

SERIES: General Agency Operations (CPR-100)

NUMBER: CPR-102

TITLE: Code of Conduct

PURPOSE:

This Code of Conduct is adopted pursuant to the provisions of the *Governmental Conduct Act*, [Sections 10-16-1 through 10-16-18 NMSA 1978]; the *Financial Disclosure Act*, [Sections 10-16A-1 through 10-16A-8 NMSA 1978]; the *Gift Act*, [Sections 10-16B-1 through 10-16B-4 NMSA 1978]; the *Hatch Act*, [5 U.S.C. Sections 1501 to 1508]; *Use of Confidential Information Prohibited*, [Section 13-1-195 NMSA 1978]; *Bribery*, [Sections 30-24-1 through 30-24-3.1 NMSA 1978]; *State Personnel Board Rules* [Title 1, Chapter 7 NMAC]; and the New Mexico Commission of Public Records (CPR) policies.

Its purpose is to prescribe standards of conduct, in addition to those set forth in those statutes, rules and policies identified above as well as in other applicable provisions of law, appropriate to the function and purpose of the CPR.

SCOPE:

This code of conduct applies to all employees of the CPR.

DEFINITIONS:

“Bullying” means any interpersonal hostility that is repeated and sufficiently severe as to harm the targeted person’s health or economic status. The harm must be both subjective (the person is actually harmed) and objective (a reasonable person would be harmed under the same circumstances).

“Good Faith” means sincere, honest belief.

“Honorarium” means payment of money, or any other thing of value in excess of one hundred dollars (\$100), but does not include reasonable reimbursement for meals, lodging or actual travel expenses incurred in making the speech or rendering the service, or payment or compensation for services rendered in the normal course of a private business pursuit.

“Nonpartisan Election” means any election for public office when the candidate's party affiliations are neither indicated nor required.

“Official Act” means an official decision, recommendation, approval, disapproval or other action that involves the use of discretionary authority.

“Relation by Blood or Marriage within the Third Degree” means a spouse, domestic partner, parent, mother-in-law, father-in-law, stepparent, children, domestic partner children, son-in-law, daughter-in-law, stepchild, brother, stepbrother, brother-in-law, sister, stepsister, sister-in-law, grandparent, grandchild, uncle, aunt, nephew, niece, great-grandchild, and great-grandparent.

A. GENERAL PROVISIONS:

It is the policy of the CPR that all employees are expected to maintain the highest level of ethical conduct, while on the job, and promote excellence within the agency. All employees of the CPR work for the people of the State of New Mexico (NM) and, as such, are public servants.

Each employee, no matter his or her position, is expected to strive to be helpful and courteous to all customers, internal and external, during the course of his or her duties for the agency.

Employees shall familiarize themselves with the CPR policies and are expected to comply with them any other standards of conduct prescribed by law. However, should anything in this Code or any CPR policy or procedure conflict with statute or administrative law, the provisions of other applicable statutes or administrative law shall prevail.

Employees will be given intranet access to all current CPR Policies at orientation and will be given two (2) hours to review and sign an *Acknowledgment of Receipt and Understanding* form that will be kept in the individual's personnel file and updated when policies change.

All new or amended policies will be posted to the intranet within 5 working days of adoption followed by an email from the Human Resource Administrator to all employees alerting them of the changes in policy.

Failure to comply may result in disciplinary action, to include suspension, demotion or dismissal. Questions regarding laws, rules or CPR policies should be directed to an employee's immediate supervisor or CPR's Human Resource Administrator.

Pursuant to Section 10-16-11 NMSA 1978, this Code, upon adoption, shall be filed with the Secretary of State and shall thereafter be reviewed at least once every four years. Additionally, pursuant to 1.7.1.14 NMAC, all CPR human resource policies shall be submitted to the State Personnel Office.

B. STANDARD OF CONDUCT:

1. Standard of Service

Employees of the CPR are expected to maintain the highest professional standards and conduct themselves in a manner consistent with their obligations to the patrons and clients of the CPR, coworkers, visitors to the agency and the citizens of the State of New Mexico.

When representing the CPR, employees are expected to be responsive to the public and conduct themselves in a manner that will reflect favorably upon themselves and their co-workers.

Employees are expected to treat coworkers professionally and with respect at all times and not engage in behavior that is disruptive to the work environment.

2. Courtesy

- a) Employees are expected to interact with the public and co-workers in a courteous, timely and dignified manner without regard to race, age, religion, color, national origin, ancestry, sex, physical or mental handicap or serious medical condition, spousal affiliation, sexual orientation, gender identity and in accordance with all state and federal non discrimination laws.
- b) The CPR prohibits any employee from engaging in any form of harassment - verbal, physical or sexual. (For further information on sexual harassment, see CPR Sexual Harassment Policy.)
- c) It is unacceptable for an employee to convey an indifferent, hostile, or careless attitude toward patrons, clients, CPR employees or visitors to the CPR, even if the person is abusive. If the person continues to be abusive or threatening after an employee has attempted to address their concern, the employee may courteously end the conversation and report the incident to his/her supervisor.
- d) The use of threatening, abusive or profane language or gestures to the public or co-workers is prohibited.
- e) Bullying is prohibited.

- f) Employees are expected to respect the personal privacy rights of their co-workers.

3. Professionalism

- a) Employees are expected to obey a directive given by management and not undermine, obstruct or interfere with a management directive. If the directive is perceived by the employee to be illegal, dishonest or unethical, the employee must immediately inform the Human Resource Administrator or the Deputy State Records Administrator.
- b) Employees must conduct themselves in a professional and respectful manner in all dealings with the public and co-workers and not engage in conduct that creates or conveys a hostile or indifferent attitude. This includes remarks, behavior or humor that demonstrates disrespect, contempt or intolerance.
- c) Employees are expected to cooperate in any internal investigation and provide honest, truthful and accurate information to work related inquiries made by supervisors and management.

4. Readiness for Work

- a) Employees must be on the job, on time, each scheduled work day and devote their full attention to the business of the state.
- b) Employees must report to work able to perform the essential functions of their job. Employees appearing for work unfit for duty may be placed on absent without leave status and may be required to leave the workplace. Reporting to work in a condition that poses a risk to the safety and security of the public or other co-workers, or prevents the employee from performing their job duties, is prohibited
- c) Sleeping during work time is prohibited.
- d) Excessive absenteeism and/or tardiness, excluding approved Family and Medical Leave (FMLA) provisions, will not be tolerated and may be cause for disciplinary action.

5. Business Conduct

- a) Employees will conduct themselves in accordance with the highest professional standards and adhere to all laws, rules and CPR policies. Violation of these standards may result in disciplinary action as provided under State Personnel Board Rules.
- b) The examples that follow are illustrative, but not all-inclusive, of the types of conduct that are prohibited.
 - Insubordination: Intentional refusal to follow a supervisor's instruction, or directive, insubordination does not include an employee's refusal to follow the supervisor's instruction and/or directive when the employee's welfare may be placed in imminent danger and/or the employee believes in good faith that an action or a failure to act constitutes an unlawful or improper act.
 - Inefficiency: Not completing assigned job tasks within established time frames or minimal attention to work quality.
 - Misconduct: Misuse of authority or responsibilities, intentional wrongdoing or behavior that may compromise the public trust.
 - Negligence: A failure to exercise the care that a reasonable person usually exercises in particular circumstances.
 - Inappropriate Language: Use of threatening, abusive or profane language or gestures used toward the public, a patron or any employee.

- c) Employees must direct any media inquiry to the CPR's State Records Administrator or designee.

B. FALSIFICATION OF DOCUMENTS

Falsification of administrative forms, work documents or products or intentionally entering or causing to enter false information into automated systems is prohibited. This includes but is not limited to employment forms, timesheets and leave request forms, travel vouchers or other reimbursement vouchers.

C. NEPOTISM

Pursuant to State Personnel Board Rule 1.7.6.8 NMAC, employees of the CPR shall not, except as otherwise provided by law, hire, promote or directly supervise an employee who is related by blood or marriage within the third degree to the employee.

D. STATE PROPERTY

Office supplies and equipment (e.g.: computers, copiers, etc) are the property of the State and are not for the personal use of State employees. State vehicles shall not be used for personal purposes.

Agency telephones are primarily for the conduct of official business; nonetheless, it is understood that from time to time an employee may need to make a personal telephone call. Periodic personal telephone calls of short duration are permissible, provided they do not interfere with the employee's job performance or otherwise disturb other employees or disrupt the work environment.

E-mail and Internet usage shall be governed by the specific CPR policies and any other applicable laws, rules, policies and procedures.

Employees are strictly prohibited from utilizing any State equipment, whether on duty or not, such as phones, fax, Internet, Xerox machines or e-mail to participate in, communicate, download, engage in or share pornographic material. Pornography includes but is not limited to conversations, scenes, or material containing nudity and/or explicit sexual acts or anything of a sexual nature that violates local community standards of decency. Violation of this policy shall lead to disciplinary action, up to and including dismissal. Employees who unintentionally access a pornographic site while using the Internet must notify their supervisors immediately.

Records and resources created or maintained by the CPR are public records and are the property of the State of New Mexico. Employees shall not remove any records without proper authorization and shall adhere to relevant records retention and disposition schedules and rules governing storage and destruction.

Upon termination or transfer of an employee, the records created or maintained by the employee shall remain in the custody of the CPR.

E. OUTSIDE EMPLOYMENT

During working hours, all employees are expected to place the responsibilities and obligations of their employment with the CPR above outside employment or other business interests not related to their employment with the CPR. Employees shall not use CPR office equipment, supplies or time for any outside employment or to conduct any other business interests.

Employees of the CPR are prohibited from accepting employment or engaging in self-employment outside the agency which may conflict with their employment at the CPR or their obligations as a State employee. Pursuant to Section 10-16-4.2 NMSA 1978, CPR employees shall disclose in writing to the CPR Human Resource Administrator any employment engaged in by the employee outside the CPR.

F. GRATUITIES

Employees of the CPR shall not accept anything of significant value in the performance of their job duties. Nor shall CPR employees request or receive any money, thing of value or promise thereof that is conditioned upon or given in exchange for promised performance of an official act. However, this prohibition on receiving gratuities does not apply in the case of an occasional gift, insignificant in value and non-monetary, or an award presented in recognition of public service.

G. HONORARIA

Pursuant to Section 10-16-4.1 NMSA 1978, employees of the CPR shall not request or receive an honorarium for a speech or service rendered that relates to the performance of their public duties.

H. CONFIDENTIAL INFORMATION

Employees of the CPR shall not divulge to any person, confidential information acquired through employment with the CPR. Furthermore, it is unlawful for an CPR employee or former employee to knowingly use confidential information for actual or anticipated personal gain or for the actual or anticipated personal gain of any other person.

I. PRIVACY

CPR employees have no reasonable expectation of privacy on state property. A person authorized by the State Records Administrator or the Deputy State Records Administrator may search property supplied to an employee for valid work-related reasons.

J. POLITICAL ACTIVITY

Employees shall comply with 1.7.6.10 NMAC, *Prohibited Political Activities*, 1.7.6.11 NMAC, *Public/Political Office*, Section 10-16-3.1 NMSA 1978 and, as applicable, the Hatch Act [5 U.S.C. Sections 1501 to 1508].

Employees covered by the provisions of the Hatch Act may not be candidates for partisan political office elections. Employees not covered by the provisions of the Hatch Act may be candidates for any partisan political office, if upon filling or accepting the nomination and during the entire campaign, they are authorized full-time continuous leave without pay.

Employees may be candidates for nonpartisan political office, subject to the restrictions set forth in this policy, without taking a leave of absence.

Employees may hold only a nonpartisan county or municipal political office during employment in the classified service. Being a local school board member or an elected member of any post-secondary educational institution shall not be construed as holding political office.

Employees running for or holding public office shall not use state equipment, facilities, property or time dedicated to employment duties to conduct campaign or public office related business.

Employees have the right to vote in all elections in which they are qualified voters, to time off for voting in accordance with State law and State Personnel rule and to vote as they choose.

Employees are prohibited from:

- directly or indirectly coercing or attempting to coerce or attempting to coerce another public officer or employee to pay, lend or contribute anything of value to a party, committee, organization, agency or person for a political purpose;
- threatening to deny a promotion or pay increase to an employee who does or does not vote for certain candidates, requiring an employee to contribute a percentage of the employee's pay to a political fund, influencing a subordinate employee to purchase a ticket to a political fundraising dinner or similar event, advising an employee to take part in political activity or similar activities;

- using property belonging to the CPR, or allowing its use, for other than authorized purposes;
- engaging in a political activity while on duty; or
- being an officer of a political organization.

K. CONTRACTS

Employees of CPR shall not recommend, arrange or be involved in the administration of any CPR contract from which they will receive any personal gain. Additionally, all CPR contracts are subject to Section 10-16-7 NMSA 1978, Contracts involving public officers or employees.

L. FINANCIAL INTEREST

The *Financial Disclosure Act*, Sections 10-16A-1 to 10-16A-8 NMSA 1978, covers Financial Disclosure Statements and applies to any State employee with any financial interest that he or she has reason to believe may be affected by his or her State employment or that may in any way conflict with that State employment.

If applicable, the employee shall disclose the nature and extent of the interest in writing and file the disclosure with the Secretary of State before entering State employment or as soon as the conflict arises and again in the month of January each year thereafter.

For purposes of the *Financial Disclosure Act*, *financial interest* is defined as *an ownership interest in business or any employment or prospective employment for which negotiations have already begun*.

For further information employees should reference the *Financial Disclosure Act*, Sections 10-16A-1 through 10-16A-8 NMSA 1978. For specific filing instructions, employees should contact the Secretary of State's Office.

M. WILLFUL MISCONDUCT, FRAUD

Employees are expected to conduct themselves in a professional manner and in accordance with laws and rules regulating conduct within the workplace. An employee who has valid reason to believe that another employee or employees are engaged in willful misconduct, including acts that may constitute fraud or other criminal behavior, is expected to disclose the misconduct to the Human Resource Administrator pursuant to the provisions of the CPR *Willful Misconduct, Fraud Policy*.

N. GOVERNOR'S CODE OF CONDUCT

In addition to the CPR's *Code of Conduct*, all CPR employees shall comply with the existing Governor's *Code of Conduct*.

O. VIOLATIONS AND ENFORCEMENT OF THE CODE OF CONDUCT

A violation of any provision of this Code of Conduct is subject to disciplinary action, up to and including dismissal.

[10/22/1996 adopted; 04/02/02 revised; 12/16/05 revised; 12/21/2012 revised; 01/21/2016 revised]

APPROVED:

EFFECTIVE DATE:

Linda M. Trujillo, State Records Administrator

January 21, 2016