New Mexico State Personnel Board
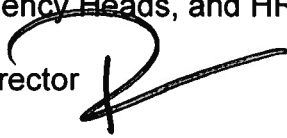## State Personnel Office

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Carmen V. Chavez, Member
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Interpretative Memorandum 2020- 001

Date: March 2, 2020

To: Cabinet Secretaries, Agency Heads, and HR Managers

From: Pamela D. Coleman, Director

Subject: Administrative Leave for Voting

I.   Purpose

The State encourages all employees to exercise their right to vote. This Memorandum shall serve to interpret the application of State Personnel Board Rules and New Mexico Administrative Code (NMAC) regarding the granting of administrative leave for voting. Due to amendments to the Election Code in 2018, and recent updates to the State Personnel Board Rules, this memorandum revises and supersedes prior interpretative memos on administrative leave for voting, including Interpretative Memorandum 2014-003.

II.   Background

State Personnel Board Rules (1.7.7.14 NMAC) provide:

C. Employees who are registered voters may absent themselves from work for two hours for the purpose of voting between the time of the opening and the time of the closing of the polls. The employer may specify the hours during the period in which the voter may be absent. This leave is not available to employees whose work day begins more than two hours subsequent to the time of opening

the polls or ends more than three hours prior to the time of closing the polls. This leave is only available for those elections listed in *Subsection A of Sections 1-12-42 and 1-1-19 NMSA 1978*, and does not apply to absentee or early voting.

III.   Covered Elections

The following statutory elections apply to administrative leave for voting.

NMSA 1978, § 1-1-19. Elections covered by code.

A.   The Election Code applies to the following:

(1) general elections;

(2) primary elections;

(3) special elections;

(4) elections to fill vacancies in the office of United States representative;

(5) local elections included in the Local Election Act; and

(6) recall elections of county officers, school board members or applicable municipal officers.

B.   To the extent procedures are incorporated or adopted by reference by separate laws governing such elections or to the extent procedures are not specified by such laws, certain provisions of the Election Code shall also apply to special district elections not covered by the Local Election Act [Chapter 1, Article 22 NMSA 1978].

NMSA 1978, § 1-12-42. Conduct of election; employees; time to vote.

C.   The provisions of Subsection A of this section apply to elections of Indian nations, tribes or pueblos for a voter who is enrolled as a member of the Indian nation, tribe or pueblo and is qualified to vote in the election.

IV.   Guidelines

A.   An employee utilizing administrative leave for voting shall enter time as "VOTES-Voting Time Paid", and insert a comment into the SHARE Timesheet Comments as to what election the employee voted in.

B. According to NMSA 1978, §1-12-42(A), and 1.7.7.14 NMAC, administrative leave for voting is only available on Election Day. It is not available for the purposes of early voting or absentee voting.

C. An employee must have worked regular hours on the same day in order to be eligible for administrative leave for voting.

D. An employee's use of their annual and/or sick leave cannot be used in direct conjunction with voting time.

E. Administrative leave for voting is not available for the purposes of early voting or absentee voting.