



**State of New Mexico
Workers' Compensation Administration
Employee Policies**



SUBJECT: Code of Ethics

**POLICY NUMBER:
EFFECTIVE DATE:**

Purpose:

All agency employees must conduct themselves in a manner which reflects the highest personal and professional ethics. Employees are expected to devote their full working time to the business of the agency. Under no circumstances should employees ever give rise to an appearance of impropriety or suspicion of conflict with the State of New Mexico or the Workers' Compensation Administration. In addition, agency employees must refrain from behaviors or actions which will bring criticism upon themselves and/or the agency.

This policy specifically describes the agency's position regarding business conduct, gifts and gratuities, outside employment, political activities, use and misuse of information and substance abuse.

Policy:

A. Business Conduct

- a. All agency employees are expected to perform their assignments in a professional manner. Employees will provide effective service and courtesy to other agency employees, citizens and other individuals who contact the agency. Rude or discourteous or dishonest behavior towards clients or co-workers will not be tolerated.
- b. Employees will disqualify themselves from participating in any official agency act which may directly affect any case, dispute or business in which the employee has a personal or financial interest. In no event will any agency employee exercise authority on behalf of the agency where any party or their representative is within three (3) degrees of consanguinity or affinity, resides in the employee's household or other situations where it is reasonable for the employee to perceive a conflict.
- c. Consanguinity means related by blood.
- d. Affinity means related through one's spouse.
- e. Degrees of Relationship:
 - 1st degree includes father, mother, son or daughter.
 - 2nd degree includes brother, sister, grandfather, grandmother, grandson or granddaughter.
 - 3rd degree includes great grandfather, great grandmother, great grandson, great

granddaughter, uncle, aunt, nephew or niece.

- f. Employees will not acquire, directly or indirectly, a financial interest in a business at a time when they may reasonably anticipate it may be affected by an official act by the agency.
- g. All agency employees will protect and conserve the agency's property including equipment, supplies and other property entrusted or issued to them. Employees shall not willfully damage or misuse agency property. Personal use of the agency's equipment is strictly prohibited, other than as provided for elsewhere in these policies
- h. Employees who alter, falsify or disclose without authorization any agency information or records may be subject to serious disciplinary action including dismissal.

B. Gifts and Gratuities

Employees will not request, receive or accept a gift or loan for themselves or any other individual which may reasonably be perceived or intended to influence any official act of the agency. An official award of recognition regarding public service or an ordinary business or personal loan from a lending institution is not prohibited.

C. Outside Employment

All agency employees are expected to place the responsibility and obligations of their position and assignment with the Workers' Compensation Administration first and will only be permitted to engage in outside work, paid or unpaid, subject to the following conditions:

- a. There will be no conflict of interest between the outside work and the work of the agency. All agency employees are prohibited from outside work in the insurance and insurance related industries. This prohibition shall not preclude an agency employee from holding and maintaining an insurance license through the Department of Insurance of the state of New Mexico, nor of any other state. Such an employee shall not be precluded from being registered as a registered representative of a registered broker/dealer recognized by the National Association of Securities Dealers and the Securities Division of the New Mexico Regulation and Licensing Department. Such an employee shall be subject to current continuing education and compliance requirements in the state of New Mexico. Such an employee shall not be precluded from earning any first year or vested renewal commissions pursuant to contracts held with insurance carriers or a registered broker/dealer prior to becoming an employee of the agency. However, the prohibition from outside work stated above will continue to be applicable to such an employee, except for work which involves individuals related to the employee within the third degree of consanguinity or affinity and

individuals who are not subject to the provisions of the New Mexico Workers' Compensation Act or the New Mexico Occupational Disease Disablement Law.

- b. Agency employees who wish to engage in outside employment must submit a request describing the nature of the outside employment to the agency Human Resources Office who will, in turn, submit the request to the Director for review and approval. The Director's approval is necessary prior to securing the outside employment. The Human Resources Office will provide a Financial Disclosure Statement to the employee so that the employee may determine whether or not the statement requires completion. Requests approved prior to the implementation of this revised procedure shall remain valid and in effect unless terminated pursuant to Paragraph 4 below.
- c. Disclosure under Paragraphs 1 and 2 above does not apply to philanthropic, charitable or community service volunteer work unless there may be the potential for a conflict of interest.
- d. If the outside work interferes with an employee's agency work, the Director may order the employee to terminate the outside work.
- e. Outside work will not be conducted on agency time nor will agency equipment, supplies, machines or technical data be used for such work.

D. Political Activities

The State Personnel Board Rules detail permitted and prohibited political activities for classified incumbents. In accordance with those rules all agency employees are prohibited from :

- a. 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;
- b. directly or indirectly coercing, attempting to coerce, commanding or advising a state or local officer or employee to pay, lend or contribute anything of value to a party, committee, organization, agency or person for a political purpose;
- c. threatening to deny promotions 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 dinners and similar events, advising employees to take part in political activities and matters of a similar nature;
- d. engaging in political activity while on duty; and
- e. being an officer of a political organization.
- f. Should any WCA employee decide to run for any political office, they must

inform the Human Resource Officer of their decision and be briefed on their rights, restrictions and responsibilities.

Disclosure and Misuse of Information

- a. All agency employees who receive confidential information by virtue of their employment with the agency will not use the information for their own or another person's private gain or advantage.
- b. Employees shall not disclose to the public that which is required to be kept confidential pursuant to §52-5-21 (NMSA 1978 as amended).
- c. Employees will not disclose to other employees information regarding personnel, disciplinary, medical or other matters which are, or reasonably should be known to be, confidential. This policy will be strictly enforced, and employees found in violation will be subject to disciplinary action, including dismissal.

E. Substance Abuse

- a. In compliance with applicable State Personnel Board Rules, agency employees who illegally sell, purchase or transfer drugs or any substance listed in Schedules I and II of the Controlled Substances Act (§§30-31-1 through 30-31-41, NMSA 1978 as amended), while on duty shall be dismissed and reported to the appropriate local law enforcement agency. Employees who, while on duty, possess drugs or any substance listed in Schedules I and II of the Controlled Substances Act without a valid prescription or as otherwise authorized by law will be dismissed and reported to the appropriate local law enforcement agency. Employees must report the use of any legitimate prescribed medication which may impair work performance to their immediate supervisor. Employees who consume alcohol while on duty shall be dismissed.
- b. "Controlled substances" include, but are not limited to, drugs such as heroin, marijuana, cocaine, PCP and "crack." They also include "legal drugs" which are not prescribed by a licensed physician.

F. Financial Disclosure

- a. In January of each year for all employees and during orientation for new employees, the agency Human Resources Office will provide information concerning the Financial Disclosure Statement so that employees may determine whether or not they must complete the Statement. Employees determining that they do not need to complete a Statement will be asked to complete a written acknowledgement so stipulating.
- b. Completed Statements will be reviewed by the Director to determine whether or not a potential conflict of interest may exist. A copy of the Statement will be forwarded to the Secretary of State and a copy will be retained in the employee's personnel file. Acknowledgements stipulating that a Statement need not be

completed will be retained in the employee's personnel file.

G. Respect

All employees of the WCA are expected to recognize and respect one another including specific ethnic, cultural, familial, gender, sexual orientation, disability and age differences of WCA staff, employers, employees, litigators, and litigants. When conduct has the purpose or effect of substantially interfering with someone's work performance or creates an intimidating, hostile or offensive work environment, written remarks, verbal comments, "off color" remarks, and humor which indicate lack of respect, derision, ridicule or intolerance of any person including those based on ethnic, cultural, familial, gender, sexual orientation, disability or age differences will not be tolerated. The same procedures which are outlined in the sexual harassment policy of the agency shall be followed in disciplining written and/or verbal comments occurring on or after the date of this policy. Violators may be subject to disciplinary action, up to, and including, termination.

I. Recording

It is the policy of the WCA that consent of all parties be obtained in order to record a meeting, conversation or telephone call that is otherwise not expected to be recorded. Employees shall not make undisclosed recordings of conversations without obtaining prior consent of all participants. Once all parties have consented then a recording may be made. Copies of the recording may be requested and provided to anyone being recorded. This policy does not affect any meetings subject to the Open Meetings Act.

Procedures:

All new agency employees will review the agency's "Code of Ethics" during the orientation process and annually acknowledge review of the code.

A signed "Receipt of Acknowledgement" will be required from each employee upon reviewing the "Code of Ethics" which will be placed in the employee's personnel file.

Employees caught violating this policy will be subject discipline up to and including termination.

Approved:

Ned S. Fuller
Director, NM Workers' Compensation Administration

Date



**State of New Mexico
Workers' Compensation Administration
Employee Policies**



SUBJECT: Non-Discrimination and Harassment

POLICY NUMBER:
EFFECTIVE DATE:

Purpose:

The purpose of this policy is to clearly state the Workers' Compensation Administration's policy against discrimination and harassment in the workplace.

Policy:

- A. The Workers' Compensation Administration strives to create and maintain a work environment in which people are treated with dignity and respect. The environment of the agency should be characterized by the absence of intimidation and mistreatment. Employees should be able to work and learn in a safe, yet stimulating environment. The accomplishment of this goal is essential to the mission of the agency. For that reason, the agency will not tolerate unlawful discrimination or harassment of any kind. Through enforcement of this policy and by educating employees, the agency will seek to prevent, correct and discipline behavior that violates this policy.
- B. All employees, regardless of their position or status, are covered by and are expected to comply with this policy and to take appropriate measures to ensure that prohibited conduct does not occur. Appropriate disciplinary action will be taken against any employee who violates this policy. Based upon the seriousness of the offense, disciplinary action may include verbal or written reprimand, suspension, or termination of employment.
- C. Complaints made in good faith will not be held against an employee. However, false, malicious and/or complaints of harassment, discrimination and/or retaliation made without a reasonable basis in fact, may be the subject of appropriate disciplinary action.
- D. The procedures available under this policy do not preempt or supersede any legal procedures or remedies otherwise available to a victim of sexual harassment under state or federal law. The agency will cooperate with law enforcement agencies in the investigation of criminal activities by its employees.

Prohibited Conduct:

A. Discrimination

- a. It is the policy of the Workers' Compensation Administration to support and promote equal employment opportunity. It is a violation of policy to discriminate in the provision of employment opportunities, benefits, privileges and to create discriminatory working conditions if the basis of that discriminatory treatment is, in whole or in part, the person's race, color, national origin, age, religion, disability status, gender, sexual orientation or political affiliation. A variety of federal, state and local laws, including Title VII of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, and the

Americans with Disabilities Act of 1990 prohibit discrimination. This policy is intended to comply with the prohibitions stated in anti-discrimination laws.

- b. Any employee who violates this policy, engages in retaliation or knowingly makes false allegations shall be subject to disciplinary action, up to and including dismissal.

B. Harassment

- a. Harassment based on any protected characteristic is strictly prohibited. Under this policy, harassment is verbal or physical conduct that denigrates or shows hostility or aversion toward an individual because of his/her race, color, religion, sex, sexual orientation, national origin, age, disability, political affiliation, citizenship or any other characteristic protected by law when such conduct:
 - a. Has the purpose or effect of creating an intimidating, hostile or offensive work environment; or
 - b. Has the purpose or effect of unreasonably interfering with an individual's work performance; or
 - c. Otherwise adversely affects an individual's employment opportunities.
- b. Harassing conduct includes, but is not limited to: comments which are offensive regarding a person's nationality, origin, race, color, religion, gender, sexual orientation, age, disability, or appearance; epithets; slurs; negative stereotyping; the distribution or display of any written or graphic material that ridicules, denigrates, insults, belittles or shows hostility or aversion toward an individual, or group because of national origin, race, color, religion, age, gender, sexual orientation, pregnancy, disability, marital or other protected status.
- c. The agency will take swift, appropriate action to address any violations of this policy.

C. Sexual Harassment

- a. Sexual harassment in any form is prohibited by this policy. Sexual harassment is a form of discrimination and is unlawful under Title VII of the Civil Rights Act of 1964. According to the Equal Employment Opportunity Commission (EEOC), sexual harassment is defined as "unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature..., when..., submission to or rejection of such conduct has the purpose or effect of creating an intimidating, hostile or offensive working environment."
- b. Sexual harassment includes unsolicited and unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature, when such conduct:
 - a. Is made explicitly or implicitly a term or condition of employment, or
 - b. Is used as a basis for an employment decision, or
 - c. Unreasonably interferes with an employee's work performance or creates an intimidating, hostile, or otherwise offensive environment.

- c. Sexual harassment does not refer to behavior or occasional compliments of a socially acceptable nature. It refers to behavior that an objective person would consider unwelcome, personally offensive, and that lowers morale and, therefore, interferes with work effectiveness. Sexual harassment can take different forms. Examples of conduct that may constitute sexual harassment are:
 - a. Verbal: Sexual innuendos; suggestive comments; jokes of a sexual nature; sexual propositions; lewd remarks; threats and requests for any type of sexual favor (this includes repeated, unwelcome requests for dates); verbal abuse; kidding; comments which are sexually oriented and considered unwelcome.
 - b. Non-Verbal: The distribution, display, or discussion of any written or graphic material, including calendars, posters, and cartoons that are sexually suggestive, or show hostility toward an individual or group because of sex; suggestive or insulting sounds; leering; staring; whistling; obscene gestures; content in letters and notes, facsimiles, e-mails that are sexual in nature.
 - c. Physical: Unwelcome, unwanted physical contact, including but not limited to, touching, tickling, pinching, patting, brushing up against, hugging, cornering, kissing, fondling; forced sexual intercourse or assault.
- d. Normal, courteous, mutually respectful, pleasant, non-coercive interactions between employees that are acceptable to and welcomed by both parties, are not considered to be harassment, including sexual harassment.
- e. There are basically two types of sexual harassment:
 - a. "Quid pro quo" harassment, where submission to harassment is used as the basis for employment decisions. Employee benefits such as raises, promotions, better working hours, etc., are directly linked to compliance with sexual advances. Therefore, only someone in a supervisory capacity (with the authority to grant such benefits) can engage in quid pro quo harassment. Example: A supervisor promising an employee a raise if she goes on a date with him; a manager telling an employee she will fire him if he does not have sex with her.
 - b. "Hostile work environment," occurs where the harassment creates an offensive and unpleasant work environment. Hostile work environment can be created by anyone in the work environment, whether it is supervisors, other employees, or customers. Hostile environment harassment consists of verbiage of a sexual nature, unwelcome sexual materials, or even unwelcome physical contact as a regular part of the work environment. Cartoons or posters of a sexual nature, vulgar or lewd comments or jokes, or unwanted touching or fondling all fall into this category.

D. Consensual Relationships

The agency prohibits romantic or sexual relationships between management / supervisory staff and any employee who reports directly to that person.

E. Retaliation

No hardship, no loss of benefit, and no penalty may be imposed on an employee as punishment for filing or responding to a bona fide complaint of discrimination or harassment or appearing as a witness in the investigation of a complaint.

Retaliation or attempted retaliation is a violation of this policy and anyone who does so will be subject to severe sanctions up to and including termination.

Responsibilities:

- A. All agency employees must share the responsibility of understanding and preventing discrimination and harassment.
- B. Individuals who believe they have been discriminated against or harassed have the primary obligation of informing their supervisor and/or the Human Resources Office of the act of discrimination, harassment or retaliation, recounting specific actions or occurrences whenever possible.
- C. Employees who feel they have observed or witnessed discrimination, harassment or retaliation have an obligation of reporting the incidents to their supervisor and/or the Human Resources Office immediately.
- D. Senior managers and supervisors have the special responsibility as possible agents of the agency to act promptly to eliminate any discrimination or harassment that exists in their areas of responsibilities.
- E. Immediately upon receipt of an allegation, managers and supervisors must consult with the Human Resources Office to develop a plan of action.
- F. The Human Resources Manager has the primary responsibility for implementing this policy. In particular, the Human Resources Officer will respond to inquiries and complaints regarding discrimination, sexual harassment, other harassment, or retaliation; maintain records of these inquiries and complaints as well as their resolution; process any formal action taken against parties. Together with the agency and other staff, the Human Resources Officer will also provide information and education to employees and management on recognizing, understanding, and combating unlawful discrimination and harassment.

Procedure:

- A. An employee who feels harassed, discriminated, or retaliated against or who has witnessed such activity may initiate the complaint process by simply advising the Human Resources Officer or their supervisor of the situation.
- B. If a supervisor or manager becomes aware that harassment or discrimination is occurring, either from personal observation or as a result of an employee coming forward, the supervisor or manager should immediately report it to the Human Resources Officer.
- C. Upon receipt of a complaint, or being advised by a supervisor or manager that a violation of this policy may be occurring, the Human Resources Officer will notify the Director. The

Human Resources Officer will review the initial complaint with the Director or designee, the agency's Legal Counsel and the Senior Manager of the division in which the alleged harassment or discrimination is occurring.

- D. The Human Resources Officer will initiate an investigation to determine whether there is a reasonable basis for believing that the alleged violation of this policy occurred.
- E. The Director or his designee has the discretion to assign the investigation to someone other than the Human Resources Officer if it is determined to be in the best interests of the agency.
- F. All employees, whether complainant, witness or respondent, are required to be truthful and cooperative during the investigation.
- G. Within fifteen (15) business days of the initial complaint being filed, the Human Resources Officer will conclude the investigation and submit a findings report to the Director or designee. Under extenuating circumstances, the Human Resources Officer may request an extension of the 15-day requirement from the Director. With approval from the Director, the Human Resources Officer will advise the complainant and other relevant parties of the extension.
- H. Any formal action taken by the agency against any party involved will be in compliance with State Personnel Board Rules and Regulations.
- I. All parties involved will be advised of the closure of the investigation and any other information deemed appropriate for disclosure.
- J. While the confidentiality of the information received, the privacy of the individuals involved and the wishes of the complaining person regarding action by the agency cannot be guaranteed, they will be protected to as great a degree as legally possible. Information will only be disclosed on a need-to-know basis.

Approved:

Ned S. Fuller
Director,
NM Workers' Compensation Administration

Date