

**TITLE 10       PUBLIC SAFETY AND LAW ENFORCEMENT**  
**CHAPTER 4     DISTRICT ATTORNEYS**  
**PART 4        APPOINTMENT OF EMPLOYEES**

**10.4.4.1       ISSUING AGENCY:** Administrative Office of the District Attorneys  
[10.4.4.1 NMAC - N, 06/30/2010]

**10.4.4.2       SCOPE:** This part sets forth the framework for the appointment of employees to certain positions in the office of the district attorney.  
[10.4.4.2 NMAC - Rp, NMDAA 91-1.3.01, 06/30/2010]

**10.4.4.3       STATUTORY AUTHORITY:** This rule is adopted pursuant to:

- A.       Section 36-1-25 NMSA 1978 which, among other things, authorizes the duly appointed director of the administrative office of the district attorneys to appoint necessary personnel and assign their duties within the administrative office of the district attorneys;
- B.       Section 36-1-26 NMSA 1978 which, among other things, requires the director of the administrative office of the district attorneys to develop uniform systems for use by district attorney offices with respect to personnel matters;
- C.       Section 36-1A-2 NMSA 1978 of the District Attorney Personnel and Compensation Act, sections 36-1A-1 through 36-1A-15 NMSA 1978, which, among other things, created the District Attorney Personnel and Compensation Act to establish for all district attorneys a uniform, equitable and binding system of personnel administration; and
- D.       Section 36-1A-8 NMSA 1978 which, among other things, requires the district attorneys to promulgate personnel rules, with the assistance of the director of the administrative office of the district attorneys as authorized by Subsection I of Section 36-1-26 NMSA 1978, which among other things requires the director of the administrative office of the district attorneys to perform such other duties in furtherance of the administration of the business of the district attorneys as directed by the elected or appointed district attorneys.

[10.4.4.3 NMAC - N, 06/30/2010]

**10.4.4.4       DURATION:** Permanent  
[10.4.4.4 NMAC - N, 06/30/2010]

**10.4.4.5       EFFECTIVE DATE:** June 30, 2010, unless a later date is cited at the end of a section.  
[10.4.4.5 NMAC - N, 06/30/2010]

**10.4.4.6       OBJECTIVE:** To establish for all district attorneys a uniform, equitable and binding system of personnel administration.  
[10.4.4.6 NMAC - N, 06/30/2010]

**10.4.4.7       DEFINITIONS:** [RESERVED]  
[See 10.4.1.7 NMAC]

**10.4.4.8       APPOINTMENT TO PERMANENT POSITIONS:**

- A.       Permanent positions have no expiration date and have been funded by the legislature. Permanent positions may be filled by either covered or at will employees.
- B.       Employees appointed to permanent positions designated as covered shall serve a probationary period. Upon satisfactory completion of the probationary period they shall have all of the privileges of covered employees.

[10.4.4.8 NMAC - N, 06/30/2010]

**10.4.4.9       APPOINTMENT TO TERM POSITIONS:**

- A.       Term positions have an expiration date and may be funded by the legislature, a federal grant or some other revenue source. Term positions may be filled by either covered or at will employees.
- B.       Employees appointed to term positions designated as covered shall serve a probationary period. Upon satisfactory completion of the probationary period they shall have all of the privileges of covered employees, except the right to appeal the expiration of appointment.

C. The duration of term appointments and compensation and salary increases for term appointments are dependent upon the funding for the position.

D. Employees accepting a term appointment shall sign a statement indicating that they understand and accept the conditions of the term appointment.

E. The expiration of term appointments shall not be considered a layoff or a disciplinary action within the meaning of these rules.

[10.4.4.9 NMAC - Rp, NMDAA 91-1.3.05, 06/30/2010]

**10.4.4.10 APPOINTMENT TO TEMPORARY POSITIONS:**

A. Temporary positions have a duration of less than one (1) year.

B. Employees appointed to temporary positions shall be required to sign a statement of willingness to accept a temporary appointment in the office of the district attorney.

C. Employees appointed to temporary positions may be terminated at will by the district attorney. Temporary employees have no rights to utilize grievance procedures and the appeals provisions in these rules.

D. The expiration of a temporary appointment shall not be considered a layoff or disciplinary action within the meaning of these rules.

[10.4.4.10 NMAC - Rp, NMDAA 91-1.3.06, 06/30/2010]

**10.4.4.11 APPOINTMENT TO PART-TIME POSITIONS:** Employees appointed to part-time positions must be scheduled to work less than eighty (80) hours each pay period. The appointment may be temporary, term or covered. Employees appointed to part-time positions, with the exception of temporary employees, shall receive prorated compensation and leave accruals and are entitled to all the rights pursuant to the District Attorney Personnel and Compensation Act and these rules.

[10.4.4.11 NMAC - Rp, NMDAA 91-1.3.07, 06/30/2010]

**HISTORY OF 10.4.4 NMAC:**

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

NMDAA 90-1, New Mexico District Attorney's Association Personnel Rules and Regulations for New Mexico District Attorneys Association, filed 2/22/90.

NMDAA 91-1, Personnel and Compensation Plan for the Employees of the District Attorneys of the State of New Mexico, filed 6/11/91.

**History of Repealed Material:**

NMDAA 91-1, Personnel and Compensation Plan for the Employees of the District Attorneys of the State of New Mexico, filed 6/11/91 - Repealed effective 06/30/2010.