

**TITLE 10 PUBLIC SAFETY AND LAW ENFORCEMENT**  
**CHAPTER 5 STATE POLICE**  
**PART 100 STANDARD OF CONDUCT**

**10.5.100.1 ISSUING AGENCY:** Department of Public Safety, State Police Division  
[5-15-98; 10.5.100.1 NMAC - Rn & A, 10 NMAC 5.100.1, 6-30-04]

**10.5.100.2 SCOPE:** All commissioned officers of the state police division of the New Mexico department of public safety.  
[5-15-98; 10.5.100.2 NMAC - Rn, 10 NMAC 5.100.2, 6-30-04]

**10.5.100.3 STATUTORY AUTHORITY:** Section 29-2-1.1-G NMSA 1978 defines the New Mexico state police board as meaning the secretary of the department of public safety. Section 29-2-4-1 NMSA 1978 directs the New Mexico state police board to promulgate rules and regulations governing the employment and operating practices for employees of the state police division. Section 29-2-22 NMSA 1978 assigns authority to the New Mexico state police board to promulgate rules and regulations as standards of conduct for members of the New Mexico state police; it also directs a copy of these rules to be given to each member and to be displayed at each station of the department.  
[5-15-98; 10.5.100.3 NMAC - Rn, 10 NMAC 5.100.3, 6-30-04]

**10.5.100.4 DURATION:** Permanent  
[5-15-98; 10.5.100.4 NMAC - Rn, 10 NMAC 5.100.4, 6-30-04]

**10.5.100.5 EFFECTIVE DATE:** December 22, 1993, unless a later date is cited at the end of a section.  
[12-23-93, 5-15-98; 10.5.100.5 NMAC - Rn & A, 10 NMAC 5.100.5, 6-30-04]

**10.5.100.6 OBJECTIVE:** The objective of Part 100 of Chapter 5 is to provide standards of conduct for commissioned officers of the state police division, as authorized by the provisions of Section 29-2-22 NMSA 1978.  
[5-15-98; 10.5.100.6 NMAC - Rn, 10 NMAC 5.100.6, 6-30-04]

**10.5.100.7 DEFINITIONS:**

- A. **“Authorized leave”** means any type of leave approved by the employee’s supervisor.
- B. **“Days”** means, unless otherwise stated, that days will be considered to be working days, or days which are regularly scheduled to be worked. For suspension purposes, a holiday is considered to be a working day.
- C. **“Dismissal”** means the act of permanently terminating the service of a member; a discharge or removal from office, for cause.
- D. **“Employee”** means a commissioned officer with the department of public safety.
- E. **“Firearm”** means one of the following:
  - (1) revolver or semi-automatic handgun, issued or personal; must be a .38, .357 Magnum, .380, 9mm, 45 ACP issued caliber, or another caliber which is approved by the appropriate division director and the deputy secretary of enforcement/chief;
  - (2) shotgun, issue, 12 gauge;
  - (3) rifle, issue caliber .223/5.56mm, 308/7.62mm, or other caliber authorized by the appropriate division director and the deputy secretary/chief.
  - (4) special team weapon.
- F. **“Gratuity”** means something voluntarily given in return for a favor, or especially for a **service**.
- G. **“Order”** means an authoritative command, a mandate, either verbal or written.
- H. **“Policy”** means a mandatory guide designated to meet a situation and circumstance.
- I. **“Procedures”** means a written method which delineates the implementation of a policy.
- J. **“Reprimands”** means authoritative reproof, censure or rebuke.
- K. **“Suspension”** means the act of temporarily denying any employee the privilege of performing his duties; a forced leave of absence without any pay.  
[5-15-98; 10.5.100.7 NMAC - Rn, 10 NMAC 5.100.7, 6-30-04]

**10.5.100.8 STANDARD OF CONDUCT:** All employees are expected to adhere to the provisions of this rule and are subject to such disciplinary action for violation of any of these rules as deemed appropriate by the secretary of the department of public safety.

**A.** Employees shall:

(1) obey all laws of the United States, or any state and local jurisdiction in which the employees are present;

(2) obey all rules and regulations, policies, procedures, directives and lawful orders issued by supervisors; and

**B.** Employees shall satisfactorily perform their duties and assume the responsibilities of their positions. Unsatisfactory performance may be demonstrated by violating any one of the following provisions

(1) a lack of knowledge of the application of laws required to be enforced;

(2) an unwillingness or inability to perform assigned tasks;

(3) the failure to conform to work standards established to the employees rank, grade or position as set forth in the job specifications.

**C.** Employees shall conduct themselves at all times, both on and off duty, in such a manner as to reflect most favorably on the department. Conduct unbecoming an employee shall include that which brings the department into disrepute or reflects discredit upon the employee as a member of the department, or that which impairs the operation or efficiency of the department or employee. These shall include but not be limited to the following:

(1) Employees shall not consort with or, in any way, fraternize with persons of known bad character or ill repute in a manner which clearly conflicts with the duties of the employees or functions of the department unless such association is a necessary part of the employees official duties.

(2) Employees shall not feign illness or injury, falsely report themselves ill or injured, or otherwise deceive or attempt to deceive any official of the department as to the condition of their health.

(3) Employees shall carry out all proper orders given them by supervisors in the line of duty without hesitation or criticism. Employees will take up matters affecting themselves, their position and departmental business with their immediate supervisor only, or through proper channels.

(4) Employees shall promptly obey any lawful orders of any supervisor. This will include orders relayed from a supervisor by an employee of the same or lesser rank, or transmitted via the police radio, telephone, or teletype or other form of communication. The failure or refusal to obey any lawful order shall be deemed insubordination.

(5) Employees who are given an otherwise proper order which is in conflict with a previous order, rule, regulation or directive shall respectfully inform the supervisor issuing the conflicting order. If the supervisor issuing the order does not alter or retract the conflicting order, the new order shall stand. Under these circumstances, the responsibility for the conflict shall be upon the supervisor. Employees shall obey the conflicting order and shall not be held responsible for disobedience of the order, rule, regulation or directive previously issued.

(6) Employees shall not obey any order which they know or should know would require them to commit any illegal act. If in doubt as to the legality of an order, employees shall request the issuing supervisor to either clarify the order or to confer with higher authority.

(7) All employees shall be courteous to the public, supervisors and all other employees, as well as any person the employee has contact with during the performance of his/her duties and responsibilities. Employees shall be tactful in the performance of their duties, shall control their tempers, and exercise the utmost patience and discretion, and shall not engage in argumentative discussions even in the face of extreme provocation. In the performance of their duties, employees shall not use coarse, violent, profane or insolent language or gestures, and shall not express any prejudice concerning race, religion, politics, national origin, sex, lifestyle or similar characteristics. When any person requests assistance or advice, all pertinent information will be obtained in an official and courteous manner and will be properly and judiciously acted upon.

(8) Employees shall maintain a level of good moral character in their personal and business affairs, which is in keeping with the highest standards of the law enforcement profession. Employees shall not participate in any incident which impairs their ability to perform their duties or impedes the operation of the department or causes the department to be brought into disrepute.

(9) Employees will not set or accept appearance bonds regardless of any delegation of presumed authority by a magistrate or judge permitting the officer to accept appearance bonds.

**D.** Employees will properly care for and maintain all state equipment issued to or used by the employee.

**E.** An employee will not represent himself/herself as speaking on behalf of the department of public safety, in any court proceeding, civil or criminal, for purpose of being a character witness.

**F.** All employees are expected to conduct themselves accordingly as specified.

**G.** Employees will concern themselves strictly with tasks assigned.

(1) Sleeping on duty is not permitted.

(2) Forms of entertainment which distract the employees from the performance of their duty are not allowed.

(3) Unless otherwise authorized, employees will not leave assigned locations during a tour of duty.

(4) Employees will speak the truth at all times and in cases where they would not be allowed to divulge facts, they will so state.

(5) Employees will not engage in any form of gambling while on duty except as required in the performance of duty or will not engage in any form of illegal gambling while off duty.

(6) Employees will not use chewing gum or tobacco by any method when in direct contact with the public in an official capacity.

**H.** Employees will be punctual in reporting for duty at the time designated by their supervisor and not be absent from duty without authorized leave.

(1) An employee shall not leave this state for official business without permission from the chief. If the out-of-state trip is in response to subpoena, a copy of the subpoena should be sent to the chief's office. If the trip was to testify and no subpoena was served, a copy of a subpoena should be brought back and forwarded to the chief's office.

(2) An employee shall not leave his/her district or station, while on duty, until notification has been given to his/her immediate supervisor. The employee shall furnish his/her supervisor with an itinerary and places where he/she can be contacted in case of emergency calls. In cases of fresh pursuit of a fugitive, it is not necessary to secure permission to leave the district or station.

**I.** Employees shall carry their badges and commissions on their person at all times, while on duty or while carrying a loaded concealed firearm off duty as provided by DPS policy and procedures.

(1) They shall furnish their name to any person requesting that information when they are on duty or while representing themselves in an official capacity.

(2) Exception: When the withholding of such information is necessary for the performance of police duties.

**J.** Employees shall submit all necessary reports and official documents on time and in accordance with established documents on time and in accordance with established departmental or other procedures. Reports and documents submitted by employees shall be truthful and complete, and no employees shall knowingly enter or cause to be entered any inaccurate, false, or improper information. All DPS law enforcement reports, records and evidence are privileged and confidential and may be released only upon written authority of the secretary, or his verbal authority, if written authority cannot reasonably be obtained except as required by court order.

**K.** [RESERVED]

**L.** All employees are expected to meet their financial obligations in a timely manner and live within their financial means. This does not preclude any employee from properly proceeding in bankruptcy.

**M.** Any employee wishing to secure any type of supplemental employment must secure written permission from the secretary. This supplemental employment includes any tasks performed for which the employee is compensated.

(1) Such supplemental employment will not interfere in any way with the employees primary duties and responsibilities as a department of public safety employee.

(2) When requesting permission from the secretary, the employee must specify hours expected to be worked, type of business, location and duration of employment.

(3) If permission is granted, the secretary may impose conditions on the supplemental employment.

(4) This regulation applies to all employees including those on any type of leave or suspension.

**N.** All employees will be physically and mentally fit at all times. The secretary may order a physical or psychological examination to assure compliance with this rule.

**O.** Financial gain by employees. Employees will not accept gifts, gratuities, bribes, loans or rewards which are intended to influence the employee in the performance of their duties and responsibilities or for tasks performed as part of their duties. The employee cannot retain rewards for personal use, but rather will forward the reward to the secretary's office for appropriate disposition.

**P.** Employees will not make any statements in any form which adversely impacts or impairs the efficient operations of the department.

**Q.** The following regulations are for the purpose of providing direction and guidance to all employees as concerns political activity.

(1) While off duty and out of uniform, employees shall be permitted to:

- (a) express opinion as individuals on political issues and candidates;
- (b) attend political conventions, rallies, fund raising functions and similar political gatherings in an unofficial capacity;
- (c) actively engage in any non-partisan political function, partisan meaning an adherent to a party, faction, cause or person; actively engaging in activities of private, fraternal and/or social organizations which do not conflict with the mission of the department of public safety and associated responsibilities is permissible;
- (d) sign political petitions as individuals;
- (e) make financial contributions to political organization;
- (f) perform non-partisan duties as prescribed by state or local laws;
- (g) hold membership in a political party and participate in its functions to the extent consistent with the law and consistent with this regulation;
- (h) otherwise participate fully in public affairs, except as provided by law, to the extent that such endeavors do not impair the neutral and efficient performance of official duties, or create real or apparent conflicts of interest.

(2) Employees are prohibited at all times from:

- (a) using their official capacity to influence, interfere with, or affect the results of an election;
- (b) assuming active roles in management, organization or financial activities of partisan political clubs, campaigns or parties;
- (c) serving as officers of partisan political parties and clubs;
- (d) becoming candidates for, seeking election to, or running for, or campaigning for, a partisan elective public or political office;
- (e) soliciting votes in support of, or in opposition to, any partisan candidates;
- (f) serving as delegates to a political party convention;
- (g) endorsing or opposing a partisan candidate for public office in a political advertisement, broadcast or campaign literature;
- (h) initiating or circulating a partisan nominating petition;
- (i) organizing, selling tickets to, or actively participating in a fund-raising function for a partisan political party or candidate;
- (j) addressing political gatherings in support of, or in opposition to, a partisan candidate;
- (k) otherwise engaging in prohibited partisan activities on the federal, state, county or municipal level.

**R.** Employees will not seek self-publicity through the news media or furnish information for the primary purpose of personal publicity.

**S.** Every employee who has a financial interest which he believes, or reasonably should have known, may be affected by actions of the department shall disclose the precise nature and value of such interest. The disclosure shall be made in writing to the secretary of state before entering employment, and during the month of January every year thereafter.

**T.** Employees will not use their position or permit use of their position for personal or financial gain whether directly or indirectly for themselves or any other individual or group.

**U.** The following apply to regulate the authorized use of a firearm:

- (1) to kill a critically wounded or dangerous animal, when other disposition is impractical; or
- (2) to give an alarm or call for assistance for an important purpose when no other means can be used;

or

- (3) for practice, preferably on an approved range under the auspices of an approved rangemaster; however, should an approved rangemaster not be available, the employee may, at his discretion, still utilize the approved range for target practice;
- (4) an employee shall draw or display his firearm only for a legal use or for inspection (including cleaning, oiling and storing);

(5) as authorized by department use of force and carrying of firearms policies or any other departmental policy and procedure.

V. All employees will use the utmost care and caution in handling firearms at all times in an effort to prevent the accidental discharge of their weapons or any weapons.

W. In every instance in which an employee discharges a firearm while on duty, other than provided in Paragraph (3) of Subsection U of 10.5.100.8 NMAC, whether the discharge is accidental or not, the employee will, without delay, make a written report through channels to the chief. The office of professional standards and internal affairs will be apprised of all incidents of discharged firearms other than target practice.

X. The duty issued weapon will not be used off-duty except for duty related matters.

Y. Employees will maintain a neat appearance in groom and dress.

Z. Employees will maintain their hair style so as not to interfere with the proper wearing of all standard head gear, and hair will be kept neat, clean and trim.

(1) Male employees will keep hair cut assuring that the back of the hair does not touch the shirt collar, the sides do not bulk at or extend over the ear, and front is combed to the side or back and will not protrude below the headband.

(a) Sideburns will be squared and will not extend below the lowest part of the exterior ear opening or tragus and will end with a clean shaven horizontal line.

(b) All male employees will be clean shaven. Goatees, beards or mustaches are not permitted.

(c) Exceptions are permitted if required in the performance of the employee's duty.

(2) Female employees will keep hair cut assuring that the back and sides do not touch the shirt collar and the front and back (e.g., ponytails, braids, etc.) will not protrude below the headband.

(3) Hairpieces or wigs are not permitted unless necessary to cover an uncommon baldness or to accommodate a medical condition. If worn, wig or hairpiece will be properly secured so as not to handicap the proper wearing of the headgear and must keep the standards stated in Paragraphs (1) and (2) of Subsection Z of 10.5.100.8 NMAC above.

(4) Cosmetics for female employees are permitted if in good taste using conservative natural looking cosmetics.

AA. All employees will dress in appropriate civilian clothes when appearing in court for purposes of any trial, except when appearing for trial or any proceeding in magistrate, metropolitan or municipal courts, unless permission is obtained from the chief to appear in uniform.

(1) Male employees will dress in conservative sport coat or suit with tie and will appear with shoes shined and clothes cleaned and neatly pressed.

(2) Female employees will dress in conservative pantsuit, skirt and blouse, or dress, each of which must be properly coordinated as well as clean and neatly pressed.

(3) Employees may dress in the uniform when appearing at any proceedings in magistrate, metropolitan or municipal court, subject to the reasonable approval of the employee's immediate supervisor as to whether it is appropriate to appear in uniform in a specific proceeding.

(4) For purposes of appearing at proceedings other than trial (e.g., grand jury, arraignment, hearings or motions, preliminary hearing, etc.), the employee may dress in uniform subject to the approval of the employee's immediate supervisor based on the supervisors reasonable discretion.

(5) In any case, employees will not appear in court in uniform unless need for appearance is relative to their duties and responsibilities.

BB. Military courtesy will be adhered to by employees.

CC. The hand salute will be used in the following circumstances:

(1) Employees in uniform will salute the governor of this state (or other states, where applicable), the chief of the New Mexico state police, deputy chiefs, majors, captains and lieutenants; except when the ranking officers are in civilian clothing, the salute is not required. It will be mandatory to salute these officials only the first time seen each day.

(2) As a gesture of common courtesy, uniformed employees will salute high-ranking military officers.

(3) Uniformed employees, upon approach of the national colors, will stand at attention and execute the hand salute. The time of the salute is when the colors approach within six paces of ones position, holding the salute until the colors have been carried six paces beyond. For the purpose of interpretation, the national colors will be any American flag. Flags other than the national colors will not be saluted.

(4) Uniformed employees will stand at attention and give the hand salute at the first note of the national anthem and hold the salute until the last note of the music. During formal raising and lowering of the national colors, the same procedure will be followed as in the playing of the national anthem. When the national anthem is played and national colors are not flown, uniformed employees will stand at attention, facing the music, saluting at the first note and holding the salute until the last note.

(5) General procedures for salutes are as follows:

(a) Normally, the hand salute shall be rendered only from a standing position of attention, except that a ranking employee being saluted need not rise from a seated position to return a salute.

(b) A uniformed employee, upon reporting to the chief, will remove his headdress before entering the chief's office. The employee will then assume the position of attention in front of the chief and salute. The employee will remain at attention unless otherwise ordered by the chief. If the employee is given permission to stand at ease or to be seated, the employee will, at the conclusion of the business, again salute the chief from the position of attention, and depart.

(c) The driver of a motor vehicle will not salute if the vehicle is in motion. If it is stopped, he will salute without arising from his seat. Drivers of moving vehicles will not be saluted. Passengers in moving or stationary vehicles will salute on the same occasions as when standing or walking, but they need not rise or alight from the vehicle, except as later provided in these rules.

(d) Uniformed employees in a standing vehicle, upon the approach of the national colors, or upon the first note of the national anthem, will alight from the vehicle and salute from the position of attention. The driver of the vehicle will remain in the seat and salute.

(e) Uniformed employees in a moving vehicle, upon passing the national colors, shall salute the colors, except that the driver shall not salute.

**DD.** Employees in civilian clothing will adhere to the following procedures for salutes: Employees in civilian clothing will salute the national colors and the national anthem by standing at attention, if uncovered. If covered, they will stand at attention and uncover, holding the headdress over the heart with the right hand.

**EE.** The hand salute will not be required if it would interfere with duty, or in emergency situations.

**FF.** Employees will abide by the following procedures regarding the removal of headdresses:

(1) Employees will remove their headdress in churches, formal or informal gatherings when seated, when in restaurants, funeral parlors, hospital rooms, when entering courts and while in private residences.

(2) When the headdress is removed, it shall be placed underneath the left arm at the elbow, with the badge foremost. (This shall not exclude the placing of the headdress on a hat rack or other proper place.)

(3) Uniformed employees will remove their headdress and bow their heads during prayer, except officers assigned to honor guard, standing at attention or in military formation.

**GG.** The preceding rules for saluting and courtesy are intended to direct a correct behavior of employees under normal conditions, and will not apply in any emergency when police duty is being performed which requires the undivided attention of the employee.

**HH.** Supervisors will instruct employees on special assignments as to military courtesy if it is likely to be required during any occasion.

**II.** Displaying of the flag:

(1) The flag will be displayed at half staff in accordance with Presidential Proclamation number 3044.

(2) The flag will also be displayed at half staff when any law enforcement officer in the state of New Mexico is killed in the line of duty. The flag will fly at half staff once the department is assured of the officers death and will be returned to full staff on the day after the funeral.

(3) The flag will not be displayed during inclement weather.

**JJ.** Disciplinary action.

**KK.** The chief or secretary will have the ultimate discretion to decide on penalties subject to mitigating or aggravating circumstances.

**LL.** At least one copy of each official written reprimand shall be placed in the offenders headquarters personnel file, one copy to the employees supervisor, one copy to the chief and other copies as needed. Reprimands shall be dated and signed by the offender and shall not be used for purposes of this section for more than one calendar year after being issued.

**MM.** Repeated violations of rules and regulations of this department, or any other course of action or conduct indicating an employee has little or no regard for the employees obligations as set forth in the employees job specifications or in these rules and regulations or any adverse and unreasonable course of conduct or action

which impairs the operations or efficiency of the department may be cause for dismissal. Repeated violations must be supported by documented evidence. This shall apply regardless of the severity of the offenses, and regardless of whether these violations are of the same type.

**NN.** The following pertains to disciplinary proceedings: Disciplinary proceedings pertaining to members of the New Mexico state police holding a permanent commission shall be in accordance with Section 29-2-11, NMSA, 1978 and 10.5.500 NMAC.

**OO.** The following procedure shall be followed when a permanent employee is being considered for suspension for a period not to exceed thirty (30) days.

(1) The secretary and chief will advise the employee of their determination. If the employee accepts the decision, the penalty will be carried out.

(2) Should the employee wish to appeal the decision, he will request such appeal, in writing to the chief, within five days of receipt of the letter of suspension.

(3) There is created for these purposes a disciplinary hearing panel (DHP) which will timely schedule a hearing on the allegations contained in the chiefs letter of suspension. The DHP will consist of a person or persons appointed by the chief.

(4) The DHP will hear testimony regarding both sides of the issues and make its determination based on the evidence presented before it. The panel will dictate any other procedures to be followed. A record or tape recording shall be made of these proceedings. As concerns the applicability of the New Mexico Rules of Evidence to these proceedings, a lesser standard may be utilized by the DHP, although introduction of any evidence must be based on a reasonable prudent man standard, i.e. the type relied upon reasonably prudent men in the conduct of their affairs. Private counsel may not be present before the DHP. The DPS office of legal affairs may be present to advise the DHP only on questions of law.

(5) Within ten (10) days after the completion of the hearing, the DHP will make written findings of fact and conclusions of law which will then be presented to the chief. Should the DHP choose to recommend an amendment to this penalty, it may do so by stating in writing the justification for the recommendation.

(6) After the DHP report is made to the chief, the chief and the secretary will impose the final discipline. No further appeal shall be allowed.

**PP.** [RESERVED]

**QQ.** Pursuant to Section 29-2-9 NMSA 1978, all New Mexico state police officers on a probationary status may be removed or suspended at the discretion of the chief. The employee, within five days of receipt of notice of intended action by the chief to remove or suspend may request, in writing, an opportunity to be heard by the chief.

[5-15-98; 10.5.100.8 NMAC - Rn & A, 10 NMAC 5.100.8, 6-30-04]

#### **HISTORY OF 10.5.100 NMAC:**

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

NMSP Rule 100.0, Code of Conduct, filed 12/22/81.

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NMSP Rule 100.0, Code of Conduct, filed 12/22/93.

History of Repealed Material: [Reserved]