

Najaka, Justin R., SPO

From: Najaka, Justin R., SPO
Sent: Tuesday, September 11, 2018 10:48 AM
To: 'connie@afscmenewmexico.org'
Cc: Martinez, Sandy, SPO; Winston, Moses, SPO; Thames, Nivia, SPO; Justin SPO Owens (Justin.Owens@state.nm.us)
Subject: Notice of Rule Hearing

NOTICE OF RULE HEARING

The State Personnel Office (“SPO”) hereby gives notice that SPO will conduct a public hearing to obtain public input on the following rulemaking actions:

Repeal of 1.7.6.12 NMAC – Rescission of Resignation

The hearing is scheduled to occur on Friday, October 12, 2018 at 9:00 am at the State Personnel Office Auditorium, 2600 Cerrillos Rd, Santa Fe, New Mexico.

Authority: Personnel Act, Section 10-9-10, NMSA 1978 and Section 10-9-12, NMSA 1978.

Purpose: The purpose of the repeal the 1.7.6.12 NMAC is to make an employee resignation effective immediately. Under the current rule, an employer must allow an employee three (3) days to rescind their resignation and the repeal of this rule will eliminate that time requirement.

Proposed Amendment:

This is an amendment to 1.7.6 NMAC, repealing Section 12, effective xx/xx/2018.

1.7.6.12 ~~[RESCISSION OF RESIGNATION: An employee may rescind a letter of resignation within three workdays of its submission and the agency must honor the rescission if it is submitted within the prescribed time limit.] [RESERVED]~~
[1-2-93 ... 5-15-96; Rn, 1 NMAC 7.8.16.2, 7-1-97; 1.7.6.12 NMAC - Rn, 1 NMAC 7.6.12, 11/30/00; A, 11/14/02; Repealed, xx/xx/2018]

Summary of full text: Removes the ability of an employee to rescind their resignation of employment within three (3) days.

Interested individuals may provide comments at the public hearing and/or submit written or electronic comments to Justin Owens, via email at Justin.owens@state.nm.us, fax (505) 476-7806, or mail to Attn: Justin Owens– Repeal of rule, State Personnel Office, 2600 Cerrillos Rd., Santa Fe, New Mexico.

Written comments must be received no later than 5:00 pm on the Thursday prior to the public hearing. However, the submission of written comments as soon as possible is encouraged. Persons may also submit written comments at the public hearing.

Copies of the proposed rule are available for download on the State Personnel Office’s website at <http://www.spo.state.nm.us/> and available at the State Personnel Office located at 2600 Cerrillos Rd, Santa Fe, NM 87505. A copy of the proposed rule may also be requested by contacting Justin Owens at (505) 476-7759.

Individuals with disabilities who require this information in an alternative format or need any form of auxiliary aid to attend or participate in the public hearing are asked to contact Justin Owens at (505) 476-7759 as soon as possible to provide requested special accommodations.

Justin Najaka CCP, SPHR, SHRM-SCP
State Personnel Director
New Mexico State Personnel Office
2600 Cerrillos Rd. Santa Fe, NM 87505

☎ **Cell: 505.490.2414**

 **HR Call Center: 505.476.7756**
 **Infolinkgency HR Support: 505.476.7759**

 **www.spo.state.nm.us**

 **justin.najaka@state.nm.us**



Najaka, Justin R., SPO

From: Najaka, Justin R., SPO
Sent: Tuesday, September 11, 2018 10:49 AM
To: 'Robin Gould'
Cc: Martinez, Sandy, SPO; Justin SPO Owens (Justin.Owens@state.nm.us); Winston, Moses, SPO; Thames, Nivia, SPO
Subject: Notice of Rule Making

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Justin Najaka CCP, SPHR, SHRM-SCP
State Personnel Director
New Mexico State Personnel Office
2600 Cerrillos Rd. Santa Fe, NM 87505

☎ **Cell: 505.490.2414**

☎ HR Call Center: 505.476.7756
☎ Infolinkgency HR Support: 505.476.7759

Website www.spo.state.nm.us

✉ justin.najaka@state.nm.us



State Personnel Office

Notice of Rule Hearing

Breakdown of Submitted Comments Regarding Recession of Resignation Repeal

Submitted Written Comments: 0

Submitted Electronic Comments: 24

Requests from Individuals with disabilities who require information in an alternative format or need any form of auxiliary aid to attend or participate in the public hearing: 0

Submitted by Fax: 1

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Owens, Justin, SPO

From: Castellano, Ellen, DCA
Sent: Tuesday, September 11, 2018 12:09 PM
To: Owens, Justin, SPO
Subject: Rescission of Resignation

Good Afternoon,

Please take into consideration the following:

It is for the protection of the *employee* to have a time period with which to rescind their resignation. Usually it is in the heat of an emotion that an employee may submit their resignation without a clear head and fully recognizing the impact that the resignation may have on their future. We are all human with emotions that may get stirred up unexpectedly at any given moment. With retirement plans attached to the employee's position, it may be detrimental to themselves and their families' wellbeing in the future. Since we are all "State" employees, we would be expunging a safety net which may possibly capture a bad decision made during a stressful time and save the many years placed within a current position. The repeal of section 12 - *WILL TRULY AFFECT ALL IN A NEGATIVE MANNER*. I am **against** the repeal of Section 1.7.6.12.

Thank you,

Ellen Castellano
Finance - MOIFA
706 Camino Lejo
Santa Fe, NM 87505
(505) 476-1208 FAX (505) 476-1300
ellen.castellano@state.nm.us



Owens, Justin, SPO

From: Curran, Antoinette, DOH
Sent: Tuesday, September 11, 2018 12:00 PM
To: Owens, Justin, SPO
Subject: Repeal of 1.7.6.12 NMAC – Rescission of Resignation

Good morning Mr. Owens

It has always been my concern that the State of New Mexico, has this type of policy to begin with. I have worked as a manager for over 40 years and when an employee (especially an exceptional employee) gave their notice, I always left the door open for them to change their minds. Sometimes it took trying to get them a raise or cross training them so that eventually move into positions that pay more within my department/division. So what I understand with the change of this policy is that if an employee gives notice, there is no changing their mind at any time? Please correct me if I am misunderstanding. Otherwise, my opinion, is that this change should be reconsidered.

Antoinette D. Curran
Business Operations Specialist



Accredited since 2015

Public Health Division
Family Health Bureau
2040 South Pacheco
Santa Fe, NM 87505
ph:(505) 476-8902
www.nmhealth.org



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Owens, Justin, SPO

From: Deal, Steven, NMENV
Sent: Tuesday, September 11, 2018 11:38 AM
To: Owens, Justin, SPO
Subject: RE: SPB Public Notice

Good Morning:

Please provide the rationale behind making this change. One would expect that such a change would include the reasoning behind the revision within the Notice of Rule Hearing for the people who cannot attend.

Steven M. Deal, P.E.
Project Engineer
Construction Programs Bureau
New Mexico Environment Department
2301 Entrada del Sol
Las Cruces, NM 88001
Office: (575) 915-1108

From: Announcements, DoIT
Sent: Tuesday, September 11, 2018 11:33 AM
Subject: SPB Public Notice

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Owens, Justin, SPO

From: Gurule, Brenda, NMCD
Sent: Tuesday, September 11, 2018 12:05 PM
To: Owens, Justin, SPO
Subject: Removal of 3 day rescind .

I am against the removal of the 3 day rescind , sometimes our job gets the best of us and we react to anxiety during this time we feel stressed that causes us to react in a whole new way. Because we are human and live in a world of stress we should be given the 3 days to weigh our options , a lot of us have been with the state for more then 10 years and have a lot invested in our careers with the state.

Owens, Justin, SPO

From: Hadwiger, David, NMDOT
Sent: Tuesday, September 11, 2018 11:41 AM
To: Owens, Justin, SPO
Subject: FW: SPB Public Notice

I like amending this to eliminate the requirement that the agency accept the rescission; however, my Bureau at NMDOT has found it useful once to allow an employee to rescind a letter of resignation. I would prefer that employee's be allowed to request a rescission but that acceptance of the rescission be at the agency's discretion.

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Sent: Tuesday, September 11, 2018 11:33 AM
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Owens, Justin, SPO

From: Skrupskis, Michelle, DOH
Sent: Tuesday, September 11, 2018 2:01 PM
To: Owens, Justin, SPO
Subject: FW: SPB Public Notice
Attachments: 2018-08-30 SPB Public Notice.docx

Good afternoon. I oppose any changes or specifically the Repeal of 1.7.6.12 NMAC – Rescission of Resignation. Thank you.

mas

Michelle A. Skrupskis, MPA
Regional Community Health Improvement Coordinator



Accredited since 2015

NM Department of Health
Regional Community Health Improvement Coordinator
West Side Health Office
6911 Taylor Ranch Rd. NW - Suite C-12
Albuquerque, NM 87120
phone: office: 505.899.8574 Ext. 16 - cell: 505.263.4584
fax: 505.899.8468



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Owens, Justin, SPO

From: Smith, Cory, EMNRD
Sent: Tuesday, September 11, 2018 11:58 AM
To: Owens, Justin, SPO
Subject: Attn: Justin Owens– Repeal of rule, State Personnel Office, 2600 Cerrillos Rd., Santa Fe, New Mexico.
Attachments: 2018-08-30 SPB Public Notice.docx

Justin,

I disagree with the proposed rule change. I feel that an employee could make an emotional decision, or one based on the current situation. I feel like 3 days is probably too much however 24-48 hours would allow the employee to talk to additional supervisors that may be on the outside of the current situation.

Thanks,

Cory Smith
Environmental Specialist
Oil Conservation Division
Energy, Minerals, & Natural Resources
1000 Rio Brazos, Aztec, NM 87410
(505)334-6178 ext 115
cory.smith@state.nm.us

From: Announcements, DoIT
Sent: Tuesday, September 11, 2018 11:33 AM
Subject: SPB Public Notice

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Owens, Justin, SPO

From: Travis, Elizabeth, NMDOT
Sent: Tuesday, September 11, 2018 4:46 PM
To: Owens, Justin, SPO
Subject: Comment: Rescission of Resignation - 1.7.6.12 NMAC

I wonder why the removal of this option is being considered. I oppose the rule change. Let me provide a recent example supporting the continuation of the rule as drafted.

I had an employee who was balancing work with her husband's grave, sudden illness. Feeling like she could not cope with both working and personal care, she submitted her resignation, which I accepted. The next day, it occurred to me that the circumstances she shared while providing her resignation qualified for FMLA. I asked her whether she had considered using FMLA she said she didn't think she would qualify. To shorten the story, we went to HR – and ultimately started the paper work for FMLA – rescinding her resignation on day 3.

There are many reasons that may drive a decision to resign from service for the state ... it seems that three days is reasonable to give the employee a pause to ensure the decision is not driven by misperception.

If an agency employer elects, it may require the employee who tenders a resignation letter to immediately leave the premises so as to not disrupt the workplace. That could be done with administrative leave or use of leave balances. Similarly, the supervisor could request IT to immediately lock-out the employee's access to email and servers – and to have the badge disabled. At the end of 3 days, should the resignation be rescinded, new access passwords and authorization could be easily given – or the restrictions made permanent.

A rule change that established that sort of procedure would be more reasonable than the proposed immediately effective resignation.

Elizabeth J. Travis, Deputy General Counsel
NMDOT – Office of General Counsel
POB 1149 - 1120 Cerrillos Road, Rm 123
Santa Fe, NM 87504-1149
(o) 505.795.1517 -- (c) 505.231.7659 -- (f) 505.690.2432

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Owens, Justin, SPO

From: Volker-Rector, Renee, DOH
Sent: Tuesday, September 11, 2018 12:05 PM
To: Owens, Justin, SPO
Subject: amendment to 1.7.6 NMAC repealing Section 12

Hi Justin,

I am **opposed** to the amendment to 1.7.6 NMAC repealing Section 12. I believe that the employee rights as currently written is reasonable to have 3 days to rescind their resignation. There are multiple reasons why a person may want to rescind a decision. I think it is in the State of New Mexico's best interest to keep a person employed as the cost benefit to the tax payer far outweighs the cost if someone was the resign and be without employment. This as you know can and probably will lead to unemployment.

There may be reasons why the Rule makes since to some. Please if you can, let me know why this came about as it is just plain curious.

Thank you,

Renee Volker-Rector
Health Educator



Accredited since 2015

Population and Community Health Bureau
Comprehensive Cancer Program, Public Health Division
5301 Central Ave. NE Suite 800
Albuquerque, NM 87108
ph:(505) 222-8620
fax:(505) 222-8602
www.nmhealth.org



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Owens, Justin, SPO

From: CDeBaca, Diego, CYFD
Sent: Wednesday, September 12, 2018 9:20 PM
To: Owens, Justin, SPO
Subject: Repeal of 1.7.6.12 NMAC – Rescission of Resignation comments.

Mr Owens,

Because I will be unable to attend the hearing in Santa Fe on the designated date at the designated time, I am sending my comments to you here;

I am NOT in favor of this repeal.

I believe that 1.7.6.12 NMAC should stand as it is written currently. If anything I believe that the time allowance for rescission of resignation should be extended for the two weeks as is considered respectable notice by an employee to leave employment. During that notice time frame, said employee should be allowed to rescind a resignation up to the moment of working their last day.

Thank you for your time in reading my comments.

CDeBaca, Diego YCS-I (JCO-I)
C.Y.F.D./J.J.S.; Camino Nuevo Youth Center.
Unit A2A; phone (505) 383-3855

Owens, Justin, SPO

From: John Olguin <jolguin02@hotmail.com>
Sent: Wednesday, September 12, 2018 12:05 PM
To: Owens, Justin, SPO
Subject: Repeal of 1.7.6.12 NMAC – Rescission of Resignation

It is pertinent to recognize that a person should have at least three days to determine he/she has made the right decision for his future. With removing the three day provision to change you mind to retire or resign, it gives management to much power over the employee. It could also be used as a tool to force an individual to resign or retire. At least with a three day time frame to take back your resignation, you have the ample time to discuss with family members or attorney guidance.

The new proposed rule to change or Repeal of 1.7.6.12 NMAC – Rescission of Resignation should not be even consider since it forces employees who have been battered by supervisors and coerced into resigning or retiring when they should have the time to change their mind.

This is an embarrassment to the state of New Mexico's Hard working employees. The employees are already being underpaid and doubled up with duties and now you want take away another tool for employees to protect their jobs. Que verguenza New Mexico.

Sent from Mail for Windows 10

Owens, Justin, SPO

From: Mitchell, Melissa, DOH
Sent: Thursday, September 13, 2018 8:50 AM
To: Owens, Justin, SPO
Subject: Responds to proposed changes to resignation rule

Follow Up Flag: Follow up
Flag Status: Flagged

Given the incredibly laborious and slow SPO process this rule seems contraindicated to the flow of state business. Employee retention should be the goal not expulsion. Agencies and offices are often without staff for several months following a resignation. If we could eliminate this issue even a tiny bit it would make sense to retain the rule and allow staff who had a change of heart to remain in their position, taking advantage of their experience there.

Melissa Mitchell, LCSW
Children's Medical Services
SW Supervisor
605 Letrado Street
Santa Fe NM 87505
505-476-2641

Owens, Justin, SPO

From: Quinn, Kevin, NMDWS
Sent: Thursday, September 13, 2018 11:55 AM
To: Owens, Justin, SPO
Subject: Repeal of 1.7.6.12 NMAC – Rescission of Resignation

Importance: High

Follow Up Flag: Follow up
Flag Status: Flagged

Good Morning,

As you are the person tasked with accepting comments, I would like to add my thoughts on this issue:

While I understand sometimes a resignation should be final, there are circumstances where the 3 day right to rescind should be kept in place.

As a cooling off period is given by law for some items purchased, so should there be a cooling off period on resignations. Sometimes in the heat of frustration folks can say things like I quit, that they may well regret.

Now as a boss I might not be happy with that however, I do realize some folks say things they didn't mean to. Usually an apology comes into play with the person asking for forgiveness, which can be granted. One of my employees was dealing with a death in the family (*a major stressor*.) and said things they shouldn't have. They later realized what they said and apologized., which I can forgive.

Additionally sometimes family matters might cause someone to resign but the doctor may tell them the situation is not as dire as they thought, such as a false negative cancer report. Maybe a family member was diagnosed with an incurable disease which might put a financial burden on the family and that employee needs to return to work in order to have needed insurances.

I don't see where this hurts or puts undue burden on the folks of the Human Resources bureaus of state agencies. Seems to me that they only have to hold onto the paperwork and not file it for 3 days.

Unless you could show where there are hundreds of these piling up causing massive issues, I don't think you have a case for elimination of this issue.

Thanks,
KEVIN QUINN

Owens, Justin, SPO

From: Steven M. Folkes <stevenmfolkes@yahoo.com>
Sent: Friday, September 14, 2018 7:52 AM
To: Owens, Justin, SPO
Subject: Employee resignation proposal

I oppose the the proposed change.
Thank you,
Steve Folkes



Virus-free. www.avg.com

Owens, Justin, SPO

From: Belanger, Theresa, HSD
Sent: Wednesday, September 19, 2018 12:33 PM
To: Owens, Justin, SPO
Subject: RE: SPB Public Notice

Good afternoon Mr. Owens,

I will not be at the public hearing on October 12, 2018 but would like to send a comment on the Amendment to 1.7.6 NMAC, repealing Section 12, effective xx/xx/2018.

In my opinion state employees should continue to have three (3) days to rescind their resignation rather than have the resignation effective immediately.

Thank you.

Theresa Belanger

*Theresa Belanger, LBSW, MA Medical Assistance Division
Native American Liaison (Chippewa)
Office: 505-827-3122 Theresa.belanger@state.nm.us*

"Do a good deed daily"

From: Annette Romero <aromero2516@gmail.com>
Sent: Wednesday, September 19, 2018 1:00 PM
To: Owens, Justin, SPO
Subject: Proposed Rulemaking for NMRHCA

Hello Mr. Owens,

I am writing this with great concern of this rule. I am a single mother with two year old twins. I am unable to retire at this time due to financial strains. I am not close to the age of 55. If this rule passes I am unable to receive subsidies which is now a major hardship as a single parent with small children and having to maintain all the necessities of life. Having several family members working for this state, State of NM, was an incentive, that had great benefits and to contribute into a good retirement. But as years have passed, working for state government and looking forward to the retirement to enjoy family is now becoming more of a letdown. I believe that those that have retired and come back to government should have been contributing, then maybe this all wouldn't be happening. It is unfair to have hard good working responsible employees that may enjoy what they do to retire. These are your dedicated employees that care about what they do and who it impacts.

Owens, Justin, SPO

From: Ortega, Vickie, DCA
Sent: Thursday, September 20, 2018 3:51 PM
To: Owens, Justin, SPO
Subject: Repeal of 1.7.6.12 NMAC -- Rescission of Resignation

Hello,

I will not be able to attend the hearing, but want to give my input: I am against this repeal. I feel it's not unreasonable to give employees 3 days after giving a resignation to rescind their resignation.

Thank you.

October 1, 2018

**To: Mr. Justin Owens
State of New Mexico**

Re: Rescission of Resignation

Dear Sir,

As a State employee and having just gone through a resignation in order to take a new position at another location, I am completely opposed to this being rescinded. At the time I did this none of my superiors including HR were able to give me an answer when I asked about having a time frame to rescind my resignation. When making what could be a life changing choice I believe a person should have some time to consider all factors. Many times there are things and personalities that can and do affect a final decision. It not only benefits the employee but the whole of the division and location.

Thank you for giving me the opportunity to voice my opposition to this matter.

A Concerned State Employee

Owens, Justin, SPO

From: Burkett, Valerie, NMCD
Sent: Wednesday, October 03, 2018 7:34 AM
To: Owens, Justin, SPO
Subject: Repeal of 1.7.6.12 NMAC – Rescission of Resignation

Hi Justin,

I would like to express my opinion on this matter.

Please do not take this away completely. I turned my notice in on a Friday and on Sunday, I called my supervisor and told him I had changed my mind. I'm really glad I did to because a couple weeks later this department was in the news with problems. I'm very glad I didn't go and I'm glad I had the option to change my mind. Perhaps you could compromise and go from three days to two or even one. Giving employees a choice goes a long way!

Thank you,
Valerie Burkett
Unit Secretary
TRC/Intake Unit
State of New Mexico
Probation/Parole Office
111 Gold SE
Albuquerque, NM 87102
(505) 841-4955
(505) 841-9678 - fax

Owens, Justin, SPO

From: Knight, Jeanne, DOH
Sent: Wednesday, October 03, 2018 10:29 AM
To: Owens, Justin, SPO
Subject: Repeal of 1.7.6.12 NMAC – Rescission of Resignation

As a state healthcare provider, an educator, and consultant, I oppose the proposed “rescission of resignation” changes to the Personnel Act. Allowing an individual time to reconsider such important decisions as a resignation is an important employee benefit which considers the nature of human frailty and considers the needs of an employee. The state of New Mexico has historically been instrumental in protecting the rights and needs of its employees. The current policy was enacted for a reason. There are times when individuals may respond to situations with a resignation when, if permitted the extra time provided by the current Act and the careful consideration that this time permits, may change their mind and rescind their resignation, especially if such a resignation may have been submitted in the context of workplace or life stresses. Additionally, the state should be concerned about continuing to protect the rights of all its employees, many of whom may have hidden, unrevealed, protected status such as disability which may interact with certain workplace stresses and precipitate a hasty response resulting in a resignation which upon reflection is not what was ultimately desired by the employee. Why might removal of “rescission of resignation” be under consideration in the first place? Clearly, the current Act supports employees and allows them to reconsider a potentially life-altering decision to separate from their employment. Isn’t this a positive which may permit the state to retain employees that are becoming increasingly harder to replace? Such provisions provide a workplace where employees can feel valued and which ultimately improves employees’ workplace productivity. There is no real benefit to making a resignation “effective immediately” and certainly considerable cost both to our state, its institutions and facilities, as well as to our state employees. Such an approach utilizes an authoritarian / autocratic workplace management style which research indicates is not among best organizational practices and leaves low autonomy of employees. This approach increases aggression and turn-over among employees. While increased investing in employees and their needs and increasing autonomy for employees increases productivity and satisfaction. I should like to see any policy changes motivated not by a punitive, authoritarian, expedient approach but by best workplace practices for optimizing and enhancing both our state and its employees.

Jeanne E. Knight

Jeanne E. Knight, Ph.D.

Jeanne E. Knight, Ph.D.

Clinical Neuropsychologist
Licensed Clinical Psychologist



Accredited since 2015

NMBHI *at Las Vegas,*
Long Term Care Division
3695 Hot Springs Blvd
Las Vegas, NM 87701
ph:(505) 454-2485
fax:(505) 454-2229
www.nmhealth.org



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Owens, Justin, SPO

From: Mowrey, Cindy, DVS
Sent: Wednesday, October 03, 2018 12:41 PM
To: Owens, Justin, SPO
Subject: RE: SPB Public Notice

Rescission of Resignation should continue to be allowed

From: Announcements, DoIT
Sent: Tuesday, September 11, 2018 11:33 AM
Subject: SPB Public Notice

NOTICE OF RULE HEARING

The State Personnel Office ("SPO") hereby gives notice that SPO will conduct a public hearing to obtain public input on the following rulemaking actions:

Repeal of 1.7.6.12 NMAC – Rescission of Resignation

The hearing is scheduled to occur on Friday, October 12, 2018 at 9:00 am at the State Personnel Office Auditorium, 2600 Cerrillos Rd, Santa Fe, New Mexico.

Authority: Personnel Act, Section 10-9-10, NMSA 1978 and Section 10-9-12, NMSA 1978.

Purpose: The purpose of the repeal the 1.7.6.12 NMAC is to make an employee resignation effective immediately. Under the current rule, an employer must allow an employee three (3) days to rescind their resignation and the repeal of this rule will eliminate that time requirement.

Proposed Amendment:

This is an amendment to 1.7.6 NMAC, repealing Section 12, effective xx/xx/2018.

1.7.6.12 ~~RESCISSION OF RESIGNATION: An employee may rescind a letter of resignation within three workdays of its submission and the agency must honor the rescission if it is submitted within the prescribed time limit.~~ [RESERVED]
[1-2-93 ... 5-15-96; Rn, 1 NMAC 7.8.16.2, 7-1-97; 1.7.6.12 NMAC - Rn, 1 NMAC 7.6.12, 11/30/00; A, 11/14/02; Repealed, xx/xx/2018]

Summary of full text: Removes the ability of an employee to rescind their resignation of employment within three (3) days.

Interested individuals may provide comments at the public hearing and/or submit written or electronic comments to Justin Owens, via email at Justin.owens@state.nm.us, fax (505) 476-7806, or mail to Attn: Justin Owens– Repeal of rule, State Personnel Office, 2600 Cerrillos Rd., Santa Fe, New Mexico.

Written comments must be received no later than 5:00 pm on the Thursday prior to the public hearing. However, the submission of written comments as soon as possible is encouraged. Persons may also submit written comments at the public hearing.

Copies of the proposed rule are available for download on the State Personnel Office's website at <http://www.spo.state.nm.us/> and available at the State Personnel Office located at 2600 Cerrillos Rd, Santa Fe, NM 87505. A copy of the proposed rule may also be requested by contacting Justin Owens at (505) 476-7759.

Individuals with disabilities who require this information in an alternative format or need any form of auxiliary aid to attend or participate in the public hearing are asked to contact Justin Owens at (505) 476-7759 as soon as possible to provide requested special accommodations.

Re: Repeal of 1.7.6.12 NMAC – Rescission of Resignation

The State of New Mexico, State Personnel Office should look to expand the period of time for employees to indicate their wish to resign from their current position rather than extinguish all possible communication timelines. With the removal of the three-day window to rescind a resignation, the state and the employee lose all opportunity of communication if this is the employee's first indication of leaving the position. It is in the best interest of the state and employees to maintain the three-day window to rescind a resignation.

Ideally, the State of New Mexico, should expand the policies of resignation or separation from state employment to encourage open dialogue and sufficient time for communication. States like Virginia, have in state policy (link below), requirements of advance notice to an agency, reasons for resigning and a 30-day window to rescind a resignation. The repercussions of not providing advance notice can be noted in the individual's personnel file.

http://web1.dhrm.virginia.gov/itech/hrpolicy/pol1_70.html

The circumstances for individuals to resign are vast. While policies are in place to afford opportunity to discuss adverse situations, unfortunately, some employees may be unaware of human resource policies or feel they have no recourse but to resign. Without the three-day window, valuable information as to circumstances surrounding their resignation may never be obtained. The three-day window allows time to address the adverse situation and potentially support the individual remaining at their position if so desired.

For the state and supervisors, losing a window of time to negotiate with an employee may be detrimental when the employee proves proficient, productive and a long-term asset to the department or agency. The three-day time period may allow time to keep the employee, satisfying areas of discontent: work environment; salary; leave-requests, etc.

In summary and to repeat, it is in the best interest of the state and employees to maintain the three-day window to rescind a resignation. [1.7.6.12 NMAC]

10/04/18

Lucinda.Sydow2@state.nm.us



October 10, 2018

email and registered mail

Justin Najaka
Director
New Mexico State Personnel Office
2600 Cerrillos Road, Santa Fe, NM 87505

Dear Mr. Najaka,

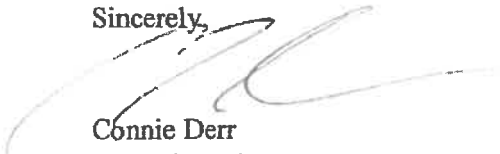
AFSCME Council 18 opposes the proposed change by the State Personnel Office to remove an employee's right to rescind their resignation of employment within three days.

SPO has yet to offer a rationale for the proposed change of this long-standing policy, 1.7.6.12 of the NMAC. What is the basis for this proposed change? How many employees annually avail themselves to this "cooling off" period?

Employees in virtually every agency across the state are underpaid and overworked. As human resource specialists, SPO should understand that these two critical stressors often cause employees to contemplate and/or act on the desire to quit state service. As well, there are a multitude of unrelated reasons for an employee to resign, and immediately (within three days) regret the decision. For the state to propose not allowing the re-consideration period is a waste of valuable resources, especially as the state struggles with recruitment and retention.

Lastly, of all the issues that SPO can impact to make the State of New Mexico a better employer, I question the motivation of making such changes when this administration is in its waning days. These issues should be left for the next administration to determine its benefit/disadvantage.

Sincerely,



Connie Derr
Executive Director
AFSCME Council 18

cc: AFSCME State Local Unions

Owens, Justin, SPO

From: Fuentes, Gilbert T, PRC
Sent: Thursday, October 11, 2018 12:03 PM
To: Owens, Justin, SPO
Subject: Amendment to 1.7.6 NMAC, repealing Section 12

Good afternoon,

The following comments are in response to the proposed amendment below:

- 1.) This rule should not be repealed.
- 2.) The removal of the rule could endanger employees by encouraging abuse by bad managers/superiors.
- 3.) Managers could find it easier to threaten, coerce and force employees to resign before the employee can speak to anyone about what may have happened to them.
- 4.) An employee should be able to resign for their own safety in the event they need to get away from violent managers without losing their job.
- 5.) Managers could threaten, reprimand, fire and accuse the employee of being AWOL and the employee may have no option but to resign when overpowered by aggressive superiors. Some managers have and will continue to deny an employee any type of leave to temporarily get away by stating that the employee did not provide enough notice to take the leave. This may cause the employee to feel desperate and quit. The employee should be able to return to work.
- 6.) The rules allows for accountability. If employees feel they need to quit to get away from violent managers this will give State Personnel a chance to investigate and deal with the manager before a lawsuit is brought.
- 7.) The rule could help a career employee who was misinformed by a different state employer regarding a new position the employee has accepted.
- 8.) Instead work to make State Personnel settlements public. These should be published, at least, by naming agencies. This will help hold managers accountable and keep employees from applying with bad or dysfunctional agencies and creating vacancies when they resign. This will encourage accountability. It will ensure the State is properly running its departments.
- 9.) This rule is likely seldom used but is of more value to the individual rather than the power large government bureaucracy gains from its removal. The necessity of removing this rule does not seem to be present or all that beneficial to State Government.
- 10.) The concerns listed above are especially pertinent in situations where employees are sexual harassed.

Proposed Amendment:

This is an amendment to 1.7.6 NMAC, repealing Section 12, effective xx/xx/2018.

1.7.6.12 ~~[RESCISSION OF RESIGNATION: An employee may rescind a letter of resignation within three workdays of its submission and the agency must honor the rescission if it is submitted within the prescribed time limit.] [RESERVED]~~
[1-2-93 ... 5-15-96; Rn, 1 NMAC 7.8.16.2, 7-1-97; 1.7.6.12 NMAC - Rn, 1 NMAC 7.6.12, 11/30/00; A, 11/14/02; Repealed, xx/xx/2018]

Summary of full text: Removes the ability of an employee to rescind their resignation of employment within three (3) days.

Interested individuals may provide comments at the public hearing and/or submit written or electronic comments to Justin Owens, via email at Justin.owens@state.nm.us, fax (505) 476-7806, or mail to Attn: Justin Owens– Repeal of rule, State Personnel Office, 2600 Cerrillos Rd., Santa Fe, New Mexico.

Written comments must be received no later than 5:00 pm on the Thursday prior to the public hearing. However, the submission of written comments as soon as possible is encouraged. Persons may also submit written comments at the public hearing.

Owens, Justin, SPO

From: Melinda Wolinsky <melindalwolinsky@gmail.com>
Sent: Thursday, October 11, 2018 1:23 PM
To: Owens, Justin, SPO
Subject: [EXT] Rule 1.7.6.12 Proposed Repeal ~ Comments in Opposition.

Dear Mr. Owens,

New Mexico State employees have a property interest in their jobs after working for the State for one year. The proposed repeal of rule 1.7.6.12 NMAC, that provides that State employees may rescind their resignation within three (3) days, is a taking of property without just compensation in violation of the New Mexico Constitution, art. II, § 18, "Due process; equal protection; sex discrimination" and art. II § 20, Eminent domain." Further, by repealing 1.7.6.12 NMAC, the State would also be in violation of the taking clause of the United States Constitution.; from which it has no sovereign immunity. The proposed repeal violates the Due Process Clause of the United States Constitution as well. These violations will likely result in lawsuits against the State.

The purpose of Rule 1.7.6.12 NMAC is twofold. First, it protects employees from intimidating supervisors. It gives employees an opportunity to investigate and consider other options available to the employee in addition to resignation. It provides an opportunity for the employee to consult a union representative, an attorney or a financial planner. This three-day time period is also a benefit to the State. Should an employee decide to rescind their resignation, after being coerced by a supervisor to tender it, the employee has likely mitigated damages that might be imposed on the State should the coercion and intimidation be the basis of a lawsuit. It also allows time for the State to intervene when a resignation is tendered under duress. Additionally, it places the employee closer to a level playing field with its employer and not in the perceived position as underdog. The second purpose of Rule 1.7.6.12 is it protects employees from making an emotional decision that might have significant consequences on the employee's career and family.

The proposed repeal is not done in good faith. Waiting three (3) days, before the position held by the employee is considered "open," is not a hardship to the State. The State's hiring process is cumbersome and time consuming. The process is not significantly impacted by having to wait three (3) days.

For the foregoing reasons, I ask that the proposed repeal of Rule 1.7.6.12 NMAC be withdrawn.

Thank you for your consideration.

Sincerely,

Melinda L. Wolinsky



New Mexico State Personnel Board State Personnel Office

SUSANA MARTINEZ
GOVERNOR

State Personnel Board
Christine B. Romero, Chair
Jerry Manzagol, Vice Chair

Justin Najaka
Director

Nivia L. Thames
Deputy Director

Megan Muirhead
Carmen V. Chavez

Rulemaking Hearing Minutes – October 12, 2018 1.7.6.12 NMAC Rescission of Resignation

Call to Order: The meeting was called to order at 9:00 am.

Present: Director Justin Najaka and Assistant Attorney General Gideon Elliot were present.

Introduction: On August 24, 2018, SPO proposed to repeal rule 1.7.6.12 NMAC - Recession of Resignation allowing for 3 day appeal. The purpose of this rule repeal is to make an employee resignation effective immediately. Under the current rule, an employer must allow an employee three (3) days to rescind their resignation and the repeal of this rule will eliminate that time requirement.

Director Najaka, stated that he was appointed as a hearing officer by the State Personnel Board to preside over this hearing. Proper notice was made interested parties were notified. The 30-day comment period ended yesterday October 11, 2018; as such this hearing was pre-scheduled at 9:00 am today October 12th, 2018. Director Najaka advised he will not provide opinions; nor make recommendation during this hearing. He will prepare a recommendation to the State Personnel Board that includes response to comments received in the 30-day open comment period and comments provided today and the State Personnel Board will make a determination at its next regularly scheduled meeting at 9:00 am next Friday, October 19th, 2018.

Director Najaka noted that 24 electronic comments were submitted via e-mail; 1 comment was submitted by fax, and 0 written comments were submitted. No requests were received from individuals who require information in an alternative format or need any form of auxiliary aid to attend or participate in this public hearing.

Director Najaka advised individuals wishing provide public comment or submit information at this hearing to state their name and any relevant affiliation for the record and that they must be recognized before presenting in order to facilitate public comment and create a clear rulemaking record in a simple and organized manner. Two individuals were in attendance at this hearing and provided the following comment:

2600 Cerrillos Road, Santa Fe, New Mexico, 87505 (505) 476-7759



NEW MEXICO
CENTENNIAL
1912 2012

AGENCY PARTNER
NEW MEXICO STATE PERSONNEL BOARD

1. Arthur Fuldauer. I am a retired public employee for 27 years with DOH-Children's Medical Services. I am in opposition to rule change. I have personally experienced the effects of this process. A fellow employee who worked for me while under DOH was promised a better paying job. With the concept of that State legislator takes time to prepare increases/raises in mind, this employee handed in his resignation, the next day he found out the job was not what expected. DOH was saved by this rule. I have been a union steward, I have worked with union, and I am able to manage conflicts. I am quite sure of having a day or two to make decision is an advantage. For the state, to hire and retain is difficult. This is a dis-service to our public stake holders if not in place. The rule may have some administrative burden, but as it opposes to the hiring process and continuity of service, I believe it balances off. I have talked to current state employees and they have mention it makes sense to have the rule.
2. Sandra Perea, I am a 21 year vet of NMCD probation and parole, I am a steward and have been for 16 years. I oppose the rule. It is very difficult being in public service and dealing with the short falls; not enough staff, limited resources, issues with losing personnel, and most state are under staffed and are having to double up work load. This puts extra stress on the employee. There are days some people feel like quitting and giving up. The public demands more, and the state is unable to meet the request. One may turn in their resignation in the moment of stress, it would be great if the 2 holding period remained. I believe it help with saving money instead of training another person. To keep It would give a purpose for morale, senior members of an organization, it would benefit the state in the long run to maintain the opportunity to keep well trained and educated to service the public.

Director Najaka thanked the two individuals for taking the time to attend and provide input on this matter and reminded them that the State Personnel Board will consider their input and all written comments at 9:00 am on October 19, 2018 at the next State Personnel Board meeting.

Adjourn: The meeting adjourned at 9:14 am.

Attested as accurate and approved by:



Justin Najaka,
State Personnel Director

2600 Cerrillos Road, Santa Fe, New Mexico, 87505 (505) 476-7759



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