

**CITY OF RIO RANCHO  
PERSONNEL POLICIES AND WORK RULES**

**TABLE OF CONTENTS**

---

|                  |  |            |
|------------------|--|------------|
| <b>CHAPTER 1</b> | <b>DEFINITIONS</b>                                     | <b>1-1</b> |
| <b>CHAPTER 2</b> | <b>GENERAL PROVISIONS</b>                              |            |
|                  | 201. Adoption  | 2-1        |
|                  | 202. Prior Rules                                       | 2-1        |
|                  | 203. Compliance  | 2-1        |
|                  | 204. Penalties   | 2-1        |
|                  | 205. Purpose   | 2-1        |
|                  | 206. Coverage of Policies & Rules                      | 2-1        |
|                  | 207. Merit Principles                                  | 2-1        |
|                  | 208. Interpretations & Matters Not Covered             | 2-2        |
|                  | 209. Technical Rules                                   | 2-2        |
|                  | 210. Changes, Modifications & Revisions of These Rules | 2-2        |
|                  | 211. Distribution of Personnel Policies and Rules      | 2-2        |
|                  | 212. Policies Limitation                               | 2-3        |
| <b>CHAPTER 3</b> | <b>EMPLOYMENT POLICIES</b>                             |            |
|                  | 301. Recruitment & Selection                           | 3-1        |
|                  | 302. New Employee Orientation                          | 3-2        |
|                  | 303. Employment Categories                             | 3-2        |
|                  | 304. Hours of Work                                     | 3-4        |
|                  | 305. Reporting for Work                                | 3-5        |
|                  | 306. Employment of Relatives                           | 3-5        |
|                  | 307. Outside Employment                                | 3-5        |
| <b>CHAPTER 4</b> | <b>CLASSIFICATION PLAN</b>                             |            |
|                  | 401. Classification Plan                               | 4-1        |
|                  | 402. Duties of Personnel Department                    | 4-1        |
|                  | 403. Job Descriptions                                  | 4-1        |
|                  | 404. Change in Employee Status and/or Anniversary Date | 4-1        |

**CITY OF RIO RANCHO  
PERSONNEL POLICIES AND WORK RULES**

**TABLE OF CONTENTS**

---

**CHAPTER 5                    COMPENSATION PLAN**

|      |                     |     |
|------|---------------------|-----|
| 501. | Objectives          | 5-1 |
| 502. | Rate Schedules      | 5-1 |
| 503. | Hiring Rate         | 5-1 |
| 504. | Payroll Procedures  | 5-2 |
| 505. | Merit Pay Increases | 5-3 |

**CHAPTER 6                    PERFORMANCE EVALUATION**

|      |                                  |     |
|------|----------------------------------|-----|
| 601. | Objectives                       | 6-1 |
| 602. | Performance Evaluation Procedure | 6-1 |
| 603. | Performance Evaluation Results   | 6-2 |
| 604. | Confidentiality                  | 6-3 |

**CHAPTER 7                    CORRECTIVE AND DISCIPLINARY ACTIONS, DISPUTE RESOLUTION PROCEDURE**

|      |                                       |     |
|------|---------------------------------------|-----|
| 701. | Corrective and Disciplinary Action    | 7-1 |
| 702. | Dispute Resolution Procedure          | 7-4 |
| 703. | Definition                            | 7-4 |
| 704. | Class I Dispute Resolution Procedure  | 7-5 |
| 705. | Class II Dispute Resolution Procedure | 7-6 |
| 706. | Disposition of Records                | 7-9 |

**CHAPTER 8                    EMPLOYEE BENEFITS**

|      |                            |      |
|------|----------------------------|------|
| 801. | Vacation                   | 8-1  |
| 802. | Holidays                   | 8-2  |
| 803. | Sick Leave                 | 8-2  |
| 804. | Medical Leave              | 8-4  |
| 805. | Military Leave             | 8-8  |
| 806. | Funeral Leave              | 8-8  |
| 807. | Court Leave                | 8-9  |
| 808. | Voting Time                | 8-9  |
| 809. | Leave With Pay             | 8-9  |
| 810. | Personal Leave Without Pay | 8-10 |
| 811. | Educational Assistance     | 8-10 |
| 812. | Other Benefits             | 8-14 |
| 813. | Benefit Changes            | 8-15 |

**CHAPTER 9                    TERMINATION OF EMPLOYMENT**

**CITY OF RIO RANCHO  
PERSONNEL POLICIES AND WORK RULES**

**TABLE OF CONTENTS**

---

|      |  |     |
|------|--|-----|
| 901. | Resignation, Release, Retirement, Discharge, Death, Layoff | 9-1 |
| 902. | Exit Interview   | 9-2 |
| 903. | Final Pay  | 9-2 |
| 904. | Return of City Property                                    | 9-2 |

**CHAPTER 10 EMPLOYEE CONDUCT**

|       |                             |       |
|-------|-----------------------------|-------|
| 1001. | Employee Behavior           | 10-1  |
| 1002. | Attendance and Punctuality  | 10-1  |
| 1003. | Absence Policy              | 10-1  |
| 1004. | Safety Practices            | 10-2  |
| 1005. | Personal Appearance         | 10-3  |
| 1006. | Telephone Usage             | 10-3  |
| 1007. | Political Activity          | 10-3  |
| 1008. | Drug Free Workplace Policy  | 10-4  |
| 1009. | Smoking                     | 10-9  |
| 1010. | Public Relations            | 10-10 |
| 1011. | Code of Conduct             | 10-10 |
| 1012. | Workplace/Domestic Violence | 10-11 |

**CHAPTER 11 MISCELLANEOUS**

|       |                              |      |
|-------|------------------------------|------|
| 1101. | Equal Employment Opportunity | 11-1 |
| 1102. | Harassment                   | 11-1 |
| 1103. | Sexual Harassment            | 11-1 |
| 1104. | Reporting of Other Incidents | 11-2 |
| 1105. | Personnel Records            | 11-2 |
| 1106. | Department Records           | 11-3 |
| 1107. | Confidentiality of Records   | 11-4 |
| 1108. | Employee Information         | 11-4 |
| 1109. | Transportation Costs         | 11-4 |
| 1110. | Use of Automobiles           | 11-5 |

**INDEX**

# PERSONNEL POLICIES AND WORK RULES

## CHAPTER 1 DEFINITIONS

As used in these Rules and Procedures, the following words and terms shall be defined as follows:

- 1.1 "Allocation" means the action taken to assign a position to an appropriate class.
- 1.2 "Anniversary Date" means the date upon which the performance evaluation occurs. This date initially corresponds to the hire date, but may be changed by subsequent promotions, demotions, transfers or other personnel actions.
- 1.3 "Application" means all written material submitted by an individual to indicate interest in a position with the City.
- 1.4 "Appointment" means the action for employment as a department director in which the Mayor recommends the appointment and the Governing Body approves.
- 1.5 "Break in Service" means any period following termination of employment of at least one normal work day and shall affect the employee's anniversary date.
- 1.6 "Candidate" means any person who has qualified under these Rules for employment to a position in a specified classification.
- 1.7 "Classification" means one or more positions in the City sufficiently similar in duties and responsibilities, degree of supervision exercised or received, and minimum qualifications, so that the same descriptive title may be used to designate them and the same salary grade applied to all such positions.
- 1.8 "Classified Position" means a job which requires a regularly assigned combination of duties to be performed by one employee in the City and a position which is not temporary and may or may not be exempt under the Fair Labor Standards Act.
- 1.9 "Compensation Plan" means a series of salary grades. Each position is assigned to a grade, based upon the evaluation of the position.
- 1.10 "Confidential" means work related communication that is not intended to be disclosed to other persons, other than those with a certified need to know.
- 1.11 "Controlled Substance" includes, but is not limited to, heroin, marijuana, cocaine, PCP and "crack" as well as "legal" drugs not prescribed by a licensed physician.

## PERSONNEL POLICIES AND WORK RULES

- 1.12 "Corrective Action" means oral or written warnings or written reprimands.
- 1.13 "Demotion" means the change of an employee, for disciplinary or other reasons, from a position in one class to a position in a class with a lower salary grade, for which the employee qualifies.
- 1.14 "Department or Office" means the administrative grouping of divisions, sections, units and subunits as specified by the current City organizational chart as adopted by the Governing Body.
- 1.15 "Deputy or Assistant Director" means an employee who serves as an assistant to the department director and who is empowered to act in the absence of the director.
- 1.16 "Director or Department Director " means the head of a department of the City.
- 1.17 "Disability" means the temporary physical or mental inability of a current employee to perform the essential job duties.
- 1.18 "Disabled Person" means anyone who has a medically documented physical or mental impairment which substantially limits one or more major life activities or has a record of such an impairment or is regarded as having such an impairment. "Life activities" are those that affect employability; "substantially limits" means that a person is likely to have difficulty getting, keeping, or advancing in a job because of an impairment.
- 1.19 "Discharge" means the involuntary termination of an employee for disciplinary reasons.
- 1.20 "Disciplinary Action" means suspension, demotion or discharge.
- 1.21 "Dispute" means an expression of dissatisfaction and a request for a review by an employee of a possible violation of a City Personnel policy or procedure.
- 1.22 "Employee" means any person placed on the City payroll to perform work for the City for which compensation is received.
- 1.23 "Employee Relations" means all matters that are subject to consultation, negotiation and communication among employees, between employees and supervisors, or between the Governing Body and executive, supervisory, or other employees.
- 1.24 "Employment" means the hiring of a person into a position.
- 1.25 "Equal Employment Opportunity" expresses the commitment of the City to provide equal access to job opportunities for applicants and employees regardless of race, age, religion, color, national origin, ancestry, sex, physical or mental handicap or medical condition.

## PERSONNEL POLICIES AND WORK RULES

- 1.26 **"Exempt Position"** means any City office, job, or position of employment determined by the Administration to be exempt from application of the Fair Labor Standards Act and for which the City is not obligated to compensate for work in excess of 40 hours per week.
- 1.27 **"Fact Finding"** means the official identification of the major issues in a particular dispute and the official review of the position of the parties for the resolution of formal differences by one or more impartial fact finders, as authorized.
- 1.28 **"Fair Labor Standards Act (FLSA)"** means the federal law enacted by the U.S. Congress in 1938, as amended, to regulate minimum wages, overtime pay, equal pay, record keeping and child labor standards.
- 1.29 **"Good Standing"** in the case of a terminated employee, will be determined by examining the employee's past employment history, including but not limited to; sufficient notice of resignation, past performance appraisals, disciplinary actions, the exit interview and other pertinent documentation.
- 1.30 **"Hatch Act"** means that federal law (5 USC Sections 1501 to 1508) which prohibits certain partisan political activity by an employee whose principal employment is in connection with an activity which is financed in whole or in part by loans or grants made by the United States or a federal agency.
- 1.31 **"Immediate Family"** means the parent, stepparent, grandparent, spouse, child, stepchild, sister, brother, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law or grandchild of the employee and shall also include persons with whom the employee has a legal custodial relationship, or who, through life-style accommodations, have the substantial equivalent of a family relationship.
- 1.32 **"Just Cause"** means any behavior relating to the employee's work, which is inconsistent with the employee's obligation to the City. Just cause includes but is not limited to: inefficiency; incompetency; misconduct; negligence; insubordination; performance which continues to be inadequate after reasonable efforts have been made to correct it; or conviction of a felony or misdemeanor where the provisions of the Criminal Offender Employment Act apply.
- 1.33 **"Layoff"** means the involuntary separation, without prejudice, of an employee when a position has been abolished because of insufficient funds, or because of lack of work resulting in a reduction in force or reorganization.
- 1.34 **"Leave of Absence"** means a period of approved absence from active work during which the employee is not separated from service with the City. Such leave may be paid or unpaid as defined under the applicable section of Chapter 8 of these rules.

## PERSONNEL POLICIES AND WORK RULES

- 1.35 **"Management"** means the collective body of those who direct, supervise, or administer within the City's organization of departments, divisions, and sections.
- 1.36 **"Mandate"** means any federal law, federal regulation, state law, state regulation, Sandoval County ordinance, municipal ordinance of the City of Rio Rancho, resolution of the City of Rio Rancho, approved motion of the Governing Body, personnel rules and regulations, departmental rules and regulations, and rulings of federal, state, metropolitan, and municipal courts.
- 1.37 **"Nepotism"** means to employ in a subordinate position a person related by blood or marriage within the third degree. (10-1-10, 10-1-11 NMSA 1978, as amended.)
- 1.38 **"Nonexempt Position"** means any city job or position that is subject to the terms and provisions of the Fair Labor Standards Act and requires the payment at one-and-one-half (1-1/2) times the employee's base rate of pay for all overtime hours worked.
- 1.39 **"Position Description"** means a written statement of duties and responsibilities which are characteristic of a position and includes the education, experience, knowledge, and ability required to perform the duties of the position.
- 1.40 **"Probation Period" or "Probationary Period"** means a period of twelve (12) months served by an employee, during which the employee demonstrates the ability to adequately perform the job.
- 1.41 **"Promotion"** means the change of an employee from a position in one class to a position in a class with a higher salary grade.
- 1.42 **"Reclassification"** means a change of a position from one classification to another.
- 1.43 **"Reemployment"** means the employment of a former employee in any position with a new employment date.
- 1.44 **"Reinstatement"** means the return of an employee, who was on a leave of absence, to employment in any position without a break in service.
- 1.45 **"Resignation"** means a voluntary termination from employment at the request of the employee.
- 1.46 **"Resolution"** means the full permanent record of an official action, policy, or position adopted by an affirmative vote by a majority of all members of the Governing Body, and having the force of law upon the employees and operations of the City.
- 1.47 **"Rules"** means the Personnel Policies and Work Rules as may be amended, distributed in accordance with the provisions of the City's personnel ordinance.

## PERSONNEL POLICIES AND WORK RULES

- 1.48 "Salary Grade" means a division of the wage and salary schedule to which a salary range is assigned.
- 1.49 "Selection" means the choosing of a candidate for employment.
- 1.50 "Seniority" means length of continuous service.
- 1.51 "Status" means the rights and privileges of a position.
- 1.52 "Supervisor" means an employee who manages a recognized work unit and who customarily and regularly directs the work of two or more other employees. Direction includes performing or making recommendations, which are given particular weight, in such areas as; training, establishing work schedules and authorizing overtime, appraising performance, hiring, promoting, disciplining or terminating employees.
- 1.53 "Suspension" means the involuntary leave without pay of an employee for disciplinary reasons. In no event shall a suspension exceed thirty (30) calendar days.
- 1.54 "Temporary Position" means a position for which the services performed by an employee are required for a period of no more than nine (9) months or who works less than twenty (20) hours per week.
- 1.55 A Term employee  $\cong$  individuals employed for a specific period of time.
- 1.56 "Termination" means the discontinuation of employment with the City, whether due to layoff, resignation, discharge, or other reason.
- 1.57 "Test" means a method of measuring qualifications, fitness and ability, and includes examinations that are either written, rated, oral, physical or in the form of a demonstration of skill or ability, or any combination thereof.
- 1.58 "Transfer" means the movement of an employee from one classified position to another classified position within the same salary grade, or from the employee's current position to the same position in another department, without a break in service.
- 1.59 "Unexcused Absence" means an absence which is not reported in a timely manner, i.e., within one hour of the normal starting time unless in an emergency, or an absence for which the supervisor requested documentation before the employee returned to work and the employee did not provide satisfactory proof.

## PERSONNEL POLICIES AND WORK RULES

- 1.60 **"Unscheduled Absence"** means any absence from work which was not scheduled with the supervisor at least 72 hours in advance, with the exception of sick or bereavement leave.
- 1.61 **"Veteran"** means any person, except one receiving a retirement annuity, who served in the United States Armed Forces for at least one hundred eighty (180) days and/or was separated under other than dishonorable conditions. An individual separated from the armed forces prior to completing one hundred eighty (180) days of service for a service-connected disability or under hardship conditions shall be considered a veteran.
- 1.62 **"Working Day"** means a normal business day upon which City offices are open to the public; specifically, Monday through Friday, except those days declared legal holidays.

# PERSONNEL POLICIES AND WORK RULES

## CHAPTER 2 GENERAL PROVISIONS

201. Adoption: Pursuant to 3-13-4 NMSA 1978, as amended, and Chapter 6, Article 2 of the City Code, the following Personnel Rules and Procedures are adopted by the Governing Body of the City of Rio Rancho by Resolution No. 41 and take effect February 26, 1992.
202. Prior Rules: The Personnel Policies and Work Rules with all amendments thereto in effect prior to the adoption of these Policies and Rules are hereby superseded.
203. Compliance: All persons covered by the provisions of these Personnel Policies and Work Rules shall conform to, comply with and aid in all proper ways in carrying out the provisions of these Policies and Rules.
204. Penalties: Any employee, who, alone or with others, willfully violates any provisions of these Rules and Procedures, in addition to any other penalty imposed for such violations, is subject to disciplinary action, including suspension or termination.
205. Purpose: These Policies and Rules are set forth for the purpose of implementing and maintaining the merit personnel system, thereby promoting efficiency in the conduct of public business and assuring fair and impartial treatment for all City employees and applicants for employment.
206. Coverage of These Policies and Rules: These Policies and Rules shall apply to all positions and employees except:
- A. Officials elected by popular vote or appointed to fill vacancies in elective offices;
  - B. Members of City boards and commissions;
  - C. Those on a professional services contract;
  - D. Those who have been hired on a temporary or emergency basis; and
  - E. Employees of the Municipal Court.
207. Merit Principles: The principles of the merit system of personnel administration are as follows:
- A. Recruiting, selecting, and advancing employees will be on the basis of their relative ability, knowledge, and skills, including consideration of qualified applicants for initial employment;
  - B. Equitable and adequate compensation will be provided;
  - C. Employees will be trained, as needed, to assure high quality performance and on-the-job safety;

## PERSONNEL POLICIES AND WORK RULES

- D. Employees will be retained on the basis of adequacy of their performance, and provisions will be made for correcting inadequate performance and terminating employees whose inadequate performance cannot be corrected;
  - E. Employees and applicants will be assured fair treatment in all aspects of personnel administration without regard to race, age, religion, color, national origin, ancestry, sex, physical or mental handicap, medical condition or political affiliation and proper regard for their privacy and constitutional rights as citizens, will be assured; and
  - F. Employees will be protected against coercion for political purposes and will be prohibited from using their official authority for the purpose of interfering with or affecting the results of an election or a nomination for office.
208. Interpretations and Matters Not Covered: The City Administrator may issue such administrative policies as are necessary to implement the provisions of these Policies and Rules.
209. Technical Rules: These Policies and Rules relate to the matters of personnel administration and may not cover every department's procedures, standard practices, standing orders, or other technical matters. A department director shall make such departmental rules and procedures as are not in conflict with these Policies and Rules, provided such departmental rules and procedures shall be subject to approval by the City Administrator. Upon adoption, the department director shall file a copy of the departmental rules and any amendments or changes with the Human Resources Department.
210. Changes, Modifications and Revisions of These Rules:
- A. Changes: These Policies and Rules are issued by authority of the Governing Body and may be amended by resolution. Suggestions for amendments to or changes in these Policies and Rules are welcome and may be submitted in writing to the Human Resources Department.
  - B. Temporary Modifications: The Governing Body may temporarily modify, suspend or waive any of these Policies and Rules if it would be reasonable, appropriate, lawful and necessary for the orderly and efficient administration of the City.
  - C. Revisions: Proposed revisions of these Policies and Rules shall be circulated by the Human Resources Director to all department directors, and notices posted in areas accessible to City employees, at least fourteen (14) calendar days in advance of consideration for final approval by the Governing Body. Such notice shall provide opportunity for comment and shall include the date, time, and place of the meeting at which the Governing Body intends final consideration. Revisions to these Policies and Rules shall become effective upon approval by the Governing Body.
211. Distribution of Personnel Policies and Rules: Copies of these Policies and Rules and all amendments thereto shall be issued to all employees. Directors shall maintain a copy in their respective departments. Employees shall be responsible for inserting changes as they are

## PERSONNEL POLICIES AND WORK RULES

issued. New employees shall be given a copy of these Policies and Rules.

212. These policies do not create a contract between the City of Rio Rancho and any employee, or grant to any employee the right to be continued in the employment of the City of Rio Rancho, or limit the right of the City of Rio Rancho to discharge employees.

# PERSONNEL POLICIES AND WORK RULES

## CHAPTER 3 EMPLOYMENT POLICIES

301. Recruitment and Selection: The Human Resources Director shall be responsible for ensuring compliance with City policies and rules concerning the recruitment and selection of City employees as follows:
- A. The department director shall submit a Personnel Requisition form to the Department of Human Resources;
  - B. Criteria for selection shall be established for each position for which recruitment is being conducted; such criteria shall be determined solely on the basis of the duties of the position;
  - C. It is City policy, whenever possible, to fill vacancies from within the ranks of City employees following the criteria outlined in subsection D. To achieve this objective, the Department of Human Resources shall post notice of vacancies in locations available to eligible City employees;
  - D. As vacancies occur, they shall be filled by applicants who best fit the requirements of the position. Where qualifications are relatively equal, the following preferential order will be used in making the selection:
    - 1. present regular status employees;
    - 2. former City employees who were terminated due to job abolition and/or a reduction in force;
    - 3. returnees from leave of absence without pay status;
    - 4. former employees who left employment with the City in good standing;
    - 5. probationary employees and non-employee applicants.
  - E. Recruitment shall include advertisements in local, regional, or national news media to obtain an adequate number of candidates for the position, and may include posting public notice of the vacancy in locations available to the general public. Position announcements shall include position title, salary range, position requirements, basic qualifications, and other pertinent information;
  - F. The Department of Human Resources shall coordinate all recruitment efforts and shall receive all applications;
  - G. Selection shall be based on review of the applicant's qualifications to perform

## PERSONNEL POLICIES AND WORK RULES

the duties of the position and shall, as determined by the Department of Human Resources, include any of the following:

1. review of written applications and/or resumes;
  2. inquiry of prior employers and/or references provided by applicants;
  3. examination of applicants by interview, skills or written tests, or by other impartial means.
- H. The Department of Human Resources shall submit to the department director the applications of candidates meeting the minimum requirements for the position.
- I. The selection of the successful candidate shall be made by the department director or Mayor, as appropriate. The selection of a department director must be confirmed by appointment by the Governing Body. The department director shall notify the Department of Human Resources of the selection, and the Human Resources Director shall make the official written offer of employment to the candidate.
- J. Candidates for employment who were interviewed, but not selected, shall be notified of the decision as early as possible, preferably within a week.
- K. The Department of Human Resources shall keep on file all recruitment and selection records of all candidates for the period of time required by State and Federal Law.
302. New Employee Orientation: The Department of Human Resources and the supervisor shall conduct an orientation for all new employees.
- A. On the new employee's first day at work, the new employee will report to the Department of Human Resources for orientation. This will include an explanation of the benefits available to employees, the completion of the necessary employment forms, and a review of these Personnel Policies and Rules. Upon completion of this orientation, the employee will be directed to his/her supervisor.
  - B. The new employee's supervisor will introduce the new employee to co-workers, acquaint the employee with the physical environment of the work area, review any technical rules applicable, explain the employee's duties and standards of performance, and provide training in safety practices, including hazardous materials.
303. Employment Categories: Employment of persons covered by these rules shall be of the following types:

## PERSONNEL POLICIES AND WORK RULES

### A. Probationary Employees:

1. All persons employed by the City of Rio Rancho, on other than a temporary basis, shall serve a probationary period of no less than twelve (12) months. During this probationary period, employees may be terminated at any time for any legal reason, and such employees shall have no appeal rights as provided in Chapter 7 of these rules.
2. The probationary period will include up to a maximum of 6 months' time served in a temporary position if the employee is hired into a regular position in the same classification, within the same department, provided there is no break in service.
3. If the employee takes a leave of absence without pay in excess of fourteen (14) calendar days during the probationary period, the probationary period will be extended by the number of days that the leave exceeded the fourteen (14) days.
4. While on probation, an employee may not apply for a transfer, promotion, or demotion without the approval of his/her department director. The department director must prepare, or have prepared, a performance evaluation covering the employee's term of employment prior to consideration. The rating on the performance evaluation must be no lower than "meets expectations" on any performance criteria. The City reserves the right to reject any bid for promotion, transfer, or demotion by an employee on probation. Status changes will in no case shorten the original probationary period.

### B. Regular Employees: Upon satisfactory completion of the probationary period, employees will be considered regular employees with full rights and privileges under these rules.

### C. Temporary Employees: The City may employ individuals on a temporary employment status, which shall be limited to no more than nine (9) months in duration. Temporary employees shall not be eligible for, nor receive, any of the benefits provided by these rules.

### D. Term Employee: Individuals employed for a specific period of time. Employees in this category are not eligible for bargaining unit membership, but will be subject to the personnel policies. Employees in this category will not have the right to appeal termination at the end of the agreed upon term of employment.

## PERSONNEL POLICIES AND WORK RULES

- E. Full-Time and Part-Time Employees: The positions described in A, B, and C, above, may be full-time or part-time.
304. Hours of Work: The City establishes working hours as required by the work load, work flow, and the efficient utilization of human resources.
- A. Regular Work Schedule: The workweek for all employees begins at 12:01 a.m. on Monday and ends at 12:00 midnight on Sunday. The normal schedule for full time employees shall consist of forty (40) hours. The exact schedule of working hours shall be determined by each department director, and the employees shall be informed of their daily work schedule.
- B. Part-time Work Schedule: The normal schedule for part-time employees shall consist of less than forty (40) hours in a work week. Part-time employees will work the hours designated by their department director.
- C. Overtime: There may be occasions when nonexempt employees (as defined in the FLSA) will be required to work more than their normal schedule. Overtime will be assigned by the supervisor to employees performing the particular job function which requires the overtime. However, no employee is permitted to work overtime unless authorized in advance by the supervisor with the approval of the department director, except that where operations are continuous, an employee shall remain at the work place until replaced by the next shift employee or the supervisor.
- D. Call Back Work Schedule: In the event a nonexempt employee is called in to work outside the normal work schedule, the employee will be paid for a minimum of two (2) hours or the actual time worked, including travel time, whichever is greater.
- E. Rest Breaks: Employees are entitled to one (1) noncumulative fifteen (15) minute rest break approximately midway through the first half of their shift, if that half equals or exceeds three (3) hours. They are entitled to a second rest break, under the same conditions, during the second half of their shift. Breaks shall not be taken at the beginning of the workday, at the end of the workday, or in conjunction with the lunch period. Employees shall not engage in any conduct during the break, which in any way disrupts the duties and responsibilities of any other employee.
- F. Emergency Work Schedule: If a mobilization for emergency response has been called by the presiding officer of the City, any employee tasked with emergency duties must report to work when called. Willful failure to report when called subjects the employee to penalties, which include termination, as set forth in paragraph 204 of these Policies and Rules.

## PERSONNEL POLICIES AND WORK RULES

305. Reporting for Work:

- A. Employees are to be at the designated work place at the times determined by the supervisor, unless permission has been granted by the supervisor to leave the work place.
- B. Employees are to be at work in a capable condition, both physical and mental.
- C. Employees are expected to adhere to the work schedules with regularity. However, when an employee anticipates an absence, he/she must notify the supervisor as early as possible. Additional detail on the attendance and punctuality policy is included in Chapter 10 of these Policies and Rules.

306. Employment of Relatives: Applications for employment with the City from relatives of current City employees will be considered on the same criteria as the public at large. However, no person shall be hired, promoted or transferred to a position, which is under the supervision of a relative as defined in subsection (B) of this section.

- A. In the event two employees within the same department establish a relationship by marriage and are not in positions of supervision, both may continue in their current positions. However, if two employees are in positions of supervision or are in any chain of command and these two employees establish a relationship by marriage, the City Administrator may transfer one of the employees to a position removed from the supervisory control of the other if it is determined that such transfer is in the best interests of the City. If such transfer is determined to not be in the best interests of the City, the affected employees shall determine which one shall resign from City employment.
- B. For the purpose of this provision, relatives shall include blood or marriage relations to the third degree.
- C. The relatives of elected City officials and the City Administrator will not be employed. However, with regard to elected officials, any relative employed before such officials are elected may remain employed but are not eligible for rehire if the employee leaves City employment and wishes to return while such elected official remains in office. In addition, relatives of a department director or deputy director will not be employed within the same department as the director or deputy director.
- D. A waiver/exemption to this section may be granted only through the adoption of a resolution by the Governing Body at an appropriately noticed public meeting of the Governing Body. Only a Governing Body member (Mayor or City Councilor), City Administrator (City Manager), or the Human Resources Department Director may sponsor and seek Governing Body consideration of a waiver/exemption resolution.

## PERSONNEL POLICIES AND WORK RULES

307. Outside Employment: The City depends on its employees to devote their full attention and efforts to the duties which they are assigned. Therefore, employees are requested to refrain from working at a second job elsewhere, if at all possible.
- A. Should any employee find it necessary to take on an additional job, the employee must submit a written request, which specifies all conditions and other particulars concerning the job to the department director prior to accepting the job. If the department director approves the request, it will be taken to the Human Resources Director for final approval. In considering such requests, attention will be focused on such questions as:
1. will the outside job in any way lessen the employee's efficiency in his/her City employment;
  2. would the outside job involve any possible conflict of interest; and
  3. would the outside job expose the City to any liability.
- B. Employment with the City is the employee's primary responsibility. Outside employment will not be considered an excuse for poor job performance, absenteeism, tardiness, or refusal to work overtime. Should outside employment cause or contribute to any of these situations, it must be discontinued or the employee will be terminated.
- C. Any employee who has been granted approval for outside employment must report any significant changes, which may have occurred in the conditions of the outside job from those existing at the time approval, was granted. Such report must be in writing to the employee's department director, with a copy to the Department of Human Resources.

# PERSONNEL POLICIES AND WORK RULES

## CHAPTER 4 CLASSIFICATION PLAN

401. Classification Plan: All City positions, except elected officials or appointees to boards, committees, commissions or authorities, whether occupied or vacant, are allocated to classifications of work in accordance with the actual duties and responsibilities of the positions. There may be one or more positions in a classification. The Classification Plan is adopted by resolution and may be modified by resolution.
402. Duties of the Human Resources Department: The Human Resources Department shall have the primary responsibility to maintain the City Classification and Compensation Plans. On a continuing basis, the Human Resources Department shall review the classifications for their appropriateness and shall make recommendations to the Governing Body for action.
403. Job Descriptions: A description of duties shall be maintained for each classification as follows:
- A. Job descriptions for new classifications shall be adopted by resolution.
  - B. The Human Resources Department shall review job descriptions on an ongoing basis. Minor changes shall be approved by the Mayor. Changes of a substantial nature, as determined by the Mayor, shall be made by resolution.
  - C. Job descriptions shall be written to incorporate the essential functions of the job which must be performed unaided or with reasonable accommodation.
404. Change in Employee Status And/Or Anniversary Date: Any change in employee status must be approved by the Human Resources Director. In cases of promotion, transfer, or demotion, the effective date of the status change will usually become the employee's anniversary date for purposes of pay adjustments. Such status changes shall include:
- A. Promotion: A promotion is the advancement from a position in one salary grade to another position in a higher salary grade. An employee shall meet all requirements of the new position before being promoted and with the exception of DPS certified officers and non-certified dispatchers, will be on promotional probation in the new position for six (6) months. DPS certified officers, promoted within the ranks, and non-certified dispatchers will be on promotional probation for twelve (12) months.
    - 1. Nonexempt employees: An employee being promoted to a nonexempt position will be paid at the minimum of the new range or receive a pay increase of 5%, whichever is greater.
      - a. If the effective date of the promotion is 120 calendar days or less before the employee's current anniversary date, the scheduled merit pay increase will be pro-rated and then the promotional increase will



## PERSONNEL POLICIES AND WORK RULES

2. If the position is assigned to a lower salary grade, the incumbent will be transferred to the new grade at the current pay rate. If the incumbent's pay rate is above the maximum of the new range, the pay rate will be frozen until adjustments to the compensation plan have increased the salary range to include the employee's rate.

### E. Modification:

1. A change in an employee's status from part-time to full-time or from full-time to part-time shall not affect the employee's pay rate. Such a change in an employee's status shall not affect the employee's anniversary date for pay adjustments under the provisions of this policy.
2. A change in salary due to a market adjustment shall not affect the employee's anniversary date. For further information on market adjustments see Section 502 C.

### F. Temporary Assignments:

1. An employee may be assigned to fill a vacant position on a temporary basis. If the vacant position is in a salary grade, which is lower than the position of the employee temporarily assigned, the employee shall not suffer a reduction in pay, but shall continue to receive the regular rate of pay during the temporary assignment.
2. If the position to which the employee is temporarily assigned is in a salary grade, which is higher than said employee's regular position, the employee shall receive a pay adjustment in accordance with the following:
  - a. The temporary assignment must be for a period of more than thirty (30) calendar days;
  - b. The employee shall be paid at the minimum of the range for the temporarily assigned position or be granted an increase of 5%, whichever is greater.
  - c. This pay adjustment will be effective on the date the employee assumes the temporary assignment.
3. If the position to which the employee is temporarily assigned is FLSA exempt, and if the assignment is for a period of more than thirty (30) calendar days, and if the employee receives a temporary increase in pay, said employee will be considered FLSA exempt for the duration of the temporary assignment.
4. If the temporary assignment consists of the addition of higher-level responsibilities, but not placement in a vacant position, the amount of the pay adjustment shall be recommended by the department director and the Human

## PERSONNEL POLICIES AND WORK RULES

Resources Department and approved by the City Administrator.

5. At the conclusion of the temporary assignment, the employee shall return to the former position and rate of pay, adjusted for any intervening COLA's or anniversary increases.

# PERSONNEL POLICIES AND WORK RULES

## CHAPTER 5 COMPENSATION PLAN

501. Objectives: In an effort to hire and retain the most qualified staff available, the City of Rio Rancho has developed a formal salary administration program. The fundamental objective of this program is to ensure that employees are paid in relation to the value of the work they perform. The intended result is that all employees receive proper compensation for their efforts and abilities. Other goals of the program include:

- A. To pay wages and salaries which are competitive in the market place as a basis for attracting and retaining employees and encouraging them to put forth their best efforts.
- B. To establish and maintain a just and fair relationship in the wages paid for the variety of work performed for the City.
- C. To establish and maintain salary ranges for the respective salary grades which provide ample latitude for recognizing and encouraging improved performance as well as superior performance.
- D. To establish and maintain a sound wage and salary structure that provides strong incentive to individuals to advance and assume greater responsibilities.

All provisions of these objectives are contingent upon the availability of funds.

502. Rate Schedule(s): The City of Rio Rancho will maintain wage rate schedule(s) setting forth a series of salary grades, numbered from the lowest to the highest.

- A. Each salary grade will have a salary range, the minimum of which corresponds to the lowest rate usually paid to a fully qualified employee; a midpoint, which is set at a competitive level for the position in the community; and a maximum which is the greatest value the position has to the City. Every position shall be assigned to a salary grade.
- B. Annually, the Mayor and the City Council shall review the competitive rates of pay for City positions, and the Consumer Price Wage Earners Index figure, and, subject to the availability of funds, shall make any necessary adjustments in the rate schedule, to be effective for the next fiscal year. Temporary employees are not eligible for any cost of living increases granted by the Governing Body.

503. Hiring Rate:

- A. A new full-time or part-time employee shall normally be paid at the minimum of the salary range in which the position has been placed. In rare situations in which a candidate for employment has exceptional qualifications, such candidate may be considered to receive a rate of pay between the minimum and the midpoint of the

## PERSONNEL POLICIES AND WORK RULES

range. Such exceptions must be approved by the City Administrator upon the recommendation of the department director and the Department of Human Resources. Any hiring rate above the midpoint of the range must be approved by the Mayor.

- B. Pay for temporary employees shall be at or near the minimum of the range set forth in the wage and salary schedule for positions with similar duties. If a temporary employee is hired for a position, which does not have similar duties to an existing position, the pay level shall be at a rate recommended by the department director and the Department of Human Resources, and approved by the City Administrator based upon market value and qualifications.

### 504. Payroll Procedures:

- A. Paydays: The pay periods for City employees are biweekly. Employees receive their paychecks on the Friday following the close of the pay period. In the event that a payday Friday is observed as a holiday, every effort will be made to distribute the paychecks to employees on the workday preceding the feast.
- B. Recording of Hours: All City employees shall keep a record of their time in accordance with Federal and State Statutes and City policy. In those departments utilizing time clocks, the hours worked will be transferred to the time record at the end of the pay period. Each employee shall sign the time record verifying its accuracy. The time records are to be given to the employee's supervisor at the beginning of the first workday following the end of the pay period.
- C. Overtime Provisions:
  - 1. Nonexempt employees who work more than forty (40) hours in any work week shall be paid at one-and-one-half (1-1/2) times their base rate of pay or shall be credited with compensatory time at one-and-one-half times for all hours worked in excess of forty (40) in any work week.
  - 2. Overtime for nonexempt Public Safety Officers and Emergency Fire and Medical Service employees shall be paid in accordance with the FLSA and other appropriate policies and rules.
  - 3. Exempt employees, including department directors, are not entitled to receive overtime pay for work in excess of forty (40) hours in any workweek. Exempt employees generally accomplish their work within the regular workweek. When necessary, they may adjust their schedule to accommodate the requirements of the job. However, it is recognized that in time of peak workload, an individual's schedule may not be flexible enough to accommodate the demands of the job within the usual workweek. In recognition of these situations, exempt employees shall be credited with sixty (60) hours of "Personal Administrative Leave" (PAL) per year in lieu of all other compensation for their extended work schedule.

## PERSONNEL POLICIES AND WORK RULES

- a. PAL hours will be credited on January 1 of each year. Employees hired after January 1 will be credited with a pro-rata number of PAL hours.
  - b. If unused, PAL will be forfeited on December 31 of the same year or upon termination.
  - c. Requests for use of PAL hours shall be in the same manner as for the use of vacation leave.
  - d. In cases where a position requires overtime of a significant nature, the City Administrator may authorize additional PAL hours.
4. Part-time employees will be paid at their straight time hourly rate for all hours worked up to and including forty (40) in a workweek. However, upon agreement between the employee and the department director, employees who work more than their scheduled hours, but not more than forty in a work week, may accrue compensatory time at straight time for those hours worked in excess of their scheduled hours in a work week.
  5. Hours paid for but not worked, such as vacation, holidays, sick leave, etc., shall not be counted in computing overtime or compensatory time. Administrative leave with pay shall be counted as hours paid and worked.
  6. Nonexempt employees may be permitted to accrue up to one hundred and twenty (120) hours of compensatory time.

### 505. Merit Pay Increases:

- A. Annually, the Governing Body will determine the percentage or range of percentages available for merit pay increases.
- B. Upon successful completion of one year of employment in the current position, and on each subsequent anniversary date, the employee will receive a performance evaluation and consideration for a merit salary increase. The granting of said increase will be dependent upon meritorious performance, budgetary limitations and policies as established annually by the Governing Body and position within the salary range, subject to the provisions of subsection D. Increases will be based upon recommendations by the department director and approved by the City Administrator.
- C. An employee whose performance may not merit a pay increase should be counseled on the level of achievement necessary well in advance of the review date to allow the employee the opportunity to improve to the desired level. If the employee's performance, during the last few months of a review period, declines to a level not meriting a pay increase, the supervisor or department director shall:

## PERSONNEL POLICIES AND WORK RULES

1. counsel the employee in an attempt to discover the reason for the decline and explain the required standards;
  2. place the employee on a period of close supervision, not to exceed six (6) months; and
  3. if the performance is sufficiently improved, as measured by the supervisor or department director, grant the merit pay increase and establish a new anniversary date.
- D. No employee shall receive an increase in pay to a rate above the maximum for the salary range in which the employee's position has been placed. Employee's whose salary may be above the maximum of the range due to reclassification, demotion or other personnel action, shall not be eligible for a merit pay increase until the range encompasses their rate of pay.

# PERSONNEL POLICIES AND WORK RULES

## CHAPTER 6 PERFORMANCE EVALUATION

601. Objectives: The major objective of a performance evaluation program is to create and maintain a climate of mutual understanding and respect between supervisors and their employees. Such a climate is conducive to open communication and provides the motivation for employees to put forth their best efforts. Supervisors must also establish a relationship that is supportive of their employees and one that aids in their growth and development. Other objectives of performance evaluation include the following:
- A. Performance evaluations are used as counseling tools. This includes both a positive and negative critical review, as appropriate, for past events and sets a shared perspective for the future.
  - B. Performance evaluations facilitate manpower planning. Much of the necessary information on which judgments about employee potential are based come from performance evaluations.
  - C. Performance evaluations provide vital documentation for various employee actions.
  - D. Performance evaluations help supervisors rate themselves. Employee's reactions to the performance evaluation procedure can provide an indication as to whether the supervisory techniques are accepted or resented by the employees.
  - E. Performance evaluations can have a positive effect on productivity. When employees know what is expected of them, when they receive deserved praise and are counseled on performance areas needing improvement, they are motivated to greater productivity.
602. Performance Evaluation Procedure: All employees of the City of Rio Rancho will receive an evaluation of their performance at least once each year, no later than their current anniversary date.
- A. Distribution of Forms: Approximately one (1) month prior to the employee's anniversary or probationary date in the current position, the Human Resources Department will send the Performance Appraisal form and the Self-Evaluation form to the employee's department director.
  - B. Completion of Forms: The supervisor will complete the Performance Appraisal and will notify the employee of the date, time, and place of the meeting to review the evaluation with the employee. At this meeting, the parties will discuss the evaluation of the employee's past performance. In the case of management employees, the supervisor and the managerial employee will jointly establish and set forth on the Performance Appraisal form the critical goals and objectives and major areas of accountability upon which the employee's performance will be evaluated during the next evaluation period. It is important that throughout the review process the

## PERSONNEL POLICIES AND WORK RULES

employee and supervisor be honest and objective in their comments and base them on documented facts. Both the supervisor and the employee will sign the Self-Evaluation form, if prepared, and the Performance Appraisal form. The Appraisal Form and any pertinent attachments shall be given to the next level of supervision for review. The employee shall be given a copy of the Performance Appraisal. After being reviewed by the department director, all pertinent documents shall be sent to the Human Resources Department.

- C. Intermediate Performance Monitoring: While the above procedure relates to the annual formal evaluation process, supervisors must continually monitor the performance of their employees throughout the year. Supervisors must provide employees with praise and recognition as incidents warranting them occur. Likewise, if the supervisor observes unsatisfactory performance or unacceptable behavior of an employee, appropriate steps must be taken immediately to correct the situation.
  - D. Probationary Employees:
    - 1. In the case of an employee being formally evaluated for the first time at the end of the probationary period, it is imperative that all phases of the evaluation procedure be completed prior to that date. It is this first performance evaluation which will finally determine whether or not the employee will be retained and granted regular status. This final decision must be made and the appropriate action taken prior to the actual date.
    - 2. In the case of promotion, transfer, or demotion, the supervisor of the position the employee is leaving will provide an intermediate performance evaluation of that portion of the employee's probationary period.
  - E. Job Descriptions: A copy of the job description on file in the Human Resources Department will be attached to the Performance Appraisal form when it is sent to the department director. During the evaluation process, the employee and the supervisor shall review the job description. If any changes are necessary, they shall be made and a copy of the revised job description will be sent to the Human Resources Department. If no changes are required, the copy of the job description shall be returned to the Human Resources Department marked "Received - No Change".
603. Performance Evaluation Results: If the supervisor rates performance as exceeding expectations, needing improvement, or unsatisfactory, the supervisor shall justify that rating by describing how the employee's performance exceeds, or falls short of, the basic expectations and citing specific examples.
- A. Performance Needing Improvement: It is not realistic or fair to wait until an employee's performance evaluation to inform the employee that performance needs improvement. Employee's performance should be monitored on a continuing basis. If this is done, problems or difficulties which will lead to a low rating will be recognized and dealt with as they occur. However, if the supervisor rates the employee's performance as unsatisfactory or needs improvement on the evaluation, the supervisor should follow

## PERSONNEL POLICIES AND WORK RULES

these procedures:

1. Specifically describe on the evaluation form those areas and functions that need improvement or are unsatisfactory.
  2. Counsel the employee in an effort to understand and resolve the problem(s) creating the unsatisfactory performance.
  3. Inform the employee of what is required to attain full performance and be certain that the employee understands the requirements.
  4. Set a reasonable date by which acceptable improvement must be made and advise the employee.
  5. Document the above steps and provide the employee with a copy.
  6. Work with the employee during the interim period to give the employee every opportunity to succeed.
- B. Performance Exceeding Expectations: While it is recognized that some employees consistently perform at a high level, it should be kept in mind that a top rating allows no room for employee improvement. Such a rating should be used with discretion and shall be justified by describing the performance.
604. Confidentiality: Performance evaluations, being matters of opinion, are not open to public review. They are protected as confidential documents under 14-2-1C NMSA 1978, as amended. However, since performance evaluations are considered a necessary part of each employee's employment history, such documents may be reviewed by appropriate supervisory personnel.

# PERSONNEL POLICIES AND WORK RULES

## CHAPTER 7

### CORRECTIVE AND DISCIPLINARY ACTIONS, DISPUTE RESOLUTION PROCEDURE

701. Corrective and Disciplinary Action: Reasonable rules of employee conduct are necessary for the orderly and effective operation of the City as well as to protect the rights of employees and to inform them of what behavior the City expects from employees. It is the responsibility of each supervisor to keep employees informed concerning City policies and rules of conduct. The employee is also responsible for staying informed.
- A. The City promotes a system of progressive counseling to be used with employees who violate or fail to comply with City policies, procedures and rules or who have other performance problems. This procedure is designed to correct the infraction rather than penalize employees. Progressive corrective counseling is used to give employees notice that:
1. they will not be treated in an arbitrary manner for making a mistake;
  2. repeated violations of rules and policies will not be tolerated;
  3. unacceptable performance may result in discharge;
  4. the City will pursue a fair and consistent approach to situations warranting corrective action;
  5. corrective and disciplinary actions will be administered appropriately for the particular violation and corrective and disciplinary actions will be administered in a progressively escalating manner for similar subsequent violations.
- B. Each situation which requires some form of corrective action should be judged on its own merits. It is not mandatory to follow the types of progressive action as outlined below. The appropriate action should be determined based upon the circumstances surrounding the situation and the severity of the infraction. Situations may arise, for example, in which immediate discharge is warranted. Supervisors who desire guidance relative to the appropriateness of any form of corrective action are encouraged to contact the Human Resources Department.
- C. In every situation involving any form of corrective or disciplinary employee action, it is of the utmost importance that proper documentation be prepared. Documentation is required to accurately record the facts of the situation while they are fresh in the minds of all concerned, in case future reference becomes necessary. All documentation given to an employee should be signed by the employee to acknowledge receipt. If the employee refuses to sign, another employee should be called in to sign the form and witness the fact that the counseled employee received the documentation, but refused to sign it.

## PERSONNEL POLICIES AND WORK RULES

1. Types of Corrective or Disciplinary Action: Depending upon the nature and severity of the cause, an employee may be subject to any of the following:
  - a. Corrective Action:
    - (1) oral or written warnings;
    - (2) written reprimands;
  - b. Disciplinary Action:
    - (1) suspension;
    - (2) demotion;
    - (3) discharge.
2. Authority to Take Corrective or Disciplinary Action: Supervisors of divisions, and departments may take corrective action and maintain written documentation in support of the action and may recommend suspensions, demotions, and discharges. However, only the department director, or deputy in the absence of the director, may proceed with any disciplinary action that includes suspensions, demotions, or discharges.
3. Administrative Leave: Administrative leave with pay may only be granted by the department director, or deputy in the absence of the director, in those instances in which the nature of the employee's conduct may warrant immediate intervention or action.
  - a. This administrative leave may be granted for a period of time until the written notice of final decision of the disciplinary action is issued, but not to exceed ten (10) working days.
  - b. Further extensions of administrative leave may be granted by the City Administrator.
4. Department Directors: The City Administrator may suspend or otherwise discipline directors of City departments. Discharges of department directors must be approved by the Governing Body.
5. Disciplinary Actions, Regular Classified Employees: Proposed disciplinary actions as defined in section 1.20 of these rules shall be according to the following process:
  - a. Notice of Contemplated Disciplinary Action.

## PERSONNEL POLICIES AND WORK RULES

- (1) To initiate disciplinary action against an employee, the department shall serve a notice of contemplated disciplinary action on the employee. This notice shall:
  - (a) cite the specific incidents constituting just cause;
  - (b) cite violation of any statute, ordinance, rule or mandate;
  - (c) provide an explanation of the documentation, evidence and/or facts relied upon by the department;
  - (d) specify the contemplated disciplinary action;
  - (e) state that the employee has five (5) working days from service of the notice of contemplated disciplinary action to respond in writing or to request an informal meeting with the department director.
- b. Employee Representation. A representative of the employee's choice may respond to the notice of contemplated disciplinary action and may be present at all stages of the proceedings.
- c. Informal Meeting.
  - (1) If the employee requests an informal meeting in response to the notice of contemplated disciplinary action, the department director shall notify the employee of the date, time and location of the informal meeting; such meeting shall be held within five (5) calendar days of receipt by the department of the request for informal meeting.
  - (2) The employee and department director may agree in writing to an alternate date, time or place for the informal meeting.
  - (3) The employee may be accompanied by a representative of the employee's choosing, but the conduct of the informal meeting shall be between the department director and the employee. The purpose of the informal meeting is to allow the employee to respond to the allegations in the notice of contemplated disciplinary action and to offer explanations and/or present evidence in mitigation. No witnesses shall be presented at the informal meeting.
  - (4) If a written response is filed with the department director and

## PERSONNEL POLICIES AND WORK RULES

the employee participates in an informal hearing with the department director, the department director shall consider the written response (if filed) and information received during the informal meeting in arriving at a final disciplinary action.

d. Notice of Final Action.

- (1) The department director shall serve written notice of final action on the employee no later than five (5) working days from the date of receipt by the department director of any written response or the date of the informal hearing whichever is later.
- (2) The notice of final action must include:
  - (a) the final action to be taken;
  - (b) the incidents constituting just cause which shall be limited to those incidents alleged in the notice of contemplated disciplinary action.
  - (c) cite the specific statute, ordinance, rule or mandate violated by the employee;
  - (d) a discussion of the employee's defenses as stated in any written response or in the informal meeting;
  - (e) the date of delivery of the notice of contemplated disciplinary action; and
  - (f) inform the employee that the final disciplinary action may be appealed to the Personnel Board within five (5) working days pursuant to Section 704 of these rules.

702. Dispute Resolution Procedure:

Addressing employee's concerns is important to the efficient operation of the City of Rio Rancho and reasonable efforts will be made to resolve all employee disputes in a timely manner. The parties should resolve all employee disputes at the lowest possible level. All unresolved disputes are required to pass through all appropriate levels of the procedure. No steps may be skipped. The disputant may, however, withdraw the dispute at any point in the procedure. The request to withdraw the dispute must be in writing. Informal resolution is always encouraged. Employees participating in the dispute resolution procedure will not be subject to any retaliation for such participation, but are not exempt from disciplinary action for violations proven or admitted.

703. Definition:

## PERSONNEL POLICIES AND WORK RULES

Disputes may arise between employees in the interpretation of a City policy or procedure or regarding a disciplinary action. Disputes concerning the interpretation or application of a collective bargaining agreement may not utilize this dispute resolution procedure. All such claims shall be referred to the City Labor Management Relations Board. As members of the management team, department directors recommend and interpret City policies and procedures and are at will employees, therefore, this procedure is not applicable to them. The dispute resolution procedure shall be divided into the following two classifications:

- A. Class I: Management actions questioned by the employee which result in discharge, demotion with a loss of pay or suspension of more than forty (40) work hours. Only regular status, non-probationary employees may file a Class I dispute.
- B. Class II: All other management actions not involving policy decisions questioned by the employee, including corrective actions which do not qualify as Class I disputes. Class II disputes may be filed by non-temporary employees with at least 90 days of service.

### 704. Class I Dispute Resolution Procedure:

#### A. Appeal to Personnel Board:

1. Within five (5) working days following the date of the final notice provided in Section 701, a written appeal may be filed by filing a notice of appeal with the Chairman of the Personnel Board, through the Human Resources office, and serving copies on the City department director.
2. Within five (5) working days after receiving the written request from the employee, the Personnel Board through its Chairman or its designated hearing officer shall issue a scheduling order. The Personnel Board shall promulgate rules of procedure for such hearings. The Personnel Board shall conduct the hearing and accept documentary and testimonial evidence in accordance with such rules of procedure. (Until such rules are promulgated, the Personnel Board or its designated hearing officer shall conduct hearings under the general common law of administrative proceedings and shall apply the Rules of Procedure for the District Court [SCRA 1-001 et seq., NMSA 1978] only to the extent necessary to permit adequate discovery and a complete record.) The hearing conducted by the hearing officer shall generally take place during normal working hours.
3. In cases heard before a hearing officer of the Personnel Board, the hearing officer within thirty (30) calendar days after concluding a hearing, shall transmit a full record of the hearing, including findings of fact, conclusions of law and the hearing officer's recommendation to the Personnel Board.
4. When deliberating on an appeal the Personnel Board shall not hear any presentations or evidence aside from the record of the hearing and any findings

## PERSONNEL POLICIES AND WORK RULES

and recommendations of the hearing officer. As soon as possible after the Personnel Board has received the record, it shall act; such action shall normally be within thirty (30) calendar days of transmittal of the report and the record. A tie vote on the decision upholds the department director. In acting, the Board may take one of the following actions:

- a. Accept the department director's decision;
- b. Modify the department director's decision;
- c. Reject the department director's decision; or
- d. Remand the matter to a hearing officer for further hearing.

The decision of the Personnel Board shall be the final step in the administrative process provided for by these Policies and Work Rules.

5. The decision of the Personnel Board shall be reviewable in the Thirteenth Judicial District Court for the County of Sandoval:
  - a. When the decision is arbitrary or capricious;
  - b. When the decision is not supported by substantial evidence on the record as a whole; or
  - c. When the decision is in excess of the statutory authority or jurisdiction of the Board.

Appeal of the decision of the Personnel Board to District Court by the employee or the City shall be taken within thirty (30) calendar days of the final decision of the Board.

### 705. Class II Dispute Resolution Procedure:

#### A. Informal Resolution:

1. Within five (5) working days following the date of the incident giving rise to the dispute, an employee will seek to informally resolve it directly with the party or parties involved, including supervisors or co-workers.
2. If no attempt is made to resolve the problem informally, further review may be denied.
3. Documentation of informal attempts to resolve the dispute may be recorded on the Dispute Resolution form, or in a memorandum and shall include at a

## PERSONNEL POLICIES AND WORK RULES

minimum the date, time, place of the meeting, identification of the parties attending the meeting, a statement of the problem, and a summary of the discussion including any proposed resolution.

4. If the dispute is with a department director or a supervisor who reports to the City Administrator and the informal resolution is not effective, the dispute shall proceed directly to the City Administrator.

### B. First Level:

1. If the disputant determines that the informal resolution is not satisfactory, the employee may pursue formal review by submitting a written request for review, which shall include:
  - a. the date, time, and place of the informal meeting,
  - b. identification of the parties attending the meeting,
  - c. a statement describing the problem,
  - d. a discussion of the outcome of the attempt to resolve, and
  - e. any other facts or information the disputant considers pertinent.
2. The dispute resolution request shall be submitted to the employee's supervisor within five (5) working days following the date the informal resolution attempt is completed, with a copy to the Human Resources Department.
3. The supervisor receiving the dispute resolution request shall:
  - a. note the date and time received,
  - b. review the documentation materials, and
  - c. interview and investigate as appropriate.
4. The supervisor shall issue a written decision within five (5) working days following the date of receipt of the dispute resolution request and may attach additional information or explanation as necessary to the parties involved. A copy shall be filed with the Human Resources Department.

### C. Second Level:

1. If the disputant determines that the decision made at the previous level is not satisfactory, the decision may be appealed by submitting, within five (5)

## PERSONNEL POLICIES AND WORK RULES

working days following the date of that decision, the dispute resolution request and the previous level response to the department director.

2. The department director receiving the dispute resolution request shall:
  - a. note the date and time received,
  - b. review the documentation materials, and
  - c. interview and investigate as appropriate.
3. The department director shall issue a written decision within five (5) working days following the date of receipt of the dispute resolution request and may attach additional information or explanation as necessary to the parties involved. A copy shall be filed with the Human Resources Department.

### D. Final Level:

1. If the disputant believes that the previous decision is not satisfactory, the decision may be appealed by submitting, within five (5) working days after the date of this decision, the dispute resolution request and the previous responses to the City Administrator.
2. The City Administrator shall:
  - a. note the date and time received,
  - b. review the documentation materials, and
  - c. interview and investigate as appropriate.
3. The City Administrator shall issue a written decision within five (5) working days following the date of receipt of the dispute resolution request and may attach additional information or explanation as necessary to the parties involved.
4. In any case, the City Administrator shall be the final source of review of any unresolved Class II dispute within the City.

- E. The Human Resources Department as the Dispute Coordinator: The intent is that each department's appropriate chain of supervision be exhausted in review of the dispute following the time limits as set out above. In case there is any question regarding this flow of review, the disputant may consult with the Human Resources Department for proper referral. In all cases, the Human Resources Department should receive copies of all documentation related to the dispute once it progresses beyond the informal resolution stage.

## PERSONNEL POLICIES AND WORK RULES

F. Time Limits:

1. With the written consent of the parties, the time limits for review of a dispute at any level may be extended for a reasonable time to allow for a fair review.
2. If the reviewing supervisor or reviewing individual fails to respond within the designated time limits or any extension agreed to, the dispute shall be considered denied and shall be returned to the disputant.
3. If the disputant fails to proceed to the next level, the dispute is considered resolved. Any dispute resolved by this method shall not be subject to further review.

G. Termination of Dispute: If the disputant resigns from employment with the City, the dispute resolution request previously filed and in process at the time shall be considered terminated. The individual reviewing the dispute resolution request at that time shall forward all pertinent documentation to the Human Resources Department for filing in the disputant's personnel file.

706. Disposition of Records: All official notices of proposed or final disciplinary action shall be kept in the employee's personnel file.

## PERSONNEL POLICIES AND WORK RULES

### CHAPTER 8 EMPLOYEE BENEFITS

801. Vacation: All regular and probationary employees earn and are eligible to use paid vacation from the date of hire as follows:
- A. Full-time employees shall accrue vacation from their date of hire, and such vacation shall be credited for each biweekly pay period in which the employee receives pay in accordance with the following schedule:
    - 1. From date of hire through three years - 10 days per year
    - 2. Fourth through tenth year - 15 days per year
    - 3. Eleventh year and above - 20 days per year
  - B. Part-time employees who work an average of twenty (20) or more hours per week shall accrue vacation on the same basis as regular full-time employees, but prorated to the average time worked by such part-time employees.
  - C. Part-time employees who work an average of less than twenty (20) hours per week are not entitled to vacation benefits.
  - D. No employee will be granted vacation in excess of the amount accrued at the time requested. Employees may carryover accrued but unused vacation from one fiscal year to the next. However, the amount to be carried forward may not exceed an amount equivalent to two hundred and eighty (280) hours. Supervisors of certified law enforcement officers, fire and EMS personnel and dispatchers shall be allowed to carryover two hundred and eighty (280) hours. Any unused vacation benefits in excess of the allowed limit as of the end of the fiscal year will be forfeited except where the employee was prevented from taking vacation at the direction of the department director. In such event, carryover of additional vacation hours will be permitted for six (6) months upon written request by the employee and authorization by the employee's department director and the Department of Human Resources.
  - E. No employee may receive pay for vacation in lieu of time off, except upon termination of employment.
  - F. All vacations are subject to the approval of the department director. Employees shall submit a written request for vacation to their department director at least one (1) month in advance of the dates desired, except in cases of emergency. Every effort will be made to accommodate the employee's request, but final approval will depend upon the City's needs being fully met.
  - G. Upon termination of employment for any reason, the employee shall be paid for all

## PERSONNEL POLICIES AND WORK RULES

vacation accrued but not taken as of the last day worked.

- H. In the event a recognized holiday(s) occurs during an employee's vacation, the employee will be paid for the holiday and the time not charged to vacation time.
- I. If an employee suffers a death in the immediate family while on vacation, the amount of time may be applied to Funeral Leave. The employee must notify the department director and the Department of Human Resources, in writing, of this fact within one (1) week of the return to work.
- J. Employees who become disabled, due to illness or injury while on vacation may convert the period of disability from vacation to sick leave, provided they have sufficient sick leave accrued. The employee must submit a written request for this conversion to the department director and the Department of Human Resources together with a statement from the attending physician verifying the disability within one (1) week after returning to work.

802. Holidays: The Governing Body of the City of Rio Rancho shall annually set the holiday schedule to be observed by the City. Special holidays as decreed by the President of the United States will also be observed. The list of holiday observances will be posted in each department.

- A. Full-time employees shall be paid holiday pay at their straight time rate for the holiday hours observed on each of the designated holidays.
- B. Part-time employees who work an average of twenty (20) hours or more per week shall receive holiday pay if an observed holiday occurs during their scheduled working hours. Employees who work an average of less than twenty (20) hours per week will not be paid for the holidays.
- C. If a designated holiday falls on Saturday, it will be observed on the preceding Friday. Holidays falling on Sunday will be observed on the following Monday.
- D. Nonexempt employees who are required to work on a designated holiday will be paid at their straight time rate for the hours worked in addition to receiving holiday pay.
- E. In order to be eligible for holiday pay, employees must work their regularly scheduled shifts immediately preceding and following the holiday, or be on approved paid leave.
- F. If an employee is on paid leave on a designated holiday, no deduction will be made from the applicable leave.

803. Sick Leave: In order to ease the financial burden to employees brought about by inability to work due to a disabling illness or injury, the City grants to employees sick leave benefits as described below:

## PERSONNEL POLICIES AND WORK RULES

- A. Full-time employees shall accrue sick leave from their date of hire at the rate one day per month accrued and prorated for each biweekly pay period in which they receive pay.
- B. Part-time employees who work an average of twenty (20) hours or more per week shall accrue sick leave as provided for full time employees, but prorated by the number of hours worked by the part time employee. Part-time employees working an average of less than twenty (20) hours per week shall not be eligible for sick leave benefits.
- C. There shall be no maximum limit to the amount of unused sick leave accrued.
- D. Employees will be eligible to use sick leave benefits from their date of hire. Sick leave benefits will be based on the employee's work schedule and will be paid at the employee's straight time rate of pay in effect on the date the disability commenced. Sick leave will not be paid in excess of the number of hours accrued at the time of the absence. Should the period of absence exceed the amount of sick leave accrued, employees may request to receive any other paid leave for which they are eligible at that time. Any further period of absence for which sick leave or other paid leave is not available, shall be in accordance with the City's policy regarding leave without pay.
- E. Employees may request sick leave benefits for absences caused by disabling illnesses or injuries and for medical appointments, i.e., appointment for doctors, dentists, physical therapists, etc. Disabilities relating to pregnancy will be treated as any other temporary disability.
- F. Illnesses, medical disabilities or medical appointments in the employee's immediate family, which require the employee's absence from work, may be charged to the employee's sick leave benefits.
- G. Payment of accrued sick leave benefits may continue to an employee who is released to return to work on a part-time basis while recuperating from the disability, but in no case may the combined payments be greater than the employee's usual weekly rate of pay, excluding overtime.
- H. The City retains the right to request a statement from a qualified professional to verify the disability. Employees who have been absent due to a disabling illness or injury may be required to provide a statement from their physician releasing them to return to their normal duties.
- I. Sick leave conversion: To reward employees for low usage of sick leave, sick leave may be converted to vacation leave according to the following procedures.
  - 1. Full-time employees who use no more than 32 hours of sick leave, leave without pay or other unscheduled absence, during the calendar year, may convert 8 hours of sick leave to vacation.

## PERSONNEL POLICIES AND WORK RULES

2. Full-time employees who use no more than 24 hours of sick leave, leave without pay or other unscheduled absence, during the calendar year, may convert 16 hours of sick leave to vacation.
  3. Part-time employees are eligible to participate in this incentive plan on a prorated basis.
  4. The additional vacation time converted under this policy will be credited effective January 1 of each year for the period covering the preceding twelve (12) calendar months.
  5. To be eligible to participate, employees must have been employed for the complete calendar year.
- J. Sick leave benefits upon separation.
1. An employee, after serving ten (10) or more years as a City of Rio Rancho employee, who has accumulated sick leave at the time of his/her retirement shall be eligible to convert those hours to vacation to allow the employee to retire at an earlier date under the following conditions.
    - a. The first 250 hours may be converted at a ratio of 4:1, i.e., four (4) hours of sick leave to one (1) hour of vacation;
    - b. The second 250 hours may be converted at a ratio of 2:1; and
    - c. An additional 500 hours may be converted at a ratio of 1:1 for a total of 1,000 hours converted.
    - d. The cash payments will be made on a bi-weekly basis not to exceed the employee's regular rate of pay.
  2. An employee, after serving fifteen (15) years with the City of Rio Rancho, may convert sick leave to vacation leave at the same rates set forth above upon separation from City employment in good standing.

### 804. Medical Leave:

- A. FMLA leave: A non-temporary employee may request a leave of absence for personal or family illnesses, or for the birth or placement of a child for adoption or foster care for up to twelve (12) weeks in any consecutive twelve (12) month period of time in accordance with the provisions of the Family and Medical Leave Act of 1993. Any leave in excess of twelve (12) weeks must be approved by the City Administrator.
1. The twelve (12) weeks of leave do not need to be consecutive, but may be taken, as necessary, subject to the following conditions.

## PERSONNEL POLICIES AND WORK RULES

2. Employee will use accrued sick leave. When this is exhausted, employee will use accrued annual leave and accrued compensatory time. Thereafter, any additional leave will be unpaid leave.
  3. In the event of a medical disability, the employee must provide to the department director a statement from the treating physician verifying the medical reason for the disability and indicating the estimated length of disability. Where foreseeable, this notice shall be provided at least thirty (30) days in advance of the leave.
  4. If the requested leave is for the birth or placement of a child for adoption or foster care and both parents are employees of the City, the leave shall be for a combined total of twelve (12) weeks. The employees shall decide between themselves how the time off shall be split.
  5. Employees will be eligible to maintain their benefits during the leave of absence provided they continue to pay the employee portion of the premium to the City on a timely basis.
  6. For the first twelve (12) weeks, return to the same or an equivalent position is guaranteed. In the case of a leave in excess of twelve (12) weeks, the City will make every attempt to hold the employee's position open unless, due to business necessity, it is necessary to fill the position on a regular basis. Business necessity will be determined by examining the anticipated length of the absence in light of the availability of a temporary replacement and the anticipated recruitment period needed to fill the position.
- B. In the event of an on-the-job injury or occupational illness, the employee will be paid their full regular pay, with appropriate deductions, for the waiting period as described under the New Mexico Workers Compensation Act until the commencement of temporary total disability, partial disability. Payment will be made under this section only when the employee is absent for the entire waiting period as defined in the Act. This pay will be provided without deductions from the employee's accrued leave or the Leave Bank.
1. For the duration of the disability, the employee may continue to use accrued sick leave, integrated with the Worker's Compensation benefits, in order to receive 100% of usual weekly compensation, excluding overtime.
  2. All payments and procedures are in accordance with the provisions of the New Mexico Worker's Compensation Act. All other conditions are in accordance with Section A above.
- C. Notwithstanding other leave provisions, a Leave Bank is established from which a participating employee may receive additional paid leave where on or off the job

## PERSONNEL POLICIES AND WORK RULES

illnesses or injuries have exhausted the employee's earned sick leave and other paid leave. The Bank will be administered by the Employee Advisory Committee with record keeping assistance provided by the Department of Human Resources.

1. New employees are eligible to join the Bank immediately upon employment by contributing the required amount of vacation leave. At any time, employees may voluntarily contribute additional vacation or compensatory time.
  - a. Employees will become immediately eligible for benefits if participation begins within fifteen (15) days of eligibility.
  - b. Employees electing not to join when first eligible must wait ninety (90) days after joining to be eligible for benefits.
  - c. If an employee joins between January 1 and June 30, the employee will contribute one-half day; if between July 1 and December 31, the employee will contribute one-quarter day.
  - d. To remain a participant, a minimum of one-half day must be contributed every January 1st. If on January 1st, a member in good standing of the Leave Bank, does not have one-half day of leave accrued, the member will be allowed a period of 30 days to accrue and donate the time necessary.
  - e. All employees who have been contributing members since the inception of the Leave Bank, as demonstrated by records retained in the Department of Human Resources, and who have not withdrawn any hours from the Leave Bank, shall not be required to contribute hours for 1999 and will remain members in good standing.
  - f. All employees who contribute hours for five (5) consecutive years and have not withdrawn any hours from the Leave Bank will not be required to contribute hours at the beginning of the sixth year and will remain members in good standing for that year. Employees may not exercise this option more frequently than once every six years.
2. If at a future date, the bank becomes depleted to a level where it is likely to run out, the City will hold a special fund raising effort to ask for additional voluntary donations.
3. Members of the Leave Bank may be authorized up to twenty-five (25) days from the Bank upon meeting the following conditions. The total benefit authorized from the Bank to any one eligible employee shall not exceed twenty-five (25) days in any twelve (12) month period.
  - a. All earned sick leave and other paid leave must be exhausted.

## PERSONNEL POLICIES AND WORK RULES

- b. The illness or injury must be certified by a doctor and the documentation must include the anticipated length of the absence. All medical documentation shall be held confidential by the reviewing parties and disclosed only with the written consent of the affected employee.
  - c. Written requests for benefits under this policy shall be sent to the Department of Human Resources, which shall ensure that all required documentation is appended and shall forward the package to the Employee Advisory Committee for authorization. The package shall include documentation of all relevant factors, including but not limited to, the employee's history of attendance and prior sick leave usage and the available balance in the Leave Bank. The Employee Advisory Committee may authorize up to twenty-five (25) days, or provide written notification of denial and the reasons therefore.
4. All leave donated to or withdrawn from the Bank shall be in the form of a straight hour for hour transfer without regard for employees' rates of pay.
5. Benefits under this policy may be combined with Workers' Compensation or other disability payments, but in no case may the combined payments be greater than the employee's usual weekly rate of pay, excluding overtime.
6. Employees receiving benefits under this policy are responsible for the appropriate employee payroll deductions. If the employee returns to work before exhausting the authorized leave, the excess hours shall be retained in the Bank.
7. For the purposes of the Leave Bank, a "day" means one-fifth of the hours an employee usually and customarily works in any workweek, excluding overtime.
8. Requests for medical leaves under this policy for the purposes of elective or cosmetic surgery are not covered.
9. Requests to receive benefits under this policy for family illnesses will be limited as follows. The illness or injury must be to the employee's parent, spouse or child and the documentation from the doctor must include verification that the employee is needed to provide care for the ailing family member.
10. The employee will not accrue any additional leave while on leave donated from the Bank.
11. Denial of a request to receive donated leave shall not be appealable under Chapter 7 of these policies.
12. Upon termination of employment, or withdrawal of membership from the Bank, participating employees will not be permitted to withdraw their contributed days.

## PERSONNEL POLICIES AND WORK RULES

805. Military Leave: Leave for military purposes shall be granted as follows:
- A. Any employee who is inducted into or enlists in any branch of the Armed Forces of the United States will be granted a military leave of absence without pay. Employees who have been granted such military leave of absence shall be reinstated by the City in accordance with all applicable Federal and State Laws.
  - B. Any employee who is a member of any Armed Forces Reserve component or National Guard unit shall be granted military leave of absence for all required military duty including examinations, drills, training and emergency obligations. Full-time employees and part-time employees who are granted a military leave under this provision shall be eligible to receive pay not to exceed fifteen (15) working days in any consecutive twelve (12) month period of time. Should the employee's obligation exceed 15 working days, the employee may use other accrued leave or take the remainder of the leave without pay.
  - C. Immediately upon receipt of orders to report for military duty, employees must submit a copy of the orders, together with a written request for a military leave of absence, to their department director. The department director must then notify the Department of Human Resources.
  - D. Employees will be eligible to maintain their benefits when called to active duty provided they continue to pay the employee portion of the premium to the City on a timely basis.
806. Funeral Leave: The City of Rio Rancho recognizes the need of its employees for time off in the event of a death in their immediate family or a colleague in City government.
- A. In the event of the death of the employee's parent, sibling, spouse, child, or stepchild, the City will grant the employee up to five (5) days absence with pay. Up to three (3) days absence with pay shall be granted due to the death of other immediate family members.
  - B. If out-of-state travel is required to attend the funeral of an immediate family member, up to two (2) additional days absence with pay may be granted by the department director.
  - C. In the event of the death of a colleague within the City, an employee may take funeral leave, not to exceed three hours, for the time required to attend the funeral.
  - D. Full-time employees will be paid at their straight time rate. Part-time employees who work an average of twenty (20) or more hours per week will be paid for the hours they were scheduled to work but did not due to the death of the family member.
  - E. Employees shall immediately notify their supervisor or department director of their need for funeral leave and specify the relationship of the family member. The department director must then notify the Department of Human Resources.

## PERSONNEL POLICIES AND WORK RULES

- F. Additional time off may be requested and the granting of such requests will be at the discretion of the department director. The additional time off may be charged to other paid leave or taken as leave without pay.
807. Court Leave: The City acknowledges the obligations of employees to serve when called as a juror or witness in court. Employees must notify the supervisor or department director and the Department of Human Resources immediately upon receipt of the notice to report to court. Appearances in court related to personal, not job related matters, are not compensated or covered under this policy. Such time off as may be required may be charged to other paid leave or must be taken as leave without pay.
- A. Full-time employees and part-time employees who work an average of twenty (20) or more hours per week will be paid at their straight time rate for the hours they were scheduled to work but did not work due to their court appearance.
- B. Any fees or allowances paid to the employee as a result of jury duty, litigation-related testimony or statements, (except for reimbursement for travel and actual out-of-pocket expenses) for which payment was made by the City to the employee, shall be remitted to the City Treasurer, but not to exceed the base wages paid to the employee.
- C. When an employee is released from court service, temporarily or permanently, the employee shall return to work to complete the remaining hours of the workday.
- D. In the event an employee is required to appear in court in connection with the employee's job duties, such hours will be counted as hours worked for purposes of weekly overtime.
808. Voting Time: The City considers the casting of one's ballot in all elections both a right and a duty of the individual. Therefore, employees are encouraged to register and to vote in all elections.
- A. State law allows employees up to two (2) hours of absence during normal working hours, excluding the lunch hour, for the purpose of casting the ballot in general, primary, and special elections. Employees will be granted this time, up to a maximum of two (2) hours, with pay, however, employees are not entitled to this time off to vote if the normal starting time is more than two (2) hours after the polls open or if the normal quitting time is more than three (3) hours prior to the closing of the polls.
- B. Employees who wish to exercise the right to vote during working hours must advise the supervisor or department director in advance of Election Day, in order for the period of absence to be scheduled to assure a smooth flow of work. The supervisor or department director may specify the period during the workday when each employee may be absent.
809. Leave With Pay: This leave may be granted to employees for the purpose of participation in conferences, training, examinations and institutes directly related to the employee's work duties, and for other work related matters, provided advance approval is granted by the

## PERSONNEL POLICIES AND WORK RULES

department director. All leave in excess of one (1) week shall be approved by the City Administrator.

810. Personal Leave Without Pay: For compelling personal reasons, a non-temporary employee may request and may be granted a personal leave of absence without pay, not to exceed nine (9) months.

A. An employee must submit a request in writing, setting forth the inclusive dates and the reason(s) for the leave requested, to the department director. Such request must be approved by the department director and the City Administrator.

B. An approved personal leave of absence shall not result in the employee's loss of seniority or benefits, provided the employee has made prior arrangements for the necessary premium payments. These payments shall be calculated at the full cost of the insurance, unsubsidized by the City. The leave of absence shall not count as time worked for accrual of benefits based on active service with the City, i.e., vacation, sick leave, etc.

C. Employees who fail to return to work by the expiration of the leave of absence shall be considered to have voluntarily resigned from employment with the City.

811. Tuition Assistance Program

### A. Policy Statement

It is the policy of the City of Rio Rancho to provide each employee with the on-going opportunity to receive the education and training needed to facilitate the development of knowledge, skills and abilities related to job duties and growth within the organization. The central premise of this policy is to enhance personal/professional development of City employees.

All education from an accredited institution of higher learning will be administered in a manner fully consistent with the City of Rio Rancho's Administrative Policies and Equal Employment Policy, which affords equal opportunity for all persons regardless of race, age, religion, color, national origin, ancestry, sex and physical or mental handicap or medical condition.

### B. Tuition Assistance

#### 1. Definition

Tuition assistance is the payment of tuition, registration fees and books, in that order, at an accredited institution of higher learning, as defined in Section B, 3, c.

#### 2. Eligibility

To be eligible for tuition assistance, an employee must have:

## PERSONNEL POLICIES AND WORK RULES

- a. Attained regular status. Regular status means the status attained by an employee upon successful completion of the probationary period, at which time the employee changes from probationary to regular status;
- b. Employee must have completed a Career Path Plan;
- c. Returned Interest Form by deadline; and
- d. Completed the Tuition Assistance Application.

### 3. Funding

- a. Funding will be available for employees to pursue career related courses, required academic classes toward a degree major, and for courses required for upward mobility and career enhancement studies. It is the applicant's responsibility to submit the Interest Form by the deadline to the Department of Human Resources which substantiates the criteria under which funding will be made available. Definitions of the criteria are:
  - (1) Job or career related means: Studies that are directly related to work performed by the employee.
  - (2) Required academic classes means: Courses required for a degree.
  - (3) Required for upward mobility means: Studies that enhance employee eligibility for promotion with City government.
  - (4) Career Enhancement means: Studies that assist the employee in current job related duties.
  - (5) Career Path Plan means: A plan developed with the employee to determine areas of interest, level of education, and experience acquired.
- b. It is the Department of Human Resources responsibility to maintain an ongoing record of available funds and to determine the most cost effective method of acquiring the requested course(s).
- c. The City will reimburse the employee for 100 and 200 level courses in an amount no greater than \$50.00 per credit hour. For 300 and above level courses the City will reimburse the employee at no more than the rate charged by the University of New Mexico for each credit hour. If the tuition is less than \$50.00 per credit hour the employee may use the excess for books and lab fees. The City's reimbursement to the employee shall be calculated and then reduced by any other grant, scholarship, or other subsidy from whatever source, which may by its own terms be used for tuition.

## PERSONNEL POLICIES AND WORK RULES

### 4. Employee Responsibilities

- a. Documentation of course completion must be furnished to the Department of Human Resources/Personnel within one week of receipt of the grade. Upon receipt, it will be filed in the employee's personnel folder. Acceptable documentation is a copy of the official grade report or an official transcript, which included the course(s) for which Tuition Assistance was granted, and a receipt of payment.
- b. The employee agrees to continue working for the City upon completion of the most recent class for a period of one year. If an employee leaves the City in the first year after completion of the last course the employee will reimburse the City at a prorated amount of total tuition assistance given to the employee, based upon the number of days employed during the year. In the case of involuntary termination the employee will not be required to reimburse the City.
- c. Any employee receiving tuition assistance is required to submit information on grants, scholarships, GI Bill and other subsidies received. It is the employee's responsibility when applying for subsidies to provide documentation specifying what the funds are to pay for, i.e., tuition 50%, books 50%, etc. If the City does not receive any documentation on such subsidies, the City shall presume that the subsidy is intended for tuition. In the event the subsidies are not reported, the employee will be disqualified from future tuition assistance and prior amounts received will be repaid in full to the City. The City reserves the right to perform payroll deduction, if necessary.
- d. Reimbursement for a course with a grade of C or above will be paid. A passing grade in a Pass/Fail course will be reimbursed.

### 5. Educational Leave

- a. With the approval of an applicant's immediate supervisor and department director, flex-time, comp-time or vacation time, may be allowed for class attendance for courses scheduled during normal working hours.
  - (1) In all cases, the applicant's supervisor and department director will be consulted concerning how much educational leave will be granted.
  - (2) In consultation with the Department of Human Resources, a supervisor and/or department director may choose to deny educational leave when the workload is anticipated to be particularly high.
  - (3) When educational leave is denied, written documentation detailing the reasons for denial will be provided to the employee and a copy will

## PERSONNEL POLICIES AND WORK RULES

be forwarded to the Department of Human Resources.

(4) Educational leave is to be used for actual class attendance and for travel time to and from the institution.

(5) If leave is approved the direct supervisor, department director and employee must complete the appropriate leave form and return it to Human Resources.

### 6. Application Process

- a. The employee must complete the application process prior to course enrollment.
- b. Upon completion of a career path plan, applications for tuition assistance can be obtained from the Department of Human Resources.
- c. The employee will complete the application form and obtain his or her supervisor's and department director's approval.
- d. The employee will submit the completed application to the Department of Human Resources.
- e. The Department of Human Resources will review applications against the Employee Tuition Assistance Guidelines and department budget.
- f. The Department of Human Resources will notify the employee of the results within ten (10) working days.

### 7. Reimbursement Procedure

- a. The employee is solely responsible for payment of all tuition and related expenses.
- b. Documentation of course completion must be furnished to the Department of Human Resources within one week of receipt of a C or higher grade. Acceptable documentation is a copy of the official grade report or official transcript which includes the course(s) for which tuition assistance was approved.
- c. Upon receipt of the grade and proof of payment the Department of Human Resources will forward a request to Finance to reimburse the employee the amount owed within ten (10) working days.
- d. The City reserves the right to deny all or partial funding based on

## PERSONNEL POLICIES AND WORK RULES

financial assistance received by an employee as per Section B, 4, c.

- e. Prior to receiving reimbursement, the employee must sign a repayment agreement based on Section B, 4, b.

### 8. Appeal Procedure

If for any reason an employee is unsatisfied with a decision, the employee may appeal the decision utilizing the City of Rio Rancho's Personnel Policies Appeals Process.

### 812. Other Benefits:

- A. The City of Rio Rancho shall provide such other benefits, as are required by law and as may be, from time to time, approved by the Governing Body and for which monies are appropriated. These benefits may include any or all of the following, and the City may share with the employee in the cost of some or all of the benefits provided:
  - 1. Retirement plan;
  - 2. Health insurance benefits;
  - 3. Dental insurance benefits;
  - 4. Vision insurance benefits;
  - 5. Life insurance benefits;
  - 6. Accidental Death and Dismemberment insurance benefits;
  - 7. Disability insurance benefits;
  - 8. Worker's Compensation benefits;
  - 9. Unemployment Compensation benefits; and,
  - 10. Medicare portion of Social Security.
- B. Part-time employees who work less than an average of twenty (20) hours per week and temporary employees are not eligible for any of the above benefits except Worker's Compensation, Unemployment Compensation, Medicare and either PERA or Social Security, as appropriate.
- C. Participation in the above listed benefits by eligible employees is voluntary except for the Retirement Plan, Worker's Compensation, Unemployment Compensation and

## PERSONNEL POLICIES AND WORK RULES

Medicare, which are mandatory for all eligible employees.

- D. The City's insurance and other benefits are subject to the terms and conditions established by law or set out in contracts with the providers, and information concerning these benefits may be obtained from the Department of Human Resources.
813. The Governing Body reserves the right to modify, change, add, or delete benefits at any time.

# PERSONNEL POLICIES AND WORK RULES

## CHAPTER 9 TERMINATION OF EMPLOYMENT

901. Termination of employment with the City of Rio Rancho may be brought about by the employee's resignation, release, retirement, layoff, discharge, or death.
- A. Resignation: An employee will be considered to have resigned if the employee:
    - 1. Submits a letter of resignation to his/her department director or supervisor designating the last day of work. The letter should include the reasons for leaving. Employees must give notice at least ten (10) working days prior to their last day of work. The department director may elect to have the employee work the notice period or to pay the employee not to exceed two (2) weeks' pay and have the employee leave immediately;
    - 2. Leaves the job without authorization;
    - 3. Is absent from work for three (3) consecutive days without notification and satisfactory reasons.
  - B. Release: The release of an employee at the end of temporary employment. No notice is required.
  - C. Retirement: Employees who are contemplating retirement should contact the Benefits and Claims Division of PERA between six (6) months and one (1) year prior to their anticipated retirement date in order to secure an estimate of benefits. The Human Resources Department should also be notified at this time in order to assist in the process and facilitate a smooth transition.
    - 1. Once PERA has verified the employee is eligible to receive retirement benefits, the employee should then send a written request to PERA for benefits, stating their actual date of retirement.
    - 2. This request should be sent to PERA between 45 and 60 days prior to their retirement date.
  - D. Discharge: Discharge for unsatisfactory performance, misconduct, or other reasons deemed appropriate by the City. (See Chapter 7 for discharge provisions).
  - E. Death: In the event of the death of an employee, the employee's final pay, including any accrued compensatory time and/or vacation, shall be paid to the person's estate.
  - F. Abolition of Positions and Layoff: In the event of determination by the Governing Body that the abolishment of one or more regular positions due to a lack of funds, lack of work, reorganization or other reason is necessary, the Mayor, after consulting with the City Administrator, department director(s) and the Human Resources Department, shall decide which employee(s) will be laid off.

## PERSONNEL POLICIES AND WORK RULES

1. Selection of employees for layoff shall be on the basis of qualifications and performance as recommended by the department director. If such are substantially equal, length of service shall be a determining factor.
  2. Employees whose positions are abolished shall be given notice of not less than ten (10) working days. Such employees shall be given consideration for other available employment opportunities with the City, for which they are qualified.
  3. In the event there are no other employment opportunities available or the employee does not have the necessary qualifications, said employee shall be terminated.
  4. Employees who have been so terminated shall, for a period of six (6) months from the date of termination, be given consideration for City positions for which they are qualified prior to advertising to the general public.
  5. In the event such employee declines a job offer or fails to respond to the notice of the opening, the employee will be removed from the preferential list.
902. Exit Interview: The Human Resources Department shall conduct an exit interview with each terminating employee. The exit interview shall take place on or before the employee's last day of work.
903. Final Pay: Pay to discharged employees is due immediately and shall be paid within five (5) days of such discharge. When an employee resigns, all wages are due no later than the next succeeding pay day. The employee's final paycheck should be issued by the Human Resources Department.
904. Return of City Property: At the time of termination, employees must return all tools, uniforms, keys, employee rule book, identification badge, and/or any other items of City property issued to them. Deductions from the employee's final pay may be made if City property is not returned.

## PERSONNEL POLICIES AND WORK RULES

### CHAPTER 10 EMPLOYEE CONDUCT

1001. Employee Behavior: The City of Rio Rancho expects that the behavior of each of its employees shall be proper and above reproach. Conduct that interferes with the City's operations, that brings discredit to the City, or that is generally offensive to the public or fellow employees will not be tolerated.
1002. Attendance and Punctuality: All City employees are expected to adhere to their work schedules with regularity and punctuality. There may be times, however, when employees will be unable to report for work or to report on time due to illness, accident, or emergency situation. Such occurrences must be kept to a minimum.
- A. When employees anticipate an absence, they must give their supervisor as much advance notice as possible, providing all of the particulars.
1. In the event a situation develops suddenly, making it impossible for the employee to report to work, the supervisor must be notified as soon as possible, but no later than one (1) hour after the employee's starting time.
  2. If it is not possible to notify the supervisor, the employee must notify the Personnel Department at the earliest opportunity, providing all the pertinent information.
  3. If the absence continues for more than one (1) day, the employee must advise the supervisor of the anticipated length of absence as soon as possible and the actual period of absence, when determined.
  4. Confirmation and/or documentation of the need for the absence may be required by either the supervisor, department director, or the Personnel Department prior to the employee's return to work.
- B. An employee is considered tardy if he/she is not ready for work at the scheduled starting time. Three (3) instances of tardiness within a ninety (90) day period shall be considered excessive and subject to corrective action.
1003. Absence Policy:
- A. When employees are absent from work, the City's operation is disrupted and an additional burden is placed on co-workers. The purpose of this policy is to provide guidance to employees and supervisors regarding unacceptable levels of absenteeism.

## PERSONNEL POLICIES AND WORK RULES

- B. Absences under this policy do not include; vacation, City holidays, funeral leave, jury duty or City required court appearances, administrative leave, compensatory time, PAL and required military training up to fifteen (15) working days per year.
  - C. An unexcused absence is an absence which is not reported in a timely manner, i.e.; within one hour of the normal starting time unless in an emergency; or an absence for which the supervisor requested documentation before the employee returned to work and the employee did not provide satisfactory proof. A supervisor, or designee, may request documented proof of any absence at the time of notification or at any time prior to the employee's return to work.
  - D. An excused absence is one which is reported in a timely manner and is for an acceptable reason. The City understands that employees may encounter situations which will cause them to be absent. However, any absence is disruptive and excessive absenteeism or use of sick leave may be grounds for corrective action.
    - 1. In most circumstances, six (6) days of absence in the last twelve (12) month period of time shall be considered excessive.
    - 2. Upon the occasion of the sixth absence, the supervisor shall examine the employee's attendance and determine whether counseling is warranted. The supervisor shall take into account the employee's length of service, reasons for the absences and the pattern of the absences. If the supervisor determines that the absences are excessive, the supervisor shall issue a written warning to the employee.
  - E. In the event an employee has a serious chronic medical condition which requires numerous absences for treatment, as certified by a written statement from the employee's physician, such situation shall be evaluated on its merits.
1004. Safety Practices: All employees shall perform their duties in a safe and careful manner and shall follow all safety precautions and all federal, state, and local regulations, so as not to endanger themselves or their co-workers.
- A. Employees must wear safety apparel and use all required safety equipment. All safety apparel, equipment, or other safety apparatus which are required shall be furnished by the City.
  - B. Any employee involved in a work-related accident shall report it to the supervisor immediately. The employee shall prepare, or request the supervisor to prepare for the employee's signature, a report to the department director and the Personnel Department. Failure to report an accident in a timely manner may result in the loss of benefits to the employee

## PERSONNEL POLICIES AND WORK RULES

and corrective action.

- C. Any employee having knowledge of an accident shall, whether personally involved or not, similarly report the facts. The supervisor or department director shall investigate all known accidents to determine the facts and shall consult the Personnel Department as appropriate in connection with such investigation.
1005. Personal Appearance: In order to project the proper image to the public, it is essential that all employees be neatly groomed and appropriately dressed at all times. Department directors shall determine the appropriate attire for employees. Employees who fail to follow the established guidelines shall be subject to corrective action.
1006. Telephone Usage: Employees using the telephone in the performance of their duties must exercise common courtesy and good telephone manners. Use of the telephone during working hours is restricted to the conduct of City business. Employees should not make or receive personal calls during business hours. Urgent personal calls should be kept as brief as possible.
1007. Political Activity: The following policy of political activity applies to all employees:
- A. All employees on their own time:
    - 1. are encouraged to register to vote;
    - 2. have a right to express their opinions on all political subjects and candidates;
    - 3. may serve as convention delegates;
    - 4. may attend political rallies;
    - 5. may sign nominating petitions and make voluntary contributions to political organizations;
    - 6. may engage in political activity;
    - 7. may serve as an election judge, clerk, translator, challenger, watcher or observer. However, this provision does not apply to employees in the City Clerk's office or the Department of Public Safety.
  - B. All employees are prohibited from:
    - 1. using official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office or for any other political purpose;

## PERSONNEL POLICIES AND WORK RULES

2. directly coercing, attempting to coerce, commanding, or advising an employee to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for political purpose;
  3. threatening to deny promotion to any employee who does not vote for certain candidates, requiring employees to contribute a percentage of their pay to a political fund, influencing subordinate employees to buy tickets to political fund raising events, advising employees to take part in political activity and matters of a similar nature;
  4. engaging in political activity while on duty;
  5. functioning as an officer of a political organization while on duty;
  6. being an elected official where such service conflicts with the employee's duties and responsibilities with the City.
- C. No employee shall carry out activities that are in violation of the Hatch Act.

### 1008 Drug Free Workplace Policy:

The City of Rio Rancho is committed to protecting the safety, health and well being of all employees and other individuals on City property or worksites. The City recognizes that alcohol and drug use pose a significant threat to the City's mission and vision. The purpose of this policy is to establish expectations for all employees and describe the mechanisms for maintaining a work environment at the City of Rio Rancho that is drug-free, safe, and in compliance with federal and state laws and regulations. This policy is governed and implemented by City of Rio Rancho Administrative Rules Chapter 6, Article 5, et. seq. as amended.

- A. Applicability. This policy applies to all City of Rio Rancho employees and applicants for employment. In those instances in which there is a conflict between a collective bargaining agreement and the requirements of this document, the collective bargaining agreement prevails. Violations of this policy may result in discipline, up to and including termination. If an employee voluntarily discloses an addiction or dependency problem, an opportunity will be provided to preserve his/her job with the City as outlined in Administrative Rules Chapter 6, Article 5, et. Seq. as amended. A Return to Work Agreement between the employee and the City may be required before the employee is allowed to return.
- B. Policy Statement. As a municipal employer and a federal grantee, the City of Rio Rancho complies with "The Drug Free Workplace Act" and the Federal

## PERSONNEL POLICIES AND WORK RULES

Highway Administration (FHWA) drug and alcohol testing rules. The City cannot tolerate illegal activity and must ensure a work environment that is free from unauthorized or illegal use, possession, or distribution of alcohol or controlled substances. Employees who are involved with illegal drugs or other controlled substances, or who abuse alcohol, pose unacceptable risks to safe and efficient operations. Such employee behavior may also undermine public or customer confidence in safe and efficient City operations.

### C. Drugs.

1. Unlawful manufacture, distribution, dispensing, possession, use, transfer, or sale of drugs is prohibited, regardless of whether this occurs at a City worksite, a City building or property, at official City functions or on City business.
2. Prescription and over-the counter drugs are not prohibited when taken in standard dosage and/or according to a physician's prescription. Any employee taking prescribed or over-the-counter medications will be responsible for consulting the prescribing physician and/or pharmacist to ascertain whether the medication may interfere with safe performance of his/her job or prevent the employee from performing the essential functions of his/her job. If the medication could impair or compromise the safety of the employee, fellow employees or the public, it is the employee's responsibility to use appropriate personnel procedures (e.g., call in sick, use leave, request change of duty, notify supervisor) to avoid unsafe workplace practices or the inability to perform the essential functions of their job.
3. The illegal or unauthorized use of prescription drugs is prohibited. It is a violation of this policy to intentionally misuse and/or abuse prescription medications. Appropriate disciplinary action will be taken if job performance deterioration and/or other accidents occur.

### D. Alcohol. The unauthorized use or possession of alcohol or alcoholic beverages on a City worksite, a City building or property, at official City functions, on City business or City-sponsored events is prohibited. City-sponsored events include:

- events that require an employee's attendance;
- City-funded events where attendance is required; and,
- City events that occur during scheduled work hours.

### E. Violations. One of the goals of this policy is to encourage employees to voluntarily seek help with alcohol and/or drug problems. If, however, an employee violates the policy, he/she will face consequences, which may

## PERSONNEL POLICIES AND WORK RULES

include discipline up to and including termination.

1. In the case of applicants, if she/he violates this policy, the offer of employment will be withdrawn. The applicant may apply after one year and must successfully pass a pre-employment drug test and provide proof of successful completion of a treatment program.
2. Except for voluntary self-referral participants in an Employee Assistance Program (EAP) for substance abuse, the first instance in which an employee submits a sample for alcohol/drug testing which is found to contain alcohol or drugs or their metabolites shall be considered justifiable cause for discipline up to, and including, termination. The employee will be removed from any position performing a safety sensitive function, as defined in § G(4)(b) below. If an employee in a self-referral rehabilitation program fails to successfully complete it and/or repeatedly violates the policy, she/he may be terminated from employment. Nothing in this policy prohibits the employee from being disciplined or terminated for other violations and/or performance problems, including the inability to perform the essential functions of their job.
3. Employees in safety sensitive positions may face immediate termination upon violation of this policy.

F. Notification of Convictions. Any employee, who is convicted of any drug related crime that occurred on City property or during working hours, must notify the Director of Human Resources, in writing, no later than five calendar days after the conviction. If the crime occurred within City property or during work hours, the City will take appropriate action, including notifying appropriate State and Federal contracting agencies within ten (10) days of the notification. All information will remain confidential, unless reporting to granting agencies is required or if the Director of Human Resources determines that further investigation is necessary, in which case information may be provided to necessary City personnel for investigation.

G. Drug and Alcohol Testing.

1. To ensure the accuracy and fairness of the City's testing program, all testing will be conducted according to FHWA and Substance Abuse and Mental Health Administration (SAMHSA) guidelines, which include the following:
  - a. screening test;
  - b. confirmation test;

## PERSONNEL POLICIES AND WORK RULES

- c. the opportunity for a split sample;
  - d. review by a Medical Review Officer (MRO), including the opportunity for employees who test positive to provide a legitimate medical explanation, such as a physician's prescription, for a positive test result; and
  - e. a documented chain of custody.
2. Breath Alcohol Testing will be administered by a Breath Alcohol Technician (BAT), who may use an Evidential-Grade Breath Alcohol Device (EBT). This device measures breath-alcohol concentration. Results are recorded in grams of alcohol per 210 liters of breath. An initial screening test may be conducted to determine the presence or absence of alcohol. The initial screening may be conducted by authorized law enforcement or the City's contracted drug testing facility authorized by the City Manager. If the screening determines that alcohol is present, a confirmation test will be conducted to determine the concentration in accordance with Administrative Rules Chapter 6, Article 5, et. Seq. as amended. Any employee who renders a breath alcohol test result of 0.02 g/210L or greater will be immediately evaluated by an authorized MRO. If a violation of this policy has occurred, the Director of Human Resources will be notified immediately for further action in accordance with this policy and Administrative Rules Chapter 6, Article 5, et. Seq. as amended.
3. All drug and alcohol testing information will be maintained in separate, confidential records.
4. Testing will be required under the following circumstances:
- a. pre-employment;
  - b. random or mass testing for safety sensitive positions as designated by the Department of Transportation (DOT) regulations and FHWA or by the Director of Human Resources in accordance with specific departmental requirements;
  - c. employees in non-safety sensitive positions before transferring to safety sensitive positions;
  - d. upon reasonable suspicion, as defined in Administrative Rules Chapter 6, Article 5, et. Seq. as amended, that an employee's alcohol and/or drug use could impair the employee's ability to perform their job safely or presents a threat or danger to the worksite;

## PERSONNEL POLICIES AND WORK RULES

- e. as part of a self-referral treatment program for employees enrolled with the EAP, or other substance abuse program; and,
  - f. post-accident for safety sensitive employees, in accordance with Administrative Rules Chapter 6, Article 5, et. Seq. as amended.
5. The Department Director or his/her designee, the Director of Human Resources or his/her designee, or the City Manager, shall give the order for a test if suspected during working hours.
6. An employee will be subject to the same consequences of a positive test if he/she refuses the screening or test, adulterates or dilutes the specimen, substitutes the specimen with that from another person or sends an imposter, will not sign the required forms or refuses to cooperate in the testing process in such a way that prevents completion of the test.
7. An employee who submits a sample for alcohol/drug testing which is found to contain alcohol or drugs or their metabolites shall not perform any safety sensitive function until successfully completing an evaluation and being released for duty by a medical officer authorized by the Director of the Human Resources Department. Employees, who do not perform safety sensitive job functions, shall return to work upon authorization of the City Manager and/or the Director of Human Resources. The City Manager may authorize the use of accrued leave until the employee is allowed to return to work.
- H. Return to Work Agreements.
- 1. An employee who has voluntarily disclosed an addiction or dependency problem may be offered an opportunity to participate in rehabilitation. In such case, the employee must sign and abide by the terms set forth in a Return to Work Agreement as a condition of continued employment.
  - 2. Except for DOT covered employees, an employee who voluntarily admits to drug and/or alcohol abuse will be referred through the Human Resources Department for assessment and counseling. Upon successful completion, the employee may return as though returning from other medical leave.
- I. Assistance. The City recognizes that alcohol and drug abuse and addiction are

## PERSONNEL POLICIES AND WORK RULES

treatable. The City also recognizes that early intervention and support improve the success of rehabilitation. Treatment for alcoholism and/or drug use may be covered by the employee benefit plan; however, the ultimate responsibility for recommended treatment belongs to the employee. To support employees, the City's Drug Free Work Policy:

1. encourages employees to seek help if they are concerned that they or their family members may have a drug and/or alcohol problem;
2. encourages employees to utilize the services of qualified professionals in the community to assess the seriousness of suspected drug or alcohol problems and identify appropriate sources of help;
3. ensures the availability of a current list of qualified community professionals;
4. offers all employees and their family members assistance with alcohol and drug problems through the EAP.
5. allows the use of accrued paid leave while seeking treatment for alcohol and other drug problems.

J. Employee Responsibilities. A safe and productive drug free workplace is achieved through cooperation and shared responsibility. All employees are required to not report to work or be subject to duty while their ability to perform job duties is impaired due to on- or off-duty use of alcohol or other drugs. Employees are encouraged to:

1. be concerned about working in a safe environment;
2. support fellow workers in seeking help;
3. use the EAP; and,
4. report dangerous behavior to their supervisor.

K. Employer Responsibilities. It is the supervisor's responsibility to:

1. Inform employees of the drug free work policy;
2. observe employee performance;
3. investigate reports of dangerous practices;
4. document negative changes and problems in performance;
5. counsel employees as to expected performance improvement;
6. refer employees to the EAP; and
7. clearly state consequences of policy violations.

1009. Smoking:

A. In an effort to consider the needs and concerns of smokers and nonsmokers alike, and to provide a healthful working environment, this smoking policy will

## PERSONNEL POLICIES AND WORK RULES

take effect upon adoption. All City of Rio Rancho employees, customers and visitors are expected to comply with the smoking regulations detailed in this policy.

B. Smoking Prohibited. Smoking is prohibited in any City vehicle and in any City building as of the date of the adoption of this policy.

C. Enforcement

1. Employees: Violations of this policy shall be construed as insubordination and shall be just cause for disciplinary action under the City of Rio Rancho Personnel Policies and Work Rules.

2. Non-employees: The City employee in charge of any area or facility shall advise violators of this policy. If the violator persists, the City employee shall ask the violator to leave. If the violator refuses to leave and persists in violating this policy, the City employee shall request the assistance of the Department of Public Safety to remove the violator from the City premises. Utmost courtesy will be exercised in carrying out this policy.

1010. Public Relations: All employees shall deal with the public and fellow employees in a patient, courteous, and helpful manner and shall represent the City in a positive way.

1011. Code of Conduct: It is extremely important that all employees conduct their employment duties and their personal affairs in such a way as to avoid discredit or embarrassment to themselves or the City. All employees' conduct shall be in conformance with the following rules:

A. Employees shall not conduct personal or commercial business while on duty.

B. Employees shall not engage in any activity which conflicts in any way with their City employment.

C. Employees shall not use their positions with the City in an attempt to coerce or influence anyone for personal gain or benefit, nor shall employees use City employment as leverage for favors from suppliers.

D. Employees shall hold any confidential communications derived through their City employment, in strict confidence and shall not share, reveal or use such, unless it is subject to public disclosure, necessary to conduct City business, or to prevent death or serious bodily injury.

E. Employees shall not commit any dishonest or fraudulent act against the City, including falsifying any City document, record or report.

## PERSONNEL POLICIES AND WORK RULES

- F. No employee shall directly or indirectly accept or benefit from any gift, gratuity, or hospitality from any source that would affect the employee's official conduct, or give the impression of such.
- G. Employees shall not post any personal or commercial written notices on City premises, without first obtaining the written approval of the director of the department where the posting will be made.
- H. Employees shall not carry nonofficial or unauthorized passengers while operating a City vehicle. Authorized passengers shall be determined by the department director.
- I. Employees shall carry out direct instructions from their supervisor, shall perform the duties and responsibilities stated in their job description, including related work assigned by their supervisor, and shall comply with these rules and other departmental rules. Failure to do so shall subject the employees to corrective or disciplinary action up to and including termination of employment.
- J. Employees shall refrain from engaging in malicious conduct, which includes, but is not limited to, gossiping or rumoring.
- K. Employees shall refrain from the use of force, threats of the use of force, harassing behavior, appearances of impropriety, use of obscene language, and inappropriate conduct while engaged in the performance of their job, while representing the City, while wearing City uniforms or driving a City vehicle, or where such conduct reflects adversely on the image of the City.
- L. Employees shall not use or allow members of the public to use City property, equipment, or materials for personal use.
- M. Damage to City property due to negligence or willful destruction may be cause for corrective or disciplinary action and reimbursement to the City to the extent of the damage.
- N. Possession of unauthorized firearms or weapons on City property or facilities is strictly prohibited.
- O. All City employees shall follow and support these Personnel Policies and Work Rules and/or the policies established by the City. In the event an employee believes a violation of these Personnel Policies and Work Rules and/or the policies established by the City has occurred, the employee may utilize the dispute resolution procedure established by the City.

1012. Workplace/ Domestic Violence: The City of Rio Rancho is committed to providing a workplace in which employees who are victims of workplace or domestic violence have

## PERSONNEL POLICIES AND WORK RULES

the support they need in order to address the violence in their lives. This policy is intended to increase awareness of workplace and domestic violence, assist employees who have experienced such violence, and help ensure that the workplace is a safe environment.

Through this policy the City will implement the most effective strategies for dealing with City employees who are perpetrators of violence. The development and implementation of this policy underscores the City's commitment to creating and maintaining a work environment that does not tolerate workplace or domestic violence and to respond swiftly to the need for safety for all employees and confidentiality for victims. In creating this policy, the City remains committed to upholding the most rigorous standards of conduct and accountability for its employees.

- A. Policy Statement: The tragic occurrence of violence in the workplace has risen in recent years. In 2012 homicide was the leading cause of death for women in the workplace and the second leading cause for men. As a major and diverse employer, the City of Rio Rancho has a significant interest in providing a work environment to all of its employees that minimizes the risk of workplace violence.

Domestic violence is a significant concern in addressing workplace violence because this form of violence often extends to the worksite of the victim, compromising the safety of both victims and co-workers. This results in lost productivity, increased health care costs, increased absenteeism and increased employee turnover. As a public employer, the City of Rio Rancho acknowledges that its employees are held to the highest standards in complying with state and federal laws. This policy establishes the City's expectations of its employees and the process by which violations of this policy will be investigated and necessary action taken.

- B. Employee Expectations: All employees are expected to adhere to the work requirements applicable to every City employee. Although the City seeks to address instances of violence in order to create a more productive and safe environment, this policy does not alleviate the expectation of work performance as detailed in an employee's job description, the City's Personnel Policies and Work Rules and Collective Bargaining Agreements. Nothing in this policy is intended to nor shall be construed to create any private cause of action against the City of Rio Rancho or any of its employees.

- C. Definitions:

1. Assault-An attempt to commit a battery upon the person of another; or any unlawful act, threat or menacing conduct which causes another person to reasonably believe that he or she is in danger of receiving an immediate battery.

## PERSONNEL POLICIES AND WORK RULES

2. Battery- An act of violence that includes the unlawful intentional touching or application of force to the person of another, when done in a rude, insolent or angry manner.
3. Bullying- Abusive treatment, the use of force or coercion to affect others, particularly when habitual and involving imbalance of power. Bullying consists of three basic types of abuse; emotional, verbal and physical. It may be directed persistently towards particular victims, perhaps on grounds of race, religion, sex or ability. The “imbalance of power” may be social power and/or physical power. Bullying typically involves intimidation and can be violent in nature. Bullying does not include corrective or disciplinary action taken by a supervisor or applicable City personnel during the normal course of business.
4. Domestic Violence- A pattern of coercive behavior that is used by a person against a household member, as defined in NMSA 30-3-11(A) 1978 as amended, to gain power and control over the other household member in the relationship. This behavior may include any of the following: physical violence, sexual abuse, emotional and/or psychological intimidation, verbal abuse and threats, stalking, isolation from friends and family, economic control, and destruction of personal property. “Household member” is defined by state law and does not require marriage or co-habitation.
5. Emergency Plan/ Safety Plan- A document that will identify safety and emergency procedures.
6. Employee Assistance Program (EAP) - EAP provides free counseling to City of Rio Rancho employees and their eligible family members to help them resolve personal matters which may affect their work performance or quality of life.
7. Hostility- Hatred, unreasonable anger or antagonism. Unreasonable aggression in any way towards another.
8. Retaliation- Includes adverse action taken against an employee for filing a complaint under a variety of laws. Employees supporting another employee’s complaint or testifying as a witness are afforded the same protection from adverse employment action as an employee bringing forth the complaint.
9. Safety Coordinator- A representative assigned by the City Manager to facilitate and coordinate safety measures and policy.
10. Safety Team- Designated City personnel who act as a point of contact for victims who wish to report to someone other than a supervisor. The Safety Team will have the ability to provide information immediately and may assist the employee in responding to an incident. The Safety Team will also provide valuable input to management in making recommendations for

## PERSONNEL POLICIES AND WORK RULES

- the efficient implementation of this policy. In order to encourage employees to report violence and for them to implement safety plans that may protect them and their co-workers, it is important to make all levels of personnel available. Victims might find reporting to upper management intimidating or confusing and providing them access to the Safety Team gives them an additional level of support. A contact list for the Safety Team will be located in the Human Resources Department and on the employee website.
11. Sexual Assault- An act of sexual violence whereby a party forces, coerces, or manipulates another to participate in sexual activity. This behavior may include rape, attempted rape, child sexual assault, attempted child sexual assault, criminal sexual contact, indecent exposure, and voyeurism.
  12. Stalking- Purposely pursuing a pattern of conduct directed at a specific person when the individual knows or should know that the pattern of conduct would cause a reasonable person to fear for his or her safety or the safety of a household member. The "pattern of conduct" means two or more acts, including, but not limited to, acts in which the individual directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
  13. Workplace/ Worksite/ City Property- Buildings and property owned or controlled by the City of Rio Rancho; City vehicles and private vehicles while used on City business; other assigned work locations, off-site training locations, or locations in which the employee is representing the City, including but limited to, conferences, workshops, residential and community meetings.
- D. The City is committed to maintaining a workplace that is free from hostility, violence or threats of violence. The City will not tolerate hostile acts, bullying, threatening or violent behavior or physical threats in the workplace or on City property.
- E. The City will not take any action against an employee who is the victim of domestic violence based on the criminal behavior of another person, even if the behavior disrupts the workplace.
- F. The City may take action, including the filing of a criminal complaint or initiation of a civil action, directly against the perpetrator whose violence affects an employee if the perpetrator's actions disrupt the workplace. Prior to taking any actions against such a perpetrator, the City will consult with the victim-employee to determine whether the action would be likely to place the victim-employee's safety at risk and the City will make reasonable efforts to address these concerns.

## PERSONNEL POLICIES AND WORK RULES

- G. The City will create workplace safety and emergency plans for responding to and reporting incidents of violence that occur on City property. Workplace safety and emergency plans will be maintained by the Human Resources Department.
- H. Upon the request of a victim-employee, the City will aid the employee in seeking assistance from the appropriate law enforcement agency and/or an advocacy agency in order to report acts of violence that do not involve City employees and occur outside of the workplace. Such requests should be made to the designated Safety Coordinator or a member of the Safety Team, as outlined in § I below. All requests will remain confidential to the extent allowed by law.
- I. The City Manager will designate a "Safety Coordinator" in order to facilitate the reporting of workplace violence or domestic violence incidents. Each department director will be responsible for posting and maintaining up to date contact information for the Safety Coordinator and the Safety Team. Contact information will also be available in the Human Resources Department and on the employee website.
- J. Prohibited Acts: Prohibited workplace behavior includes verbal or physical conduct that may be reasonably construed to be hostile in nature, including but not limited to:
1. Violent physical actions;
  2. Direct or implied threats to do harm to person or to property, including intimidating use of one's body or physical objects;
  3. Verbally abusive or intimidating language or gestures;
  4. Threatening, abusive, or harassing communication. Communications can be made through phone calls, text messages, emails, letters, memoranda, faxes, voice mails, postings on social media, and any other electronic means of communication;
  5. Vandalism, destruction or sabotage of City or personal property;
  6. Jokes or comments regarding violent acts which are reasonably perceived to be a threat;
  7. Any other behavior reasonably perceived to be a threat of imminent harm against an employee or member of the general public;
  8. Violent expressions of emotion, intimidation, bullying, and harassment or other abusive behavior against other employees or citizens that may be reasonably construed to be hostile in nature.

## PERSONNEL POLICIES AND WORK RULES

- K. In cases where violent behavior or credible threats of violent behavior are directed at City employees, the City, in conjunction with the appropriate law enforcement agency, may take appropriate legal action and/or other steps necessary to help protect the employee and the employee's co-workers.
- L. After an investigation by the City Manager or his designee, any verified violation of this policy by an employee could result in discipline, up to and including termination.
- M. Employee Responsibilities:
1. Employees or individuals who have actual knowledge of, are witness to, or reasonably perceive any form or threat of violence in the workplace or on City property shall report such behavior to their immediate supervisor unless the supervisor is the one involved in the prohibited behavior, in which case the employee shall report the behavior to any of the following: the next highest person within their department, the Human Resources Department, Safety Coordinator or a member of the Safety Team. All threats, including those made jokingly, will be taken seriously and could result in discipline up to and including termination.
  2. Employees will cooperate fully in any investigation of workplace violence. If a victim-employee fears that cooperation places the employee in danger, the victim-employee shall notify the Human Resources Director, the City Attorney, or the designated Safety Coordinator of their concern. The City will keep the information confidential to the extent allowed by law.
  3. Upon occasion, employees may encounter situations in which the threat of immediate harm from another employee or the general public may occur. In the vast majority of these situations, employees can de-escalate the situation. Examples of appropriate de-escalation techniques include:
    - a. Offering to transfer an irate caller on the telephone to a supervisor;
    - b. Requesting the intervention of a supervisor;
    - c. Walking away from the situation;
    - d. Staying in control of speech and behavior. Do not retaliate or respond in kind;
    - e. Contact the Rio Rancho Police Department or appropriate law enforcement agency to have the offender removed from the premises.
- N. Employer Responsibilities:

## PERSONNEL POLICIES AND WORK RULES

1. Department Directors are responsible for ensuring employee compliance with this Policy. Directors and supervisors will be responsible for forwarding reports to the Safety Coordinator.
2. The Safety Coordinator is responsible for providing reports and other documentation to the Human Resources Department. She/he will act as the primary contact for the Safety Team and personnel reporting incidents in the workplace. He/she will assist with employee training if needed and maintain statistical information for the purposes of evaluating the efficacy of the policy.
3. Supervisors will monitor the workplace to ensure employees do not experience retaliation for reporting allegations of workplace violence or participating in an investigation.
4. The Human Resources Department will ensure that all newly hired and current employees are notified of this policy and of the City's Safety Plan.
5. Supervisors may take appropriate action in order to abate prohibited behavior by an employee. The actions taken may include:
  - a. Referral of an employee to the EAP. This will be initiated by contacting the Director of Human Resources.
  - b. Placing the employee on administrative leave, in accordance with applicable City rules and collective bargaining agreements;
  - c. Imposing disciplinary action up to and including termination from City employment, in accordance with applicable City rules and collective bargaining agreements;
  - d. Offering assistance and cooperation in filing a criminal complaint against the offender.
6. In order to abate prohibited behavior directed at a City employee by the general public, a supervisor may:
  - a. Notify the individual that a complaint was filed by the employee. The specific behavior should be stated and the individual advised that this behavior violates City policy, will not be tolerated, and may result in legal action;
  - b. If possible, eliminate or reduce the opportunity for future contact between the employee and the individual;
  - c. Direct the employee to the Safety Coordinator in order to assist the employee in filing a criminal complaint against the offender.

## PERSONNEL POLICIES AND WORK RULES

- O. Domestic Violence:
1. The City enacts this policy in order to increase awareness of domestic violence and inform employees of available resources.
  2. The City will provide information on domestic violence, sexual assault, and stalking awareness and services in written materials provided to new employees and/or as part of new employee orientation.
  3. The City will integrate information on domestic violence, sexual assault and stalking into existing materials and literature, policies, protocols, and procedures, as appropriate.
  4. Non-Discriminatory and Responsive Policies for Victimized Employees:
    - a. The City shall insure that policies and procedures do not discriminate against victims of domestic violence, sexual assault and stalking, and are responsive to the needs of victims of these offenses consistent with New Mexico State law and this policy.
    - b. The City shall grant Domestic Abuse Leave, consistent with NMSA 1978 §50-4A-1, et seq., known as the "Promoting Financial Independence for Victims of Domestic Abuse Act," and the policies of the City of Rio Rancho, to employees who are victims of domestic abuse or who are the parent or legal guardian of a minor child who is the victim of domestic abuse. Such leave must be for the purpose of obtaining or attempting to obtain an order of protection or other judicial relief from domestic abuse or to meet with law enforcement officials, consult with attorneys or victim advocates or attend court proceedings related to the domestic abuse of the employee or family member. An employee may use accrued vacation or sick leave if the employee wishes to be paid for Domestic Abuse Leave.
    - c. When possible, Domestic Abuse Leave should be requested in advance by submitting a request to the employee's immediate supervisor. Upon request, employees requesting such leave shall provide one of the following forms of verification: a police report indicating domestic abuse; a copy of an order of protection or other court evidence produced in connection with an incident of domestic abuse; or a

## PERSONNEL POLICIES AND WORK RULES

written statement of an attorney representing the employee or other official that the employee or the employee's minor child appeared or is scheduled to appear in court in connection with an incident of domestic abuse.

- d. All information provided to the City regarding a request for the use of Domestic Abuse Leave shall remain confidential by the City and shall only be disclosed when the employee consents, when a court orders disclosure or when otherwise required by federal or state law.

### P. Accountability for Employees:

1. The City shall hold accountable employees who engage in the following behavior:
  - a. use City resources to commit an act of workplace violence as defined by this policy, domestic violence, and sexual assault or stalking;
  - b. committing an act of workplace violence, domestic violence, sexual assault or stalking from or at the workplace or from any other location while on official City business; or
  - c. uses their job-related authority and/or City resources to assist perpetrators in locating a victim and/or in perpetrating an act of workplace, domestic violence, sexual assault or stalking.
2. In cases in which the City has found that an employee has threatened, harassed, or abused an individual while at the workplace using City resources, such as work time, workplace telephones, FAX machines, mail, e-mail, computers, or other means, the employee shall be subject to corrective or disciplinary action, up to and including, termination.
3. The City encourages employees who are perpetrators to voluntarily seek assistance from any entity or the City Human Resources Department.
4. Any verifiable act of workplace or domestic violence, sexual assault, stalking, or violation of a valid order of protection by an employee will be considered a violation of City Personnel Policy. Upon verification of such conduct, the City will take appropriate action which may include discipline up to termination.

# PERSONNEL POLICIES AND WORK RULES

## CHAPTER 11 MISCELLANEOUS

1101. Equal Employment Opportunity: It is the policy and practice of the City of Rio Rancho to provide equal opportunity in all personnel actions for all persons who are qualified based on job related standards of knowledge, skills, ability, education and experience. Moreover, the City does not unlawfully discriminate against any employee or applicant for employment because of race, age, religion, color, national origin, ancestry, sex, physical or mental handicap or medical condition, provided the individual is qualified to perform the work available. This policy of nondiscrimination applies not only to initial recruitment and selection of employees, but it is also an integral part of the overall City operation. It applies to all matters of compensation, benefits, promotions, transfers, layoffs, training, and all other terms and conditions of employment.
1102. Harassment: The City of Rio Rancho is committed to offer employment opportunity, based upon ability and performance in a productive climate, free of discrimination and to provide a workplace in which employees are treated with dignity and respect. Therefore, it is the policy of the City that any employee or supervisor shall not harass another employee or member of the public.
- A. Harassment includes racial or ethnic slurs and other verbal, visual or physical abuse relating to a person's race, age, religion, color, national origin, ancestry, sex, physical or mental handicap or medical condition or any other behavior that interferes with an individual's work performance or creates an intimidating, hostile or offensive working environment.
  - B. Harassments of an employee of any kind will not be tolerated. Any employee experiencing or witnessing such harassment shall report such instance immediately to the supervisor, department director, or the Human Resources Department. Noncompliance with this policy by any City employee will result in disciplinary action which may include termination.
  - C. Employees who believe they have been a victim of harassment are also strongly encouraged to utilize the provisions of the Dispute Resolution Procedure set forth in Chapter 7 of these Rules and Procedures or to contact the Human Resources Department.
  - D. No employee shall be subjected to any form of intimidation or threat of retaliation for exercising his/her rights under the law of these Rules and Procedures.
1103. Sexual Harassment:
- A. Sexual harassment warrants special emphasis, in addition to the policy and procedures set forth in Section 1102.

## PERSONNEL POLICIES AND WORK RULES

- B. Sexual harassment is interpreted to be any unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature by a City employee or non-employee when:
1. submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
  2. submission to or rejection of such conduct by an individual is used as a factor in employment decisions affecting the individual; or
  3. such conduct has the purpose or effect of substantially interfering with an employee's work performance or creating an intimidating, hostile, or offensive working environment.
- C. Sexually harassing conduct includes:
1. sexual flirtation, touching, advances or propositions;
  2. verbal comment of a sexual nature;
  3. graphic or suggestive comments about an individual's dress or body;
  4. sexually degrading words to describe an individual;
  5. display in the workplace of sexually suggestive objects or pictures, including nude or semi-nude photographs.
- D. Any employee having knowledge of a violation of this policy shall report it to their supervisor or to Personnel who will take prompt and appropriate action.

1104. Reporting of Other Incidents: If any employee should become involved in or aware of any incident or occurrence which involves the use of force, threats of use of force, appearances of impropriety, or use of obscene language between City employee(s) in the performance of their job, or with the public; said employee must report any such incident to the supervisor within twenty-four (24) hours of first knowledge.

- A. The employee and the supervisor shall immediately reduce to writing the description of the event and shall present it to the department director, who shall take appropriate action.
- B. The Human Resources Department shall be provided with a copy of the written report and shall be advised as to the action to be taken by the department director.

## PERSONNEL POLICIES AND WORK RULES

### 1105. Personnel Records:

- A. Personnel records for each employee in the City shall be maintained in the Human Resources Department.
  - 1. Such records shall include the employee's application, a copy of each Payroll Status Change, performance appraisal reports and any other pertinent information.
  - 2. Employees may inspect their own personnel file in the Human Resources Department by appointment.
  - 3. Employees may receive a copy of documents contained in their file upon payment of the current fee charged by the City to members of the public for copies of public documents. A first time copy will be provided at no charge.
  - 4. If an employee discovers an item in their own file that he/she believes to be inaccurate, irrelevant or incomplete, a written response and a request for a correction may be made. The Human Resources Department shall make the correction or notify the employee in writing of the reason for the refusal. This request and the refusal will become part of the employee's personnel file.
- B. The personnel records maintained by the Human Resources Department shall be the official documents for legal and reference purposes.
- C. In addition to the employee, only those persons authorized by the Human Resources Department, and who have a legitimate interest, shall have access to the personnel records.

### 1106. Department Records:

- A. Departments may maintain a personnel record for each of its employees which should include a copy of each Payroll Status Change, attendance and leave records, performance appraisal reports, and other pertinent information.
  - 1. Such records shall be made available for inspection by the employee and by only those persons with a legitimate interest who have been granted authority by the Human Resource Department.
  - 2. A copy of any appropriate record held in a departmental personnel file shall be provided to the Human Resources Department.

## PERSONNEL POLICIES AND WORK RULES

- B. Upon request, employees shall be provided with a copy of material placed in the record and may present a written response to any material in the record to be attached to the original material.

1107. Confidentiality of Records: Not all documents in personnel records are subject to public inspection. However, such records may be inspected with the written permission of the employee. For the purpose of preserving the confidentiality of records, the material listed below shall be regarded and treated as confidential:

- A. records pertaining to physical and mental examinations and medical treatment of employees or their dependents;
- B. letters of reference concerning employment, background investigations, licensing or permits;
- C. letters or memoranda which are matters of opinion;
- D. documents concerning rule infractions and disciplinary actions, disputes or other complaints;
- E. performance appraisals;
- F. opinions concerning a person's reemployment status or why a person was not reemployed;
- G. personal information, such as home address or phone number; and
- H. any other documents regarded as confidential by law or for which a need to know is not established to the satisfaction of the record holder.

1108. Employee Information: In order that personnel records be kept current, all employees shall notify the Human Resources Department in writing concerning any changes in their personal status. Such status changes include:

- A. change of name,
- B. change of address,
- C. change in telephone number,
- D. change in marital status and/or number of dependents,
- E. change of persons to be notified in cases of emergency, and
- F. change of beneficiary.

1109. Transportation Costs: Costs for authorized out-of-town travel on City business shall be in accordance with the Per Diem and Mileage Act. Mode of travel to be taken must be

## PERSONNEL POLICIES AND WORK RULES

approved in advance by the department director.

1110. Use of Automobiles: Whenever an automobile is used for necessary travel by an employee on City business, every effort should be made to use a City vehicle. Details of the procedures to be followed in driving a vehicle on City business may be found in the City of Rio Rancho Administrative Policies, Chapter 9.

## INDEX

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### SUBJECT

### CHAPTER/PAGE

|  |                |  |                |
|--|----------------|--|----------------|
| Absence .....                          | 10-1           | Educational Assistance .....               | 8-10           |
| Administrative Leave.....              | 7-2            | Employee .....                             | 1-2            |
| Alcohol.....                           | 10-4           | Employee Relations .....                   | 1-2            |
| Allocation .....                       | 1-1            | Employment.....                            | 1-2, 3-1       |
| Anniversary Date.....                  | 1-1, 4-1       | Employment of Relatives .....              | 3-5            |
| Appeals.....                           | 7-5, 8-6       | Equal Employment Opportunity .....         | 1-2, 2-2, 11-1 |
| Application .....                      | 1-1, 3-1       | Exempt Position .....                      | 1-2            |
| Appointment .....                      | 1-1            | Exit Interview .....                       | 9-2            |
| Attendance.....                        | 10-1           |  |                |
| Automobile Use.....                    | 11-5           | Fact Finding.....                          | 1-2, 7-5       |
|  |                | Fair Labor Standards Act (FLSA) .....      | 1-2            |
| Behavior.....                          | 10-1           | Family and Medical Leave Act (FMLA).....   | 8-4            |
| Benefits.....                          | 8-1            | Final Pay .....                            | 9-2            |
| Break-in-Service.....                  | 1-1            | Full Time .....                            | 3-3            |
|  |                | Funeral Leave.....                         | 8-8            |
| Call-Back .....                        | 3-4            |  |                |
| Candidate.....                         | 1-1            | Good Standing.....                         | 1-3, 3-1       |
| Class I Dispute.....                   | 7-5            | Gossip .....                               | 10-6           |
| Class II Dispute .....                 | 7-5, 7-6       |  |                |
| Classification .....                   | 1-1            | Harassment .....                           | 11-1           |
| Classification Plan .....              | 4-1            | Hatch Act.....                             | 1-3, 10-3      |
| Classified Position .....              | 1-1            | Hiring Rate.....                           | 5-1            |
| Code of Conduct .....                  | 10-10          | Holidays.....                              | 8-2            |
| Compensation Plan.....                 | 1-1, 5-1       | Hours of Work .....                        | 3-4            |
| Compensatory Time .....                | 5-2            |  |                |
| Confidentiality .....                  | 1-1, 6-3, 10-6 | Immediate Family.....                      | 1-3            |
| Corrective Action.....                 | 1-1, 7-1, 7-2  | Insurance .....                            | 8-10           |
| Cost Of Living Adjustment (COLA) ..... | 5-1            |  |                |
| Court Leave .....                      | 8-9            | Job Description (See Position Description) |                |
|  |                | .....                                      | 4-1, 6-2       |
| Death.....                             | 9-1            | Jury Duty.....                             | 8-7            |
| Demotion.....                          | 1-1, 4-2       | Just Cause.....                            | 1-3, 7-5       |
| Department .....                       | 1-2            |  |                |
| Deputy/Assistant .....                 | 1-2            | Layoff .....                               | 1-3, 9-1       |
| Director.....                          | 1-2            | Leave Bank.....                            | 8-5            |
| Disability.....                        | 1-2            | Leave of Absence .....                     | 1-3            |
| Disabled Person .....                  | 1-2            | Leave With Pay.....                        | 8-9            |
| Discharge.....                         | 1-2, 9-1       | Leave Without Pay .....                    | 8-8            |
| Disciplinary Action .....              | 1-2, 7-1, 7-2  |  |                |
| Disposition of Records .....           | 7-9            | Management.....                            | 1-3            |
| Dispute.....                           | 1-2            | Mandate .....                              | 1-3            |
| Dispute Resolution Procedure.....      | 7-4            | Market Adjustment .....                    | 5-1            |
| Distribution of Policies.....          | 2-2            | Maternity Leave.....                       | 8-4            |
| Drug Free Workplace .....              | 10-4           | Medical Leave .....                        | 8-4            |
|  |                | Merit Increase.....                        | 5-3            |

## INDEX

---

### SUBJECT

### CHAPTER/PAGE

|   |               |                                      |           |
|---|---------------|--------------------------------------|-----------|
| Military Leave .....                      | 8-8           | Selection .....                      | 1-4, 3-1  |
| Nepotism.....                             | 1-3           | Seniority .....                      | 1-4       |
| Nonexempt Position .....                  | 1-3           | Sexual Harassment.....               | 11-1      |
| On-The-Job-Injury (See Worker's Comp.)    |               | Sick Leave.....                      | 8-2       |
| Orientation .....                         | 3-2           | Sick Leave Incentive.....            | 8-3       |
| Outside Employment.....                   | 3-5           | Smoking .....                        | 10-9      |
| Overtime.....                             | 3-4, 5-2      | Status/Status Change.....            | 1-4, 4-1  |
| Part-time .....                           | 3-3, 3-4      | Supervisor .....                     | 1-4       |
| Paydays .....                             | 5-2           | Suspension .....                     | 1-4, 7-2  |
| Payroll .....                             | 5-2           | Telephone Usage .....                | 10-3      |
| Performance Appraisal .....               | 6-1           | Temporary Assignment .....           | 4-3       |
| Performance Evaluation .....              | 6-1           | Temporary Position/Employee.....     | 1-5, 3-3  |
| Personal Administrative Leave (PAL) ..... | 5-2           | Termination .....                    | 1-5, 9-1  |
| Personal Appearance.....                  | 10-3          | Test.....                            | 1-5       |
| Personnel Board.....                      | 7-4, 7-5      | Time Sheets (See Recording of Hours) |           |
| Personnel Department .....                | 4-1           | Transfer .....                       | 1-5, 4-2  |
| Personnel Director.....                   | 1-4           | Unexcused Absence .....              | 1-5, 10-2 |
| Personnel Records.....                    | 7-9, 11-2     | Unscheduled Absence.....             | 1-5, 8-3  |
| Political Activity .....                  | 10-3          | Vacation .....                       | 8-1       |
| Position Description .....                | 1-4           | Veteran .....                        | 1-5       |
| Probation/Probationary Period.....        | 1-4, 3-3, 6-2 | Voting Time .....                    | 8-9       |
| Promotion .....                           | 1-4, 4-1      | Work Schedule .....                  | 3-3       |
| Public Relations.....                     | 10-10         | Worker's Compensation.....           | 8-4, 10-2 |
| Punctuality .....                         | 10-1          | Working Day.....                     | 1-5       |
| Rate Schedule .....                       | 5-1           | Workplace/Domestic Violence.....     | 10-11     |
| Reclassification.....                     | 1-4, 4-2      |                                      |           |
| Recording of Hours .....                  | 5-2           |                                      |           |
| Reemployment .....                        | 1-4, 3-1      |                                      |           |
| Recruitment.....                          | 3-1           |                                      |           |
| Regular Employee.....                     | 3-3           |                                      |           |
| Reinstatement.....                        | 1-4           |                                      |           |
| Resignation.....                          | 1-4, 9-1      |                                      |           |
| Resolution .....                          | 1-4           |                                      |           |
| Rest Break .....                          | 3-4           |                                      |           |
| Retirement .....                          | 9-1           |                                      |           |
| Return of City Property .....             | 9-2           |                                      |           |
| Revisions .....                           | 2-2           |                                      |           |
| Rules.....                                | 1-4           |                                      |           |
| Safety Practices.....                     | 10-2          |                                      |           |
| Salary Grade.....                         | 1-4, 5-1      |                                      |           |