

**TITLE 6            PRIMARY AND SECONDARY EDUCATION**  
**CHAPTER 50       INSURANCE**  
**PART 1            GENERAL PROVISIONS**

**6.50.1.1            ISSUING AGENCY:** New Mexico Public School Insurance Authority.

[6.50.1.1 NMAC - Rp, 6.50.1.1 NMAC, 9/1/2014]

[The address of the New Mexico Public School Insurance Authority is 410 Old Taos Highway, Santa Fe, New Mexico 87501.]

**6.50.1.2            SCOPE:** This part applies to all school districts, charter schools, other educational entities, eligible employees, eligible retired employees, eligible dependents, eligible participating entity governing body members, and persons or entities authorized to participate in the authority's employee benefits, risk-related and due process reimbursement coverages.

[6.50.1.2 NMAC - Rp, 6.50.1.2 NMAC, 9/1/2014]

**6.50.1.3            STATUTORY AUTHORITY:** Subsection D of Section 22-29-7 NMSA 1978, directs the authority to promulgate necessary rules, regulations and procedures for the implementation of the Public School Insurance Authority Act, Section 22-29-1 et seq. NMSA 1978.

[6.50.1.3 NMAC - Rp, 6.50.1.3 NMAC, 9/1/2014]

**6.50.1.4            DURATION:** Permanent.

[6.50.1.4 NMAC - Rp, 6.50.1.4 NMAC, 9/1/2014]

**6.50.1.5            EFFECTIVE DATE:** September 1, 2014, unless a later date is cited at the end of a section.

[6.50.1.5 NMAC - Rp, 6.50.1.5 NMAC, 9/1/2014]

**6.50.1.6            OBJECTIVE:**

**A.**        The first objective of this part is to set forth the general terms, definitions and conditions governing this chapter, Parts 1-18, and to set forth the general authority of the board of directors of the authority. This part also includes rules to encourage interaction with other state agencies, school districts, other educational entities, charter schools and with residents of New Mexico to better inform them of the operations of the board and to learn of their needs and concerns.

**B.**        The second objective of this part is to establish a code of ethics that must be adhered to by those persons defined as public officials and to provide penalties for failure to comply. The proper operation of a democratic government requires that public officials and those attorneys, consultants, agents and employees on whom they rely for advice and opinions be independent, impartial, and responsible to the people. When a sound code of ethics is promulgated and enforced, the public has confidence in the integrity of its government. The objective of the code of ethics is to advance openness in government by requiring disclosure by public officials of their private interests that may be affected by their public acts; to set standards of ethical conduct; to minimize pressures on public officials and to establish a process for reviewing and settling alleged violations.

**C.**        The third objective of this part is to insure, in the interests of public policy, that all meetings of a quorum of the authority's board of directors held for the purpose of formulating public policy, discussing public business or for the purpose of taking any action delegated to the authority shall be open to the public unless otherwise provided by law.

[6.50.1.6 NMAC - Rp, 6.50.1.6 NMAC, 9/1/2014]

**6.50.1.7            DEFINITIONS:** The definitions listed below apply to all rule pertaining to the authority, the authority's risk-related and employee-benefit coverages and any rules issued by the authority concerning risk or loss prevention, except where other rules contain more specific definitions of the same term or additional terms.

**A.**        **"Abatement"** means the elimination of a recognized risk-related hazard as the result of a recommendation by a loss prevention representative or by the authority.

**B.**        **"Affidavit of domestic partnership"** means a sworn, written statement, in a form approved by the authority, by which both members of a domestic partnership affirm, solely for the purpose of obtaining employee domestic partner benefits through the authority, that:

**(1)**       the partners are in an exclusive and committed relationship for the benefit of each other, and the relationship is the same as, or similar to, a marriage relationship in the state of New Mexico;

months;

(2) the partners share a primary residence and have done so for 12 or more consecutive months;

obligations;

(3) the partners are jointly responsible for each other's common welfare and share financial obligations;

(4) neither partner is married or a member of another domestic partnership;

(5) both partners are at least 18 years of age;

(6) both partners are legally competent to sign an affidavit of domestic partnership; and

(7) the partners are not related by blood to a degree of closeness that would prevent them from being married to each other in the state of New Mexico.

**C. "Affidavit terminating domestic partnership"** means a sworn, written statement, in a form approved by the authority, by which an employee notifies the authority that domestic partner benefits should be terminated because the employee's domestic partnership relationship is terminated.

**D. "Authority"** means the New Mexico public school insurance authority.

**E. "Board"** means the board of directors of the authority.

**F. "Change of status"** means the change of status of an eligible employee or eligible dependent by:

(1) death;

(2) divorce or annulment;

(3) loss of employment;

(4) loss of group or individual health insurance coverage through no fault of the person having the insurance coverage;

(5) birth;

(6) adoption or child placement order in anticipation of adoption;

(7) legal guardianship;

(8) marriage;

(9) incapacity;

(10) establishment or termination through affidavit of domestic partnership or affidavit terminating domestic partnership; or

(11) fulfilling the actively at work requirement and minimum qualifying number of hours through promotion with salary increase or acceptance of a full-time position with salary increase with the same participating entity.

**G. "Charter school"** means a school organized as a charter school pursuant to the provisions of the 1999 Charter Schools Act, Section 22-8B-1 et seq., NMSA 1978.

**H. "Contract period"** when applied to employee benefit or risk-related coverages means the established period of time over which the authority provides insurance to participating entities. The contract period shall be specified by the board as part of a memorandum of coverage, a group benefits policy or administrative services agreement. The contract period may be different for different offerings, policies or agreements.

**I. "Costs"** means the direct and indirect monetary and economic costs of insurance.

**J. "Coverage"** means insurance protection offered or provided by the authority to persons or entities entitled to participate in the authority's offerings.

**K. "Critical hazard"** means any risk-related exposure, hazardous condition, or other circumstance having an above average potential for immediate occurrence, but which is not immediately life threatening. A critical hazard is of less severity than an imminent hazard.

**L. "Deductible"** means the dollar amount which will be deducted from any payments made to or on behalf of a participating entity or employee or covered individual.

**M. "Domestic partner"** means an unrelated person living with and sharing a common domestic life with an employee of an entity offering domestic partner benefits, where the employee and the partner submit a properly executed affidavit of domestic partnership and where the employee and the partner presently:

(1) are in an exclusive and committed relationship for the benefit of each other, and the relationship is the same as, or similar to, a marriage relationship in the state of New Mexico;

(2) share a primary residence and have done so for 12 or more consecutive months;

(3) are jointly responsible for each other's common welfare and share financial obligations;

and

(4) are not married or in another domestic partnership.

**N. "Domestic partner benefits"** means dependent insurance coverage for a domestic partner offered to an employee as a benefit of employment pursuant to a written petition adopted by a member's governing body that:

- (1) states that the member's governing body has voted in an open, public meeting to offer domestic partner benefits to its employees;
- (2) sets forth the percentage contribution, if any, the member will make toward an employee's premium for domestic partner coverage;
- (3) describes any evidence (documentation or other) the member will require in support of an affidavit of domestic partnership; and
- (4) is received by the authority at its offices before the effective date the coverage is to begin.

**O. "Due process reimbursement"** means the reimbursement of a school district's or charter school's expenses as defined in Section 22-29-3 NMSA 1978 which are incurred as a result of a due process hearing as required pursuant to Section 22-29-12 NMSA 1978.

**P. "Eligible dependent"** means a person obtaining health care coverage from the authority based upon that person's relationship to the eligible employee as follows:

(1) a person whose marriage to the eligible employee is evinced by a marriage certificate or who has a legally established common-law marriage in a state which recognizes common-law marriages and then moves to New Mexico;

(2) a person who is the domestic partner of an eligible employee, employed by an entity offering domestic partner benefits;

(3) a child under the age of 26 who is either:

(a) a natural child;

(b) a legally adopted child pursuant to the Adoption Act, Section 32A-5-1, et. seq. NMSA 1978 or otherwise by placement order, court order or decree;

(c) a step child who is primarily dependent on the eligible employee for maintenance and support;

(d) a natural or legally adopted child of the eligible employee's domestic partner or a child placed in the domestic partner's household as part of an adoptive placement, legal guardianship, or by court order (excluding foster children) and who is living in the same household and is primarily dependent on the eligible employee for maintenance and support;

(e) a child for whom the eligible employee is the legal guardian and who is primarily dependent on the eligible employee for maintenance and support, so long as evidence of the guardianship is evidenced in a court order or decree (notarized documents, powers of attorney, or kinship documents are not accepted as evidence);

(f) a foster child living in the same household as a result of placement by a state licensed placement agency, so long as the foster home is licensed pursuant to Section 40-7A-1, et. seq. NMSA, 1978;

(g) a child living in the same household after a petition for adoption of that child has been filed pursuant to the Adoption Act, Section 32A-5-1 et. seq. NMSA 1978 or a pre-placement study is pending for purposes of adoption of the child pursuant to Section 32A-5-1 et. seq. NMSA 1978; or

(h) a dependent child pursuant to a qualified medical support order;

(4) a dependent child over 26 who is wholly dependent on the eligible employee for maintenance and support and who is incapable of self-sustaining employment by reason of mental retardation or physical handicap, provided that proof of incapacity and dependency must be provided within 31 days before the child reaches 26 years of age; any child who becomes so incapacitated while covered shall be allowed to continue coverage thereafter during the period of incapacity, and such times thereafter as may be authorized by the board;

(5) no provision in Paragraphs (1) through (4) of Subsection P of 6.50.1.7 NMAC shall result in eligibility of any person adopted by an eligible member pursuant to the adult adoption provisions of Section 40-14-5 NMSA 1978;

(6) no provision in Paragraphs (1) through (4) of Subsection P of 6.50.1.7 NMAC shall result in eligibility of any person who has met the requirements of any such paragraph for the primary purpose of obtaining eligibility under this chapter; any denial of eligibility under this subsection may be submitted for dispute resolution to the director of the authority pursuant to Subsection F of 6.50.10.13 NMAC, and the director's decision may be appealed by following the procedures specified in 6.50.16 NMAC, Administrative Appeal of Authority Coverage Determinations.

**Q. "Eligible participating entity board member, entity governing body member or authority board member"** means an active participating entity board member, entity governing body member or authority board member whose entity is currently participating in the authority employee benefits coverages or who is eligible as an active authority board member or as an eligible retiree (Subsection R of 6.50.1.7 NMAC).

**R. “Eligible retiree” means:**

(1) a closed class: a “non-salaried eligible participating entity governing authority member” who is a former board member, who has served without salary as a member of the governing body of an employer eligible to participate in the benefits coverages of the authority, and is certified to be such by the director of the authority and has continuously maintained group health insurance coverage through that member’s governing body; “eligible retiree” also includes former members of the authority board who has continuously maintained authority group health insurance; with respect to authority and participating entity board members who begin service after January 1, 1997, may participate in the benefits coverages; coverage will end at the request of the member, death or for non-payment;

(2) a “grandfathered retired employee” or “grandfathered retired employee dependent” defined as a retired employee or the dependent of the retired employee who meets all applicable retirement rules of the Educational Retirement Act and educational retirement board but does not receive an Educational Retirement Act pension, and who has been allowed to continue authority coverages prior to the enactment of the Retiree Health Care Authority Act or by agreement between a new member school district or other educational entity;

(3) a “retired employee” who is drawing an Educational Retirement Act pension or with respect to a retired authority employee, a Public Employee Retirement Act pension, and desires to participate in the authority additional life coverage.

**S. “Eligible employee”** means an employee of an employer eligible to participate in the benefits coverages of the authority including eligible participating entity board members, entity governing body members and authority board members (Subsection Q of 6.50.1.7 NMAC), full-time employees (Subsection X of 6.50.1.7 NMAC), or eligible part-time employees (Subsection T of 6.50.1.7 NMAC).

**T. “Eligible part-time employee”** means a person employed by, paid by, and working for a participating entity less than 20 hours but more than 15 hours per week during the academic school term and is determined to be eligible for participation in authority employee benefits coverages by an annual resolution which, prior to May 1 of the previous year, is adopted by the participating entity governing body and approved by the authority board.

**U. “Employee benefits minimum standards”** means the minimum coverages, minimum limits and other factors as specified in authority rules for which insurance is offered.

**V. “Established enrollment period”** means the period of time and the dates for which an enrollment period is authorized by the authority. The established enrollment period shall be determined by the board on separate lines of employee benefit coverages as the authority board deems appropriate.

**W. “Financial interest”** means an interest of 10% or more in a business or exceeding \$10,000.00 in any business. For a board member, official, employee, agent, consultant or attorney this means an interest held by the individual, his or her spouse, his or her domestic partner, or his or her minor children.

**X. “Full-time employee”** means a person employed by, paid by and working for the participating entity 20 hours or more per week during the academic school term or terms. A full-time employee includes participating entity board members, entity governing body members and authority board members as defined in Subsections SS and TT of 6.50.1.7 NMAC.

**Y. “Fund”** means the authority account or accounts in which the money received by the authority is held.

**Z. “Governing body”** means the elected board or other governing body that oversees and makes the policy decisions for a school district, charter school or other educational entity. (See also Subsection UU of 6.50.1.7 NMAC)

**AA. “Imminent hazard”** means those conditions or practices which exist requiring suspension of activities or operations so as to avoid an occurrence which could reasonably be expected to result in death or serious physical harm immediately or before the imminence of such danger can be eliminated through the recommended abatement.

**BB. “Ineligible dependents”** means:

(1) common law relationships of the same or opposite sex which are not recognized by New Mexico law unless domestic partner benefits are offered by the employee’s entity;

(2) dependents while in active military service;

(3) parents, aunts, uncles, brothers and sisters of the eligible employee;

(4) grandchildren left in the care of an eligible employee without evidence of legal guardianship; or

(5) any other person not specifically referred to as eligible.

**CC.** “**Insider information**” means information regarding the authority which is confidential under law or practice or which is not generally available outside the circle of those who regularly serve the authority as board members, officials, employees, agents, consultants or attorneys.

**DD.** “**Insurance**” means basic insurance, excess insurance, re-insurance, retrospectively rated insurance, self-insurance, self-insured retention and all other mechanisms to provide protection from risks assumed by the authority.

**EE.** “**Insurance policy**” means one or more basic insurance policies, excess insurance policies, reinsurance policies, retrospectively rated insurance policies, or other insurance policies sought or obtained by the authority from one or more insurance companies to provide contractual protection against one or more risks or perils or which provide health related services.

**FF.** “**Line**” means insurance protection which protects against a specific category or set of perils.

**GG.** “**Loss prevention**” means a system for identification and reduction of risk-related exposures, hazardous conditions or other circumstances likely to produce a loss.

**HH.** “**Loss prevention representative**” means the employee of the contracted risk-related agency or the authority charged with the responsibility of providing loss prevention services to the authority.

**II.** “**Memorandum of coverage**” means the document which lists all terms and conditions of risk-related coverages.

**JJ.** “**Member**” and “**members**” means all public school districts and charter schools mandated by the New Mexico Public School Insurance Authority Act, Section 22-29-9 et seq. NMSA 1978 to be members of the authority and all other educational entities voluntarily participating in the authority.

**KK.** “**Minimum participation level**” means that level of required participation by eligible employees of a participating entity in the authority employee benefits coverages for the particular line of coverage. The percentage level of required participation may vary from one line of coverage to another line of coverage as determined by the board from time to time.

**LL.** “**Native American employees**” or “**native American dependents**” are those persons on the membership rolls of any recognized Indian tribe, nation, or pueblo.

**MM.** “**Occurrence**” means continuous and repeated exposures to substantially the same general harmful conditions, accidents or events. All such exposures to substantially the same general condition shall be considered as arising from one occurrence.

**NN.** “**Offering**” refers to any single line offering, multi-option or package offering made available by the authority.

**OO.** “**Other educational entity**” means an educational entity as defined in Section 22-29-3, NMSA 1978 which is an authority member pursuant to Section 22-29-9E NMSA 1978.

**PP.** “**Package offering**” means combining together of two or more lines of risk-related insurance.

**QQ.** “**Participant**” means a person receiving employee benefit coverage from the authority.

**RR.** “**Participating entity**” means a school district, charter school or other educational entity receiving authority coverage.

**SS.** “**Participating authority board member**” means a person that is appointed to serve and is serving as a member of the authority board.

**TT.** “**Participating entity board member**” or “**participating entity governing body member**” means a person that is elected or appointed to serve and is serving as a member of the governing board of a participating entity.

**UU.** “**Participating entity governing board**” means the elected or appointed board or other governing body that oversees and makes the policy decisions for the school board, charter school or educational entity.

**VV.** “**Part-time employee**” means a person employed by, paid by and working for the participating entity less than 20 hours per week during the academic school term or terms.

**WW.** “**Public official**” means a person serving the authority as board member, official, employee, agent, consultant or attorney or as a member of an ad hoc or standing authority advisory committee.

**XX.** “**Recommendation**” means a method or means of risk-related corrective action suggested to a participating entity to eliminate a designated hazard.

**YY.** “**Request for waiver**” means a request for waiver of participation.

**ZZ.** “**Review board**” means the risk-related loss prevention review board. In the event a risk-related loss prevention review board is not designated by the authority board, “review board” means the risk advisory committee of the board.

**AAA.** “**RFP**” means a request for proposals and consists of all papers including those attached to or incorporated by reference in a document used to solicit proposals for insurance policies or professional services.

**BBB. “Risk-related coverage”** means any coverage required under the Tort Claims Act, Section 4-41-1 et seq. NMSA 1978, or any other state mandate and any coverage provided at the authority’s discretion.

**CCC. “School district”** means any school district as defined in Section 22-29-3 NMSA 1978.

**DDD. “Self-insured retention”** means that dollar amount from the first dollar of loss up to a maximum amount for which the risk of loss is retained as determined by the authority.

**EEE. “Special events”** mean events that permit enrollment in employee-benefits coverages.

**FFF. “State”** means the state of New Mexico.

**GGG. “Waiver” or “waiver of participation”** means a written document issued by the authority to a school district or charter school excusing the school district or charter school from participation in an authority offering. A school district or charter school may submit a request for waiver of participation for each authority offering.

[6.50.1.7 NMAC - Rp, 6.50.1.7 NMAC, 9/1/2014]

#### **6.50.1.8 COMMUNITY RELATIONS:**

**A.** The board recognizes its responsibility to the public to provide information concerning all of its actions, its policies, and details of its educational and business operations. In recognition of this responsibility the board shall:

(1) open to the public all regular, special and emergency meetings of the authority’s board of directors, board standing committees and board ad hoc committees with notice consistent with the Open Meetings Act, Section 10-15-1 et seq. NMSA 1978 and the resolution adopted by the board governing open meetings;

(2) adopt an annual budget at an open public meeting announced publicly in advance;

(3) provide annual reports of financial and operational activities to members and to the public upon payment of reasonable copying costs pursuant to the Inspection of Public Records Act, Section 14-2-1 et seq. NMSA 1978; and

(4) inform the public of authority matters through appropriate public news media, authority publications and an informational website.

**B.** The board recognizes that constructive study, discussion and active participation by citizens are necessary to promote the best possible programs of insurance in the community. The board shall do the following to encourage this participation.

(1) The board shall invite participating entities to assist individually or in groups in matters of concern to the authority.

(2) The board shall select, from time to time, committees to serve as study groups to investigate concerns. Each committee shall be appointed by the board for a specific purpose and, after final reports have been completed, shall be dissolved. The function of such committees shall not extend beyond that of study and recommendation as the board shall not delegate its responsibility for discretionary action to any such group.

(3) The board shall encourage participation by school districts, charter schools, other educational entities, employees of educational institutions and interested citizens.

**C.** Members of the public are entitled to inspect and make copies of public documents of the authority in accordance with the Inspection of Public Records Act, Section 14-2-1 et seq. NMSA 1978.

[6.50.1.8 NMAC - Rp, 6.50.1.8 NMAC, 9/1/2014]

**6.50.1.9 BOARD PROCEDURES AND GENERAL AUTHORITY:** This section establishes procedures governing the board operations for conducting its business affairs and sets forth the general authority of the board.

**A.** The authority's board shall be composed of a total of 11 members as provided by Section 22-29-5 NMSA 1978. Solely for the purposes of board membership under Section 22-29-5 NMSA 1978, the term “participating educational entities” as used in that section is defined to mean those educational entities that participate in the authority employee benefits coverages or risk-related coverages or both.

**B.** Membership on the board shall be for a term not to exceed three years pursuant to Section 22-29-5, NMSA 1978. Members shall serve on the board at the pleasure of the party by which he has been appointed and may be removed by the appointing party for any reason at any time.

**C.** Alternate representatives to the board shall not be allowed. Voting by proxy also shall not be allowed.

**D.** A board member shall assume office at the time the appointing entity files written notification of the appointment of the board member at the office of the authority. The written notice shall contain the name, title, business address and business and home telephone number of the board member. A board member shall serve until

written notification of a change is filed with the authority or until the three-year term is expired. There is no limitation as to the number of terms a board member may serve.

**E.** The board shall hold an annual meeting each August. At the option of the board the annual meeting may be scheduled to coincide with the regular August meeting of the board.

**F.** The officers of the board shall be elected from the board membership. The officers shall consist of a president, a vice-president and a secretary, who shall be elected at the annual meeting of the board and shall serve for a period of one year. An officer may be reelected to the same position or elected to fill another position as an officer of the board.

**G.** If an officer vacates his position on 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. In the alternative to the automatic progression to higher office, the board may call a special meeting for the purpose of conducting an election of officers in the event of any vacancy in a board office. Each of the new officers, however selected, shall serve until election of officers at the next annual meeting.

**H.** The regular meetings of the board shall normally be held monthly, in a place 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.

**I.** 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 authority. Robert's Rules of Order shall be binding in all cases where they are not inconsistent with New Mexico statutes and rules adopted by the authority.

**J.** Meetings of the board other than regular meetings shall be called according to the following procedures.

(1) 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. The call shall be made in accordance with the Open Meetings Act requirements, Section 10-15-1 et seq. NMSA 1978, and board resolutions.

(2) 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 authority for which time is of the essence. The call shall be made in accordance with the Open Meetings Act requirements, Section 10-15-1 et seq. NMSA 1978, and board resolutions.

**K.** A majority of all of the board members shall constitute a quorum for conducting the affairs of the authority. The president 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. The president shall be considered to be a member of the board for purposes of a quorum. All matters will be determined by voice vote. Any member of the board may request a roll call vote on any issue. In the event of a roll call, it shall be in alphabetical order with the president voting last.

**L.** The board shall be addressed according to the following procedures.

(1) 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 vice-president. The president or vice-president may, at his discretion, limit the time any individual or entity is allotted to make a presentation and the president or vice-president may, in his discretion, limit the time allotted for any subject.

(2) 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, 24 hours in advance of a special meeting and three hours in advance of an emergency meeting.

**M.** 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 22-29-1 et. seq. NMSA 1978, and such other power and authority as may be conferred upon the board from time to time. In execution of those powers and duties specifically provided by law, the board has the following general power and authority to:

(1) exercise general control and management of the authority, third party administrators, consultants retained by the authority and other agents, servants and employees;

(2) establish such programs, and provide such services as it deems necessary for the proper and efficient operation of the authority and the good of the participating entities;

(3) exercise control and management of all authority assets and use such assets to promote authority business in such ways as the board deems necessary and proper in accordance with law;

- (4) make and adopt or amend rules and regulations for governance of the authority by a majority of the board membership;
- (5) make and adopt or amend substantive rules and regulations by a majority vote of the board membership;
- (6) repeal a substantive rule of the authority by a majority vote of the board membership, but the board has no power to suspend any substantive rule except by a two-thirds vote of the membership of the board;
- (7) make provisions for interpreting the authority's programs for dissemination to the public and to seek the opinion and advice of the participating entities concerning the authority's insurance programs;
- (8) work in a cooperative manner with interested citizens in a continuous effort to improve the authority's programs;
- (9) appoint advisory committees, including a risk advisory committee and an employee benefits advisory committee, which are permanent standing committees of the board, as well as ad hoc advisory committees as needed;
- (10) establish an executive committee, a permanent standing committee of the board, which shall be made up of the president, vice-president and secretary of the board and which shall serve as the agenda committee; and
- (11) hire an executive director and to delegate to the executive director the day to day activities of the authority pursuant to board policy as developed in its open meetings.

**N.** The permanent risk advisory committee and the permanent employee benefits advisory committee shall be chaired by members of the board or if no board member is available, then by staff. The board shall name the advisory committee members from authority participating entities or covered individuals assuring a balance of large and small participating entities and a geographic balance. The board may also name an ex-board member to serve on the advisory committees as a voting member for a term not to exceed three years, with the option to renew the appointment for an additional three years.

**O.** An ad hoc advisory committee shall be established for a specific purpose or goal and shall be established for a stated period of time.

**P.** Members of advisory committees shall be appointed by the president of the board with the advice and consent of the board and shall serve at the pleasure of the board. Advisory committees shall provide notice of meetings as required by the Open Meetings Act, Section 10-15-1 et seq. NMSA 1978, and these rules. Minutes in compliance with Subsection R of 6.50.1.9 NMAC shall be kept by the chairman or his designee. Advisory committee minutes shall be considered acted upon when the board acts on the advisory committee report.

**Q.** The authority shall pay per diem and mileage consistent with the Per Diem and Mileage Act, Section 10-8-1 et seq. NMSA 1978, as amended, and the applicable department of finance and administration rules. The per diem and mileage payments shall be limited to the following situations.

(1) Authority employees are entitled to receive per diem and mileage for travel incurred in the normal course and scope of their employment; provided however, that 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.

(2) Authority board members are entitled to receive per diem and mileage for travel incurred for attending all regular, special and emergency board meetings, or any standing or ad hoc committee meetings of the board called pursuant to the Open Meetings Act, Section 10-15-1 et seq. NMSA 1978 and the authority's open meetings resolution. In addition, the executive committee serving as the authority board agenda committee is entitled to receive per diem and mileage for travel incurred as necessary to conduct the business of the board. Authority 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.

(3) Authority advisory committee members named by the board to serve on advisory committees are entitled to receive per diem and mileage for travel incurred for attending authority advisory committee meetings which has been scheduled in writing by the board or by the executive director. Authority 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.

**R.** Minutes of the board.

(1) The authority shall keep written minutes of all its open meetings. The minutes shall include as a minimum the date, time and place of the meeting, the names of members in attendance and those absent, the substance of the proposals considered, if any, and a record, where appropriate, of any decisions and votes taken which show how each member voted. All minutes of meetings shall be open to public inspection at reasonable times. Draft minutes shall be prepared within 10 working days after the meeting. Minutes shall not become official until approved by the board. The minutes shall be kept on file as the permanent official record of the authority.



(2) It is the practice of the authority staff (but not a requirement by the authority board) that board meetings are tape recorded. The board secretary shall make notes of board meetings sufficient to reflect the information required in Paragraph (1) of Subsection R of 6.50.1.9 NMAC, and the tape recording shall be available to the secretary, any board member or member of the public for review with regard to the accuracy of draft minutes. However, 30 days after minutes have been adopted by the board, the board secretary shall recycle the tapes by erasure and make them available for re-use.

[6.50.1.9 NMAC - Rp, 6.50.1.9 NMAC, 9/1/2014; A, 10/1/2015]

**6.50.1.10 CODE OF ETHICS:**

**A.** Registration and disclosure duties of public officials.

(1) Upon becoming a public official, a person shall provide registration information to the authority office as listed below. This information shall be updated every April and shall be available to the public at all times:

- (a) name;
- (b) address and telephone number;
- (c) professional, occupational or business licenses;
- (d) membership on boards of directors of corporations, public or private

associations or organizations; and

- (e) the nature, but not the extent or amount, of his financial interests as defined in

Subsection X of 6.50.1.7 NMAC within one month of becoming a public official.

(2) A public official who has a financial interest which may be affected by an official act of the authority, ad hoc or advisory committee shall declare such interest prior to discussion, voting, advising or taking any other action and that declaration shall be entered in the official minutes of the authority. A public official shall abstain from voting, advising or taking any other action including discussion on that issue if the decision, in his opinion, may affect his financial interest in a manner different from its effect on the general public.

**B.** No public official shall request or receive a gift or loan for personal use or for the use of others from any person involved in a business transaction with the authority with the following exceptions:

- (1) an occasional non-pecuniary gift of insignificant value;
- (2) an award publicly presented in recognition of public service;
- (3) a commercially reasonable loan made in the ordinary course of business by an institution authorized by the laws of the state to engage in the business of making loans; or
- (4) a political campaign contribution, provided that such gift or loan is properly reported and

actually used in a political campaign.

**C.** No public official shall personally represent private interests before the authority board or any ad hoc or standing committee.

**D.** No public official shall use or disclose insider information regarding the authority for his own or other's private purposes.

**E.** No public official shall use authority services, personnel or equipment for personal benefit, convenience or profit, except when such use is generally available to the public and when in accordance with policies of the authority board.

**F.** No public official shall acquire or negotiate to acquire a financial interest at a time when the official believes or has reason to believe that it will be substantially or directly affected by his official acts.

**G.** No public official shall enter into a contract or transaction with the authority or its public officials, unless the contract or transaction is made public by filing notice with the authority board.

**H.** No public official shall vote or otherwise participate in the negotiation or the making of any authority contract with any business or entity in which he has a direct financial interest.

**I.** No public official shall seek to be awarded a contract where such public official has participated in the process of preparation of the bid or request for proposals.

**J.** Any contract, approval, sale or purchase entered into or official action taken by a public official in violation of 6.50.1.10 NMAC may be voided by action of the authority board.

**K.** It is a violation of 6.50.1.10 NMAC for any public official knowingly, willfully or intentionally to conceal or fail to disclose any financial interest required to be disclosed by 6.50.1.10 NMAC or violate any of its provisions.

**L.** Any person may make a sworn, written complaint to the authority board of a violation by a public official of 6.50.1.10 NMAC. Such complaint shall be filed with the authority executive director or if it is a complaint against the executive director, then with the authority board. The complaint shall state the specific provision of

6.50.1.10 NMAC which has allegedly been violated and the facts which the complainant believes support the complaint. Within 15 days of receiving the complaint, the authority board in executive session shall appoint a hearing officer to review the complaint for probable cause. The hearing officer shall receive the written complaint and notify the person complained against of the charge. Persons complained against shall have the opportunity to submit documents to the hearing officer for his review in determining probable cause. Within 15 days of undertaking the inquiry to determine probable cause, the hearing officer shall report his findings to the authority board. In the event the hearing officer rejects a complaint as lacking in probable cause, he shall provide a written statement of reasons for his rejection to the authority board and the complainant. Upon a finding of probable cause, within 30 days the hearing officer shall conduct an open hearing in accordance with due process of law. Within a time after the hearing, as specified by the authority board, the hearing officer shall report his findings and recommendations to the authority board for appropriate action based on those findings and recommendations. If the complaint is found to be frivolous, the authority board may assess the complainant the costs of the hearing officer's fees. Upon recommendation of the hearing officer, the authority board may issue a public reprimand to the public official; remove or suspend him from his office, employment or contract and refer complaints against public officials to the appropriate law enforcement agency for investigation and prosecution.

**M.** The executive director and the authority board shall maintain the confidentiality of the complaint and instruct the complainant that he is also required to keep the complaint confidential pursuant to Subsection L of 6.50.1.10 NMAC. Except for the hearing, the proceedings shall be kept confidential by all parties concerned, unless the accused public official requests that the process be open at any stage.

**N.** A separate hearing officer shall be appointed by the authority board for each complaint. The hearing officer may be an authority board member, agent or employee of the authority or another person. The complainant and the person complained against have the right to one disqualification of a designated hearing officer. [6.50.1.10 NMAC - Rp, 6.50.1.10 NMAC, 9/1/2014]

#### **HISTORY OF 6.50.1 NMAC:**

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

NMPSIA 86-1, Open Meetings Act Resolution, filed 09-18-86; NMPSIA 86-2, Definitions, filed 10-31-86; NMPSIA 88-2, Definitions, filed 11-4-88; NMPSIA 86-3, Board Procedures and General authority, filed 10-31-86; NMPSIA 86-4, Community Relations, filed 10-31-86; NMPSIA 89-2, Staff Headquarters, filed 08-03-89; NMPSIA Rule 93-1, Definitions, filed 03-22-93; NMPSIA Rule 93-3, Board Procedures and General authority, filed 03-22-93; Community Relations, filed 10-31-86; NMPSIA Rule 93-2, Community Relations, filed 03-22-93; NMPSIA Rule 89-200, Code of Ethics, filed 03-27-89; NMPSIA 93-4, Code of Ethics, filed 03-22-93.

#### **History of Repealed Material:**

6.50.1 NMAC, General Provisions, filed 7/1/2004 - Repealed effective 9/1/2014.

#### **Other History:**

NMPSIA Rule 93-1, Definitions (filed 03-22-93); NMPSIA Rule 93-2, Community Relations (filed 03-22-93); NMPSIA Rule 93-3, Board Procedures and General authority (filed 03-22-93); NMPSIA 93-4, Code of Ethics (filed 03-22-93) was all renumbered, reformatted, amended and replaced by 6 NMAC 50.1, General Provisions, effective 10/15/97.

6 NMAC 50.1, General Provisions (filed 10/1/97) was renumbered, reformatted, amended and replaced by 6.50.1 NMAC, General Provisions, effective 7/15/2004.

6.50.1 NMAC, General Provisions (filed 7/1/2004) was repealed and replaced by 6.50.1 NMAC, General Provisions, effective 9/1/2014.