

TITLE 11 LABOR AND WORKERS COMPENSATION
CHAPTER 4 WORKERS' COMPENSATION
PART 6 JUDICIAL SELECTION

11.4.6.1 ISSUING AGENCY: Workers' Compensation Administration.
[11.4.6.1 NMAC - Rp, 11 NMAC 4.6.1, 12/31/2013]

11.4.6.2 SCOPE: All appointments and reappointments of judges.
[11.4.6.2 NMAC - Rp, 11 NMAC 4.6.2, 12/31/2013]

11.4.6.3 STATUTORY AUTHORITY: Section 52-5-2 NMSA 1978.
[11.4.6.3 NMAC - Rp, 11 NMAC 4.6.3, 12/31/2013]

11.4.6.4 DURATION: Permanent.
[11.4.6.4 NMAC - Rp, 11 NMAC 4.6.4, 12/31/2013]

11.4.6.5 EFFECTIVE DATE: December 31, 2013, unless a later date is cited at the end of a section.
[11.4.6.5 NMAC - Rp, 11 NMAC 4.6.5, 12/31/2013]

11.4.6.6 OBJECTIVE: The purpose of this rule is to provide a mechanism for selection of Judges that allows for public notice of vacancies, public comment on reappointment of judges and public inspection of judicial applications.
[11.4.6.6 NMAC - Rp, 11 NMAC 4.6.6, 12/31/2013]

11.4.6.7 DEFINITIONS: See 11 NMAC 4.1.7.
[11.4.6.7 NMAC - Rp, 11 NMAC 4.6.7, 12/31/2013]

11.4.6.8 JUDICIAL SELECTION:

A. The director may review the performance of workers' compensation judges at least once each year in a manner determined by the director.

B. The director shall announce the expiration of the term of a current workers' compensation judge not later than 120 days prior to the expiration of that term. Any incumbent seeking reappointment must apply to the director by filing an application for reappointment not later than 110 days prior to the expiration of the term to which the incumbent was appointed.

C. After the director receives the application from the incumbent, the workers' compensation administration shall issue a request for public comment regarding the incumbent on its website, and by email solicitation from the WCA public information officer the workers' compensation community. Public comment shall be directed to the WCA general counsel office. The public comment period shall be open for two weeks.

D. Information relating to the incumbent that is obtained pursuant to these rules shall not be a public record under the inspection of public records act.

E. After the public comment period has ended, the general counsel office shall compile the information gathered from the public and provide it to the director without identifying information regarding the person or entity that provided the comment. All public comments will not be provided to the candidate, or if they are shared, that any identifying information will be redacted to protect the identity of the commentator.

F. The director shall review the public comment and the performance of each current judge on the 90th day prior to the expiration of each judge's term, or the closest business day thereto. The director shall consider any relevant factor including, but not limited to the performance of an incumbent judge, public comment regarding the incumbent judge, the continuing and projected need for judicial staffing and any factor that may be considered by the New Mexico judicial nominations commission for the district court in making a decision regarding reappointment.

G. Upon announcement of a judicial vacancy by the director, any candidate seeking appointment to the vacancy shall submit an application to the director in a standard format prepared by the director.

(1) All such applications shall be considered public records, not a record of the WCA for the purposes of Section 52-5-21 NMSA 1978 (1991).

(2) The director shall consider any relevant factor including, but not limited to the performance of a judicial candidate before the WCA, the continuing and projected need for judicial staffing and any

factor that may be considered by the New Mexico judicial nominations commission for the district court in making a decision concerning appointment.

H. Notwithstanding the above, the director may appoint judges pro tempore when necessary for the efficient and orderly disposition of workers' compensation claims.

[11.4.6.8 NMAC - Rp, 11 NMAC 4.6.8, 12/31/2013; A, 1/1/2023]

HISTORY OF 11.4.6 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center:

WCA 91-1, Miscellaneous Proceedings and Preliminary Questions of Fact, filed 1/24/91.

WCA 91-1, Miscellaneous Proceedings and Preliminary Questions of Fact, filed 5/29/91.

WCA 92.1, Rules Governing Miscellaneous Proceedings and Preliminary Questions of Fact, filed 10/30/92.

WCA 93-1, Rules Governing Miscellaneous Proceedings and Preliminary Questions of Fact, filed 10/28/93.

WCA 93.11.2, Rules Governing Mandatory Forms, filed 3/3/94.

History of Repealed Material:

11 NMAC 4.6, Judicial Selection, filed 6/15/99 - Repealed effective 12/31/2013.