

TITLE 1 GENERAL GOVERNMENT ADMINISTRATION
CHAPTER 7 STATE PERSONNEL ADMINISTRATION
PART 5 RECRUITMENT, ASSESSMENT, SELECTION

1.7.5.1 ISSUING AGENCY: State Personnel Board.
[1.7.5.1 NMAC - Rp, 1.7.5.1 NMAC, x/x/202x]

1.7.5.2 SCOPE: All state agencies in the classified service.
[1.7.5.2 NMAC - Rp, 1.7.5.2 NMAC, x/x/202x]

1.7.5.3 STATUTORY AUTHORITY: Subsection A of Section 10-9-10, Subsection A of Section 10-9-12, Subsection C of Section 10-9-13, Subsection F of Section 10-9-13, Subsection I of Section 10-9-13, Section 10-9-13.2, Subsection B of Section 10-9-18, Section 10-9-22, Section 10-9-23; Section 20-4-9, NMSA 1978; Sections 24-2B-1 to 24-2B-8, NMSA 1978; and Sections 28-2-1 to 28-2-6, Section 28-10-12, NMSA 1978.
[1.7.5.3 NMAC - Rp, 1.7.5.3 NMAC, x/x/202x]

1.7.5.4 DURATION: Permanent.
[1.7.5.4 NMAC - Rp, 1.7.5.4 NMAC, x/x/202x]

1.7.5.5 EFFECTIVE DATE: x/x/202x unless a later date is cited at the end of a section.
[1.7.5.5 NMAC - Rp, 1.7.5.5 NMAC, x/x/202x]

1.7.5.6 OBJECTIVE: The objective of Part 5 of Chapter 7 is: to provide a system for the recruitment, examination and selection of applicants for employment in the classified service.
[1.7.5.6 NMAC - Rp, 1.7.5.6 NMAC, x/x/202x]

1.7.5.7 DEFINITIONS:

- A. “Doublefill”** is when two employees are paid to work in the same position.
 - B. “Open for recruitment”** means soliciting applications from the general public and state employees for vacant positions.
 - C. “Overfill”** is when an employee is assigned to a position with a higher pay band than the position’s budgeted pay band.
 - D. “Recruitment Waiver”** means a candidate for hire is identified through a non-competitive process in lieu of the position being posted and advertised.
 - E. “Underfill”** is when a candidate is hired for a position that they are not fully qualified for, but who can gain the necessary skills and experience through on the job training. Once the candidate has met the minimum experience requirements, they will be promoted to the position’s actual pay band.
- [1.7.5.7 NMAC - Rp, 1.7.5.7 NMAC, x/x/202x]

1.7.5.8 VACANT POSITIONS:

- A. All budgeted vacant positions to be filled shall be open for recruitment unless a recruitment waiver is authorized by the State Personnel Office (SPO) Director.**
- B. Positions in the classified service shall be filled at the assigned classification. An underfill may be approved by the SPO Director. An authorized underfill may not exceed one year unless extended by the SPO Director.**
- C. The SPO Director may approve a position to be doublefilled for up to one year.**
- D. Agencies may allow part-time employees to share the same position.**

[1.7.5.8 NMAC - Rp, 1.7.5.8 NMAC, x/x/202x]

1.7.5.9 RECRUITMENT:

- A. The recruitment process shall be established by the State Personnel Office in accordance with established professional techniques and relevant federal laws, regulations, and guidelines.**
- B. The SPO Director shall establish a means to effectively advertise and recruit for vacant positions within the classified service.**

C. Any qualified applicant shall have the opportunity to compete for vacant positions open for recruitment without regard to race, color, religion, national origin, ancestry, sex, sexual orientation, age, or mental or physical disability unless based on a bona fide occupational requirement

D. Agencies shall be sensitive to creating diversity in the workplace.

E. Applications shall be submitted in accordance with the SPO Director-established recruitment criteria, received within the prescribed time limits and be for positions open for recruitment.

[1.7.5.9 NMAC - Rp, 1.7.5.9 NMAC, x/x/202x]

1.7.5.10 APPLICATIONS:

A. The SPO Director shall establish application procedures which include, among other things, criteria that will ensure compliance with federal and/or state law. Information on gender, ethnicity, and age of applicants shall be utilized only for affirmative action and other non-discriminatory purposes.

B. The agency shall reject an application and not accept any application from the applicant if the applicant:

(1) has made any false statement or produced any false document in support of the application; or

(2) has directly or indirectly given, paid, offered, solicited, or accepted any money or other valuable consideration or secured or furnished any special or secret information for the purpose of affecting the rights or prospects of any person with respect to employment in the classified service.

[1.7.5.10 NMAC - Rp, 1.7.5.10 NMAC, x/x/202x]

1.7.5.11 ASSESSMENT OF QUALIFICATIONS:

A. Assessments shall measure critical or important knowledge, skills, and abilities necessary for successful job performance.

B. Except as provided in Subsection C of 1.7.5.11 NMAC no agency shall administer any test to an applicant or employee without the test and the test administration having been approved by the SPO Director unless otherwise authorized by statute.

C. An agency may request a description or demonstration of the skill or ability needed to perform an essential job function in accordance with the *Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 Note 29C.F.R. Part 1630.14(a) Pre-employment inquiry*).

D. Preference Points:

(1) In accordance with the provisions of Section 10-9-13.2 NMSA 1978 and Section 20-4-9 NMSA 1978, veterans honorably discharged from the United States armed forces and applicants currently serving in the national guard shall have five points added to their final passing numerical scores on applications. Veterans honorably discharged from the United States armed forces with a service-connected disability shall have 10 points added to their final passing numerical scores on applications. A veteran with or without a service-connected disability has his/her name placed on the employment list in accordance with numerical rating of other veterans and non-veterans.

(2) In accordance with the provisions of Section 10-9-13, NMSA 1978, applicants who meet minimum qualifications shall have two preference points added for each year of residency in New Mexico, not to exceed 10 points.

[1.7.5.11 NMAC - Rp, 1.7.5.11 NMAC, x/x/202x]

1.7.5.12 SELECTION:

A. In accordance with the purpose of the *Personnel Act NMSA, Section 10-9-2*, selection shall be based solely on qualification and ability. Selection for any positions in the classified service shall be justified in writing and made from employment lists.

B. All employers subject to the Criminal Offender Employment Act. Sections 28-2-1 to 28-2-6 NMSA 1978, may take into consideration a conviction, but the conviction will not operate as an automatic bar to obtain public employment. Employer may only take into consideration a conviction after the applicant has been selected as a finalist for the position.

C. Agencies shall follow all established procedures approved by the SPO Director unless otherwise provided by law.

D. Agencies shall be sensitive to creating diversity in the workplace.

E. Employment lists shall include names of ranked candidates who have made application and met the established requirements plus any candidates certified by the New Mexico department of education, division of

vocational rehabilitation, the commission for the deaf and hard of hearing, or the commission for the blind, in accordance with the provisions of Section 28-10-12, NMSA 1978.

(1) Agencies shall certify the names of former employees who are currently receiving temporary total or permanent partial workers' compensation benefits, resultant from an injury sustained while employed in the classified service and who apply for a position in accordance with the provisions of 1.7.10.12 NMAC.

(2) Agencies shall certify only the name(s) of former employees who are currently eligible for reemployment from a reduction in force per 1.7.10.10 NMAC.

F. Temporary promotions: Employees may be temporarily promoted for a period not to exceed 12 months to a temporary or effectively vacant position for which the agency certifies that the employee holds the qualifications and abilities necessary for successful job performance. At the end of the temporary promotion period, employees shall return to their former position without right of appeal.

G. Intra-agency transfers: An agency may transfer an employee without the employee's consent to a position in the same classification within the same geographic location as the employing agency, which is 35 miles from the boundaries of the community where the employee is employed if the established requirements state that willingness to accept a change of geographic location is a condition of employment.

H. Exempt to career service: Employment in the exempt service shall not count towards the probationary period required by Subsection A of 1.7.2.8 NMAC.

I. Emergency appointments/Hires: Emergency appointments/hires shall be made in accordance with 1.7.2.12 NMAC.

J. Reduction: Employees may request a classification reduction to a position for which the agency certifies that the employee holds the qualifications and abilities necessary for successful job performance.

K. Physical examinations: Agencies may require physical examinations of candidates who have been selected for a position contingent upon their meeting the prescribed physical health standards. The costs of such physical examinations shall be borne by the agency.

[1.7.5.12 NMAC - Rp, 1.7.5.12 NMAC, x/x/202x]

HISTORY OF 1.7.5 NMAC:

Pre-NMAC History:

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

SPB Rule 4, Applications and Tests, filed 5/22/1980;
SPB Rule 4, Applications and Tests, filed 6/3/1981;
SPB Rule 4, Applications and Tests, filed 10/21/1982;
SPB Rule 4, Applications and Tests, filed 6/28/1983;
SPB Rule 4, Applications and Tests, filed 10/17/1986;
SPB-4, Tests, filed 4/4/1990;
SPB-4, Tests, filed 10/19/1990;
SPB 7, Recruitment, Applications, Tests, filed 12/15/1992;
SPB 7, Recruitment, Applications, Tests, filed 3/18/1994.

History of Repealed Material:

1 NMAC 7.5, Pay, filed 6/13/1997.

Other History:

1 NMAC 7.6, Recruitment, Applications, Tests, filed 1/12/1996 replaced SPB 7, filed 3/18/1994;
1 NMAC 7.6, Recruitment, Applications, Tests, filed 5/2/1996;
1 NMAC 7.5, Recruitment, Applications, Selection, filed 6/13/1997 replaced 1 NMAC 7.6, filed 5/2/1996;
1 NMAC 7.5, Recruitment, Assessment, Selection, filed 6/13/1997 replaced by 1.7.5 NMAC, Recruitment, Assessment, Selection, effective 7/7/2001.
1.7.5 NMAC, Recruitment, Assessment, Selection, filed 6/14/2001, replaced by 1.7.5 NMAC, Recruitment, Assessment, Selection, effective x/x/202x.