

**TITLE 10 PUBLIC SAFETY AND LAW ENFORCEMENT**  
**CHAPTER 12 PUBLIC DEFENDER DEPARTMENT**  
**PART 2 APPOINTMENTS**

**10.12.2.1 ISSUING AGENCY:** Public Defender Commission  
[10.12.2.1 NMAC - N, 7/1/2015]

**10.12.2.2 SCOPE:** Applies to all employees.  
[10.12.2.2 NMAC - N, 7/1/2015]

**10.12.2.3 STATUTORY AUTHORITY:** Section 31-15-2.4(B)(6) NMSA 1978; Section 31-15-7 NMSA 1978; 42 U.S.C Section 12101 et seq.; Section 14: NMSA 1978, Section 14-2-1 NMSA 1978 and 42 U.S.C Section 101 et seq.; Chapter 173, laws of 1997.  
[10.12.2.3 NMAC - N, 7/1/2015]

**10.12.2.4 DURATION:** Permanent.  
[10.12.2.4 NMAC - N, 7/1/2015]

**10.12.2.5 EFFECTIVE DATE:** 7/1/2015 unless a later date is cited at the end of a section.  
[10.12.2.5 NMAC - N, 7/1/2015]

**10.12.2.6 OBJECTIVE:** The objective of Part 2 of Chapter 12 is to describe various types of appointments in the department and to describe employees' rights  
[10.12.2.6 NMAC - N, 7/1/2015]

**10.12.2.7 DEFINITIONS:**

- A.** "Career appointment" is the employment of a candidate in a position recognized by the office as permanent.
  - B.** "Term appointment" is the employment of a candidate in a position created for a special project or program with a designated duration.
  - C.** "Temporary appointment" is the employment of a candidate in a position created for duration of less than one year.
  - D.** "Emergency appointment" is the employment of an apparently qualified applicant when an emergency condition exists as determined by the chief and the appropriate employment list contains no available candidates or when there may be insufficient time for the normal recruitment process to proceed and in order to address the emergency, but only as long as the emergency exists. All qualified candidates will be considered for the position including the subject of the emergency appointment when the employment list is certified by the office.
  - E.** "Convert(ed)" means the changing of an employee to a different type of status.
- [10.12.2.7 NMAC - N, 7/1/2015]

**10.12.2.8 PROBATION:**

- A.** A probationary period of one year is required of all employees unless otherwise provided for by these rules.
  - B.** The probationary period includes all continuous employment in the department except temporary service.
  - C.** A break in employment of at least one work day or more will require an employee to serve another probationary period upon rehire into the department with the exception of those employees returned to work under 10.12.10.10 NMAC or 10.12.10.14 NMAC.
  - D.** Any full-time continuous leave, except for military leave, taken during the probationary period exceeding 30 calendar days shall extend the probationary period by the number of days of leave that exceeds 30 calendar days.
  - E.** A probationer may have their appointment expired for non-disciplinary reasons with a minimum of 24 hours written notice without right of appeal. Such employees shall be advised in writing of the reason(s) for the expiration of appointment.
- [10.12.2.8 NMAC - N, 7/1/2015]

**10.12.2.9 CAREER STATUS:** An employee in a career appointment attains career status beginning the day following the end of the probationary period required by 10.12.2.8 NMAC unless otherwise provided for by these rules.

[10.12.2.9 NMAC - N, 7/1/2015]

**10.12.2.10 TERM STATUS:** Employees in term status who complete the one year probationary period required by 10.12.2.8 NMAC shall have all of the rights and privileges of employees in career status except that term appointments may be expired due to reduction or loss of funding or when the special project or program ends with at least 14 calendar days written notice to the employee without right of appeal.

[10.12.2.10 NMAC - N, 7/1/2015]

**10.12.2.11 TEMPORARY STATUS:** Temporary appointments may be expired with at least 24 hours written notice to the employee without right of appeal.

[10.12.2.11 NMAC - N, 7/1/2015]

**10.12.2.12 EMERGENCY APPOINTMENTS:**

**A.** An emergency appointment is the employment of an apparently qualified applicant when an emergency condition exists as determined by the chief and there are no applicants available on an appropriate employment list or when there may be insufficient time for the normal recruitment process to proceed and in order to address the emergency, but only as long as the emergency exists. All qualified candidates will be considered for the position including the subject of the emergency appointment when the employment list is certified by the office.

**B.** No employee may hold an emergency appointment longer than 90 calendar days in any 12-month period. The chief may make a second emergency appointment if the conditions continue to exist or additional conditions arise as set forth in Subsection A. of this Section.

**C.** Emergency appointments may be expired with at least 24 hours written notice to the employee without right of appeal.

**D.** An employee in emergency appointment may be converted to a career, term, or temporary status if the employee: has met the established requirements or the department certifies that the employee holds qualifications and abilities necessary for successful job performance and is performing to the department's satisfaction; and there are no better qualified candidates for the position after appropriate recruitment.

[10.12.2.12 NMAC - N, 7/1/2015]

**10.12.2.13 EXPIRATION OF APPOINTMENT:** The expiration of a term, probationary, emergency or temporary appointment shall not be considered to be a layoff within the meaning of 10.12.10.9 NMAC or a dismissal within the meaning of Subsection L of 10.12.1.7 NMAC.

[10.12.2.13 NMAC - N, 7/1/2015]

**10.12.2.14 ACKNOWLEDGMENT OF CONDITIONS OF APPOINTMENT:** The department shall require that a form be signed by all employees at the time of appointment acknowledging the terms and conditions of the appointment.

[10.12.2.14 NMAC - N, 7/1/2015]

**HISTORY OF 10.12.2 NMAC [RESERVED]**