



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



SUBJECT: Americans with Disabilities Act (ADA)

POLICY NUMBER:
EFFECTIVE DATE:

Purpose:

The purpose of this policy is to ensure compliance with the Americans with Disabilities Act (ADA), and seek prompt resolution of complaints alleging any action or inaction which is protected by Title II of the Americans with Disabilities Act. Title II states that “no otherwise qualified disabled individual shall, solely by reason of such disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination” in programs or activities sponsored by a public entity.

In compliance with the Americans with Disabilities Act, the Workers' Compensation administration prohibits the discrimination in employment against qualified individuals with disabilities in our terms and conditions of employment. An individual is considered a “qualified individual with a disability” if the individual can perform the essential functions of the position held or desired with or without reasonable accommodation.

Definitions:

The following terms are utilized in this policy.

- A. Disability: A physical or mental impairment that substantially limits one or more of the major life activities of an individual, a record of such impairment, or being regarded as having such an impairment.
- B. Essential Functions: Those functions the individual who holds the position must be able to perform with or without reasonable accommodation. EEOC regulations provide a partial list of the various types of factors that can be considered in determining if particular functions are essential. These include:
 - a. the employer's judgment as to which functions are essential;
 - b. written job descriptions prepared before advertising or interviewing applicants for a job;
 - c. the amount of time spent performing the function;
 - d. the consequences of not requiring an incumbent to perform the function;
 - e. terms of a collective bargaining agreement;
 - f. work experience of past incumbents in the job; and
 - g. current work experience of incumbents in similar jobs.

In summary, the essential functions of a job are the “musts” of that job.

- C. Non-essential or marginal functions: Non-essential job functions are “also to be done” functions. Employment decisions may **not** be based on non-essential functions. Examples of non-essential or marginal functions would include filing for a proofreader, driving for a stockbroker who only makes sales in an office, etc. Non-essential functions are not central to the job itself and may be reassigned to other employees if necessary.
- D. Reasonable Accommodation: Any type of adaptation to a program, facility or work place that will allow the disabled individual to perform a job or participate in the services or programs being offered by the entity. Accommodations can consist of policy changes, service changes, access changes or auxiliary aids.

Procedures to Fill a Vacant Position:

- A. When a position is vacated, supervisors will review and update job descriptions and Essential job functions for the position prior to beginning the employee selection process. The Administration may also request the completion of job descriptions and the review of essential functions for occupied positions.
- B. The identification of essential functions will require supervisors and employees, if applicable, to:
 - a. review and update current job descriptions;
 - b. prepare job descriptions for temporary and seasonal positions;
 - c. complete the Job Requirement Questionnaire that identifies physical ability requirements of the job; and
 - d. complete the Job Analysis form indicating whether or not the job function is essential.
- C. Supervisors may contact the Human Resources Officer and/or supervisor for information and instructions on any item(s) listed in procedural step 2.

Procedures for Complaints:

- A. All complaints of disability related discrimination from visitors and applicants will be directed to the agency’s Human Resources Officer who will serve as the ADA coordinator.
- B. An investigation or review, as may be appropriate, shall follow a filing or complaint. The investigation will normally be conducted by the ADA coordinator.
- C. A written response to the complaint and a description of the resolution, if any, shall be issued by the agency director and forwarded to the individual who submitted the ADA complaint no later than thirty (30) days after its receipt by the agency.
- D. The ADA coordinator shall maintain all files or records of the Workers’

Compensation Administration relating to ADA complaints.

Procedures to Assist Hearing Impaired Individuals:

- A. When hearing impaired individuals request access to the Agency's programs or services, it is the responsibility of Agency employees to inform the hearing impaired individual or his/her representative that the Agency requires three (3) working days' notice to coordinate interpreter services.
- B. Employees who have scheduled an appointment with a hearing impaired individual will complete a "Request for Supplies or Services" form which must be signed by their immediate supervisor or Field Office Manager and forwarded to the Purchasing Officer. The requestor should also call the Purchasing Officer to describe the needed services with as much detail as possible so that initial arrangements may be made for the service(s).
- C. The WCA purchasing officer will expedite the requests for the Director's or his designee's authorization.
- D. The WCA purchasing officer will coordinate the interpreter services and notify the requesting employee regarding the scheduling arrangements.
- E. After the scheduled meeting with the hearing impaired individual, the requesting employee will notify WCA Financial Management regarding the length of time that interpreter services were required.
- F. Upon receiving a billing statement for interpreter services, the Purchasing Officer will forward the statement to the requesting employee for his/her initials to certify that the services were received.

Approved:

Ned S. Fuller

Director, NM Workers' Compensation Administration

Date



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



SUBJECT: Dress Code

POLICY NUMBER:
EFFECTIVE DATE:

Purpose:

To maintain a professional image appropriate for serving WCA clientele where employees dress neatly yet comfortably. Each employee is expected to wear attire that is appropriate and suitable for the work the employee is performing. In selecting appropriate dress for each workday, employees should consider the duties they will perform and the amount of contact they will have with the public.

Policy:

Employees interacting with the public are expected to follow the Professional standards outlined below. Employees engaged in non-public activity may follow the Respectful Relaxed guidelines outlined below.

Footwear should be appropriate to the task and setting, although "flip-flops" and slippers are not acceptable under normal conditions. The categories below represent general rules and standards. If you are unsure, ask your supervisor.

Professional: Includes suit or business jacket and dress slacks for men (in a formal legal or other professional regulatory setting, men should wear ties) and professional dresses or pant suits for women.

Application: This category of dress applies to staff during times they are in a court setting and/or performing a legal activity and staff that are interacting with the public or outside entities.

Respectful Relaxed: Men may wear slacks, shirts whether collared or not, short or long sleeve dress shirts and may add a jacket or sweater. A tie is not required. Women may wear a skirt, slacks or blouses and may add a jacket or sweater as well. Jeans of any color are acceptable. Clean athletic footwear is acceptable in this category.

Application: This category of dress applies to staff during those times when they are not in a court or other formal legal or professional regulatory setting or interacting with the public or outside entities.

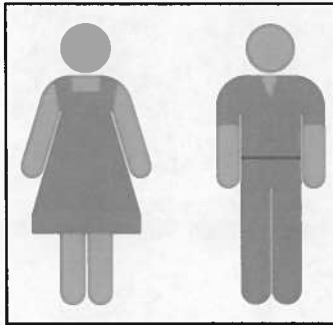
Exceptions to Respectful Relaxed: Some positions throughout the agency act as first points of contact for our clientele. As first points of contact, the agency believes it is critical that they present themselves professionally at all times.

However, in order to allow these employees to make use of some form of relaxed dress, the Bureau Chiefs in these areas, with approval from the respective Executive Deputy Directors, may designate one day per week as "Jeans Day."

The jeans should be appropriate to the work setting and comply with the above professional dress category in all other requirements.

Unacceptable attire includes, but is not limited to:

- Clothing that is torn, dirty, or stained.
- Clothing with logos or lettering that is larger than 3" x 3".
- Clothing that contains sexual references, foul language or suggestions, or promotes the illegal use of drugs or is revealing or sexually suggestive.
- Sweats or work-out attire, scrubs, spandex or pajamas.
- Tank tops, halter tops, beachwear, or shorts.



The above visual demonstrate the minimal length of necklines, hemlines and sleeves as a guide for employees.

Application: This category applies to all WCA staff during general work hours.

Personal Hygiene: Good personal hygiene habits must be maintained at all times. Hair should be clean and groomed. Scents, including colognes, aftershaves and perfumes, should be used in consideration of allergic/medical reactions.

Responsibilities & Exceptions:

Employees are responsible for using sound judgment when selecting acceptable attire within the parameters of this dress code, while taking into consideration specific job requirements. If you are uncertain, ask your supervisor first.

Supervisors are responsible for determining the appropriateness of the clothing to the activity being performed and enforcing this policy.

Exceptions to the dress code standards may be allowed, through the Director's Office, where reasonably justified (e.g. when an employee is primarily involved in manual labor, at employee functions, has medical conditions or religious requirements, etc.).

Disciplinary Procedure:

If an employee's dress or hygiene is unacceptable, the supervisor shall counsel the employee and review this dress code with the employee. Employees whose dress is inappropriate will be required to correct the problem and may be required to change into appropriate attire before returning to work and may be considered absent without leave. 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: Complaint Procedure		POLICY NUMBER: EFFECTIVE DATE:

Purpose:

The purpose of this procedure is to afford employees a method by which they may freely present a complaint pertaining to a job-related matter or an unfair employment practice and to provide for a prompt and appropriate resolution of that complaint. This procedure is the agency's complaint procedure required by the State Personnel Board Rules and Regulations. All employees of the WCA may utilize this complaint procedure, including temporary, probationary, exempt, term and permanent employees.

Scope:

The State Personnel Board Rules and Regulations provide specific procedures by which employees who have successfully completed their probationary period may respond within the agency to disciplinary actions (suspensions, demotions and dismissals) and by which they may then appeal to the State Personnel Board. Employee responses and appeals to disciplinary actions will be handled in accordance with those rules, which are incorporated herein as if set forth in full.

If the employee charges an unlawful discriminatory act, the complaint must be made pursuant to the procedure contained in the Non-Discrimination and Harassment Policy and specify whether the alleged unlawful discrimination is based upon race, color, religion, national origin, ancestry, sex, sexual affinity, age or physical or mental handicap or any other category described in Title VII of the Civil Rights Act of 1964 or in the New Mexico Human Rights Act.

Subject to the party's agreement and the Director's approval, alternative dispute resolution procedures may be used. At any stage of the process the parties are strongly encouraged to meet face-to-face to resolve the situation.

General Provisions:

- A. An employee who submits a complaint will be granted a reasonable amount of duty time to present and discuss the complaint with management, provided that the employee is on active duty with the agency. Duty time shall not be granted for the preparation of materials to be used in the presentation of complaints or for the investigation of complaints.
- B. To be considered timely, the complaint or response must be emailed or hand-delivered within the designated time limits.
- C. The parties to a complaint may mutually agree, in writing, to extend the time limits of any step of the complaint procedure.

- D. Any complaints not appealed within the designated time limits contained in any step of the complaint procedure will be considered as having been adjudicated on the basis of the previous step response. Moreover, at any point in the complaint procedure where the complaint is withdrawn or satisfactorily resolved, such action must be attested to in writing by the parties and filed with the Human Resource Office.
- E. The Human Resource Office is available to assist staff in resolving complaints, and answering questions or concerns regarding procedure.
- F. An employee who submits a good faith complaint shall be free from restraint, interference, coercion, discrimination, or reprisal for filing the complaint and any appeals associated therewith. This does not preclude discipline for knowingly submitting a false or misleading complaint or for using the complaint process for harassment purposes.
- G. All employees have a duty to cooperate with management in the investigation of complaints and any failure to cooperate will result in discipline up to and including termination.
- H. Subject to approval by the Director, requests for representation will be considered on a case-by-case basis.

Procedure:

- A. Complaints must be current and must concern matters having taken place within fifteen calendar days of the filing of the complaint. Where a matter occurring within fifteen calendar days of the filing of a complaint is of a continuous or ongoing nature, the complaint may include previous occurrences.
- B. Complaints must, at a minimum, contain the following:
 - a. A statement regarding what attempts were made to informally resolve the concern or why there was no informal attempt.
 - b. The date(s) on which the alleged job-related matter or unfair employment practices took place;
 - c. A statement specifying the incident or circumstances giving rise to the complaint;
 - d. Any evidence supporting or refuting the complaint including any witnesses to the conduct at issue; and
 - e. The relief sought.

I. Level ONE - Level One of the Complaint process is as follows:

- a. Level 1 - Any agency employee claiming to be aggrieved due to a job-related matter shall first present the complaint to his immediate supervisor or the Human Resource Office. The Human Resource Office will provide guidance regarding the complaint procedure and direct the employee to the right person.
- b. The a. Level 1 complaint does not have to be in writing but must be presented to the supervisor clearly as constituting Level 1 of the complaint procedure and it must contain the information outlined in paragraph "B" above.
- c. Upon receipt of a complaint the supervisor may consult the Human Resource Office or the supervisor's immediate superior regarding resolution and / or process.
- d. The supervisor will issue a written response to the employee within five working days. If the complaint is not resolved to the satisfaction of the employee, he may proceed to Level 2.

II. Level TWO - Level Two of the Complaint process is as follows:

- a. If the Employee or other affected person is unsatisfied with the results of Level One, then within three working days of receipt of the written response identified in Level One, the Employee or affected person may present a written complaint to the Executive Deputy Director in their supervisory chain of command or the Human Resource Office. The written complaint must contain the information outlined herein. The Employee may include only those matters raised in the Level One Complaint.
- b. The complaining person will provide a written copy of the complaint to his immediate supervisor and the Human Resource Office.
- c. The Executive Deputy Director or his designee will investigate the complaint which may include among other actions, speaking with the witnesses, the supervisor(s) involved and the employee making the complaint.
- d. The Executive Deputy Director will issue his decision to the employee in writing within ten calendar days of receiving the written complaint and provide a copy to the Human Resource Office.

III. Level THREE - Level Three of the Complaint process is as follows:

- a. If the employee or any affected person is not satisfied with the result of Level Two, then within three working days of receipt of the written decision identified in Level Two, the Employee or affected person may present a notice to the Director stating that the Employee is appealing the decision and attaching any relevant documents. The employee may include only those matters raised in the Level One Complaint.

- b. The complaining party will provide a written copy of the notice without attachments to his immediate supervisor, the Executive Deputy Director and the Human Resource Manager.
- c. The Director or his Designee will investigate the complaint which may include among other actions, reviewing all relevant documents, decisions and responses, speaking with the witnesses, the Executive Deputy Director, the supervisor(s) involved and the employee making the complaint.
- d. The Director or his Designee will issue his decision to the employee in writing within ten calendar days of receiving the written complaint and provide a copy of the decision to the Human Resource Manager.
- e. The Director's decision is final with respect to this complaint procedure. If the complaint pertains to an interpretation of State Personnel Board Regulations, it may be appealed to the State Personnel Director within 30 calendar days of the Director's final decision.

Approved:

Ned S. Fuller
Director,
NM Workers' Compensation Administration

Date



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



SUBJECT: Recruitment and Selection

POLICY NUMBER:
EFFECTIVE DATE:

Purpose:

The purpose of this policy is to clarify a standardized method of filling non-exempt vacant positions in the Workers' Compensation Administration. Vacant positions may be filled by new hire appointments, promotions, transfers or classification reductions.

Policy:

When a classified vacancy occurs, the appropriate supervisor and manager will conduct a selection program coordinated by the Director's Office / Human Resources Office designed to identify qualified individuals for the position in accordance with State Personnel Board Rules and Regulations.

- A. All classified vacant positions will be posted through the State Personnel Office (SPO). Vacancies will normally be posted through SPO for a period of ten calendar days, unless the WCA Director or Executive Deputy Director approve a shorter or longer advertisement period. Requests to waive advertising requirements and exceptions to open recruitment are subject to the WCA Director and SPO Director's approval.
- B. An employment list is issued by the State Personnel Office, certified by the SPO Director, for the individual job vacancy, after appropriate recruitment has taken place. The State Personnel Office will issue a list for the individual job vacancy. The list is certified by the SPO Director and lists the names of candidates from which an appointment may be made.
- C. The WCA Director retains sole authority to fill, leave vacant, re-advertise or to cancel recruitments or issued lists for agency positions. The WCA Director is also the hiring official for the agency.
- D. Agency employees may neither supervise nor hire individuals who reside in the employee's household or relatives within three (3) degrees of consanguinity or affinity.
- E. As defined for this policy:
 - Consanguinity: related by blood.
 - Affinity: related through one's spouse.

Degrees of Relationship:

- 1st Degree includes father, mother, son, and daughter
- 2nd Degree includes brother, sister, grandfather, grandmother, grandson, granddaughter
- 3rd Degree includes great grandfather, great grandmother, great grandson, great granddaughter, uncle, aunt, nephew, and niece.

Initiating Recruitment

To initiate the recruitment of a vacant or soon to be vacant position, a WCA Work Order (WO) and a position description must be submitted to the Human Resources Office. The request to recruit for a vacant position must be approved by the Director.

Interviewing Process

- A. The State Personnel Office supplies a list of candidates who applied for consideration for a vacant position. The State Personnel Office is the final and official reviewer of applications for state classified vacancies.
- B. The employment list is a rank ordering of all candidates. The ordering is relative to the JRQS minimum qualifications established by SPO.
- C. Recognizing that each situation is unique, it is best practice to interview as many applicants as is practical to ensure that all protected groups are considered appropriately.
- D. Supervisors must document all contact with candidates on the form provided in the recruitment packet.

Interview Panels

- A. To ensure a thorough and objective evaluation of each candidate's qualifications and experience, an interview panel will conduct interviews.
- B. Panel members should have significant knowledge and/or experience in the position. Each panel will consist of 2-4 members, including the hiring supervisor. The Director shall select remaining panel members and determine the size of the panel.
- C. Each panel member must be briefed by the agency Recruitment Officer prior to participating in the interview process. Panel members must sign a briefing form at the conclusion of the briefing.
- D. Interviews must be consistently administered. The same initial questions must be asked and evaluated by the same panel member. Inconsistent or poor administration of the interview can adversely affect the selection process.

- E. Participants of the interview panel must recuse themselves from the process if the candidate is a relation within third degree or some other relation that may cause conflict.
- F. Interview questions must be job-related, non-discriminatory and in compliance with Title VII of the Civil Rights Act and the Americans with Disabilities Act. A brief position description must be provided to all interview candidates. The description will outline any physical or mental requirements of the position.
- G. Responses to interview questions must be documented and included as part of the recruitment packet.
- H. During the interview process, supervisors will provide candidates with a reference release form. Candidates must list at least three references, personal or professional, with a contact phone number. Supervisors will not contact the candidate's references without the candidate's prior approval. This form is included in the HR recruitment packet.
- I. Reference checks must be conducted on the candidate who is the finalist for the job vacancy.

Recommending Finalists

- A. The final recruitment packet must include the following documentation.
 - a. An approved form describing all contact with each candidate.
 - b. An approved form that describes the candidate's education and experience relative to the JRQS. Supervisors must complete this form for each candidate on the list.
 - c. **Interview Results Narrative Form.** This form describes the candidate's education and experience relative to the JRQS and must be complete for each candidate interviewed.
 - d. **Recommendation Narrative.** The recommendation narrative will normally contain three unranked recommended finalists for the Director's consideration. The narrative should identify the reasons for recommending the candidates for hire. Appropriate information for each narrative includes a brief description of the candidate's job/career experiences, educational background and assessments made by the supervisor and panel members during the interview process.
- B. The final recruitment packet must be forwarded to the Human Resources Office.

- C. The Human Resources Office will review the recruitment packet for compliance with all agency, state and federal rules and regulations and sound personnel practices. The Human Resources Office will also conduct a salary analysis and recommend a salary based on appropriate placement and budget considerations.
- D. The Human Resources Office will return incomplete packages to the hiring supervisor for further action.
- E. If the package is complete and in compliance with agency policy and applicable law, the Human Resource Office will forward the interview package to the Director, or his designee, for review.
- F. The Director, or his designee, is the final authority in the hiring process. The Director will consider all candidates recommended for hire. The Director or his designee must sign all hiring documentation, the work order, salary recommendation and any additional documentation.
- G. Upon the Director's final selection, the Human Resources Office will notify the supervisor of the approval of the candidate and the approved salary. The supervisor may then contact the selected candidate to extend an employment offer.
- H. The hiring supervisor may not extend an offer, or make any implications as to the possibility of an offer, until the Director has selected a candidate.

Closing the Recruitment Process

Upon acceptance of the offer by the candidate, the hiring supervisor will notify the candidates who were interviewed of their non-selection in writing. Copies of these rejection letters must be forwarded to the Human Resources Office.

The hiring supervisor will then prepare an offer letter to the candidate selected. The letter must include the position title, the agreed upon salary and start date and time. The letter must also include a statement regarding orientation and required documentation for orientation. The Human Resources Office will provide sample letters, both offer and rejection, in the recruitment packet documentation. A copy of the offer letter must be forwarded to the Human Resources Office.

The Human Resources Office will maintain all solicited applications and related interview packages for all interviewed candidates. All interview files will be retained for three (3) years in accordance with State Records Center Rule No. 81-4 regarding "Rejected Applications."

Approved:

Ned S. Fuller

Director, NM Workers' Compensation Administration

Date

	State of New Mexico Workers' Compensation Administration Employee Policies	
SUBJECT: Employment References		POLICY NUMBER:
		EFFECTIVE DATE:

Purpose:

The purpose of this policy is to establish a standardized method on acquiring and responding to reference inquiries on former, current or prospective employees. Due to the potential exposure of liability, violations of this policy may result in disciplinary action, up to and including dismissal.

Policy:

Responding to an Employment Reference on a Current or Former Employee:

The Human Resources Bureau is designated as the only Bureau authorized to respond to reference check inquiries from other employers. All calls, contacts and written inquiries concerning current or former employees should be referred to the Human Resources Manager. Other personnel, including supervisors and managers, are not authorized to respond to such inquiries.

It is the policy of the WCA to provide neutral references concerning former employees. Responses to such inquiries will confirm dates of employment, wage rates and the title of position held.

Approved:

 Ned S. Fuller
 Director, NM Workers' Compensation Administration

 Date



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



SUBJECT: Performance Appraisals

POLICY NUMBER:
EFFECTIVE DATE:

Purpose:

To set forth the WCA's policy and method for conducting performance appraisals of employees in the classified service.

Policy:

Employee performance appraisals will be conducted in accordance with State Personnel Office (SPO) regulations, currently codified at NMAC 1.7.9.1 et seq. and with the current Collective Bargaining Agreement (CBA) for applicable WCA employees.

The principal objectives of employee performance appraisals are to 1) evaluate employee performance, 2) enhance individual performance and provide for employee development, and 3) establish performance objectives and foster communication.

Procedures:

- A. All managers and/or employees acting in a supervisory capacity shall complete SPO training on *Managing Employee Performance using the Fundamentals of Supervision* within 90 days of their appointment.
- B. All WCA employees in the classified service shall receive a written performance appraisal on an annual basis from their immediate supervisor.
- C. The performance appraisal process shall be initiated promptly after appointment, reassignment, promotion, reduction, transfer and/or the completion of a prior performance appraisal, but in no event later than 90 from one of these events.
- D. SPO approved forms shall be used in conducting employee performance appraisals. In accordance with SPO regulations, the WCA Director shall identify specific performance rating areas that shall be used in performance appraisal evaluations.
- E. Interim reviews or appraisals during the rating period shall be done in accordance with SPO regulations and the CBA, if applicable. New supervisors assigned to an employee during a rating period shall meet promptly, but no later than 90 days, to review and/or modify the existing performance appraisal in order to clarify job assignments and duties of the employee and the expectations of the new supervisor.
- F. Employees may submit a written rebuttal with their completed performance appraisal, which shall become part of the performance appraisal record.

Approved:

Ned S. Fuller
Director, NM Workers' Compensation Administration

Date