



**NEW MEXICO**  
STATE PERSONNEL OFFICE

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Governor

L. Teresa Padilla  
Director

State Personnel Board  
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Chair

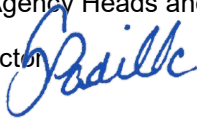
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Member

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Member

Fred Radosevich  
Member

Interpretive Memorandum 2023-001

TO: Cabinet Secretaries, Agency Heads and Human Resource Managers  
FROM: L. Teresa Padilla, Director   
DATE: April 28, 2023  
SUBJECT: Temporary Employees

**I. Purpose**

This shall serve to interpret State Personnel Board (SPB) Rules and provide guidance with respect to employees on temporary appointment<sup>1</sup> and emergency appointment.<sup>2</sup>(Temporary Employee)

**II. Background**

The SPB Rules outline provisions for classified service appointments. It has come to the State Personnel Office's (SPO) attention that there may be inconsistent practices across agencies regarding temporary employees.

As we explore all possible recruitment and retention tools to build a better workforce, it is imperative that we adjust current practices to support this goal.

**III. Guidelines**

**General**

No employee shall be in a temporary position longer than one year. Agencies are not allowed to reclassify/convert temporary positions.

**Categories of Temporary Positions in SHARE**

Temp – Budgeted Temporary – through budgetary/legislative process

NB180 – There is **certainty** the position will not last longer than 6 months

T180 – Non budgeted temporary position for up to 1 year

**Transfers**

It has been a long-standing practice for temporary employees transitioning into sponsored term or permanent positions to have a mandatory break in service of at least one working day. When this break occurs, employees are paid accrued annual leave, lose accrued sick leave, and if they are carrying benefits, lose those benefits. Additionally, SPB Rules do not contain provisions that **require** this break in service. Effective immediately, temporary employees transferring into sponsored term or permanent positions will no longer be required to have a break in service. These transfers shall be processed the same as all other transfers within the classified service.

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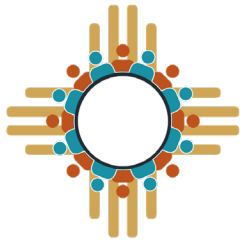
505-476-7949

**Website:**

[www.spo.state.nm.us](http://www.spo.state.nm.us)

<sup>1</sup> NMAC 1.7.2.7(C) NMAC

<sup>2</sup> 1.7.2.7(D) NMAC



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When a temporary employee transfers from a temporary position into a sponsored term or permanent position, they will be required to complete a one-year probationary period, effective the date of the transfer from the temporary position in accordance with SPB rule 1.7.2.8(B) NMAC. HR Administrators must manually track probationary periods.

#### **Leave**

All employees in temporary positions shall be entitled to annual leave in accordance with SPO rule 1.7.7.8 NMAC.

All employees in temporary position shall be entitled to sick leave in accordance with SPO rule 1.7.7.10 NMAC.

#### **Eligibility for Public Employee Retirement Association (PERA)**

PERA defines a “seasonal” or “temporary” employee as an employee who works in a position created to last no more than nine consecutive months and designated as “seasonal” or “temporary” by the affiliated public employer. These employees shall be coded in SHARE, Benefits Program Participation, Eligibility Field 3 as “NORET”

If the employee is still employed in the same position past nine consecutive months, the employee is no longer considered “seasonal” or “temporary” as it relates to PERA eligibility. After nine consecutive months, agencies will ensure the employee completes an Application for PERA Membership Form and submit the completed form to PERA. The employee must start making member contributions to PERA through payroll deduction at the beginning of the 10<sup>th</sup> month. The employer makes employer contributions for the employee as well. This exclusion does not cover employees previously retired from PERA. At such time, HR administrators will need to make a change to the Benefits Program Participation, Eligibility Field 3 to “SPLAN3” or other applicable PERA Plan, effective the beginning of the first pay period of the 10<sup>th</sup> month of continued employment.

Reference: PERA Employee Handbook

- [https://www.nmpera.org/assets/uploads/forms-kits-handbooks/2022MemberHandbook\\_Jul2022.pdf](https://www.nmpera.org/assets/uploads/forms-kits-handbooks/2022MemberHandbook_Jul2022.pdf)

#### **Health Benefits**

Temporary Employees may be eligible to elect coverage if they are scheduled to work a minimum of 20 hours/week and meet the waiting period. However, temporary employees whose employment has transitioned to be longer than 6 months, shall be eligible for coverage if they are scheduled to work at least 20 hours per week. Temporary employees who have benefit coverage through the SoNM and then transfer to into PERM or STRM positions are allowed to keep their current benefits without a lapse in coverage.

Reference: GSD Administrative Guide

- [https://www.mybenefitsnm.com/documents/Administrative\\_Guide\\_2022\\_June\\_Final\\_v3.pdf](https://www.mybenefitsnm.com/documents/Administrative_Guide_2022_June_Final_v3.pdf)

#### **Other: Flex schedules, Paid Parental Leave, Wellness Fitness, Legislative Increases, etc.**

Since employment in a temporary position does not apply towards probationary period, any benefits, salary increases, or leave, requiring completion of a probationary period, do not apply to temporary employees.