

## NOTICE OF RULE MAKING AND PUBLIC RULE HEARING

**Notice of Rulemaking:** The State Ethics Commission [the commission] will hold a public hearing on the proposed adoption of certain rules, as detailed below in the description of Proposed Rules, governing the conduct and procedures for administrative hearings before the commission. These new rules are proposed pursuant to Section 10-16G-5 and 10-16G-7 NMSA 1978. No technical scientific information was consulted in drafting these proposed rules.

Copies of all the proposed rules may be found at the Department of Finance and Administration's website, [www.nmdfa.state.nm.us](http://www.nmdfa.state.nm.us), or, as of October 29, 2019, at the commission's main office in Albuquerque: the New Mexico Ethics Commission, University of New Mexico Science and Technology Park, 800 Bradbury Drive SE, Suite 217, Albuquerque, NM, 87106.

**Notice of Public Rule Hearing:** The public rule hearing will occur on Wednesday, December 4, 2019 at 9:00 am in UNM's Science and Technology Park's Executive Board Room, 851 University Boulevard SE, Suite 200, Albuquerque, NM 87106. The public hearing will be conducted in a fair and equitable manner by the commission and shall be recorded. Any interested member of the public may attend the hearing and will be provided a reasonable opportunity to offer public comment, including presentation of data, views, or arguments, on the proposed rules during the hearing. Individuals with disabilities who need any form of auxiliary aid to attend or participate in the public hearing are asked to contact [Jeremy.Farris@state.nm.us](mailto:Jeremy.Farris@state.nm.us). The commission will make every effort to accommodate all reasonable requests, but cannot guarantee accommodation of a request that is not received at least five calendar days before the scheduled hearing.

**Notice of Acceptance of Written Public Comment:** Written public comment, including presentation of data, views, or arguments about the proposed rules, from any interested member of the public will be accepted until 5:00 p.m. on Monday, December 2, 2019 by submitting them via email to [ethics.commission@state.nm.us](mailto:ethics.commission@state.nm.us) with the subject line "SEC Rulemaking R19-01," or via first class mail or by hand delivery to the commission's Albuquerque office: New Mexico Ethics Commission, University of New Mexico Science and Technology Park, 800 Bradbury Drive SE, Suite 217, Albuquerque, NM, 87106.

**Description of Proposed Rules:** in compliance with Section 14-4-5.2 NMSA 1978, this notice includes the following summary of the proposed rule, a short explanation of the purpose of the rule, and specific legal authority authorizing the proposed rule. The method and manner of public comment and notice of public hearing on the proposed rules are listed above.

**1.8.1.1 NMAC ("General Provisions"):** This rule is being proposed pursuant to Paragraph (2) of Subsection A of Section 10-16G-5, State Ethics Commission Act, NMSA (1978). The purpose of the proposed rule is to ensure that the state ethics commission is administered so that it works effectively, efficiently and fairly to achieve its constitutional and statutory mission. That mission is to ensure compliance with all applicable public ethics laws by all public officials, employees, candidates, contractors, lobbyists and others subject to the commission's jurisdiction throughout their employment or dealings with New Mexico state government; and to ensure that the public ethics laws are clear, comprehensive and effective.

**1.8.2.1 NMAC ("Recusal of commissioners"):** This rule is being proposed pursuant to Subsection H of Section 10-16G-7, State Ethics Commission Act, NMSA (1978). The purpose of this proposed rule is to ensure that all decisions and actions taken by the state ethics commission are free of undue or unlawful influences of any kind, real or apparent. The rule requires commissioners to evaluate their personal interests and attitudes, to fairly and honestly consider such issues whether or not raised by parties, and withdraw from acting on any matter where a real or apparent conflict of interest could undermine the confidence of the public in the fairness of the commission.

**1.8.3.1 NMAC ("Administrative Hearings"):** This rule is being proposed pursuant to Subsection A of Section 10-16G-5 NMSA 1978, State Ethics Commission Act, NMSA (1978). The purpose of this proposed rule is to establish general rules of practice and procedure for administrative hearings conducted by the commission or its hearing

officers, unless a more specific statute or regulation applies to the substantive hearing type at issue. In summary, the proposed rule establishes: how to file a complaint with the commission; how complaints are referred to the commission by other agencies or by the commission to other agencies; how the commission can initiate complaints; time limits for filing or initiation of complaints; the director's duty to notify parties of the filing of complaints or commission actions, except in limited circumstances; deferral of commission action on certain types of complaints during pre-election periods; the review, processing and investigation of complaints by the director and the general counsel; procedures for setting hearings on supported complaints and dismissal of insufficient complaints; issuance of and obtaining compliance with subpoenas; how to request an administrative hearing before a hearing officer in a matter within the jurisdiction of commission; who may represent a party in a matter before commission; permitted motions and other pleadings and how they may be filed in a matter before the commission; the requirements for notices of hearing; the location of hearings; the burden of proof, permissible intervention in proceedings; presentation of the case, and evidentiary rules of the hearings before commission; the qualifications, selection, powers and responsibilities of the hearing officer; procedures for facilitating and approving settlement agreements; the openness or confidentiality of all matters before the commission, including proceedings and exhibits; the rules for issuance of administrative subpoenas; the requirements for language interpreters; and procedures for appeals to the commission of hearing officer decisions. Information on the public hearing and on submitting written comments is described above in paragraph three and four respectively of this notice.