

TITLE 2 PUBLIC FINANCE
CHAPTER 81 RETIREE HEALTH CARE FUNDS
PART 1 GENERAL PROVISIONS

2.81.1.1 ISSUING AGENCY: NM Retiree Health Care Authority.
[6-15-98; 2.81.1.1 NMAC - Rn, 2 NMAC 81.1.1, 12-30-02]

2.81.1.2 SCOPE: Applies to the board of the retiree health care authority and to all employers, employees and eligible retirees, spouses and dependents participating in the coverages under the Act.
[6-15-98; 2.81.1.2 NMAC - Rn, 2 NMAC 81.1.2, 12-30-02]

2.81.1.3 STATUTORY AUTHORITY: This Rule is promulgated pursuant to the Retiree Health Care Act, the New Mexico Retiree Health Care Act (the "Act"), Sections 10-7C-1 et seq. NMSA 1978.
[6-15-98; 2.81.1.3 NMAC - Rn, 2 NMAC 81.1.3, 12-30-02]

2.81.1.4 DURATION: Permanent.
[6-15-98; 2.81.1.4 NMAC - Rn, 2 NMAC 81.1.4, 12-30-02]

2.81.1.5 EFFECTIVE DATE: June 15, 1998 unless a later date is cited at the end of a section.
[6-15-98; 2.81.1.5 NMAC - Rn &A, 2 NMAC 81.1.5, 12-30-02]

2.81.1.6 OBJECTIVE: The objective of this Rule is to establish procedures governing the board of the retiree health care authority ("the board").
[6-15-98; 2.81.1.6 NMAC - Rn, 2 NMAC 81.1.6, 12-30-02]

2.81.1.7 DEFINITIONS: [RESERVED]
[6-15-98; 2.81.1.7 NMAC - Rn, 2 NMAC 81.1.7, 12-30-02]

2.81.1.8 MEMBERSHIP OF THE BOARD: The board shall be composed of those persons or their designees as set out in Section 6 the Act.
[6-15-98; 2.81.1.8 NMAC - Rn, 2 NMAC 81.1.8, 12-30-02]

2.81.1.9 BOARD OFFICERS/TERMS OF OFFICE: Officers of the board shall consist of a president, vice president and a secretary who shall be elected from the board membership. The president shall preside over all board meetings and in his/her absence the vice-president shall preside and in the absence of both the president and the vice-president then the secretary shall preside. The terms of officers shall be for one year and they shall be elected at the annual meeting of the board. An officer may be reelected to the same position or elected to fill another position as an officer of the board. Any officer of the board shall serve in the capacity to which the officer was elected until written notification of the replacement is filed with the board pursuant to Section 10 [now 2.81.1.10 NMAC] of this Rule or until the member resigns their position as an officer of the board, or until authorized written notification of a change of a board member is filed with the NMRHCA by the proper person or entity.
[6-15-98; 2.81.1.9 NMAC - Rn, 2 NMAC 81.1.9, 12-30-02]

2.81.1.10 NOTIFICATION OF APPOINTMENT AND REMOVAL OF BOARD MEMBERS AND ALTERNATES: Employment as the education retirement director, executive secretary of the public employees retirement association, or the swearing in of the state treasurer shall automatically constitute positions or offices. They may select designees who shall serve at the pleasure of the person holding the position or office. Other members of the board shall not be authorized to appoint alternates/designees to the board. The remaining board members shall serve at the pleasure of the person or entity authorized to select the board member. The board member shall assume office at the time the selecting person or entity files written notification of the appointment of the board member or designee at the offices of the NMRHCA. The written notice shall contain the name, title, business address and business and home telephone number of the board member or designee. Ex officio board members and their designees shall only serve as board members during the ex officio board member's period of employment or election in the capacity employed or elected. Each remaining board member or designee shall only serve until authorized written notification of a change is filed with the NMRHCA.

[6-15-98; 2.81.1.10 NMAC - Rn, 2 NMAC 81.1.10, 12-30-02]

2.81.1.11 ABSENCES FROM MEETINGS: Since the board may meet less often than monthly and continuity of board attendance is important, this Rule will be enforced. Any member of the board missing more than two board meetings in any calendar year shall be requested to explain his or her absence to the board. If the board determines that the excessive absences are due to the board member's or designee board member's neglect, the selecting entity or ex officio officer may be requested by the board to select or designate another person. Presence of a designee of an ex officio board member shall be counted as presence of the board member.

[6-15-98; 2.81.1.11 NMAC - Rn, 2 NMAC 81.1.11, 12-30-02]

2.81.1.12 ANNUAL MEETING OF THE BOARD: The board shall hold an annual meeting at such time as the board determines.

[6-15-98; 2.81.1.12 NMAC - Rn, 2 NMAC 81.1.12, 12-30-02]

2.81.1.13 VACANCY IN OFFICE: If one of the officers vacates their position as an officer of the board, the next lower officer shall automatically assume the duties of the higher officer. For example, if the presidency becomes vacant, the vice-president shall automatically assume the title and duties of president and the secretary shall automatically assume the title and duties of vice-president. After due notice, a new secretary will be elected by the board. Each of the officers shall serve until election of officers at the next annual meeting.

[6-15-98; 2.81.1.13 NMAC - Rn, 2 NMAC 81.1.13, 12-30-02]

2.81.1.14 REGULAR MEETING OF THE BOARD: The regular meetings of the board shall be held on those dates and times and in such places to be determined from time to time by the board. The date of any regular meeting may be changed by a majority vote of a quorum of the board. The president or vice-president may cancel a regularly scheduled meeting of the board by giving notice of the cancellation in advance of any regularly scheduled meeting.

[6-15-98; 2.81.1.14 NMAC - Rn, 2 NMAC 81.1.14, 12-30-02]

2.81.1.15 ADOPTION OF ROBERT'S RULES OF ORDER FOR THE CONDUCT OF BOARD BUSINESS: Robert's rules of order are adopted by the board and shall be used for the conduct of all meetings to be held by the NMRHCA. Robert's rules of order shall be binding in all cases where they are not inconsistent with New Mexico statutes and rules and regulations adopted by the NMRHCA.

[6-15-98; 2.81.1.15 NMAC - Rn, 2 NMAC 81.1.15, 12-30-02]

2.81.1.16 CALL FOR MEETINGS OF THE BOARD: A call for meetings of the board shall be as follows:

A. Special Meetings: A special meeting of the board is a meeting other than a regular or emergency meeting and may be called by the president, vice-president or any three board members for the specific purposes specified in the call.

B. Emergency Meeting: An emergency meeting of the board is a meeting other than a regular or special meeting and may be called by the president, vice-president, or any two members of the board to consider a sudden or unexpected set of circumstances affecting the NMRHCA which require the immediate attention of the board.

[6-15-98; 2.81.1.16 NMAC - Rn, 2 NMAC 81.1.16, 12-30-02]

2.81.1.17 OPEN MEETINGS: The board shall conduct its meetings pursuant to the Open Meetings Act (Section 10-15-1 et seq. NMSA 1978) so as to assure reasonable citizen access to all board meetings. At least once a year, the board shall determine in a public meeting what notice for a public meeting is reasonable when applied to the board. At a minimum, that notice shall include broadcast stations licensed by the federal communications commission and newspapers of general circulation that have provided a written request for such notice (see: Open Meetings Act 10-15-1(D) NMSA 1978). That notice shall also include an agenda containing a list of specific items of business to be discussed or transacted at the meeting or information on how the public may obtain a copy of such an agenda (see Open Meetings Act Section 10-15-1(F) NMSA 1978).

[6-15-98; 2.81.1.17 NMAC - Rn, 2 NMAC 81.1.17, 12-30-02]

2.81.1.18 QUORUM: A majority of all of the board members shall constitute a quorum for conducting the affairs of the NMRHCA. In the event a position on the board is vacant due to resignation, removal or failure to appoint, a quorum shall be a majority of those persons holding office. The president of the board is a voting member of the board, shall be entitled to debate any issue and vote on any issue in the same manner as other members of the board and shall be considered when present as a member of the board for purposes of a quorum.
[6-15-98; 2.81.1.18 NMAC - Rn, 2 NMAC 81.1.18, 12-30-02]

2.81.1.19 PROCEDURES FOR ADDRESSING THE BOARD: The procedures for addressing the board shall be as follows:

A. Individual and Subject Matter. An individual may speak on any item that appears on the adopted agenda, before a final vote is taken, by notifying and subsequently being recognized by the president or then presiding officer. The president or then presiding officer may, in his discretion, limit the time any individual or entity is allotted to make a presentation and the president or then presiding officer may in his discretion, limit the time allotted for any subject.

B. Advance Notice of Matter to be Presented. A person with a matter to present to the board shall submit the request in writing with appropriate supporting materials four days in advance of a regularly scheduled meeting, twenty-four hours in advance of a special meeting and three hours in advance of an emergency meeting.
[6-15-98; 2.81.1.19 NMAC - Rn, 2 NMAC 81.1.19, 12-30-02]

2.81.1.20 DUTIES AND POWERS OF THE BOARD:

A. Board's Authority Vested by the Constitution of the State: The board retains and reserves unto itself all powers, rights, authority, duties and responsibilities conferred upon and vested in it by the Constitution of the state of New Mexico and statutes, including those prescribed by Sections 10-7C-1 et seq. NMSA 1978 and such other power and authority as may be conferred upon the board from time to time.

B. Board Hearing Authority Delegable: In any instance in which the board is authorized to conduct an adjudicatory hearing pursuant to the New Mexico Retiree Health Care Act, or pursuant to these regulations, the board may delegate the authority to conduct such an adjudication to a hearing authority, designation of which shall be in the sole and exclusive authority of the board, pursuant to procedures to be adopted by the hearing authority in consultation with the board's general counsel. Upon completion of the hearing, the hearing authority shall issue a disposition to the board, and, upon the application of either party to the adjudication, the board shall determine by majority vote whether to adopt the hearing authority's disposition as its own or to consider the matter further itself. In the event the board votes to consider the matter further, it shall also determine whether such consideration will include the parties' written submissions only, such written submissions plus oral argument before the board, or rehearing of all or part of the matter before the board.

C. Authority of the Board to be Liberally Construed: The authority of the board shall be liberally construed in all doubtful cases to be inclusive of the actions taken by the board.
[6-15-98; 2.81.1.20 NMAC - Rn & A, 2 NMAC 81.1.20, 12-30-02]

2.81.1.21 PAYMENT OF PER DIEM AND MILEAGE: The NMRHCA shall pay per diem and mileage consistent with the Per Diem and Mileage Act, Section 10-8-1 et seq. NMSA 1978 and consistent with the per diem and mileage reimbursement requirements of the department of finance and administration as amended and as authorized from time to time by the board acting in a board meeting.

A. Payment to NMRHCA Employees: The NMRHCA employees are entitled to receive per diem and mileage for travel incurred in the normal course and scope of their employment. No employee shall be entitled to receive per diem and mileage for travel outside of the state without obtaining the board's prior approval for the travel or without obtaining the prior approval of an officer of the board if the board has delegated to such officer the authority to grant such approval.

B. Payment to NMRHCA Board Members: An NMRHCA board member is entitled to receive per diem and mileage for travel incurred for attending all regular, special and emergency board meetings called pursuant to the Open Meetings Act and the NMRHCA's open meetings resolution. In addition, the NMRHCA board members named to serve on the NMRHCA board agenda committee is entitled to receive per diem and mileage for travel incurred for attending all agenda committee meetings. NMRHCA board members shall not be entitled to receive per diem and mileage for any other travel, inside or outside of the state, without obtaining prior approval of an officer of the board or the executive director if the board has delegated to such officer or executive director the authority to grant such approval.

C. Payment to NMRHCA Alternate Board Members or to Designees of Ex Officio Board

Members: An NMRHCA alternate board member or board member by designation of an ex officio board member is entitled to receive per diem and mileage for travel incurred for attending regular, special and emergency board meetings called pursuant to the Open Meetings Act and the NMRHCA's open meetings resolution only when the NMRHCA board member or ex officio board member is not present at the board meeting and the alternate or designee attends in the place of the board member or ex officio board member. The NMRHCA shall not pay per diem and mileage to the alternate board member or designee and to the board member or ex officio board member for attendance at the same meeting on the same day. NMRHCA alternate board members shall not be entitled to receive per diem and mileage for any other travel, inside or outside of the state, without obtaining prior approval of the board.

D. Payment to NMRHCA Advisory Committee Members: An NMRHCA advisory committee member named by the board to serve on an advisory committee is entitled to receive per diem and mileage for travel incurred for attending an NMRHCA advisory committee meeting which has been scheduled in writing by the board or by the executive director. NMRHCA advisory committee members shall not be entitled to receive per diem and mileage for any other travel, inside or outside of the state, without obtaining prior approval of the board.
[6-15-98; 2.81.1.21 NMAC - Rn, 2 NMAC 81.1.21, 12-30-02]

HISTORY of 2.81.1 NMAC:

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

RHCA Rule 90-1, Board Membership, General Authority, Procedures, Per Diem and Mileage, 6-5-90.

History of Repealed Material: [RESERVED]

Other History: 2 NMAC 81.1, General Provisions, filed 6-02-98 is renumbered, reformatted and amended to 2.81.1 NMAC, effective 12-30-02.