



# New Mexico State Personnel Board

## State Personnel Office

Michelle Lujan Grisham  
Governor

Pamela D. Coleman  
Director

**State Personnel Board**  
Christine B. Romero, Chair  
Laura A. Liswood, Vice Chair  
Carmen V. Chavez, Member  
Jerry Manzagol, Member

BEFORE THE NEW MEXICO STATE PERSONNEL BOARD

IN RE: AMENDMENTS TO 1.7.7 NMAC – ABSENCE AND LEAVE

RULEMAKING PROCEEDING FOR  
AMENDMENTS TO 1.7.7 NMAC  
(ABSENCE AND LEAVE)

### CONCISE EXPLANATORY STATEMENT

The New Mexico State Personnel Board (the "Board") hereby amends 1.7.7 NMAC — Absence and Leave. The rule is currently codified in Title 1, Chapter 7, Part 7 of the New Mexico Administrative Code.

(1) Statutory Authority for Rule Promulgation:

Under the Personnel Act, "The [personnel] director shall...recommend to the board rules [she] considers necessary or desirable to effectuate the Personnel Act," and "the board shall...promulgate regulations to effectuate the Personnel Act[.]" NMSA 1978, §§ 10-9-10(A), 12(E).

(2) Date of Notice in New Mexico Register:

The Notice of Rulemaking was published in Volume xxxi, Issue: 17 of the New Mexico Register on September 15, 2020.

(3) Date of Meeting Approving Rule:

October 16, 2020

(4) Date of Adoption of Rule:

October 16, 2020

(5) Date of Publication of Adopted Rule in New Mexico Register:

The adopted Rule will be published in Volume xxxi, Issue: 21 of the New Mexico Register on November 10, 2020.

(6) Effective Date of Rule:

January 1, 2021 (1.7.13.10 NMAC “The Board shall determine the effective date of Rules...”).

(7) Reasons for Adopting Rule:

Amendment to 1.7.7.8 – Annual Leave

The amendment to Subsection E permits classified State employees to carry forward more than 240 hours of annual leave beyond the last pay period of December 2020, but not beyond July 9, 2021, in order to provide those employees with an additional six months to use, rather than lose, annual leave they may have accrued and been unable to use during the COVID-19 public health emergency. The division of Subsection G into Subsections G and H distinguishes the regulations pertaining to all employees separating from the classified service from those pertaining to employees separating from the classified service due to a reduction in force. The amendment to Subsection G clarifies that the annual leave payout for an employee separating from the classified service may not exceed 240 hours, even with the amendment to Subsection E. The amendment to Subsection H clarifies that the payout for an employee separating from the classified service due to a reduction in force may not exceed 240 hours because of the amendment to Subsection E. And the amendment to new Subsection I clarifies that the accrued annual leave payout of an employee who dies may not exceed 240 hours because of the amendment to Subsection E.

Amendment to 1.7.7.9 – Donation of Annual and/or Sick Leave

The amendment to Subsection A clarifies that classified State employees may donate annual and/or sick leave to other classified State employees within the same agency. The amendment also permits classified State employees to make and receive donations of annual leave to and from employees in the exempt service within the same agency, aligning the rule with Department of Finance and Administration (“DFA”) *Policies for Governor Exempt Employees*. DFA policy currently states, “Exempt employees may donate accrued annual leave to or receive accrued annual leave from a classified employee within the same agency.” *Policies for Governor Exempt Employees*, Policy No. ESPP 20.c.

Amendment to 1.7.7.17 – Personal Leave Day

The amendments to Subsections A-D provide classified State employees who have passed their probationary period with two personal leave days each calendar year, instead of one.

(8) Reasons for Changes from Published Proposed Rule:

There are no changes from the published proposed rules. The proposed rules, which were available for public review and introduced as an exhibit at the public hearing, have been adopted in full.

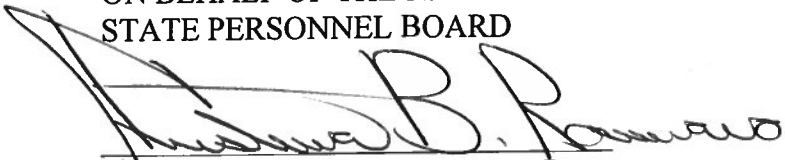
(9) Reasons for Not Accepting Substantive Arguments from Public Comment:

There were no substantive arguments from public comment related to the amendment of 1.7.7 NMAC – Absence and Leave. The public comment received was in support of the amendment of 1.7.7. NMAC.

The amended Rule, as authorized by the Board during its regular meeting held October 16, 2020, is hereby adopted as of the date of this Concise Explanatory Statement.

**IT IS SO ORDERED,**

10/16/20  
DATE

ON BEHALF OF THE NEW MEXICO  
STATE PERSONNEL BOARD  
  
CHRISTINE B. ROMERO, CHAIR