



NEW MEXICO
STATE PERSONNEL OFFICE

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Repeal Memorandum

To: Cabinet Secretaries, Agency Directors, and Human Resource Managers

From: L. Teresa Padilla, Director

A handwritten signature in blue ink, appearing to read "L. Teresa Padilla", is written over the printed name of the Director.

Date: September 23, 2022

Subject: Repeal of Interpretive Memorandum 2011-003

In an effort to consolidate State Personnel Office Interpretive Memoranda pertaining to State Personnel Board Rule 1.7.1.12(A) NMAC, Employment Records, State Personnel Office Interpretive Memorandum 2011-003 is hereby repealed. (See attached.)

Please consult State Personnel Office Interpretive Memorandum 2022-001 for current guidelines on employment records and personnel file retention, transfer, and file review.

Address:

2600 Cerrillos Road
Santa Fe, NM 87505-3258

Phone:

505-476-7759

Fax:

505-476-7949

Website:

www.spo.state.nm.us



New Mexico State Personnel Board State Personnel Office

SUSANA MARTINEZ
GOVERNOR

Eugene J. Moser
Director

Nivia L. Thames
Deputy Director

State Personnel Board
Paul T. Yarbrough, Chairman

Devon Day Christine Romero
Rebecca Long

Interpretative Memorandum 2011 – 003

Date: May 31, 2011
To: Cabinet Secretaries, Agency Directors and Human Resource Managers
From: Eugene J. Moser, State Personnel Director
Subject: Personnel Record Retention Guidelines

1. Purpose

This shall serve to interpret the application of State Personnel Board (SPB) Rules and New Mexico Administrative Code (NMAC) for compliance with agency employment records¹, executive records retention² and general record retention³. This interpretative memorandum is applicable for all state employee personnel records that are employed in the classified system.

2. Background

The SPB Rules and Regulations require the State Personnel Office (SPO) and agencies maintain a record of each employee's employment history in accordance with operational necessity and applicable state and federal law requirements. In 2002 SPO transferred custody of its personnel files to agencies. However, proper personnel record retention instructions were not provided nor did SPO provide agency custodial oversight of employee personnel files. This agency custodial oversight is critical as the employee personnel record is the official permanent file of record for complete employment history.

Due to the lack of proper record retention instruction, agencies were not advised that these records should be retained differently than agency personnel records normally would be retained. This has resulted in official employee personnel files not being maintained in accordance with retention schedules. The application of record retention between NMAC codes has unintentional and improper record destruction practice that has resulted in non-compliance with the Public Records Act, Section 14-3-6 NMSA 1978.

¹ NMAC 1.7.1.12

² NMAC 1.18

³ NMAC 1.15

3. Guidelines

- A. Upon the termination of a state employee agencies are directed to return the employee's personnel file(s) to SPO for appropriate disposition. This will allow the disposition of records to be in accordance with the retention requirements established by NMAC codes.⁴
- B. The agency employee personnel files for separated employee records at the applicable agency shall contain the records specified in 1.18.378.17 NMAC, be properly prepared for archive retention and delivered to the State Personnel Office on a quarterly calendar basis. It shall be SPO's responsibility to transfer the records for retention.
- C. Agencies that currently have personnel records in retention at the State Records Center and Archives shall arrange to have those records returned to agency custody and delivered to SPO. Please contact Ken Giles, SPO Director of Human Resources Management at 505-690-2051 prior to delivery.

REPEALED

⁴ **Employee Personnel Files, Subsection D of 1.18.378.17 NMAC**, states, "**Retention:** 55 years from the last date of employment with the state of New Mexico"