be granted personal-time off during normal work hours in consideration of their work efforts, shall not be compensated for such hours unless prior approval has been granted by the Executive Director. Such compensation shall be compensatory time at a rate equal to their hourly rate. Such compensation shall be compensatory time unless otherwise provided for in the overtime budget.

C. The following hours are considered as hours worked for the purpose of qualifying for overtime pay at the rate of time and one-half:  
1. Hours actually worked;  
2. Paid holidays;  
3. Hours allowed for voting time;  
4. Jury duty;  
5. Hours allowed for court duty when appearing as a witness on behalf of the District or because of an official capacity with the District; and  
6. Training time.

D. In some cases, compensatory time may be granted in lieu of cash payment. Employees may accrue and use up to forty (40) hours of compensatory time.

E. An FLSA-covered employee who separates from the District shall be compensated for all accrued compensatory time.
3.16 Holiday Pay.

A. A. All regular employees shall be paid for holidays listed herein at the employee’s straight time hourly rate. Holiday pay is based on eight (8) hours of pay for full-time employees and prorated hours for part-time employees. An employee whose work day is in excess of eight hours will be required to utilize compensatory time or annual leave for any absence in excess of eight hours on the day that the holiday is observed.

C. B. All FLSA covered employees who are required to work a holiday shall be compensated at the rate of two (2) times their hourly rate for all hours worked.

RULE 4 – EMPLOYEE WORKING CONDITIONS

4.1 Training.

The primary responsibility for training employees shall be assumed by the District Management. District Management will utilize performance and development plans as an indicator of an employee’s need for training. Supervisors should consult with employees during the preparation of their performance and development plans regarding their training needs. Training shall be provided as needed but the District may prioritize training for employees who have a demonstrated long-term commitment to employment with the District.

4.2 Training Needs.

The Executive Director shall require Supervisors to determine the training needs in determining their training needs and in devising and establishing programs to meet such needs. Priority shall be given to training that is required by law, training that affects safety and training that will provide long-term benefits to the District.

4.3 Normal Work Week.

The basic work week for most full time employees shall consist of forty (40) hours in a seven-day period. The work week commences at 12:01 a.m. every Saturday and ends at 12:00 p.m. on Friday. There are two work weeks in a pay period.

4.4 Normal Work Day.

The normal work day shall be determined by the Executive Director to best meet the needs of each organization.

4.5 Other Employment while on duty for the District.
No employee shall engage in any other employment or self-employment, during the hours the employee is scheduled to work for the District. Violation of this Rule may be grounds for disciplinary action.

4.6 Outside Employment.

A. It is anticipated that employment with the District will be the employee’s employer of first choice and all employees are required to ensure that any other employment does not interfere with their ability to fully and professionally perform their duties as District employees. All employees engaging in employment other than with the District must have prior District approval.

B. To assure no conflicts of interest exist between District employment and outside employment (including but not limited to conflicts of interest, schedule conflicts, or travel conflicts) employees who engage in employment in addition to their District employment are required to obtain written approval on a prescribed form from the Executive Director.

C. Before an employee may work for any other organization or engage in business for himself/herself, approval of the Executive Director is necessary to determine that:

1. Neither the employee nor his/her subordinates shall conduct any business connected with the employee’s outside employment while on duty.

2. There is no conflict between the employee’s official duties with the District and the proposed outside employment.

3. The employee is serving the District satisfactorily and will be able to do so if he/she undertakes outside employment.

D. Approval authorizes outside employment for a period of one (1) year from the time of approval. The employee must re-apply on a prescribed form for continued approval annually so long as employee wishes to continue outside employment for another year.

E. In the case of injury or occupational disease inability to perform job duties with the District due to impairments arising from outside employment, which prevents the employee from performing his duties with the District, time off will be taken from the employee’s earned accrued sick and annual leave.

F. Authorization to engage in outside employment shall be suspended during periods of sick or injury disability leave.

4.7 Legal Holidays.

A. Holidays

The following federal holidays shall be observed as paid holidays:

January 1 New Year's Day (January 1)
January Dr. Martin Luther King Day
<table>
<thead>
<tr>
<th>Month</th>
<th>Holiday</th>
</tr>
</thead>
<tbody>
<tr>
<td>February</td>
<td>President’s Day (3rd Monday in February)</td>
</tr>
<tr>
<td>May</td>
<td>Memorial Day (last Monday in May)</td>
</tr>
<tr>
<td>July 4</td>
<td>Independence Day (July 4)</td>
</tr>
<tr>
<td>September</td>
<td>Labor Day (first Monday in September)</td>
</tr>
<tr>
<td>October</td>
<td>Columbus Day (second Monday in October)</td>
</tr>
<tr>
<td>November</td>
<td>Veteran’s Day (November 11)</td>
</tr>
<tr>
<td>November</td>
<td>Thanksgiving Day (fourth Thursday in November)</td>
</tr>
<tr>
<td>November</td>
<td>President’s Day (after Thanksgiving/Friday)</td>
</tr>
<tr>
<td>December</td>
<td>Christmas Day (December 25)</td>
</tr>
</tbody>
</table>

Additional holidays: Personal holiday

Whenever a legal public holiday falls on a Saturday, it will be observed on the preceding Friday and whenever a legal public holiday falls on a Sunday, it will be observed on the following Monday.

A. Should an employee be on an authorized Leave with Pay when a holiday occurs, the holiday shall be paid and not charged against sick or vacation leave accumulation.

B. Employees whose scheduled day off falls on the observed holiday may be given an additional vacation day, comp-time or at the discretion of the Department Director/Supervisor/Manager, employees may be given a compensatory day off to be used at some future day.

C. Employees required to work on the day a holiday is observed shall be compensated for such work in accordance with the provision of Rule 3.16 on overtime.

D. Employees who are absent from work due to injury or illness on the day before or after an authorized holiday maybe required, at the discretion of their supervisor, to present a doctor’s statement on the nature of injury or illness as it relates to the employee’s ability to work on that day, in order to receive pay for the holiday.

E. Part-time employees who would normally work on the holiday shall be entitled to holiday pay for the number of hours they would have worked had the holiday not occurred.

F. Personal Holiday: Classified regular, exempt, and limited term employees shall be entitled each calendar year to one (1) personal holiday that must be taken as during eight (8) consecutive hours within the calendar year.

1. Classified Regular, exempt, and limited term employees shall be entitled each calendar year to one (1) personal holiday. The leave may be used for any purpose the employee chooses. Such leave must be requested and approved in advance. Every effort will be made to accommodate the employee’s request, though approval will be subject to advance notification and the needs of the District.
2. The Personal Holiday must be taken during eight (8) consecutive hours.

3. The Personal Holiday must be taken within the calendar year or it will be forfeited.

4. The employee will not be compensated for the Personal Holiday upon separation, or in following calendar years if it was not used.

5. A classified regular, exempt, or limited term employee is eligible to request a personal holiday after six (6) months of continuous service upon initial employment with the District during that first calendar year.

6. Part-time employees are eligible for a personal holiday in proportion to the number of hours they would normally have worked.

4.8 Requesting Leaves of Absence.

A. All requests for leaves of absence, with or without pay, shall be made to the immediate supervisor for approval on forms prescribed by the Executive Director.

B. All requests for leave shall be submitted in advance of the beginning date of the leave, (except requests for unanticipated sick leave which shall be submitted for approval at the earliest possible time), and the duration and kind of leaves shall be recorded on the payroll.

C. Paid leaves of absence are subject to the type of employee's accrued leave balance and the scheduling requirements of leave is subject to the control of the Department Manager.

D. All requests for leave without pay are subject to the rules set forth in Rule 4.16-4.13.

4.9 Annual Leave.

Annual leave is accrued in accordance with the schedule below. Periods of leave without pay shall not count for the purpose of accumulation of annual leave. Employees may accumulate annual leave, but only a limited amount may be carried forward from year to year based on the schedule below. All hours of annual leave that may not be carried forward by the end of pay period in the calendar year will be credited to the employee's sick leave balance on the first pay period of following calendar year.

Annual Leave Accrual Schedule

<table>
<thead>
<tr>
<th>Months</th>
<th>Length of Annual Leave</th>
<th>Hours Accrued</th>
<th>Maximum</th>
<th>Maximum</th>
</tr>
</thead>
</table>

31
<table>
<thead>
<tr>
<th>Service</th>
<th>Hours/days</th>
<th>(based on 80 hours worked per pay period)</th>
<th>Accumulation (^2) (current employees)</th>
<th>Accumulation (^1) (new employees)</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 - 48</td>
<td>0 thru 4 years</td>
<td>80 hours/10 days</td>
<td>3.077 hours</td>
<td>2 times annual accrual</td>
</tr>
<tr>
<td>49 - 108</td>
<td>5 thru 9 years</td>
<td>120 hours/15 days</td>
<td>4.62 hours</td>
<td>2 times annual accrual</td>
</tr>
<tr>
<td>109 +</td>
<td>9 or more years</td>
<td>160 hours/20 days</td>
<td>6.15 hours</td>
<td>2 times annual accrual</td>
</tr>
</tbody>
</table>

A. This is a category of leave which shall include, in addition to normal vacation, all other periods of approved absence with pay from regularly scheduled work which are not chargeable to some other category of leave.

1. During the first year of employment, annual leave will be accrued at the rate of 3.077 hours per pay period worked (80 hours per year, based on the employee’s anniversary date). However, employees are advanced these 80 hours of leave which may be taken at any time, with approval of the Executive Director or the Chair of the NCRITD Board or their designee in the case of the Executive Director. Should an employee resign or be terminated for any reason before ending twelve months of employment and annual leave has been used, the employee’s final check will show a deduction for any leave used in excess of 3.077 hours per pay period worked.

12. Beginning the first year of employment, annual leave will be accrued by full-time regular employees at the rate of 3.077 hours per pay period (10 days per year) until the employee has been with NCRITD for five (5) years.

32. Beginning the fifth year of employment, full-time regular employees will accrue annual leave at the rate of 4.62 hours per pay period (15 days per year).

42. Beginning the tenth year of employment, full-time regular employees will accrue annual leave at the rate of 6.15 hours per pay period worked (20 days per year).

54. Based on an employee’s anniversary date, employees may accumulate and carry over into the following year accrued and unused vacation, not to exceed two (2) times the annual maximum accrual. All employees hired after the effective date of adoption of these revised personnel policies and based upon their anniversary date may accumulate and carry over into the following year accrued and unused vacation not to exceed 240 hours.

\(^2\) Based on an employee’s length of service, employees may accumulate and carry over into the first pay period of the calendar year accrued and unused vacation, not to exceed two (2) times the annual maximum accrual.

\(^1\) All employees hired after the effective date of adoption of these revised personnel policies may accumulate and carry over into the following year accrued and unused vacation not to exceed 240 hours subject to the provisos in section 4.9.
A. Annual leave shall be taken for the actual number of hours absent from the office, and in increments of not less than one-hour/1.5 hour increments.

B. The Executive Director or in the case of the Executive Director the Chair of the NCRTD Board shall regulate annual leave in order that the absence of an employee will not be detrimental to the work of the NCRTD. In no circumstances shall an entire department be permitted to take an annual leave at the same time. Supervisors shall be responsible for scheduling annual leave so as to avoid unreasonable interference with District operations. Each employee is responsible for monitoring his/her leave balances and ensuring that he/she schedules leave in a manner that will avoid unreasonable interference with District operations and the loss or conversion of leave. Annual leave must be requested and approved in advance.

C. The Executive Director has the authority to grant advance leave in special circumstances.

D. Upon termination of employment with the NCRTD, an employee will be paid for any annual leave which has been accrued but not taken. In the event an employee terminates employment and has used more annual leave than has been accrued, that amount will be deducted from the employee's final check.

E. Part-time regular classified employees accrue a pro-rated amount of Annual Leave based on their base budgeted hours. Temporary employees do not accrue Annual Leave.

4.10 Family Medical Leave Act, (FMLA).

A. Eligible employees are entitled to Family Medical Leave (FML) in accordance with the FMLA.

B. Employees who have been employed by the District for a total of at least twelve (12) months and who have worked at least 1,250 hours during the twelve (12) months immediately preceding the start of FMLA leave are eligible employees. During the leave, employees must continue to pay the employee's share of health insurance premiums.

C. Eligible employees are entitled to a total of twelve (12) weeks of unpaid FMLA leave during a rolling 12-month period measured backward from the date on which the employee last used any FMLA leave in a twelve (12) month period.

4.1.1 Birth of a child of the employee and to care for the newborn child because of the birth of a son or daughter of the employee in order to care for such son or daughter;
2. Placement of a child with the employee by way of adoption or foster care, because of the adoption of a son or daughter in order to care for such son or daughter; or

3. Care for the spouse, child, parent or one who stood in place of parent of the employee, if that person has a serious health condition.

4. The time of a serious health condition for the employee, or family member.

5. Because of a serious health condition that renders the employee unable to perform any of the essential functions of the employee's position; or

Military Caregiver Leave Entitlement. Eligible employees are entitled to a total of 26 workweeks in a single 12-month period per-covered service member, per-injury, measured forward from the date the employee's leave begins, to care for a spouse, child, parent, or next of kin who is a service member undergoing medical treatment, recuperation or therapy, is on outpatient status, or is on the temporary disabled retired list for a serious injury or illness.

FMLA defines family member as son, daughter, spouse or parent.

E. The twelve (12) month period is calculated forward from the date an employee's first FMLA leave begins.

F. An employee may elect or the District may require the employee substitute or the employee's accrued annual leave, accrued sick leave, or donated leave for any part of the unpaid FMLA leave. Employees are required to use all applicable paid leave accrued in conjunction with FMLA.

G. Employees shall not accrue annual and sick leave, nor be paid for "observed personal holidays" while on unpaid FMLA leave.

H. All medical records and correspondence relating to the employee and/or their family's medical conditions shall be considered confidential.

I. A District policy will be developed for the administration of the FMLA and procedures for its use.

4.11 Sick Leave.

Sick leave is provided as a benefit to prevent or minimize an employee's loss of income during time lost due to personal and family illness or injury. Supervisors are responsible for controlling excessive absenteeism and abuse of sick leave by employees under their supervision. Employees are expected to utilize sick leave responsibly and for using it they should minimize their sick leave usage where possible, minimizing their time away from the job. This is a category of leave which shall include: Sick leave may be
used for any period of approved absence with pay from regularly scheduled work resulting from an:

A. an employee having an illness or injury which renders him/her unable to perform his/her duties;

B. an employee having a medical examination, consultation, or treatment by a licensed practitioner; or

C. an employee’s immediate family member, defined as the employee’s spouse, child, or parent, as defined above, as defined by the Family and Medical Leave Act (FMLA), requiring his/her presence because of injury, illness or medical treatment.

4.12 Accrual Rates for Sick Leave.

A. Sick leave shall be accrued at the rate of 3.077 hours per pay period (80 hours per year) to a maximum of seven-hundred twenty (720) hours.

2B. Sick leave may only be taken in the event of illness of the employee, or the employee's immediate family (spouse, children, parent, andgrand parent, as defined by FMLA). A doctor's excuse may be required.

3. The District may require the employee to furnish a written medical statement issued by a licensed physician or practitioner, or other evidence of illness that confirms the illness of the employee or their immediate family member, provides an estimate of when the employee will be able to return to work, states whether the employee's incapacity will require intermittent treatments, states the estimated frequency and duration of such treatments, and provides the estimated period for recovery, if known. Abuse of sick leave shall be cause for disciplinary action. If the employee's leave requires the participation of an employee, the FMLA, the District may require a medical certification as provided by federal law.

C. MISUSE OF SICK LEAVE

Misuse of sick leave by an employee affects the efficiency and productivity of other employees in the work group, especially those who seek assistance, advice, or guidance from an absent employee.

"Misuse" is considered the use of sick leave for that which it was not intended or provided and may constitute a violation of this policy. Examples of "misuse" may include, but are not limited to, the following:

Patterned sick leave usage before and/or after holidays;
Patterned period of sick leave usage before and/or after weekends or regular days off;
Patterned period of sick leave usage after pay days;
Absence following overtime worked;
Continued pattern of maintaining zero or near zero leave balances;
and/or Excessive sick leave - the use of more sick leave than is granted.

Leave required by federal or state law such as Family and Medical Leave and Workers’ Compensation shall not be considered when determining whether or not there is misuse of sick leave.
If a supervisor suspects that an employee is misusing sick leave, the supervisor has the discretion to require a suitable explanation or documentation to determine whether the sick leave was used according to this policy.

43. The Executive Director may grant advance sick leave to a maximum of 80 hours (the equivalent of ten days) per year. Advance leave in excess of ten (10) days must be granted by the Executive Committee of the NCRTD. This advance in sick leave is only in the case of a serious or extended illness, and may only be granted after all personal and annual leave has been used.

44. In the event an employee terminates employment and has used more sick leave than has been accrued, then sick leave over the accrued amount will be deducted from the employee’s final check.

45. Upon termination of employment with the NCRTD, an employee shall not be paid for sick leave that has been accrued, but not used.

46. Sick leave shall be taken for the actual number of hours absent from the office, and in increments of not less than one quarter (1/4) hour. All sick leave must be accounted for by reporting to the Executive Director or their designee upon returning to work. The Executive Director or their designee must be authorized to approve all sick leave. The Chair of the NCRTD Board must be authorized to approve all sick leave for the Executive Director.

E. Sick leave must be reported to the Executive Director, or the employee’s immediate supervisor, by 9:00 a.m. the day the employee takes sick leave, at a minimum, of two hours in advance of the employee’s start of their work day. Failure to report by 9:00 a.m. their absence at a minimum of two hours prior to their start of their work day will result in the employee’s leave being unapproved by the Executive Director or their supervisor.

F. If an employee has exhausted earned sick leave, additional time off shall be charged to reduce balances on any applicable other leaves such as vacation or compensatory leave. Unpaid leave will only be granted in accordance with such Rules and Regulations and will not be automatically applied to cases of employees who have exhausted their sick leave as outlined herein.

G. Supervisors should refer to the Family and Medical Leave policy regarding an employee’s absence from an injury, illness or temporary disability. If an employee’s absence is anticipated to be more than three (3) days, or once the employee exceeds three (3) days of absence, due to either their own illness/injury or to their family member’s illness/injury, the absence should be reported to Human Resources.

H. Employees not planning to return to work following an extended sick leave must notify their supervisor or the Human Resources Office prior to the expiration of the leave (as defined by the physician’s statement). An employee who does not return to work within the timeframe specified by a physician will be subject to disciplinary action.

I. Sick Leave Incentive Transfer Program. In order to award employees who have judicious utilized sick leave the following program has been developed:

a) Employees who have accumulated sick leave in excess of 80 hours would be eligible to annually transfer to their vacation leave balance up to 80 hours of sick leave per year at the value listed in section "e" below.
b) Employees who utilize the annual sick leave transfer program must maintain a sick leave balance of 80 hours after transferring any hours up to the maximum allowed above this amount.

c) Those employees who participate in this program and transfer a minimum of 40 hours of sick leave annually will have their maximum accrual rate changed to one third the annual accrual rate.

d) Annually 30 days prior to the first pay period in December, employees who meet the criteria described above may elect to participate in the sick leave transfer program by completing the applicable forms.

c) The percentage value at which the leave may be transferred to vacation leave is based upon the following:

<table>
<thead>
<tr>
<th>Number of Sick Leave Hours Used Annually</th>
<th>Percentage Transfer Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>24 hours or less</td>
<td>100%</td>
</tr>
<tr>
<td>25 hours to 32 hours</td>
<td>75%</td>
</tr>
<tr>
<td>33 hours to 40 hours</td>
<td>50%</td>
</tr>
</tbody>
</table>

### 4.13 Sick Leave Donation Program

The District Executive Director may create a program and promulgate rules that allows employees to create donate sick leave to a sick leave bank for the purpose of donating up to 40 hours of sick leave to a co-worker that is eligible to receive it.

### 4.14 Leave Without Pay

**A.** The Executive Director or any supervisor may approve leave without pay for up to ten (10) working days upon the written request of the employee. A request by any employee for any leave without pay in excess of ten (10) working days must be approved by the Executive Director.

**B.** Leave without pay, when requested, may be granted only when the Executive Director can assure a position of like status and pay, at the same location, upon the return of the person from leave without pay.

**C.** If the Executive Director cannot assure a position in the same location, and the employee agrees in writing to waive that requirement, leave without pay may be granted.
D. Upon request of the employee, Leave without pay requested by an employee may not exceed thirty (30) consecutive calendar days in the case of a probationary or six (6) consecutive months in the case of a classified employee. Either period may be extended by Department Management only with the prior written approval of the Executive Director.

E. Employees shall not accrue sick or annual leave while on leave without pay.

F. While on leave of absence without pay for 30-calendar days or more, excluding approved Family and Medical Leave, the monthly group insurance premiums for a covered employee and any covered dependents must be paid by the employee. Failure to pay insurance premiums may result in cancellation of coverage. Payment will be due on the first day of the month and a 30-calendar day grace period is permissible.

G. Leave without pay will be reported on a Human Resources Personnel Action Request Form only if it exceeds ten (10) working days.

H. Return from leave without pay in excess of twenty (20) working days will be reported on a Human Resources Personnel Action Request Form.

I. Nothing herein shall be deemed to require the Executive Director to grant leave without pay when requested or to limit the Executive Director's authority to place employees on leave without pay where such action is permitted under these Rules and Regulations or the law.

4.15 Absence Without Leave or Authorization

A. Employees who fail to appear at work without authorized leave may be considered to be absent without leave. Unauthorized absence may be grounds for disciplinary action up to and including termination in accordance with the provision of Rule 4.44.

B. An employee who is absent from work without authorized leave for three days may be deemed by the Executive Director to have voluntarily terminated their employment.

4.16 Administrative Leave.

The Executive Director may authorize an employee leave with pay under unusual circumstances, when, if there are exceptional circumstances and the Executive Director determines that granting paid administrative leave is in the best interests of the District, to do so for a Paid administrative leave shall period not exceed five (5) consecutive days with prior approval of the Executive Director. The Executive Director may grant additional administrative leave when deemed necessary and in the best interest of the District but shall promptly report any such extended administrative leave to the Board Chair and the Board along with an explanation of the bases for the leave. Nothing herein shall be deemed to require the Executive Director to grant administrative leave when requested or to limit the
Executive Director's authority to place employees on administrative leave where such action is permitted under these Rules and Regulations or the law.

4.17 Voting Leave.

A. In accordance with the provisions of NMSA 1978, Section 01-12-42, NMSA 1978, employees who are registered voters may absent themselves from work for up to two (2) hours for the purpose of voting between the opening and closing times of the polls.

1. District Management may specify the hours during this period in which the employee may be absent.

2. These provisions do not apply to any employee whose work day begins more than two (2) hours after the opening of the polls, or ends more than two-three (2 3/4) hours prior to the closing of the polls.

3. An employee who abuses voting leave by using it for purposes other than traveling to and from the polling place and voting may be charged with Leave Without Pay and subject to disciplinary action.

4.18 Court or Jury Leave.

A. When, in matters involving District litigation and in obedience to a subpoena, an employee appears as a witness before a federal or state grand jury or court, or before a federal or state agency, the employee shall be entitled to leave with pay for the required period. Fees received as a witness, excluding reimbursement for travel and meals, shall be remitted to the District.

B. A person shall be entitled to leave with pay for serving on a federal or state grand or petit jury. Fees received as a juror, excluding reimbursement for travel, shall be remitted to the District.

C. An employee who is released from jury duty shall report to work upon release or contact their supervisor if it would not be feasible to return to work. Failure to adhere to this provision will be considered unauthorized absence and may result in disciplinary action.

D. At the employee's option, the hours of jury or court services may be taken as annual leave, provided that the employee has enough annual leave available. The employee under this circumstance may keep any compensation received from the jury or court services.

4.19 Military Leave.

The District shall provide such military leave as may be required by pertinent laws of the State of New Mexico and the United States of America for any District employee in the military service who is duly qualified for said leave.

A. In accordance with the provisions of Section 20-9-8, NMSA 1978, all employees except those in temporary or emergency status, who are members of organized units of the Army, Air National Guard or Air Force, Coast Guard, Navy, or Marine Reserves, shall be given up
Bereavement Leave.

A. In the event of death of the employee’s immediate family, the District may grant up to five-thirds (\(\frac{5}{3}\)) days of bereavement leave for the employee to attend to the funeral arrangement and services. An additional leave of two (2) workdays shall be allowed for necessary funeral travel time when approved by the Executive Director. Work-day(s) are defined as the employee’s regular daily work schedule. Use of sick leave may be authorized in addition to bereavement leave when deemed appropriate by the Executive Director.

B. Immediate family includes parent, current spouse or domestic partner, sibling, child, grandparent, grandchild, current son-in-law or daughter-in-law, or parent-in-law.

C. Department Management, in its discretion, may require some proof that a death in the family has occurred.

Inclement Weather Leave

A. Full-Day Closing:

Paid weather-related time due to closing will be limited to an amount equal to the hours that the employee was scheduled to work or would normally have worked on the day in question. If an employee has reported to work prior to the decision to close being made, weather-related time will only bring an employee up to the amount of their scheduled or normal working hours for that day.

B. Partial-Day Closing (delayed opening/early closing)

In the event that normal reporting time is delayed, employees working that day will receive paid time for the period between their scheduled or normal reporting time and the rescheduled reporting time. In the event of an early closing time, those employees working that day will receive paid time between the rescheduled closing time and their scheduled or normal closing time. However, employees who are on leave, have called in sick, have made a decision to take annual leave, or in the case of non-leave earning employees, have called prior to a decision to alter operating hours to advise that they will not be reporting to work, would be not be eligible for any additional time or for a refund of leave balances. Weather-related time will not extend employees’ time beyond eight hours on the rescheduled day, nor is it considered holiday time available to those who were not scheduled to work on the day in question.
C. Overtime Compensation

Employees who are required to work additional time past their scheduled shift will be compensated per the Districts overtime policy. Employees who are designated as essential and required to respond during a severe inclement weather event will be compensated per the Districts overtime policy.

4.22 Layoff-Reduction in Force, (RIF).

A. The tenure for all classified employees in the District shall be continuous provided that they are not separated from employment pursuant to these Rules and Regulations, during productive behavior as evidenced by satisfactory performance appraisal reports. However, this provision shall not be interpreted to prevent the layoff of an employee by the District because of lack of funds or curtailment of work, when made in accordance with these Rules.

B. The Executive Director may propose to lay-off employees only for shortage of work or funds, or other legitimate governmental reasons that do not reflect discredit on the services of the employees. All other separations from employment shall follow the pertinent Rules and Regulations.

C. Nothing in this rule shall limit the ability, prerogative or necessity of the Governing Board to direct the Executive Director to conduct a reduction-in-force for any and all positions and any and all departments.

D. The Executive Director shall in coordination with the Department Management identify organizational units for the purposes of a lay-off and submit a written plan to the Governing Board for approval. Such organizational units may be recognized on the basis of function, funding source or other factors.

E. The Executive Director must define the classifications that will be affected within the organizational unit.

F. All employees who may be laid off shall be provided with notice of any Board meeting at which a RIF plan is proposed for adoption and shall be given the opportunity to be heard at the Board meeting. In addition, any employee objecting to the RIF plan or to a layoff that would separate them from employment shall be given notice of their right to a pre-RIF hearing and may request to meet with the Executive Director prior to implementation of the RIF and shall be allowed to present any arguments or information they have at the pre-RIF hearing. Employees shall be given at least fourteen (14) calendar day’s written notice of layoff.

G. The order of layoff in the affected classifications shall be according to the plan.

H. Upon approval by the District Board of a layoff plan, the Executive Director shall initiate a right of first refusal within the District. All employees affected by the lay-off shall be provided the following opportunities for re-employment by the District following a layoff:

1. Employees to be affected by the reduction in force (RIF) shall be provided the right of first refusal to any position to be filled within the District for which the employee meets the minimum qualifications, at the same or lower pay range of the position the
employee currently holds, unless there is an actual layoff candidate from an earlier layoff exercising reemployment rights for the position;

2. Affected employees shall compete only with other employees affected by the reduction in force for positions subject to the right of first refusal;

3. The District's list of eligible candidates for the open positions subject to the right of first refusal shall be comprised of those affected employees meeting the minimum qualifications of the position;

4. The candidate selected shall be based on District seniority which is determined based upon the District hire date the RIF plan.

5. Employees shall have ten (10) calendar days from the date of an offer to accept the position unless otherwise agreed. Employees who do not accept an offer shall not lose the right of first refusal to other positions; and

G. 6. A laid-off employee may refuse one recall-right of first refusal offer. A second refusal of a recall-right of first refusal offer will serve as a voluntary resignation and the District will have no further recall or employment obligations to the laid-off employee.

H. The order of layoff in the affected classifications shall be by District seniority, which is determined based upon the District hire date and no break in service. In the event of a tie, the Human Resources Executive Director shall determine an appropriate mechanism for breaking the tie.

I. 7. After twelve (12) six (6) consecutive months of layoff status, the District shall have no further recall or right of first refusal or employment obligation to the laid-off employee.

J. No employee in permanent status shall be laid off while there are emergency, temporary, probationary, or limited, term status employees in the same classification in the same organizational unit.

K. Employees in permanent classified regular status shall be given at least fourteen (14) calendar days written notice of layoff.

4.2.3 Return from Reduction in Force.

A. Former employees who were in permanent-classified regular status at the time of separation by a reduction in force and who are granted a right of first refusal under the previous Rule 4.22 shall return to work as follows: shall have reemployment rights for a six (6) month period under the following provisions:

1. Former employees shall be returned to work according to the RIF plan in order of highest service date any position to be filled, provided the employee has made application for the position and meets the minimum qualifications for the position;
2. Offers of employment shall be made in writing and shall be delivered by a method that provides proof of service or attempted service;

3. A former employee who is offered and accepts employment after lay off shall occupy the position within fourteen (14) calendar-days of accepting the offer of employment or forfeit the right to employment of first refusal; and

4. Any former employee who refuses an offer of employment or fails to respond to an offer of employment within fourteen (14) calendar-days shall be removed from the list of eligibles for the position offered.

B. Former employees returned to work according to the provisions of this Section shall have that period of time they were laid off counted as time in the service, shall hold the status of the position and do not have to serve a new probationary period if re-employed into permanent status.

4.2.34 Furlough-Reduced work schedule.

Furlough is the temporary placement of an employee in a reduced work-hour schedule, which can either be partial or full time; for lack of work or funds.

A. In the event of the need for a furlough, Department Management and the Executive Director shall submit a plan identifying organizational units to be affected by the furlough to the Board for approval to begin the furlough.

B. The furlough plan shall reduce the hours of employment for all employees within the organizational unit impacted to the same extent proportionate to their regular work hours.

C. No furlough shall exceed twelve (12) months.

D. Employees shall be given at least fourteen (14) calendar-days written notice of furlough.

E. Employees shall be returned from furlough when the reasons for the furlough cease to exist. All affected employees shall be returned at the same time, to the same extent. Any restoration of work hours for furloughed employees shall be allocated across all employees within the organizational unit impacted proportionate to their regular work hours.

4.2.45 Employee Medical Separation.

A. Employees who have suffered work related injury and they cannot perform the essential functions of their position may be placed in light duty as deemed necessary by Department Management.

B. Employees who have suffered a job-related injury which is compensable under the Workers' Compensation Act and are physically or mentally unable to perform the essential functions of their pre-injury position, with or without reasonable accommodation, (to the extent required
by the Americans with Disabilities Act) and a light duty position is not available, shall be involuntarily or voluntarily separated from employment without prejudice provided:

1. The employee has exhausted all paid leave and FMLA leave, and

2. The District has made reasonable efforts to find other suitable vacant positions within the District for which the employee meets the established requirements and can perform the essential functions of the job, either with or without a reasonable accommodation (to the extent required by the Americans with Disabilities Act).

C. A former employee who has separated from employment due to job-related injury and who has received or is due to receive benefits under the Workers’ Compensation Act shall have reemployment rights in accordance with the provisions of Section NMSA 1978, 52-3-49.1 NMSA 1978. The Executive Director shall be notified immediately of any injured employee who applies for a position and subsequently declines a job offer.

D. Employees who have suffered a non job-related injury or illness and are permanently unable to perform the essential functions of their pre-injury/pre-illness position with or without reasonable accommodation, (to the extent required by the Americans with Disabilities Act), as a result of the physical or mental disability created by the non job-related injury or illness shall be involuntarily or voluntarily separated from employment without prejudice provided:

1. The District has made reasonable efforts to find other suitable vacant positions within the District for which the employee meets the established requirements and can perform the essential functions of the job, either with or without a reasonable accommodation (to the extent required by the Americans with Disabilities Act); and

2. The employee has exhausted all paid leave and FMLA leave.

E. Notice of Contemplated Medical Separation:

To initiate the involuntary medical separation of a classified employee, the Supervisor shall serve a notice of contemplated separation to the employee which:

1. describes the circumstances that form the basis for the contemplated separation;

2. gives a general explanation of the evidence the District has;

3. advises the employee of his or her right to inspect and obtain copies of any documentary evidence relied upon;

4. specifies what the contemplated action is; and

5. states that the employee has fifteen (15) calendar days from the service of the notice to respond in writing to the notice or to request an opportunity for an oral response.

F. Response to Notice of Contemplated Medical Separation:
1. If there is a request for an oral response to the notice of contemplated separation, the Supervisor, or designee, shall meet with the employee within ten (10) calendar-days of a request for an oral response, unless the employee and Supervisor, or designee, agree to an extension of time.

2. The purpose of the oral response is not to provide an evidentiary hearing but is an opportunity for the employee to present his or her side of the story. It is an initial check against mistaken decisions, essentially a determination of whether there are reasonable grounds to support the proposed involuntary separation.

G. Notice of Final Medical Separation:

1. If the employee does not respond to the notice of contemplated separation, the Executive Director shall issue a notice of final separation within ten (10) calendar-days following the response period.

2. If the employee has filed a written response or has been provided an opportunity for oral response, the Supervisor shall provide recommendations to the Executive Director no later than ten (10) calendar-days from the date of the receipt of the response. The Executive Director shall render a written decision on the issue within ten (10) calendar-days from the date of the receipt of the Department Director’s recommendation.

3. The written decision and the notice of final separation shall:
   a. Specify the action to be taken;
   b. Describe the circumstances which form the basis for the involuntary medical separation;
   c. Give a general explanation of the evidence;
   d. Specify when the final separation will be effective; and
   e. Inform the employee that the final separation may be appealed to an outside independent hearing officer by submitting a written appeal to the Executive Director within fifteen (15) calendar-days of the effective date of the separation. The appeal must specify the basis for the appeal.

H. Appeal of Final Medical Separation:

1. Upon receipt of a written appeal the Executive Director shall appoint, within fifteen (15) calendar-days from the date of receipt of the written appeal, an outside independent hearing officer to hear the appeal.

2. The selection, qualifications and procedure for disqualifying the hearing officer shall be the same as provided for in Rule 4.45.

3. The hearing shall be conducted in the same manner as provided for in Rule 4.46.
4.256 Employee Performance and Development Plan.

A. The performance of each employee will be appraised by the immediate supervisor at the completion of the probationary period and annually thereafter with an optional interim appraisal done at the sixth month.

B. This appraisal will be documented on a form approved by the Executive Director and will become a part of the employee’s permanent personnel file record.

C. Supervisors may prepare performance development plans whenever it is deemed appropriate, such as when a supervisor wishes to make an employee’s performance a matter of record and upon change of supervisors.

D. The Director will provide a training program in the proper method of appraisal for those supervisory employees who appraise the performance of other employees.

4.276 Acknowledgment of Receipt of Plan.

Employees will acknowledge in writing, receipt of performance and development plans. In instances where an employee declines to sign such acknowledgment, the Department Management will verify in writing that the employee received the performance and development plan.

4.282 Rebuttal of Performance Appraisal.

Employees may submit rebuttal statements to performance and development plans which will be attached to and become part of the performance and development plan. Management may consider the rebuttal and may elect to change the performance and development plan based upon the rebuttal. But, nothing in the rebuttal shall serve to abridge management’s right to prepare, submit, evaluate, update and potentially take disciplinary action based on the performance and development plan or shall management be compelled to change its performance and development plan by the submission of a rebuttal.

4.289 Drug and Alcohol Policy

Please see attached.
The District Drug and Alcohol policy is separately adopted and may be revised from time to time but shall be deemed a part of these Rules and Regulations and is hereby integrated by reference.

4.39 Retention of Records

A. Required Period of Retention.

All alcohol and controlled substance records shall be maintained in a secure location with the following controlled access:

<table>
<thead>
<tr>
<th>Document to be maintained</th>
<th>Period required to be maintained</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alcohol test results indicating a breath alcohol concentration of 0.02</td>
<td>5 years</td>
</tr>
</tbody>
</table>
or greater
Verified—positive—controlled 5-years
substance test results
Refusals—submit to required 5-years
alcohol-or-controlled-substance tests
Calibration—Documentation 5-years
Substance—Abuse Professional's 5-years
(SAP's) evaluations and referrals
Annual calendar-year summary 5-years
Records related to the collection 2-years
process (except calibration) and
required training
Negative and canceled—controlled 1-year
substance test results
Alcohol test results indicating a 1-year
breath alcohol concentration less
than 0.02

B. Types of Records Required to be maintained:

1. Records related to the collection process:
   a. Collection logbooks (if used);
   b. Documents related to the random selection processes;
   c. Calibration documentation for EBT's;
   d. Documentation of Breath Alcohol Technician (BAT) training;
   e. Documentation of reasonable suspicion testing;
   f. Documentation of post accident testing;
   g. Documents verifying a medical explanation for the inability to provide
      adequate breath or urine for testing;
   h. Consolidated annual calendar year summaries;

2. Records related to federally mandated employee's test results
a. District's copy of the alcohol test form, including results.

b. District's copy of the drug test chain of custody and control form.

c. Documents sent to the District by the MRO.

d. Documentation of any federally mandated employee's refusal to submit to a required alcohol or controlled substance test.

e. Documents provided by a federally mandated employee to dispute results of test.

3. Documentation of any other violations of controlled substances use or alcohol misuse rules.

4. Records related to evaluations and training:

   a. Records pertaining to substance abuse professional's determination of federally mandated employee's need for assistance.

   b. Records concerning a federally mandated employee's compliance with substance abuse professional's recommendations.

5. Records related to education and training:

   a. Materials on drug and alcohol awareness, including a copy of the District's policy on drug use and alcohol misuse.

   b. Documentation of compliance with requirement to provide federally mandated employees with educational materials, including signed receipt of materials.

   c. Documentation of supervisory training.

   d. Certification that training conducted under the DOT Rules comply with all requirements of the rules.

6. Records related to drug testing:

   a. Agreements with collection site facilities, laboratories, and MRO's.

   b. Names and positions of officials and their role in the District's alcohol and controlled substance testing program.

   c. Monthly statistical summaries of urinalysis.

   d. The District's drug-testing policy and procedures.
4.30—ENFORCEMENT.

A. Recommendation for Termination.

The District shall terminate with due process any federally mandated employee for any of the following reasons:

1. Use, sale or possession while on duty or on District property of any controlled substance or alcohol.

2. Conviction for off-duty sale, distribution or possession with intention to distribute illegal drugs or manufacture of illegal drugs.

3. Occurrence of any on-duty accident after which there is a detectable presence of any controlled substance or alcohol at or above the stipulated minimum level, in the body as indicated by the post-accident testing.

4. Failure to pass a return to duty test.

5. Providing false information in connection with a drug or alcohol test.

6. Attempt to falsify test results through tampering, contamination, adulteration, or substitution.

B. Recommendation for Termination with Employee Assistance Program Option.

Discipline options for off-duty use of alcohol or drugs, as indicated by random or reasonable suspicion testing, or for refusal to comply with a request for a drug or alcohol test, or for the presence of alcohol or drugs in the body system which is at or above the minimum levels, as prescribed by this Rule, while on duty or on District property prior to or after being on duty shall be:

1. First Offense.

   a. Recommendation for termination unless an Employee Assistance Program (EAP) option is chosen.

   b. Federally mandated employees released from pay status shall have ten working days from notification of disciplinary action to enroll in EAP. If the federally mandated employee fails to enroll during the ten-day period, the federally mandated employee shall be terminated.

   c. Federally mandated employees who test positive for drugs may return to regular pay status only with the approval of the MEO, after completion of EAP, and a receipt of negative return to duty test.

2. Second Offense (Within a Three-Year Period).

   a. Termination with due process.
4.31 Conflict in Application of this Rule.

In the event of any conflict between this Rule and the DOT Rules, the provisions in the DOT Regulations shall prevail.

4.320 Oral/Written Reprimand

A. Supervisors may reprimand an employee for just cause. Oral Reprimands may be documented on a form prescribed by the Executive Director. Written reprimands may be issued for just cause by the Executive Director upon-with or without a recommendation of the direct supervisor. Such Oral and written reprimands may not be administratively appealed, grieved or otherwise appealed.

B. If after six (6) months from the effective date of the oral reprimand the employee has shown improvement and no other infraction has occurred, he/she may request that documentation of the Oral reprimand be removed from his/her personnel file. Such requests should be made to the Executive Director and approved by the respective supervisor.

C. In similar manner, after one (1) year from the effective date of the written reprimand, the employee may request that a written reprimand will not be removed from his/her personnel file unless required by a court of competent jurisdiction.

4.3331 Dismissal, Demotion, Suspension Procedures

A. Dismissal. A dismissal is the removal—separation of an employee from his/her employment with or without cause.

B. Demotion. A demotion is an employee may, for disciplinary reasons, be changed an action changing an employee’s position from a position in one classification to another position in a classification with a lower salary range and a cut—reduction in pay. Demotions may only be made to a position and in a classification for which the employee is qualified.

C. Suspension. A suspension is the temporary removal of an employee from his/her work assignment without pay. Employees not covered by the overtime provisions of the Fair Labor Standards Act (FLSA) shall only be suspended without pay as permitted by the FLSA. See e.g., 29 C.F.R. 602 (full-work week suspensions for any disciplinary reason); 29 C.F.R. §541.602(b)(4)(less than full-work week suspensions for infractions of major safety rules); 29 C.F.R. §541.602(b)(5)(less than full-work week suspensions for violations of workplace conduct rules such as sexual harassment, workplace violence, drug or alcohol violations etc., but not for performance or attendance issues).

D. Employees in limited-term, temporary, emergency or probationary status may be dismissed, suspended, or demoted without cause and for any reason the Executive Director deems appropriate. Employees must be advised in writing of the reasons for the dismissal, demotion, or suspension.
1. Dismissal, demotion, or suspension for just cause. 
2. Unlawful solicitation of a bribe or kickback.
3. Gross misconduct or violation of any official regulation or order or failure to obey, comply or accept any proper directions made and given by a supervisor in the course of employment, or any verbal ridicule or abuse of a supervisor by an employee during the course of employment.
4. Incompetence, insubordination, or failure to perform job requirements or job performance which continues to be unsatisfactory.
5. Disorderly conduct or threats or abuse of others.
6. Chronic tardiness or absenteeism, or the improper or unauthorized use of leave privileges or benefits.
7. Stealing from the District or from other employees.
8. Taking unauthorized leave or job absence.
9. Failure to obtain and maintain a current license or certificate required as a condition of employment.
10. Intentional falsification or mishandling of District records.
11. Fraud in securing employment with the District or attempting to secure a promotion or a position by political influence.
12. Unauthorized or illegal use, sale, or possession of alcohol or illegal drugs, or being under the influence of such substances while on duty.
13. Gambling for money or articles of value during the working period.
14. Unauthorized discussion or release of confidential information documents or records.
Harassment and/or discriminatory behavior towards any person because of race, color, religion, gender, sexual orientation, gender identity, age, national origin, and disability; or

Action which reflects poorly upon the integrity of the District;

F. Time Limits:

In the event the last day of a time limit falls on a weekend or legal holiday, the time limits shall be extended to include the next working day. Receipt of written notice shall mean the day that the notice is received if hand-delivered or the day the notice is postmarked by certified mail, return receipt requested to the address of record for the employee; or the day an e-mail is sent unless there is reason to believe the e-mail recipient did not actually receive the e-mail.

G. The dismissal, demotion or suspension of a classified regular employee shall be accomplished according to the following procedures:

1. Notice of Contemplated Action:
   a. To initiate the suspension, demotion, or dismissal, the Supervisor shall serve a notice of contemplated action on the employee which: describes the conduct, action, or omissions which form the basis for the contemplated disciplinary action; gives a general explanation of the evidence the Supervisor has; specifies what the contemplated action is; and states the date, time and place of the predetermination meeting, and that the employee may waive the right to the meeting by notifying the Supervisor in writing prior to the start of the meeting.

   b. At the predetermination meeting the employee shall briefly have the grounds and the proposed disciplinary action explained to him/her and shall have the right to respond. The purpose of the response is not to provide an evidentiary hearing but is an opportunity for the employee to present his or her side of the story. It is an initial check against mistaken decisions, essentially a determination of whether there are reasonable grounds to believe that the charges against the employee are true and support the proposed action. The employee shall have the right to representation and the meeting may be recorded by either party.

   c. Within seven (7) calendar days from the date of the predetermination meeting, the Supervisor or designee shall notify the employee in writing if no disciplinary action will be taken.

2. Supervisor's Disciplinary Decision: If a decision is made to proceed with the disciplinary action, the Supervisor or designee shall serve the employee with a Disciplinary/Corrective Action Form and supporting documentation within seven (7) calendar days from the date of the predetermination meeting. If it cannot be delivered personally, it will be sent by certified mail, with return receipt requested, to the employee's last address on record.
a. The Notice of Proposed Disciplinary Action shall state what disciplinary action is being recommended and when the proposed action will take effect, absent an appeal to the Executive Director.

b. No disciplinary action shall be final until the Executive Director has approved and signed the Disciplinary/Corrective Action Form.

3. Appeal of the Supervisor’s Decision: If the employee wishes to appeal the dismissal, demotion, or suspension, the employee shall submit a written notice of appeal to the Executive Director within seven (7) calendar days from receipt of the Disciplinary/Corrective Action Form. The written notice of appeal shall state the specific reason(s) the employee disagrees with the discipline and any other basis for the appeal.

4. The Executive Director shall review the written notice of appeal and respond in writing by preparing a Written Notice of Final Decision within seven (7) calendar days from the date of service of the written appeal. The Executive Director’s decision may affirm, modify, or reject the disciplinary action. The Executive Director may, within this time period, request a meeting with the employee to discuss the appeal and its settlement. Even in the absence of an appeal by the employee, the Executive Director, by his own authority, may affirm, modify, or reject the disciplinary action.

5. The Written Notice of Final Decision must:
   a. Document the date, time and place of the predetermination meeting;
   b. Identify the specific misconduct;
   c. Specify the disciplinary action, if any, to be taken;
   d. Specify the effective date of the dismissal, demotion, or suspension which must be at least seven (7) calendar days after the date of the Written Notice of Final Decision (during this seven day period the Executive Director may place the employee on paid administrative leave if deemed in the best interest of the District);
   e. Inform the employee that the disciplinary action may be appealed to an outside independent hearing officer by submitting a written appeal to the Executive Director within fifteen (15) calendar days of the effective date of the dismissal, demotion, or suspension; and
   f. Be delivered personally to the employee by the employer or by certified mail, with return receipt requested, to the employee’s last address on record.

6. The Executive Director may, when deemed in the best interest of the District, extend the time limit for providing the employee with the Notice of Final Decision.
H. Employees who have been dismissed from employment for disciplinary reasons shall not be eligible for rehire.

4.342 Appeal of the Executive Director’s Disciplinary Action Decision and Appointment of Hearing Officer.

A. **Note:** Only suspension, demotions and termination may be appealed under this section. If the appeal of the disciplinary action is not satisfactorily resolved at the Executive Director level, the

In order to file a valid appeal under this section, an employee shall submit a written notice of appeal to the Executive Director within seven (7) ten (10) days of receipt of the Executive Director's disciplinary action decision. The Executive Director shall, within twenty thirty (2020) calendar days from the date of service of the written appeal, appoint an outside hearing officer to hear the appeal. Appeals not filed within fifteen (15) calendar days shall be dismissed for lack of jurisdiction.

1. The hearing officer shall be a licensed New Mexico attorney or a person experienced in personnel administration. The NCRTPD shall obtain prior approval from and maintain a schedule with the names of one or more persons qualified under these rules who will be willing and able to fulfill the requirements of hearing officer.

2. The hearing officer shall not participate in any adjudicatory proceeding if, for any reason, the hearing officer cannot afford a fair and impartial hearing to either party.

3. The employee or District may ask to disqualify the designated hearing officer for cause by filing an affidavit of disqualification within ten (10) calendar days of the hearing officer’s designation or immediately upon subsequently learning of the grounds for disqualification. The affidavit must state the particular grounds for disqualification. The designated hearing officer shall rule on motions for disqualification.

4. No person shall discuss the merits of the appeal with the designated hearing officer unless both parties are present or their representatives are present. Hearings on appeals shall comply with the requirements of fundamental due process and shall at a minimum provide, notice, an opportunity for the parties to be heard, the opportunity for parties to submit witnesses and evidence under oath, and the right to cross-examination.

4.353 Hearings.

A. The hearing officer will determine the date and time of the hearing.

B. A party may appear at the hearing through a representative, provided such representative has made a written entry of appearance prior to the hearing date.

C. The hearing officer may clear the room of witnesses not under examination, if either party so requests. The District is entitled to have _a person the Executive Director or_
his/her designee, in addition to its representative, in the hearing room during the course of
the hearing, even if the person will testify in the hearing.

D. The District shall present its evidence first.

E. Oral evidence shall be taken only under oath or affirmation.

F. Each party shall have the right to:
   1. Make opening and closing statements;
   2. Call and examine witnesses and introduce exhibits; and
   4. Cross-examine the opposing party’s witnesses.

G. The hearing shall be conducted in an orderly and informal manner without strict
   adherence to the rules of evidence that govern proceedings in the courts of the state of
   New Mexico. In order to support the hearing officer’s decision, there must be a residuum
   of legally competent evidence admissible to support a verdict in a court of law.

H. The hearing officer shall admit all evidence, including affidavits, if it is the sort of
   evidence upon which responsible persons are accustomed to rely in the conduct of serious
   affairs. The hearing officer shall exclude inadmissible, irrelevant, or unduly cumulative
   testimony.

I. The hearing officer may take administrative notice of those matters in which courts of
   this state may take judicial notice.

J. The rules of privilege shall be effective to the extent that they are required to be
   recognized in civil action in the District Courts of the State of New Mexico.

K. The hearing shall be recorded by a sound-recording device under the supervision of the
   hearing officer.

L. The District carries the burden of proof by a preponderance of the evidence.

M. At least twenty-five (25) calendar days prior to the hearing, the parties must
   submit to the hearing officer:
   1. a position statement
   2. a witness list
   3. and an exhibit list.

At least seven-five (75) days prior to the hearing a party must file any objections to the
other party’s witnesses or exhibits with the hearing officer. Witnesses who are not
disclosed by this deadline or the deadline contained in a pre-hearing order, if any, shall
not be permitted to testify except for good cause shown and to prevent manifest injustice.
N. Subpoenas:

1. The hearing officer has the power to subpoena witnesses.

2. Subpoenas shall be prepared in triplicate by the party requesting the subpoena and will be issued by the hearing officer. A copy of each subpoena shall be sent to the opposing party by the requesting party, together with a transmittal letter listing all persons subpoenaed.

3. Subpoenas shall be hand delivered unless otherwise agreed to.

4. In order to compel attendance at a hearing, the subpoena shall be received by the witness at least seventy-two (72) hours prior to the time the witness is to appear. The hearing officer may waive this rule for good cause shown.

5. Employees under subpoena shall be granted administrative leave for the time spent at the hearing and the time spent traveling to and from the hearing.

O. Hearing Officer’s Decision.

1. The hearing officer’s decision shall be issued within thirty-two (32) calendar days of the hearing, unless an extension is otherwise agreed to by the parties. The hearing officer’s decision shall include findings of fact and conclusions of law. The hearing officer shall provide a copy of the decision to the parties by certified mail with return receipt requested.

2. The hearing officer may uphold, modify, or reverse the decision of the Executive Director.

3. In the event that the hearing officer order includes an award of back pay, the employee shall provide the District with a sworn statement and documentation of any gross earnings and unemployment compensation since the effective date of the disciplinary action. The District shall be entitled to offset earnings and unemployment compensation received during the period covered by the back pay award against the back pay due. The hearing officer shall retain jurisdiction of the case for the purpose of resolving any disputes regarding back pay.

4. The decision of the hearing officer shall be the final step in the administrative process provided for by these Rules.

4.346 Grievance Administrative Dispute Resolution Procedures—Purpose.

The purpose of this procedure is to secure, in an atmosphere of courtesy and cooperation, an equitable solution to personnel matters, employment practices, or job-related conflicts that may arise. This grievance procedure may not be used for appealing disciplinary actions. Disciplinary actions must be appealed according to the provisions in preceding Section of this Rule.

4.350 Jurisdiction.
A. All **certified-classified regular employees** and **limited term grant-funded** non-probationary employees within the District are afforded the right to utilize the Employee's Internal Grievance Procedure **Administrative Dispute Resolution Procedures**.

B. When two or more grievance disputes are filed which require investigations of a common question of law or fact arising out of the same circumstances, the Executive Director may consolidate them into one grievance dispute.

C. **Grievance Disputes** must be current, concerning matters having taken place within **fifteen** calendar days of the of the violation.

D. Case files and record keeping of hearings are the Executive Director's or designee's responsibility.

4.3836 **Grievance Dispute Defined**.

A grievance dispute may be considered an expressed dissatisfaction, whereby an employee believes that he/she has been unfairly treated in violation of the District's Personnel Rules and Regulations regarding personnel matters. These Rules and Regulations are expressly limited to personnel disputes and do not cover non-personnel matters or matters that are covered by a separate legal regime such as worker's compensation.

4.3837 **Rights**.

At any stage during the presentation of the complaint, including the counseling stage, the grievant-complainant shall be free from restraint, interference, coercion, discrimination, or reprisal and shall have the right to be accompanied, represented, and advised by a representative of his/her own choosing.

4.4438 **Relevant Facts**.

A. The grievance complaint must contain, at a minimum, the following defined facts:

1. The date on which the alleged violation of the District Personnel Rules and Regulations took place.

2. The specific violation of the District Personnel Rules and Regulations about which the complaint is made.

3. Facts and other pertinent information to support the allegations.

4. The remedial action sought by the grievant.

B. The lack of complete information at the time of filing shall not constitute grounds for refusal to accept a grievance complaint.

4.4439 **Procedure**.

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The time limits set forth in this procedure may be subject to extension under exceptional circumstances as determined by the Executive Director. In processing the grievance-complaint, the following procedure shall apply:

A. **Step 1: Immediate Supervisor Level**

Employee submits, in writing, his or her grievance-complaint in regard to a violation of the District Personnel Ordinance or Rules and Regulations within fifteen (15) calendar days of the violation, to his or her supervisor. The supervisor shall respond within ten (10) calendar days of receipt of the written grievance-complaint by speaking with the employee. If the grievance-complaint is not resolved at this meeting, the immediate supervisor shall provide to the employee a written response. If a satisfactory solution is not reached within ten (10) calendar days after speaking to the immediate supervisor, the grievance may be submitted to Step 2 by filing the complaint with the next higher supervisor, with the department director, manager, or within ten-five (10) calendar days after receipt of the written response by the immediate supervisor. If the immediate supervisor is the highest level of supervisor for the employee, the grievance shall be moved directly to Step 3.

B. **Step 2: Second Manager Level**

If the grievance-complaint is not satisfactorily resolved at Step 1, the grievance-complaint may be submitted to any intermediate supervisor who is above the direct supervisor but below the Executive Director, the Supervisor’s Manager. The Manager-intermediate supervisor shall respond in writing within ten (10) calendar days of receipt of the written grievance-complaint and may, within this time period, request a meeting with the employee to discuss the grievance-complaint and its settlement. If the grievance-complaint is not satisfactorily resolved at this level, the grievance-complaint may be submitted to Step 3 by filing the complaint with the Executive Director within ten-five (10) calendar days after receipt of the written response by the Manager-intermediate supervisor. If the Supervisor does not have a Manager, the employee may proceed to Step 3.

C. **Step 3: Executive Director**

If the grievance-complaint is not satisfactorily resolved at Step 2, the grievance-complaint may be submitted to the Executive Director. The Executive Director shall respond in writing within ten (10) calendar days of receipt of the grievance-complaint and may, within this time period, request a meeting with the employee to discuss the grievance-complaint and its resolution. The Executive Director’s decision shall be final.

**Rule 5 WORK HOURS**

3.1 Regular full-time District employees have a regular work week of forty (40) hours.

3.2 Normal work hours in the various work units shall be set by the supervisor, with the approval of the Executive Director. Consideration should be given to shift requirements, seasonal conditions, special service needs and other activities necessary to provide a continuity of public service. Occasionally, it may become necessary to deviate from the normal work hours due to changing requirements. It is the responsibility of supervisors to prescribe work hours in such cases.
5.2 Lunch breaks shall be determined by supervisors with the approval of the Executive Director. Generally, a one-hour lunch break shall be provided to all employees; however, work schedules and other job-related functions may necessitate variations in the scheduling of the lunch break. Relief periods, other than the lunch break may be granted at times permitted but should be limited to fifteen (15) minutes, once in the first half of the work shift and once in the second half. Employees should not combine two (2) relief periods into one, nor should they beallowed to combine a relief period with a lunch break. Relief periods shall not be eliminated to permit employees to start or leave early on a regular basis. In addition, relief periods are privileges and care should be taken to assure that they are not abused.

Relief periods are considered hours worked; lunch breaks are considered hours not worked. Supervisors should not permit nonexempt employees to forgo the lunch break or continue working while having lunch. Lunch breaks may not be eliminated or shortened so that employees can regularly start late or leave early.

**RULE 56 RECORDS AND REPORTS**

**56.1 District Official Personnel Records.**

The official personnel records for each employee of the District shall be maintained in the Santa Fe Office Human Resources Office. Such records shall include a copy of the employee’s application, the original copy of each performance appraisal reports, and any other pertinent information. Such records shall be made available for inspection by the employee and his/her supervisors, as well as Department Management considering the employee for promotion or transfer and by any person employed by the District authorized by the Executive Director to do so.

**56.2 Employee Rights.**

Employees shall be provided a copy of any material placed in their official personnel record and may present a written response to any material in the record to be attached to the original material.

**56.3 Confidentiality of Records.**

- **Ex.** Only those records which are subject to inspection under the New Mexico Inspection of Public Records Act will be subject to inspection by members of the public. Personnel records not subject to inspection may be inspected with the written permission of the employee. Supervisors within the employee’s chain of command may inspect the employee’s record without the employee’s permission.

- **Ex.** For the purpose of preserving the confidentiality of personnel records, the following records may be inspected by the public only with the written permission of the employee. These records include:

  1. Personal records pertaining to physical or mental examinations and medical treatment of persons confined to any institution, use of sick leave, FMLA leave;

  2. Letters of reference concerning employment, licensing, or permits;

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3. iii. letters or memoranda which are matters of opinion;
4. iv. documents concerning infractions and disciplinary actions;
5. vi. performance appraisals;
6. vii. college transcripts; and
7. viii. military discharge if other than honorable.

7. Employee Benefit Programs: As a standard for assignment of retirement, fringe benefits and annual salary increases under these rules and regulations, the following shall apply:

(a) Full-time regular employees - Shall be eligible for participation in the following subject to rules and regulations governing said benefits:

1. Public Employees Retirement Association of New Mexico (PERA);
2. New Mexico Retiree Health Care Authority;
3. Social Security;
4. 457 Deferred Compensation Plan;
5. Insurance benefits;
6. Additional fringe benefits identified in the Personnel Rules and Regulations and administrative policies that are applicable to this classification.

(b) Part-time regular employees - Shall be eligible for participation in the above mentioned benefits, on a pro-rated basis, subject to rules and regulations governing said benefits. Pro-ration is based on the ratio of hired hours to the number of hours in the normally scheduled work period.

(c) Temporary employees - Shall not be eligible for participation in the fringe benefits identified herein.

When a temporary employee is converted from temporary to regular or limited-term, without a break in continuous service, the following shall apply:

1. Eligibility for participation in retirement benefits shall be based on the date the employee was converted to probationary, regular or limited-term status;
2. The service date, as defined in these rules and regulations, shall be used in computing annual leave, sick leave.
3. Eligibility for participation in the salary increase process shall be based on the date the employee was converted to probationary, regular or limited-term status;
4. If the employee is converted to a regular or limited-term position, the date of this conversion shall be used in computing the probationary period.

(d) Limited-term employees - Shall be eligible for participation in the following subject to rules and regulations governing said benefits:

1. Public Employees Retirement Association of New Mexico (PERA).
2. Social Security.
3. New Mexico Retiree Health Care Authority.
4. 457 Deferred Compensation Plan.
5. Insurance benefits.
6. Additional fringe benefits identified in the Personnel Rules and Regulations and administrative policies that are applicable to this classification.

RULE 6

NCRTO VEHICLE USE POLICY

6.1 Definitions

A. Approving Authority: the Executive Director or other staff member who has been specifically delegated authority to approve employee use of NCRTD vehicles for purposes other than Take Home Use.

B. Call-out Use is use of an NCRTD vehicle by an employee who has been contacted and officially called back to work without prior notice after departing from his/her regularly-scheduled shift.

C. Normal Work Use is use of an NCRTD vehicle by an employee for work performed during an assigned work period and includes extended work hours or work performed in response to being called out to do work. Employees assigned to stand by status in accordance with Personnel Rules are considered to be performing normal work.

D. Special Use is use of an NCRTD vehicle by an employee, which causes the vehicle to be removed from and kept off of NCRTD or public premises when the vehicle is not being actively used for work.

E. Stand-by Use is use of an NCRTD vehicle by an employee who is required to remain within the district, at home, or available by telephone or other means of communication to be able to respond to emergency service request(s).

F. Take Home Use is use of an NCRTD vehicle assigned to an employee for dedicated business use, including commuting to and from work and do minimal personal use. NCRTD will tax Take Home Vehicle Use as a working condition benefit and such use is subject to all IRS regulations regarding taxability of fringe benefits.

G. Travel Use is use by an employee of an NCRTD vehicle associated with approved travel outside the District.

6.2 Responsibility

A. The NCRTD Executive Director is hereby designated as "Approving Authority" in determining purposes of NCRTD employment eligible for assignment of vehicles for Take Home Use.

B. The NCRTD Executive Director may delegate approval authority to a Department Director or other designee, for NCRTD vehicles used for purposes other than Take Home Use. Until and unless such delegation is made in writing by the NCRTD Executive Director, no Department Director or other designee shall assume such approval authority.

C. Offers of employment that provide Take Home Use of a vehicle must have prior NCRTD Executive Director approval before the offer is made. As of the date of this policy, the NCRTD will
6.3 Policy

A. NCRTD vehicles that have not been assigned to employees for Take Home or Special Use and are not being used for Normal Work or Travel Use are to remain in NCRTD premises.

B. Employees assigned call-out or stand-by status may be assigned a Special Use vehicle.

C. Vehicles assigned to employees for Special Use or Take Home Use shall be used in accordance with the following rules:
   1. Vehicles shall be returned and left with the assigned employee's department when the employee is on vacation or on travel status and not using the vehicle for travel.
   2. The approving authority may require the return of an NCRTD vehicle from an employee who is on extended sick leave or other unplanned extended leave (longer than 3 days).
   3. Vehicles shall not be used to transport non-NCRTD employees including the employee's children or other family members except for persons who have a working or other business relationship with the NCRTD, or with advance NCRTD Executive Director approval for special events such as parades.

D. Employees using NCRTD vehicles for Travel Use must have the approval of the approving authority prior to submission of a travel advance request. The unit number of the vehicle intended for travel use is required on the Travel Advance Form for each employee intending to travel in and/or use the vehicle.

E. All vehicles used for overnight travel and/or business may be taken to the assigned NCRTD employee's residence with prior approval from the approving authority.

F. Employees using NCRTD vehicles for any purpose are expected to use good judgment and take reasonable steps to protect the vehicles from damage or vandalism, especially when taken overnight to the residence of the assigned employee or while used for travel.

G. In case of an accident or vandalism, it is the responsibility of the assigned NCRTD employee to immediately report the accident or vandalism to local authorities and obtain a police file number of the incident. In addition, the assigned NCRTD employee must contact his/her supervisor as soon as possible to report the accident, vandalism, or occurrence.

H. All employees are required to carry a valid driver's license and NCRTD identification when driving an NCRTD Vehicle. If an employee is driving a vehicle that requires a Commercial Driver's License (CDL), the employee must carry a valid CDL and a valid medical card.

I. It is the responsibility of the employee driving an NCRTD vehicle to make sure a current NCRTD insurance card and registration card are in the glove box of the vehicle she is driving...
those documents are not in the vehicle's glove box, the employee is to contact his/her supervisor immediately and the vehicle shall not be driven until the vehicle has the required insurance and registration cards.

J. Smoking is not permitted in any NCRTD vehicle by any driver or occupant at any time.

K. While driving an NCRTD vehicle, employees are expected to obey all traffic laws and pay close attention to the road and traffic.

L. The use of an NCRTD-issued cellular or other wireless telephone while driving an NCRTD vehicle is only allowed when absolutely essential for conducting NCRTD business. Employees are encouraged to conduct NCRTD business on an NCRTD-owned telephone while the vehicle is stopped off the road or while the employee is not driving. The use of a personal cellular telephone or conducting personal conversations or personal business on an NCRTD-issued cellular telephone is prohibited while driving an NCRTD vehicle.

M. While in an NCRTD vehicle with a two-way radio communication system, employees are required to monitor the NCRTD's two-way radio communication system; abide by Federal Communications Commission (FCC) regulations and use the radio system for NCRTD business only.

1. The NCRTD expects all employees who use radios in NCRTD vehicles to be familiar with the FCC regulations for Land Mobile Usage by a Government Agency and the consequences for violation of those regulations. Further, the NCRTD expects all employees who use radios in NCRTD vehicles to only use the radio for business purposes and to keep the radio on and open for business communications. Any employee who violates the FCC regulations or uses an NCRTD radio for non-NCRTD purposes will be subject to disciplinary action, up to and including termination. The employee may also be held responsible for paying any fines imposed for violation of the FCC rules.

2. The following list includes, but is not limited to, types of radio communications prohibited by the FCC and the NCRTD:
   a. Messages in connection with any activity which is against Federal, State or local laws;
   b. False or deceptive messages;
   c. Coded messages or messages with hidden meanings (excluding the 40 codes permissible by the FCC);
   d. Intentional interference;
   e. Music, whistling, sound effects, or material to amuse or entertain;
   f. Obscene, profane, or indecent words, language or meaning;
   g. Advertisements or offers for the sale of goods or services;
   h. Advertisements for a political candidate or political campaign;
j. International distress signals, such as the word “Mayday,” except when in immediate danger.

j. Unauthorized emissions (re-broadcasting one frequency over another).

j. Continuous or uninterrupted transmissions, except for communications involving the immediate safety of life or property.

Approved as to form:

Mark A. Basham
Counsel

Peter Dwyer
Counsel

 Definitions (with Peter’s changes)

Accrued Vacation Leave: The hours of annual leave an employee has earned from their anniversary date to a particular month that have not yet been added to the employee’s records.

Accumulated Vacation Leave: The hours of annual leave an employee has in their records that are added on a monthly basis.

Administrative Dispute: A written statement of dissatisfaction about the administration of the Personnel Rules and Regulations of the District as it affects an individual employee or group of employees.

Administrative Leave: Leave that is authorized by the Executive Director with or without pay for an employee during the time a fact finding investigation or other administrative proceeding is pending completion or in other circumstances deemed in the best interest of the District.

Allocation: The official assignment of an individual position to the proper classification according to the duties performed and authority exercised.
Anniversary Date: The initial date of employment in a budgeted position and the date from which vacation leave, sick leave and longevity will be computed.

At-Will Employment: The employment relationship for all employees hired in exempt employee classifications under state law and whom may be terminated at any time with or without cause or notice. Employees who are FLSA exempt under federal law may also be exempt under state law.

Board: means the Board of Directors of the NCRTD.

Bona fide occupational qualification: Means a qualification reasonably related to the satisfactory performance of the duties of a job, and for which there is factual basis to believe that a person lacking the qualification would be unable to perform satisfactorily the duties of the job with safety and efficiency.

Budgeted Position: A position that is funded in the District's annual budget.

Candidate: Means any person who has qualified under these Rules for appointment in a specific classification.

Classified Regular employee: Means the status acquired by a non-exempt employee who has successfully completed his/her probationary period and is, therefore, classified to serve in the position he/she holds.

Classification: Means one or more positions so similar in the essential character of their duties and responsibilities that the same pay range, title, and qualification requirements can be applied.

Classification Title: A name assigned to a position that indicates a particular level of rank and specific duties and responsibilities.

Classification and Compensation Plan: The District's official plan that classifies positions and sets compensation rates.

Compensation: The salary/wage and all other forms of valuable consideration earned by, or paid to, any employee in remuneration for the services in any position.

Day or Days: any reference to day or days means business day or days and shall include normal dates of operation and excludes weekends and holiday.

Disabilities: A physical or mental impairment that substantially limits one or more major life activities of an individual, a record of such impairment, or being regarded as having such an impairment.

District: The North Central Regional Transit District.

Disciplinary Action: There are several types of disciplinary action that may include, whether individually or in combination, an official reprimand (verbal or written), suspension, reduction in salary, demotion, or termination.
Division: A major functional subdivision of the District organizational structure that is accountable to the Executive Director.

Division Guidelines: Guidelines issued by a division manager and approved by the Executive Director designed for specific types of activities within a division's operation.

Division Manager (Manager/Management): means an employee in a position that manages internal 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 serves in an at-will position that administers the operation of a district division and is directly responsible to the Executive Director.

Domestic partners: means any person living in the same domicile as the employee or prospective employee.

Employee or Incumbent: A person occupying a position in the district service. Such persons include, but are not limited to, the following:

1. Classified Regular Employee: means a budgeted, full or part-time position, duties of which do not terminate at any stated time. An employee working 40 hours minimum per week is eligible to receive full fringe benefits. An employee working not less than 21 hours and not more than 39 hours per week is entitled to partial fringe benefits on a pro rata basis.

2. Exempt Employee: means a budgeted, full or part-time position, exempt from the classified service and/or FSLA.

3. Temporary Employee: means the employment of a person hired to perform a job which is limited in nature or is on a seasonal basis and which will not exceed twelve months of employment unless otherwise approved by the Executive Director.

4. Limited Term Employee: means the employment of a person for a designated period of time, usually in excess of one (1) year, for a limited and specified time period, e.g., one year or longer subject to funding for the project or program, with benefits and subject to all personnel rules and regulations, except for the right of appeal regarding the expiration of the appointment or as otherwise stated herein.

5. Emergency Employee: employment of a person when an emergency condition exists that would, in the opinion of the Executive Director, compromise the public health, safety, and welfare, or severely curtail the normal operations of the District and where there are no candidates available on an appropriate list of eligible’s.

Essential functions: The fundamental job duties of any particular employment position. The term “essential function” does not include the marginal functions of the position. The job function may be essential for any or several reasons including, but not limited to, the following:

* the reason the positions exists is to perform that function;
* there are a limited number of employees available among whom the performance of that job function can be distributed; or
• it is necessary to ensure that life or safety is not jeopardized.

Executive Director: means the chief executive officer of the North Central Regional Transit District ("District") who is responsible for the administration and supervision of all District activities including the appointment, hiring, and retention of all employees, management of any divisions or departments which may be created, and ultimate supervisory responsibility for all employees of District.

Fair Labor Standards Act (FLSA): A federal law enacted by the United States Congress in 1938, which sets minimum wage, overtime pay, equal pay, recordkeeping, and child labor standards for employees who are covered by the Act.

FLSA Exempt Employee: A person in a budgeted position exempt from the overtime provisions of the Fair Labor Standards Act as an executive, administrative, or professional employee.

Family Medical Leave Act (FMLA): A law enacted on February 5, 1993 which entitles qualified employees to up to 12 weeks of unpaid leave per year for the birth, adoption or placement for foster care of a child, to care for a spouse or an immediate family member with a serious health condition, or when unable to work because of a serious health condition.

Furlough: means the temporary placement of an employee in a reduced work hour schedule, which can either be partial or full time, due to lack of work or funds.

In-grade Hire: Means the authorized hiring of an employee at a rate higher than the initial or beginning rate in the pay range assigned to the position.

Hiring Authority: The Executive Director, or the Executive Director’s designated representative who has the authority to hire individuals to fill positions.

Hire Date: The date that a newly hired employee (temporary or probationary) begins work for the District.

Lists of Eligibles: Means a list of names classified by the Executive Director from which a candidate may be selected for employment.

Probationary Period: A working trial or orientation period ranging from six to twelve months during which an employee demonstrates, by actual performance, the employee’s suitability for the duties of the position to which the employee has been appointed.

Position: The official rank within a given classification and held by an employee with a descriptive title.

Position Description: A complete and detailed statement about the responsibilities, essential functions, specific duties, and minimum qualifications of a specific position within a given classification, as well as decision-making responsibilities, level of supervision received and exercised, working conditions, and equipment operated.

Promotion: A change in the employment status of an employee to a position in a higher classification with a higher rate of pay and increased responsibility.
Range: The limits set for the minimum and maximum rates of pay within a given classification.

Rate of Pay: See compensation.

Reclassification: The process of reassigning a position to a different classification as a result of a position audit.

Retirement: Official retirement from a budgeted position and District service that is available when the requirements of the employee's retirement system are met.

Salary Date: The date on which an employee's rate of pay becomes effective and on which advancements within the pay plan are generally based.

Salary Schedule: A series of salary ranges to which the various classifications in the District are to be allocated with ranges for each classification consistent with the functions outlined in the job descriptions and any current classification policy. Each salary range shall include minimum and maximum rates of pay.

Separation Date: The last day of an employee's work in District service, after which no vacation or sick leave is accrued or used.

Supervisor: An employee hired and/or appointed by the Executive Director assigned to a division to assign/direct and evaluate the work of other employees within a designated work unit of the same division.

Reduction in Force: Means the separation, lay off, involuntary demotion, reassignment, or reduction of work hours or number of employees in the District or in a division due to lack of work or funds.

Termination: The separation of an employee from District service. Termination may be by discharge, death, lay-off, resignation, retirement, work completion, contracting out District services, or lack of work or funds. The termination date is synonymous with the separation date and is the last day of an employee's work in District service. No vacation or sick leave is accrued or used from that date forward.

Transfer: A reassignment of an employee from one position to another position in the same classification or another classification having the same pay range, involving the performance of similar duties and requiring substantially the same basic qualifications.

Unauthorized Leave of Absence: Failure of an employee to notify and receive permission from their immediate supervisor in advance of absence or failure of an employee to report for work at the beginning of their next regularly-scheduled work period. An unauthorized leave of absence includes all or any portion of a work day for which notice and approval have not been provided. An unauthorized leave of absence may be grounds for disciplinary action up to an including termination. Unauthorized leave is not compensated.

Workday: An employee's scheduled daily hours of employment.

Workweek: An employee's schedule of work hours within an appointed week.
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