



New Mexico State Personnel Board State Personnel Office

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GOVERNOR**

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Director

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Rulemaking Hearing Minutes – October 12, 2018 1.7.6.12 NMAC Rescission of Resignation

Call to Order: The meeting was called to order at 9:00 am.

Present: Director Justin Najaka and Assistant Attorney General Gideon Elliot were present.

Introduction: On August 24, 2018, SPO proposed to repeal rule 1.7.6.12 NMAC - Rescission of Resignation allowing for 3 day appeal. The purpose of this rule repeal is to make an employee resignation effective immediately. Under the current rule, an employer must allow an employee three (3) days to rescind their resignation and the repeal of this rule will eliminate that time requirement.

Director Najaka, stated that he was appointed as a hearing officer by the State Personnel Board to preside over this hearing. Proper notice was made interested parties were notified. The 30-day comment period ended yesterday October 11, 2018; as such this hearing was pre-scheduled at 9:00 am today October 12th, 2018. Director Najaka advised he will not provide opinions; nor make recommendation during this hearing. He will prepare a recommendation to the State Personnel Board that includes response to comments received in the 30-day open comment period and comments provided today and the State Personnel Board will make a determination at its next regularly scheduled meeting at 9:00 am next Friday, October 19th, 2018.

Director Najaka noted that 24 electronic comments were submitted via e-mail; 1 comment was submitted by fax, and 0 written comments were submitted. No requests were received from individuals who require information in an alternative format or need any form of auxiliary aid to attend or participate in this public hearing.

Director Najaka advised individuals wishing provide public comment or submit information at this hearing to state their name and any relevant affiliation for the record and that they must be recognized before presenting in order to facilitate public comment and create a clear rulemaking record in a simple and organized manner. Two individuals were in attendance at this hearing and provided the following comment:

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AGENCY PARTNER
NMCENTENNIAL.ORG

1. Arthur Fuldauer. I am a retired public employee for 27 years with DOH-Children's Medical Services. I am in opposition to rule change. I have personally experienced the effects of this process. A fellow employee who worked for me while under DOH was promised a better paying job. With the concept of that State legislator takes time to prepare increases/raises in mind, this employee handed in his resignation, the next day he found out the job was not what expected. DOH was saved by this rule. I have been a union steward, I have worked with union, and I am able to manage conflicts. I am quite sure of having a day or two to make decision is an advantage. For the state, to hire and retain is difficult. This is a dis-service to our public stake holders if not in place. The rule may have some administrative burden, but as it opposes to the hiring process and continuity of service, I believe it balances off. I have talked to current state employees and they have mention it makes sense to have the rule.
2. Sandra Perea, I am a 21 year vet of NMCD probation and parole, I am a steward and have been for 16 years. I oppose the rule. It is very difficult being in public service and dealing with the short falls; not enough staff, limited resources, issues with losing personnel, and most state are under staffed and are having to double up work load. This puts extra stress on the employee. There are days some people feel like quitting and giving up. The public demands more, and the state is unable to meet the request. One may turn in their resignation in the moment of stress, it would be great if the 2 holding period remained. I believe it help with saving money instead of training another person. To keep It would give a purpose for morale, senior members of an organization, it would benefit the state in the long run to maintain the opportunity to keep well trained and educated to service the public.

Director Najaka thanked the two individuals for taking the time to attend and provide input on this matter and reminded them that the State Personnel Board will consider their input and all written comments at 9:00 am on October 19, 2018 at the next State Personnel Board meeting.

Adjourn: The meeting adjourned at 9:14 am.

Attested as accurate and approved by:

Justin Najaka,
State Personnel Director