

This rule was filed as 10 NMAC 40.1.

TITLE 10 PUBLIC SAFETY AND LAW ENFORCEMENT
CHAPTER 40 CRIME VICTIMS
PART 1 GENERAL PROVISIONS

10.40.1.1 ISSUING AGENCY: Crime Victims Reparation Commission.
[4/30/97; Recompiled 11/30/01]

10.40.1.2 SCOPE: Provisions for Part 1 of Chapter 40 [now 10.40.1 NMAC] apply to the operation of the crime victims reparation commission.
[4/30/97; Recompiled 11/30/01]

10.40.1.3 STATUTORY AUTHORITY: Authority for Part 1 of Chapter 40 [now 10.40.1 NMAC] is the Crime Victims Reparation Act, Sections 31-22-1 through 31-22-24, NMSA 1978.
[4/30/97; Recompiled 11/30/01]

10.40.1.4 DURATION: Permanent.
[4/30/97; Recompiled 11/30/01]

10.40.1.5 EFFECTIVE DATE: March 14, 1998, unless different date is cited at the end of a section or paragraph.
[4/30/97, 3/14/98; Recompiled 11/30/01]
[Compiler's note: The words *or paragraph*, above, are no longer applicable. Later dates are now cited only at the end of sections, in the history notes appearing in brackets.]

10.40.1.6 OBJECTIVE: The crime victims reparation commission hereby promulgates these regulations to provide for the orderly conduct of commission business; to assure full compliance with the requirements of the Crime Victims Reparation Act; and to enable the commission to promote a stronger and more effective criminal justice system by encouraging all citizens to cooperate with law enforcement efforts.
[4/30/97; Recompiled 11/30/01]

10.40.1.7 DEFINITIONS: [RESERVED]
[4/30/97; Recompiled 11/30/01]

10.40.1.8 DUTIES OF THE COMMISSION BOARD:

A. The commission board shall annually elect from its membership a chairman and vice chairman. The vice chairman shall act as chairman if the chairman is absent.

B. A majority of the members of the commission board shall constitute a quorum for the conduct of commission business. The transaction of commission business shall be by majority vote of members present at the meeting.

C. The commission board shall annually adopt an open meetings resolution in compliance with the New Mexico Open Meetings Act.

D. The commission board shall adhere to the following when entering executive session for the purpose of discussing claims:

(1) A motion shall be made to enter executive session for the purpose of discussing claims which contain confidential medical and police information.

(2) The motion is to be seconded.

(3) The chairman shall request that the secretary poll the members.

(4) The secretary shall poll each member individually and record their vote.

(5) If the motion passes, the chairman will announce that the board is in closed session and ask visitors to leave and secure the doors.

E. The commission board shall adopt a code of conduct pursuant to Section 10-16-11 NMSA 1978. The code of conduct shall be reviewed annually by the commission board to determine whether any amendments should be made thereto.

F. The commission board shall hire a director, and other staff as required, pursuant to Section 31-22-4 NMSA 1978. The commission board shall set the salary of each staff member in compliance with all applicable laws and regulations of the state of New Mexico.

G. If prior to the commencement of a commission board meeting, the chairman learns that a quorum of the members of the commission board will not be able to attend the meeting, the chairman may cancel the meeting. In this event, the director is instructed to attempt to give notice of the cancellation of the meeting to all commissioners, interested citizens known to the director, and the entities entitled to notice of meetings under the commission board's open meetings resolution.

H. In the event a question as to the proper method of procedure arises during any meeting, the chairman is vested with authority to resolve such question, and his decision shall be final.

I. Meetings shall be called to order and business of the meeting conducted by the chairman of the commission board, or in his absence, the vice chairman. Should both the chairman and the vice chairman be absent from the meeting, if a quorum is present, the commission board shall designate one of its members to assume the responsibilities of the chairman for that meeting.

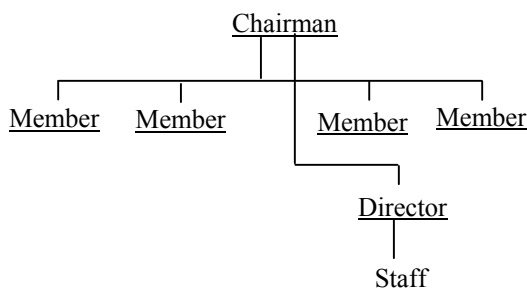
J. The director is responsible for the preparation of the minutes of the commission board meetings. The minutes of each commission board meeting shall contain the name of each commission board member present at the meeting, the names of all other individuals in attendance at the meeting, a general description of the subject matter of the items discussed by the commission board, the wording of all motions before the commission board and the votes of the commission board on every item of business dispensed with by vote. The director and his staff shall compile the minutes of the meeting. The approved minutes of the meeting shall constitute the official record of business transacted at the meeting. The approved minutes of each board meeting shall be kept in the commission office and shall be available for public inspection during normal working hours.

K. If a member is absent from four consecutive meetings, or from six out of any twelve consecutive meetings, the commission board shall recommend to the governor that such member be removed and replaced. However, such member may file a request with the commission board, at or before the next regular meeting following the fourth consecutive absence or sixth absence out of twelve consecutive meetings, setting forth the reasons for the absences and requesting that the recommendation not be made. The commission board by vote with all commissioners in attendance participating, may choose to grant the request.

L. The commission board shall hold no fewer than ten meetings during each fiscal year.

M. The chain of command between the chairman, members of the commission board, director and staff shall be as follows:

(1)



(2) The director will report to the chairman who, in turn, will keep the commission board members informed. Any questions the commission board members have of the director or staff shall be directed to the chairman who in turn will contact the director. Staff questions will be directed to the director who will then contact the chairman. The only exception to this policy will be the discussion of applications which will be between the assigned commission board member of a case and the assigned investigator of that case.

[1/20/89, 11/7/91, 3/14/98; Recomplied 11/30/01]

10.40.1.9 FINANCES AND EMPLOYMENT:

A. The director shall present the commission board with a detailed financial summary of income and expenses at each regular meeting. The financial reports shall cover all funds appropriated to, or administered, earned or expended by the commission from any source whatsoever, including federal, state and local funds. The financial reports shall specifically detail the status of the crime victims reparation fund.

B. The director shall hire staff, or change the salary of existing staff, within department of finance and administration and state personnel office guidelines. The commission board shall consider such hiring and salary changes other than legislative mandated changes at its next regular meeting. The commission board shall approve or disapprove the director's actions.

C. The director shall develop the budget and necessary appropriations request needed to fund that budget for the fiscal year. The director shall submit the proposed budget and appropriations request to the commission board for their review. The commission board shall review the budget and appropriations request and shall either approve it as submitted or make adjustments for final approval.

D. The commission may provide copies of documents to individuals requesting copies in accordance with Section 31-22-18 NMSA 1978. The procedure for providing copies is as follows:

(1) a written request on the form prescribed by the commission stating exactly what document is requested;

(2) a fee of twenty-five cents per page may be charged for copying;

(3) the copies will be provided within five working days unless the records have been placed in archive, in which case the copies will be provided as soon as practicable.

[11/7/91, 3/14/98; Recomplied 11/30/01]

10.40.1.10 RULEMAKING:

A. The purpose of this regulation is to establish a rulemaking procedure which will enable the commission to secure the views and statements of all interested persons concerning rules and regulations adopted pursuant to the Crime Victims Reparation Act.

B. Prior to the adoption, amendment or repeal of any rule, the commission shall, at least thirty days prior to its proposed action:

(1) Publish notice of its proposed action in a newspaper of general circulation in the state of New Mexico. Notify any person or group filing a written request for such notification to the crime victims reparation commission, notification being by mail to the last address specified by the person or group. Request from such persons or groups shall be renewed in January of each year.

(2) The notice of the proposed action shall:

(a) give the date, time and place of any public hearing and state the manner in which comments may be submitted to the commission by interested persons;

(b) describe the subject matter of the proposed regulation;

(c) describe the action proposed to be taken;

(d) state a location where the proposed rule may be obtained, or a written address from which the proposed rule may be procured by mail; and

(e) include reference to the statutory authority under which the rule is proposed.

C. All interested persons shall be afforded a reasonable opportunity to submit written data, views or arguments in support of, or in opposition to, a proposed rule. Any interested person seeking to modify in any way a proposed rule must submit a proposed rule modification in writing to the commission within twenty-one calendar days after notice is mailed, along with views or arguments in support of the modification. If the commission board finds after review of the written data, views or arguments in support of the proposed modification that further comments are necessary, it may take such statements at the public rulemaking hearing. The commission board shall consider fully all comments regarding the proposed rule prior to a final decision. Written data, views, or arguments shall be legible (not less than elite typeface), not to exceed a width of 8-1/2 inches and a length of 13 inches.

D. The rulemaking hearings shall be conducted as follows:

(1) The rules of civil procedure and the rules of evidence shall not apply.

(2) Unless the circumstances otherwise justify, the order of appearance will be as follows:

(a) comments of commission staff;

(b) comments of each proponent;

(c) comments of each opponent;

(d) comments of other interested persons.

E. The commission board may appoint a hearing officer to conduct the hearing and receive evidence. He will be authorized to make all rulings in the conduct of the proceedings and in the receipt of statements and supporting data.

F. A record shall be made by a certified court reporter at each rulemaking hearing, the cost of which shall be borne by the commission. Interested persons may request a copy of a hearing record, and shall pay the cost of copying the record.

G. The court reporter shall provide an index of each transcript which states:

- (1) the name of each individual present at the hearing;
- (2) the pages at which an individual's statement appears;
- (3) identification of supporting data; and,
- (4) the pages at which supporting data was introduced, entered and appears in the transcript.

H. At the conclusion of the hearing, the commission board or hearing officer may request participants to submit prepared comments or other pertinent supporting information.

I. The record shall be closed at the conclusion of the hearing, unless the commission board or hearing officer holds it open for no longer than thirty days for the purpose of receiving additional written supporting data. Additional written supporting data shall be limited to those matters for which permission was expressly granted and the commission board or hearing officer may make provisions for response to the written supporting data by those persons who participated in the proceeding.

J. Each rule, amendment or repeal thereof adopted by the commission board shall be filed with the state records center and the New Mexico state registry, in accordance with Section 14-4-3 NMSA 1978.

K. In construing rules adopted by the commission board, words importing the masculine gender shall include the feminine gender.

[1/20/89, 11/7/91, 3/14/98; Recompiled 11/30/01]

10.40.1.11 DUTIES OF THE ATTORNEY GENERAL: The attorney general shall represent the commission in all litigation to which the commission is a party or in which the commission has an interest. The attorney general shall serve as legal advisor to the commission.

[11/7/91; Recompiled 11/30/01]

HISTORY OF 10.40.1 NMAC:

Pre-NMAC History: The material in the part was derived from that previously filed with the State Records Center: CVRC 88-1, Crime Victims Reparation Commission Regulations, filed 1/20/89. CVRC 91-1, Crime Victims Reparation Commission Regulations, filed 11/7/91.

History of Repealed Material: [RESERVED]