

TITLE 2 PUBLIC FINANCE
CHAPTER 81 RETIREE HEALTH CARE FUNDS
PART 12 ELECTION OF THE CLASSIFIED STATE EMPLOYEE BOARD MEMBER

2.81.12.1 **ISSUING AUTHORITY:** NM Retiree Health Care Authority ("NMRHCA")
[4-28-99; 2.81.12.1 NMAC - Rn, 2 NMAC 81.12.1, 4/30/02]

2.81.12.2 **SCOPE:** Applies to NMRHCA.
[4-28-99; 2.81.12.2 NMAC - Rn, 2 NMAC 81.12.2, 4/30/02]

2.81.12.3 **STATUTORY AUTHORITY:** This Rule is promulgated pursuant to the Retiree Health Care Act ("Act"), Sections 10-7C-1 et seq. NMSA 1978.
[4-28-99; 2.81.12.3 NMAC - Rn, 2 NMAC 81.12.3, 4/30/02]

2.81.12.4 **DURATION:** Permanent.
[4-28-99; 2.81.12.4 NMAC - Rn, 2 NMAC 81.12.4, 4/30/02]

2.81.12.5 **EFFECTIVE DATE:** April 28, 1999.
[4-28-99; 2.81.12.5 NMAC - Rn, 2 NMAC 81.12.5, 4/30/02]

2.81.12.6 **OBJECTIVE:** The objective of this Rule is to establish rules and procedures for the election of a classified state employee member of the NMRHCA Board of Directors, as required by Section 10-7C-6 (B)(10) of the Act.
[4-28-99; 2.81.12.6 NMAC - Rn, 2 NMAC 81.12.6, 4/30/02]

2.81.12.7 **DEFINITIONS;**

- A. "Act" means the Retiree Health Care Act (Sections 10-7C-1 et seq. N.M. Stat. Ann. 1978).
 - B. "Classified State Employee Board Member" means the member of the NMRHCA Board of Directors to be selected by the active state employees pursuant to Section 10-7C-6(B)(10) of the Act.
 - C. "Election Committee" means the Executive Committee of the NMRHCA Board of Directors.
- [4-28-99; 2.81.12.7 NMAC - Rn, 2 NMAC 81.12.7, 4/30/02]

2.81.12.8 **TERM OF THE CLASSIFIED STATE EMPLOYEE BOARD MEMBER:**

- A. The Classified State Employee Board Member shall be elected for a term of four years and, unless removed or otherwise vacated from his/her office, shall serve until his/her successor is duly elected and has qualified.
 - B. The election of the Classified state Employee Board Member shall be held every four years, with the completion of the election to coincide with the completion of the term of the current Classified State Employee Board Member as closely as possible.
- [4-28-99; 2.81.12.8 NMAC - Rn, 2 NMAC 81.12.8, 4/30/02]

2.81.12.9 **ELECTION COMMITTEE:** The executive committee of the NMRHCA Board shall also serve as the election committee under these rules and regulations.

- A. The election Committee may utilize and shall oversee any contractors hired by the Board to help conduct the election. The election committee may utilize NMRHCA staff to assist in the election committee's oversight responsibilities.
 - B. The further duties of the election committee are described in the rules below.
- [4-28-99; 2.81.12.9 NMAC - Rn, 2 NMAC 81.12.9, 4/30/02]

2.81.12.10 **NOMINATIONS FOR CLASSIFIED STATE EMPLOYEE BOARD MEMBER:**

- A. At the earliest possible Board meeting during the Classified state Employee Board Member election year, the NMRHCA Board shall adopt a resolution specifying when nominating petitions shall be made available for distribution and when the nominating petitions are due to be returned to the NMRHCA. These nominating petitions are due not earlier than three months prior and not later than one month prior to the date set for canvassing the election ballots. Within 5 days of the adoption of the resolution, the NMRHCA shall give public

notice of said resolution by arranging for the resolution to be published in the state employee newsletter and in a New Mexico newspaper of general circulation.

B. Nominating petition forms may be obtained from the NMRHCA offices located at 810 West San Mateo, Suite D, Santa Fe, New Mexico 87505.

C. In order to be eligible to hold the position of Classified State Employee NMRHCA Board member an individual must:

(1) Not be an employee of the New Mexico Retiree Health Care Authority, and

(2) Be a current classified state employee who contributes to the NMRHCA fund pursuant to the Act (N.M.Stat. Ann. 10-7C-1 et seq.)

D. Nominating petitions shall be in the form prescribed by the NMRHCA. Nominating petitions may only be signed by active state employees as defined below by these rules in Subsection B of 2.81.12.11 NMAC. A nominating petition must have a minimum of 50 valid signatures for the candidate to be eligible. The five candidates with the highest number of valid nominating signatures shall be included on the ballot, and the others shall be eliminated. The names of the five candidates receiving the highest number of nominating signatures shall be placed on the election ballot in descending order according to the number of valid nominating signatures received and submitted by each candidate. In case of a tie, the election committee shall determine the order in which candidates are placed on the ballot by drawing names.

E. In the event that only one qualifying nominating petition is received under the terms of the procedures specified herein, then no election shall be conducted, but the sole candidate so qualifying shall be declared the winner by the election committee.

[4-28-99; 2.81.12.10 NMAC - Rn, 2 NMAC 81.12.10, 4/30/02]

2.81.12.11 **ELECTION OF CLASSIFIED STATE EMPLOYEE BOARD MEMBER:**

A. Secret election ballots shall be mailed at least thirty days prior to the deadline for their return. Ballots shall be held by the NMRHCA in a locked box until the date and time set by the election committee for canvassing. To be counted, ballots must have been received at the Santa Fe Post Office by 12:00 noon on the date set by the Board to canvass the election returns.

B. All active state employees shall be eligible to receive a ballot and vote in the election as provided below.

(1) For purposes of the election of the Classified State Employee Board Member, "active state employees" are the following:

(a) All persons who are current state employees at least sixty (60) days prior to the mailing of the ballots and who contribute from their paycheck to the NMRHCA fund pursuant to the Retiree Health Care Act; and

(b) All persons who became current state employees contributing from their paycheck to the NMRHCA fund pursuant to Retiree Health Care Act (N.M.Stat. Ann. 10-7C-1 et seq.) within the sixty (60) day period prior to the mailing of the ballots.

(2) While all active state employees shall qualify for a ballot, in the case of those new active state employees listed in Subparagraph (b) of Paragraph (1) of Subsection B of 2.81.12.11 NMAC, above, a written request for a ballot must be made to NMRHCA.

C. Each ballot shall be self-proving containing the following affirmation: By voting this ballot, I certify that I am a current state employee contributing to the NMRHCA from my income as a state employee pursuant to the Retiree Health Care Act (N.M.Stat. Ann. 10-7C-1 et seq.) and that I am eligible to vote in this election."

D. Each election ballot shall be returned, one per envelope, in the envelope provided.

E. Active state employees who do not receive ballots or whose ballots have been mutilated or spoiled may request and receive another ballot, but only when the original mailed ballot is returned to the NMRHCA prior to the election ballot canvassing date.

F. Ballots shall be counted by the election committee, and a report shall be made to the Board at the next regularly scheduled Board meeting. The candidate receiving the greatest number of votes shall be declared the winner of the election by the election committee. In the event of a tie, the election committee shall select by lottery or similar method the name of the winner. The remaining four candidates shall be alternates for the Board member position.

G. If the election committee recommends for good cause that the results of the election be invalidated, and the Board adopts such recommendation, a new election shall be held as soon as possible thereafter.

H. Insignificant departures from the requirements set forth in these regulations pertaining to the conduct of elections shall not invalidate the election unless the results of the election are proven to have been sufficiently affected in the judgment of a majority of the members of the election committee.

I. The Classified State Employee Board Member shall be considered to be "qualified" for office pursuant to the Act, N.M.Stat. Ann. 10-7C-6(B)(10), when the Board has accepted the election results and the newly elected Board member has been sworn into office.

[4-28-99; 2.81.12.11 NMAC - Rn, 2 NMAC 81.12.11, 4/30/02]

2.81.12.12 VACANCY ON THE BOARD BY CLASSIFIED STATE EMPLOYEE MEMBER:

A. In the event the classified state employee board member of the NMRHCA board ceases to be a classified state employee for any reason, is removed from the board, resigns from the board, or dies, that member shall be considered to have resigned from the board and the board shall, by resolution, declare that office vacant as of the date of the adoption of such resolution. Such resolution shall be adopted within 30 days after the board member's retirement, resignation or death.

B. In the event the classified state employee member of the NMRHCA board ceases to be employed as a classified state employee, and is not reemployed as a classified state employee within thirty (30) days, that member shall be considered to have resigned from the board.

C. In the event the classified state employee board member of the NMRHCA board ceases to be a classified state employee or resigns from the board, that member shall, within 15 days of the board's adoption of the resolution of vacancy, designate an active classified state employee to complete the balance of the member's term as classified state employee member by identifying such person in a letter to the chairperson of the board, who shall, by letter to the person so designated, appoint such person as successor classified state employee member.

D. In the event the classified state employee board member of the NMRHCA board is removed from the board or dies, an active classified state employee shall be designated as successor classified state employee board member by vote of the remaining members of the board within 15 days of the board's adoption of the resolution of vacancy.

[4-28-99; 2.81.12.12 NMAC - Rn & A, 2 NMAC 81.12.12, 4/30/02]

History of 2.81.12 NMAC:

Pre NMAC History: None.

History of Repealed Material: [RESERVED]

Other History: 2 NMAC 81.12, Election Of The Classified State Employee Board Member, filed 04-28-99 is renumbered, reformatted and amended to 2.81.12 NMAC, effective 4/30/02