



Policies Handbook

Adopted by the NWREC Governing Council on the 28th of October 2019.

182 N Pine, Bldg 3
P.O. Box 113
Chama, NM 87520

Phone: (575) 756-1274
FAX: (575) 756-1278
www.nwrec2.org



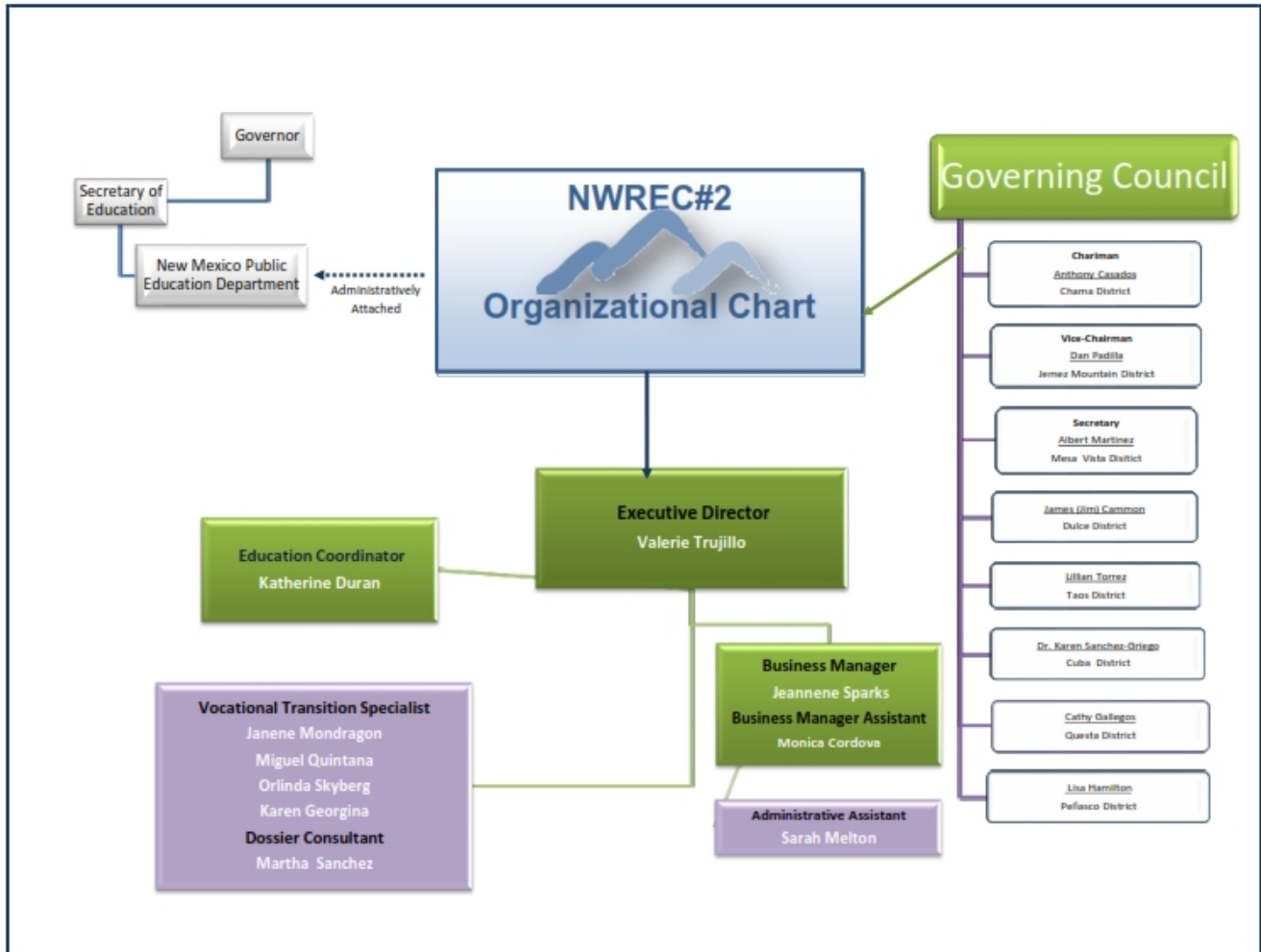
It is the policy of the Region Education Cooperative Governing Council to provide equal opportunities without regard to race, color, national origin, ancestry, sex, religion, age, disability, serious medical condition, disability, equal compensation, genetic information, pregnancy, sexual orientation, gender identity, veteran status or spousal affiliation in its educational program and activities. This includes, but is not limited to, educational services and any aspect of employment, including hiring, firing, pay, job assignments, promotions, layoff, training, fringe benefits, and any other term or condition of employment.

Inquiries concerning the application of this policy may be referred to the Executive Director who is the Compliance Administrator for:

- Title VI and Title VII of the Civil Rights Act of 1964 as amended;
- The Pregnancy Discrimination Act;
- the Equal Pay Act;
- Age Discrimination in Employment Act of 1967 as amended;
- Americans with Disabilities Act;
- Title IX of the Education Amendments of 1972;
- Section 504 of the Rehabilitation Act of 1973; and
- New Mexico Human Rights Act.

The mailing address is:

Executive Director
Northwest Regional Education Cooperative
P.O. Box 113
Chama, NM 87520



Contact Information

Valerie Trujillo
Executive Director
Northwest Regional Education Cooperative #2
PO Box 113, Chama, NM 87520

Email: valerie@nwrec2.org

Phone: 575-756-1274

Fax: 575-56-1278

Website: www.nwrec2.org

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100 LEGAL AUTHORITY AND HISTORY

101 Legal Authority

A Regional Education Cooperative (REC) may be authorized by the New Mexico Public Education Department (PED) pursuant to the Regional Cooperative Education Act, NMSA 1978, § 22-2B-1 et. seq. and rules adopted by the Public Education Department (6.23.3 NMAC – Regional Education Cooperatives). Upon authorization, local school boards and other state-supported educational institutions may join an REC for the purpose of providing education-related services. The Act also provides for the creation of a Regional Education Governing Council (Council) to serve as the local governing body of a duly authorized REC.

Each REC is an individual state agency that is administratively attached to the Public Education Department. Pursuant to rules of the PED, an REC may own, and have control and management over, buildings and land independent of the facilities management division of the General Services Department (GSD). Unlike most state agencies, an REC does not submit a budget to the Department of Finance and Administration. Instead, each REC must submit a budget to the PED.

The PED is required to adopt rules relating to REC budgets and expenditures. These rules are to be based on the provisions of the Public School Finance Act, NMSA 1978, § 22-8-1 et. seq. The PED secretary may, after considering the factors specified in NMSA 1978, § 22-8-38, designate a local Council to serve as a board of finance with which all funds appropriated or distributed to it shall be deposited. If such a designation is not made or if such a designation is suspended by the PED secretary, the money appropriated or to be distributed to a cooperative must be deposited with the state treasurer.

With Council approval, an REC may provide revenue-generating education-related services to nonmembers, so long as those services do not detract from the REC's ability to fulfill its responsibilities to its members. An REC is also authorized, subject to Council approval, to apply for and receive public and private grants as well as gifts, donations, bequests and devises and use them to further the purposes and goals of the cooperative. Unexpended or unencumbered balances in the account of an REC shall not revert.

Pursuant to the Act, an REC is exempt from the provisions of the New Mexico State Personnel Act, NMSA 1978, § 10-9-1 et. seq. However, an REC is defined as a “state agency” under NMSA 1978, § 22-10A-2 (C) and is subject to the provisions of the New Mexico School Personnel Act, NMAS 1978, § 22-10A-1 et. seq.

102 History

In 1984, the New Mexico State Board of Education (SBE) established ten Regional Center Cooperatives (RCCs) under SBE Regulation No. 84-6 (Regional Center Cooperatives). The purpose of the RCC's was to provide services for local education agencies and eligible state supported schools under Public Law 94-142, the Education for All Handicapped Children Act (EHA). EHA was enacted by the United State Congress in 1975 and was an amendment to Part B of the Education of the Handicapped Act of 1966. This law is currently enacted as the Individuals with Disabilities Education Act (IDEA), as amended in 1997. SBE Regulation No. 84-6, first filed in August 1984 and then amended in August 1990, permitted districts to submit a consolidated application for certain entitlement and discretionary funds under EHA-B.

In 1993, during the 41st Legislative Session, the Regional Cooperative Education Act was passed and signed into law by then Governor Bruce King. The Act authorized the establishment of Regional Education Cooperatives (RECs) and Governing Councils that could be their own board of finance that eliminated the requirement to have a member school district serve as the fiscal agent. Following the adoption of the Act, the State Board of Education adopted SBE Regulation No. 93-23 (Regional Education Cooperatives), which established the minimum criteria for the establishment, operation and oversight of REC's. SBE Regulation No. 93-23 was renumbered in 2001 to 6.23.3 NMAC by the Commission of Public Records – State Records and Archives.

With the creation of the Public Education Department in 2004, the secretary of public education being duly authorized to promulgate rules to carry out the duties of the department and its divisions, NMSA 1978, § 9-24-8 (D) (2004), repealed SBE Regulation No. 84-6 and amended 6.23.3 NMAC in November 2009.

Since 1984, RCC's and more recently RECs have established essence cooperative programs of education services with funding sources such as the Drug Free School and Communities Act of 1986, Title II funds for leadership and professional development, the Carl D. Perkins Vocational and Technical Education Act of 1884 and 1998, School-based Medicaid programs and other federal and state funding sources.

103 Establishment

Northwest Regional Education Cooperative #2 has been in operation since 1984 and was established to provide cooperative education services to seven school districts within the communities of Rio Arriba, Sandoval, and Taos Counties:

- Chama Valley Schools
- Cuba Independent Schools
- Dulce Independent Schools
- Jemez Mountain Schools
- Mesa Vista Consolidated Schools
- Peñasco Independent Schools
- Questa Independent Schools
- Taos Municipal Schools

The services provided to the seven school districts and surrounding communities may include, but are not limited to:

- Assist and support Child Find activities;
- Compliance with state and federal regulations;
- Coordinated Health Services;
- Grants administration and management;
- Providing related service personnel;
- School-Based Health Centers;
- Professional development; and
- Other services as directed by the Governing Council.

200 STATUTORY REQUIREMENTS

201 Authority of the Governing Body

The REC is governed by a Regional Education Governing Council (Council). The Council is composed of the superintendents or chief administrative officers of each local school district or state-supported educational institution participating in the REC. NMSA 1978, § 22-2B-4 (A)

A Council member is a public officer, but has no power or authority individually. State law, NMSA 1978, 22-2B-4 (C), vests power in the Council, and not in the members, either individually or otherwise. The Council shall not be bound in any way by the action or statement on the part of an individual Council member except when such a statement or action is in pursuance of specific instructions from the Council.

202 Organization of the Council

The members of the Council shall elect a Chair from its members and reserves the right to reorganize any time the Council votes in a majority to do so.
NMSA 1978, § 22-2B-4; 6.23.3.9 NMAC

203 By Laws and Policy Requirements

Pursuant to the rules of the Public Education Department, 6.23.3.9 (A) NMAC, the Council shall adopt by-laws for the purpose of the governance of the REC. At a minimum, the by-laws must include the following provisions:

- a) Procedures for electing a Council Chair;
- b) The term of office for the Council Chair;
- c) Procedures to establish any committees that Council may deem necessary or desirable; and
- d) Procedures to amend the policies as the Council deems necessary or desirable.

The Council shall also oversee the operation of the REC and develop a manual of policies and procedures governing the operation of the REC. However, the administrative and supervisory functions of the REC shall be delegated to the Executive Director.

The manual of policies and procedures must include the following policies relating to employees:

- a) the salary schedule(s) for all employees of the REC;
- b) policies related to the accrual and utilization of leave by employees; and
- c) policies relating to performance evaluation of employees.

Policies and procedures must be reviewed and updated annually and as needed.

204 Council Duties and Responsibilities

The Council is responsible for providing:

- a) education-related services for members of the REC;
- b) technical assistance and staff development opportunities for members of the REC;
- c) cooperative purchasing capabilities and fiscal management opportunities for members of the REC;
- d) such additional services for members of the REC as may be determined by the Council to be appropriate; and

- e) revenue-generating education-related services to nonmembers when the Council determines that the provision of such services will not interfere with the REC's ability to fulfill its responsibilities to its members.

Pursuant to PED rules the Council shall

- a) adopt an annual budget as necessary to carry out the purposes of the REC; and
- b) hire an executive director and necessary additional staff.

The council is responsible for ensuring the following:

- a) all employees meet the applicable certification or licensure requirements; and
- b) all applicable provisions of the School Personnel Act, Chapter 22, Article 10A NMSA 1978 are adhered to and reflected in its policies and procedures.

The Council shall have other powers and duties as are reasonably necessary to carry out the purpose of the Regional Cooperative Education Act and which are not inconsistent with the provisions of applicable state or federal statutes, rules and regulations. NMSA 1978, § 22-2B-5; 6.23.3.9 NMAC

205 Joint Powers Agreement

Each Council is subject to a Joint Powers Agreement that is executed between the members of the REC.

300 COUNCIL BY-LAWS AND GOVERNANCE

301 Introduction

Regional Education Cooperative #2 is authorized in compliance with the Regional Cooperative Education Act and rules adopted by the Public Education Department under Title 6, Chapter 23, Part 3 of the New Mexico Administrative Code.

302 Vision, Mission and Core Values

Vision: The Northwest Regional Education Cooperative #2 aspires to be the premier provider of choice for comprehensive, specialized, and collaborative educational services to promote equity and excellence through support and service.

Mission: The Northwest Regional Education Cooperative #2 exists to be an indispensable partner to our Region's Member Districts. Working to enhance and maximize success through professional development to elevate student achievement.

Core Values: Professionalism, Respect, Integrity, Dedication, Excellence, Accountability, Building relationships, Collaborative, Cooperative.

303 Council Membership and Voting Privileges

The membership of the Council shall include superintendents of each member school district or state-supported educational institution.

Each member shall have one vote and only superintendents may exercise voting privileges. Termination of Council membership and voting privileges shall terminate when the member school district or state-supported educational institution withdraws membership from the REC.

The Executive Director or designee, shall poll Council members prior to a meeting to determine whether there will be a quorum. In the event the poll indicates less than a quorum will attend the meeting, the meeting shall be rescheduled by the Council Chair or designee.

NMSA 1978, § 22-2B-4

304 Council Officers, Procedures for Electing Council Officers and Terms of Office

Council officers and duties of each office shall include:

- a) Chair: The Chair shall preside at meetings, appoint committees, sign contracts and other documents on behalf of the Council and other duties prescribed by the Council. The Chair shall have the right, as other members of the Council, to offer resolutions, discuss items on the agenda and vote on items on the agenda. The Chair must be accessible to the Executive Director and the NWREC staff for business related signatures, contracts and other documents that may need immediate attention.
- b) Vice-Chair: The Vice-chair shall perform the duties of the Chair in case of absence, disability or resignation.
- c) Secretary: The Secretary may also serve as the Vice-Chair and may assist the Council Chair with preparation and dissemination of the agenda for all meetings in accordance with Council policy and the Open Meetings Act, NMSA 1978, § 10-15-1 et. seq. and may be responsible for official minutes of each meeting in accordance with Council policy and the Open Meetings Act.

Reorganization of the Council shall occur at the first meeting of each fiscal year. The election procedure shall be nomination and majority vote.

Terms of office shall be one fiscal year in length. Officers may serve unlimited additional terms upon agreement of the Council and the Officer in question. Duties of the office will be assumed upon adjournment of the meeting at which the election takes place.

305 Amending Council By-Laws, Policies and Procedure

The Council delegates the Executive Director the responsibility for drafting, amending and repealing by-laws and policies as is necessary or desirable. Such by-law and policy drafts, amendments or repeals shall only be presented to the Council for consideration at a meeting properly noticed under the Open Meetings Act. All such changes to by-laws and policy shall be approved by a majority vote of the Council.

The Executive Director is delegated authority to adopt REC administrative procedure that are necessary to implement the by-laws and policies of the Council. Such administrative procedures shall be consistent with Council by-laws and policy and any applicable federal and state laws.

The Executive Director shall ensure that Council by-laws, policies and REC administrative procedures are accessible to employees, contractors and other individuals with a need to know.

If any section, paragraph, clause or provision of Council by-laws, policy or REC administrative procedures for any reason shall be held invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of such by-law, policy or administrative procedure or its application to other situations.

The Executive Director shall have the authority to make decisions in the absence of policy if failure to make a decision would compromise the effectiveness of the REC. The decision shall then be subject to review by the Council at its next regular meeting. It shall be the duty of the Executive Director to promptly inform the Council Chair of such action for inclusion on the meeting agenda and to recommend policy to the Council to avoid such contingencies in the future.

306 Confidential Information

The Council recognizes that confidential information will be brought to the attention of individual Council members and/or the Council as a whole pertaining to, but not limited to, personnel, students, litigation, security, and/or confidential financial donations to the REC.

The Council further recognizes that public disclosure of such information may result in injury to individuals, or potential harm and possible liability to the REC, and that Council members are bound legally and by the Council's policy related to the Council Code of Ethics to respect confidentiality of information that is privileged under applicable law. It is the policy of the Council that Council members shall discuss or disclose confidential information only in connection with legitimate REC business and only with individuals with a legitimate right or need to know.

It is the Council's expectation that a Council member will voluntarily excuse him/herself from discussions of confidential information and abstain from voting on matters in which the Council member has a personal or financial interest, including an interest by a member of the Council member's family, or where the Council member's participation will or may compromise the confidential nature of the discussion.

Where a Council member fails or refuses to voluntarily excuse him/herself from such discussions and confidential information is disclosed; as a result, the Council may enforce this policy by:

- a) Requiring the Council member to excuse him/herself from future discussion of the same or similar matters and abstain from voting; or
- b) By other remedies available under applicable law.

307 Council Meetings, Annual Open Meetings Resolution and Creation of Committees

Meetings of the Council shall be held at the call of the Chair, subject to the Open Meetings Act. NMSA 1978, § 10-15-1 et. seq. and Paragraph (5) of Subsection A of 6.23.3.9 NMAC

A meeting of a majority of the members of the Council constitutes a quorum for the purpose of conducting business. NMSA 1978, § 22-2B-4 (C); Paragraph (6) of Subsection A of 6.23.3.9 NMAC

During the first regularly scheduled meeting in June, the Council shall establish an annual calendar of meetings and approve an Open Meetings Resolution, which shall define reasonable notice for public meetings. The resolution shall include the times and places for meeting during the following

fiscal year and will be published on the REC website. The Council Chair may also call special meetings as necessary following the procedures outlined in the annual Open Meetings Resolution.

Reasonable efforts shall be made to accommodate the use of audio and video recording devices. Anyone who wishes to record a Council meeting shall file a written request with the Executive Director at least twenty-four (24) hours prior to the designated meeting.

The Chair has authority to form committees. The function of any Council committee will be fact-finding and advisory rather than legislative or administrative. Ultimate authority to make decisions shall reside with the Council and the Executive Director as designated by the Council. Committee meetings must adhere to the Open Meetings Act. NMSA 1978, § 10-15-1 (B)

308 Meeting Agendas and Minutes

The Executive Director, in coordination with the Council Chair or designee, shall prepare an agenda of business to come before the Council. A complete agenda, including supporting data, must be finalized and made available to Council members at least three (3) working days prior to the meeting. The agenda shall also be available to the public at least seventy-two (72) hours prior to the meeting and must be posted on the Council's website, if one is maintained.

NMSA 1978, § 10-15-1 (F)

Any individual or group wishing to address the Council must request placement on the agenda. Such requests must be made to the Executive Director at least seven (7) business days prior to the meeting. If Council action is anticipated on any agenda item that item will be clearly marked.

The Regular order of business shall be:

- Call to Order
- Roll Call
- Approval of Agenda
- Approval and Signature of Minutes
- Audience Participation
- Presentations
- Executive Director's Report
- Financial Report
- Business Items/Approval
- Future Business
- Executive Session (if needed)
- Adjournment

The minutes of the meetings of the Council shall include:

- a) The date, place and classification of the meeting (regular, special or emergency);
- b) The call of order stating the time and the name and office of the person presiding;
- c) The record of the roll call of Council members;
- d) A notation of the absence of members;
- e) A record of any changes to the published agenda (i.e. reorganization of topics);
- f) A record of any corrections to the minutes of any previous meetings and the action approving them;
- g) A record of any communications or reports presented to the Council;

- h) A record of each motion placed before the Council, specifically:
 - 1. The member making the motion and the member seconding, if any;
 - 2. The declaration of the person presiding that the motion passed or failed; and
 - 3. The name of each person voting in the affirmative or the negative, unless the vote is unanimous.

Copies of all reports, resolutions, agreements and other written documents which require Council action will be made part of the minutes and shall be kept on file as part of the permanent record. Draft minutes must be prepared within ten working days after the meeting and must be approved, amended or disapproved at the next meeting where a quorum is present. Minutes are not official until approved by the Council. NMSA 1978, § 10-15-1 (G)

Minutes of a previous meeting will be sent to each Council member at least seven (7) days prior to the meeting at which they will be considered for approval.

The minutes, after approval by the Council, shall be filed and maintained at the REC office in accordance with the records retention rules. 1.21.1 NMAC

309 Parliamentary Procedures

- a) The Chair, or Vice-Chair in the absence of the Chair, will conduct all meetings. In the absence of both the Chair and the Vice-chair the Secretary shall conduct the meeting; if all officers are absent and there remains a quorum, the members present shall elect a Chair-pro tempore who will serve only for that meeting, or the part of the meeting in which the officers are absent.
- b) All members of the Council may make motions, second motions and vote. Members not voting will be recorded as abstaining. If a member has an actual conflict or perceived conflict of interest, the member will state the conflict and remove themselves from participation in the discussion and decision. In this instance. The member will be recorded as recused. A majority of members present and voting will constitute official action of the Council.
- c) A Council member may participate in a meeting by means of a conference telephone or other similar communication equipment when it is otherwise difficult or impossible for the member to attend the meeting in person, provided that each member participating by conference telephone can be identified when speaking, all participants are able to hear each other at the same time and members of the public attending the meeting are able to hear any member of the Council who speaks during the meeting. NMSA 1978, § 10-15-1 (C)
- d) Any member of the Council who wishes to make a motion, second a motion or discuss pending business will first secure recognition of the Council Chair.
- e) The Chair will present each agenda item for discussion, or designate the Executive Director or another member to present the agenda item.
- f) All formal actions of the Council will be taken by ordinary motions unless a formal resolution is required by law. The following motions will be in order:

- I. To adopt the agenda
 - II. To recess, either temporarily or to a specific time, date and place
 - III. To approve, reject or table an item
 - IV. To amend a motion made to approve, reject or table an item
 - V. To set aside the rules
 - VI. To defer action
 - VII. To adjourn
- g) Pursuant to the open Meetings Act, the Council may recess and reconvene a meeting to a day subsequent to that stated in the meeting notice if, prior to recessing, the Council specifies the date, time and place for continuation of the meeting, and, immediately following the recessed meeting, posts notice of the date, time and place for the reconvened meeting on or near the door of the place where the original meeting was held and in at least one other location appropriate to provide public notice of the continuation of the meeting. Only matters appearing on the agenda of the original meeting may be discussed at the reconvened meeting. NMSA 1978, § 10-15-1 (E)

310 Council Members Attendance

A member of the Council who will be unable to attend a meeting will notify the Chair of the Council or the Executive Director at least twenty-four (24) hours in advance of the meeting.

400 ADMINISTRATION

401 Governing Council

The Council has the legal authority to carry out the purpose of the Regional Cooperative Education Act. The Council shall be the policy forming and evaluative body of the REC, and shall perform the following functions:

- Select and hire an executive director and establish a salary in accordance with the REC Executive Director Salary Calculation process;
- Ensure all employees meet all applicable certification or licensure requirements;
- Ensure all applicable provisions of the School Personnel Act are adhered to and reflected in its policies and procedures;
- Delegate the administrative and supervisory functions to the Executive Director (*See 203 By Laws and Policy Requirements*);
- Subject to the provisions of the School Personnel Act, serve as hearing officer for the termination, or discharge of employees of the REC upon written notice from non-probationary employees;
- Assure compliance with the provisions of the Procurement Code;
- Assure compliance with all applicable department of finance and administration regulations;
- Review and approve the annual budget for the REC; and
- Review the annual evaluation data of the REC activities

Legal References 6.23.3.10 (A)(5) NMAC – Regional Education Cooperatives
Procurement Code, Sections NMSA 1978, § 13-1-28 et seq.
School Personnel Act, NMSA 1978, § 22-10A-1 et seq.

402 Executive Director

a. Qualifications:

It is preferred that the Executive Director have or be able to apply for administrative licensure issued by the New Mexico Public Education Department. The Executive Director shall have specialized training in the leadership and business administration of public schools and/or related organizations with a minimum qualification of a Bachelor's degree and a preferred qualification of Master's degree from an accredited Institution of higher learning; and shall have demonstrated by suitable experience the capability of leading a staff and educational community in a continuous program of improvement.

b. Term of Appointment:

Pursuant to NMSA 1978, § 22-10A-21, a licensed Executive Director shall be issued a contract in writing for a period of one school year to include the terms of service and other provisions required by the Public Education Department rules for licensed administrator contracts. Contracts not to exceed three years are permitted, upon approval of the Governing Council, for licensed school administrators who are engaged in administrative functions for more than one-half of their employment. A licensed school administrator is exempt from Sections 22-10A-22, 22-10A-23, 22-10A-24 and 22-10A-25 of the School Personnel Act. The Executive Director shall be employed on a 240-day contract to begin on July 1 and end on June 30, unless hired after the start of the fiscal year. Renewal of the contract or issuance of a new contract is at the full discretion of the Governing Council.

Pursuant to NMSA 1978, § 22-10A-26(C), an unlicensed Executive Director is not authorized to be issued a contract and is also exempt from Sections 22-10A-22, 22-10A-23, 22-10A-24 and 22-10A-25 of the School Personnel Act. The Executive Director is employed for a minimum of 220-day's per fiscal year to begin on July 1 and end on June 30, unless hired after the start of the fiscal year.

c. Responsibilities:

The Executive Director shall:

- Exercise all administrative and supervisory functions delegated by the Council;
- Provide effective professional leadership and technical advice to the Council on matters pertaining to all programs adopted by the Council;
- Initiate and guide the development of policies for the Council's consideration and ensure that all policies of the Council and legal duties of the Council are implemented;
- Interpret Council policies for staff as well as all state and federal laws relevant to the operation of the REC;
- Administer the development and maintenance of programs designed to provide maximum utilization of funds within the Cooperative;
- Be accountable for accurate distribution of individual district monies and for accurate monthly, quarterly and end-of-year reports by working with the REC business manager, assure sound fiscal management and compliance with state and federal audit requirements;
- Maintain records required by the Council and state and federal laws;
- Provide member districts with technical assistance in the interpretation of special education laws;

- Prepare the agenda for each Council meeting, notify Council members in advance of items to be discussed and coordinate dates, times and locations of meeting pursuant to the Open Meetings Act;
- Attend all Council meetings, prepare and provide a report of monthly activities for the Council and other information as necessary or requested;
- Serve as the official representative of the Council in relations with the Public Education Department and other applicable agencies in matters pertaining to programs adopted by the Council;
- Conduct studies and appraisals, as directed by the Council. of the development and needs of member districts and make recommendations to the Council;
- Encourage innovation and active participation in the development of programs among REC personnel;
- Develop objectives to address relevant educational issues facing local educators, administrators, teachers, educational assistants, staff, parents and community;
- Arrange and coordinate in-service training for each member district as needed;
- Assist member districts directly and indirectly with training and technology needs to facilitate success for all individuals involved with educating students;
- Assist the business manager with the coordination of the financial arrangements of all workshops and in-services through the REC;
- Strive to enhance cooperation between member districts, communities, state and federal agencies;
- Provide member districts with technical assistance for state and federal monitoring activities;
- Define job requirements and responsibilities for REC personnel;
- Coordinate and implement a process for evaluations of all REC personnel and office staff, assist with the development of professional development plans as applicable;
- Recommend to the Council, when applicable, the termination or discharge of employees pursuant to the School Personnel Act;
- Coordinate and assist with employee recruitment for the REC;
- Coordinate activities necessary to conduct Child Find; and
- Perform other duties as assigned by the REC Council.

d. Separation of Employment:

The Executive Director may be separated from employment with the REC upon a majority vote of the full Council and in conformance with the School Personnel Act.

e. Resignation:

The Executive Director may resign upon providing the Council with 30-day's notice of the intent to resign. Such notice shall be in conformance with contractual and statutory provisions. The 30-day requirement may only be waived by the Council at a meeting subject to the Open Meetings Act.

f. Compensation and Benefits:

The Executive Director's compensation and benefits shall be established by the Council and may be renegotiated at the issuance of a contract or upon Council approval of an annual compensation schedule. Regular leave benefits shall be approved by the Council and shall be the same as

provided for other employees of equal contract length. Additional annual leave benefits may be established in an employment contract.

The Executive Director shall receive educational assistance for programs of study that are related to the needs of the NWREC in order to stay current, relevant, and viable in maintaining the professional health of the organization. The Director will report to the Governing Council on coursework. Educational expenses will be reimbursed up to \$4,000 per year. The reimbursement will be paid in two payments per year, one in June and one in December.

g. Retirement:

The Executive Director shall be subject to retirement benefits as provided by the New Mexico Educational Retirement Act.

h. Evaluation:

The Council will annually evaluate the Executive Director in terms of efficiency of operation and accomplishments of the REC. The evaluation tool shall be approved by the Council and provided to the Executive Director prior to the beginning of the fiscal year.

i. Travel Expenses:

The Executive Director shall keep informed of current educational thought and practice by study, visiting school districts, attendance at educational conferences, participation in professional organizations, and other appropriate means. Out of state travel shall be approved in advance by the Governing Council Chair or designee. The expenses of the Executive Director for such travel will be paid by the NWREC. This expense item will be part of the approved budget and shall adhere to the Mileage and Per Diem Act.

403 Governing Council – Executive Director Relations

a. Annual Reports:

Ongoing reports, verbal and/or written, describing the progress of the REC in terms of goals achieved, objectives reached and standards responded to shall be made to the Council, along with recommendations for improvement. The Executive Director shall ensure legally mandated reporting is complete and submitted in a timely manner.

b. Administration in Absence of Policy:

The Executive Director shall have the authority to make decisions in the absence of policy if failure to make a decision would compromise the effectiveness of the REC. The decision shall then be subject to review by the Council at its next regular meeting. It shall be the duty of the Executive Director to promptly inform the Council Chair of such action for inclusion on the meeting agenda and to recommend policy to the Council to avoid such contingencies in the future. (*See Amending Council By-Laws, Policies and Procedure*).

c. Delegation of Authority for Certain Employment Actions:

The Governing Council acknowledges the following:

- 1) Under the provision of 6.23.3.9 (D) (5) NMAC, the Council must approve the initial employment, termination or discharge of all personnel upon recommendation of the Executive Director;

- 2) Under the provisions of 6.23.3.9 (D) (4) NMAC, the Council has authority to delegate the administrative and supervisory functions of the REC to the Executive Director; and
- 3) In the course of supervising and administering the daily operations of the REC, circumstances may arise in which the Executive Director is called upon to take action with regard to employees within the REC.

The Governing Council therefore delegates to the Executive Director the authority to act as hearing officer or hearing authority for the purpose of hearing or reviewing facts, deciding appropriate disciplinary action, or reviewing disciplinary actions of other designated administrators, consistent with the School Personnel Act, the Public School Code, Council policy and other relevant laws. Instances in which the Executive Director may exercise such authority includes, but is not limited to. The following circumstances:

- 1) In effecting the immediate and temporary suspension with pay of employees, whether licensed or non-licensed, where alleged misconduct of the employee is so severe or extreme that the Executive Director in his or her sole discretion determines such immediate action to be necessary to preserve the health, safety or welfare of others or to assure the continued efficient operation of the REC. No appeal to the Council from such action may be had unless the Executive Director also recommends Council action to terminate or discharge such employee and the employee requests a hearing before the Council pursuant to NMSA 1978, §§ 22-10A-24 or 22-10A-27.
- 2) In offering initial employment to prospective employees to the extent permitted by the School Personnel Act.
- 3) In reviewing complaint or grievance resolution proceedings as set forth in Council policy and in determining whether particular issues are subject to such grievance procedures.

The delegation of authority provided herein may not be used in a manner contrary to state or federal laws or to deny an employee rights to which they may otherwise be entitled. The Council may expand the delegation prescribed herein in appropriate circumstances. The enumeration of delegated authority to the Executive Director shall not be construed to limit the authority of the Executive Director to take such actions as may be necessary to administer programs or to execute Council policy, unless such authority is reserved to the Council by law, contract or other applicable written agreements.

d. Delegation of Authority as Procurement/Purchasing Officer:

The Governing Council delegate to the Executive Director or their designee the authority to serve as procurement/purchasing officer for the REC within federal and state laws and Council policies. All such purchases and procurements are subject to the New Mexico Procurement Code and to Council review and/or approval as specified in Council policy.

e. Community Relations Complaint Procedure:

As used in this policy “complaint” includes the terms “dispute” or “concern.” “Business days” means any day the REC administrative offices are open and “stakeholder” includes individuals with an interest in the REC. This procedure is not applicable to REC employees.

The Council encourages stakeholders to discuss their concerns through informal conferences with the appropriate staff or administrator, where possible. Concerns should be expressed as soon as possible to allow early resolution at the lowest possible level.

Where informal resolution of a complaint is not possible, this policy permits stakeholders to address their complaint, without fear of retaliation. This policy shall not be construed to create new or additional rights beyond those granted in other laws or policies. All levels of review will be informal.

A complaint may be voluntarily withdrawn at any time in the process. Once a complaint is withdrawn it cannot be re-opened. If at any time during the complaint process the REC grants the remedy requested, the complaint will be terminated at that time and may not be further appealed.

If Council members are contacted by a stakeholder regarding a complaint such members shall direct the stakeholder to follow the appropriate complaint process.

The Executive Director, or designee, has the authority to promulgate procedures in supplement to this policy, as needed.

Any documents related to the complaint should be included with the Formal Complaint form. In addition, the Executive Director, or designee, has the authority to designate shorter timelines and/or abbreviated processes for this complaint process where, in the Executive Director's discretion, a lengthy process may result in substantial disruption to the educational environment. In such circumstances, the Executive Director will make reasonable efforts to advise the complainant of the need for the adjustment so that interested parties are provided a fair opportunity to be heard.

Formal Complaint

If an informal conference does not result in a satisfactory resolution of a concern, a stakeholder may initiate the formal complaint process described below by timely submitting a completed REC complaint form (available at administrative offices) and any supporting material to the Executive Director within ten (10) business days of the date the stakeholder first knew, or with reasonable diligence should have known, of the decision or action giving rise to the complaint. The date of receipt will be based on a date-stamp on the document indicating receipt by the Executive Director. A complaint that is not filed within this timeline may be dismissed, in writing, at any point during the complaint process.

Upon receipt of the formal complaint, the Executive Director will, within ten (10) business days, review the complaint and mail or hand-deliver a written response. This response will list the basis for the decision. The decision of the Executive Director is final.

500 FISCAL ACCOUNTABILITY

501 Fiscal Agent

The REC serves as its own fiscal agent and shall employ such personnel as necessary to provide required fiscal administration and accountability.

502 Fiscal Responsibilities

Fiscal accountability at a minimum includes the following:

- Compliance with the requirements of an applicable Joint Powers Agreement and/or Interagency Governmental Agreement(s), pursuant to NMSA 1978, § 11-1-4, regarding fund accountability;
- Compliance with all applicable Public Education Manual of Procedures (PSAB) and the Regional Educational Center (REC) Budgeting/Financial Procedures Manual;
- Compliance with the Procurement Code, NMSA 1978, § 13-1-28 through 13-1-199 and Procurement Code Regulations, 1.4.1 NMAC.
- Disbursement of funds in accordance with the annual budget approved by the Council and in compliance with grant contractual agreements and federal/state laws, rules and regulations;
- Retention of records pursuant to the State Records Act, the Joint Powers Agreement and the Commission of Public Records retention and disposition rules;
- Compliance with programmatic and financial audit requirements;
- Maintenance of required fixed asset inventory controls;
- Compliance with the Mileage and Per Diem Act and the Governmental Conduct Act;
- Preparation of required financial and programmatic reports for the Public Education Department, the Department of Finance and Administration, and the State Auditor's office; and
- Documentation and transparent accounting for all REC financial activities using a centralized and standard accounting system with clearly defined checks and balances, keyed to and correlated with revenue and expenditure classifications in the budget, consistent with State and Federal laws, rules and regulations and approved by the Council.

503 Annual Operating Budget Development

The REC will use the PED/LEA Chart of Accounts and Manual of Procedures in the development and submission of budgets. The REC will submit individual program budgets as well as a combined total budget for all funds to be expended.

The budget will reflect an estimate of total anticipated revenue for the ensuing year and will include expenditures itemized in detail according to individual programs and categories of expenditures.

504 Budget Review and Approval

Each LEA's portion of the budget(s) will be approved by the individual Board of Education prior to submission.

Each program budget and the aggregate operating budget will be reviewed and approved by the Council prior to final submission to the PED. A copy of each program budget and the aggregate operating budget will be entered into the official Council minutes and available for public inspection and one copy shall be provided to the superintendent of each member school district.

The REC budget will be submitted in accordance with state law and the Department of Finance and Administration (DFA) timeline for state agencies in order to be submitted with the PED budget.

The PED will review and provide final approval of the budget.

505 Budget Adjustment Requests (BAR)

The Council may adjust the budget if it is deemed necessary to meet unforeseen contingencies. Each amendment shall be recorded in official Council meeting minutes.

The Council may authorize a budget adjustment within the operational budget if the adjustment is within the same budget series.

The Council may delegate BAR approval to the Executive Director for designated periods of no Council activity. Any BAR approved by the Executive Director will be summarized at the next regularly scheduled meeting to the Council.

All budget adjustments between series must be submitted to the PED as a Budget Adjustment Request (BAR) and approved by the PED, following Council approval.

All budget adjustments shall be made in compliance with state law and PED rules and procedures.

A budget increase may be required upon receipt of additional revenue related to a special project or program. A budget decrease may be required if projected revenue is not realized. Both increases and decreases require Council approval and may require PED approval prior to incorporation into the REC budget.

A budget report must be submitted to the PED each quarter.

506 Procurement Requirements

The REC shall adhere to all applicable requirements of the Procurement Code, NMSA 1978, 13-1-1 through 13-1-99, in all purchasing transactions. The REC is excluded from the requirements of procurement through the state purchasing agent. Pursuant to Council policy, specifically 403.4, the Executive Director or designee shall serve as the Chief Procurement Officer and register with the General Services Department (GSD) as the REC purchasing agent. Such registration requires certification as specified by the GSD state purchasing agent and must be renewed every two years.

The REC Chief Procurement Officer may do the following:

- (1) make determinations, including determinations regarding exemptions, pursuant to the Procurement Code;
- (2) issue purchase orders and authorize purchases pursuant to the Procurement Code; and
- (3) approve procurement pursuant to the Procurement Code.

Purchasing using grant funding shall comply with the requirements of the grant and the Procurement Code.

The Executive Director is authorized to enter into and administer contracts.

507 REC Purchasing

All purchase procedures shall be made pursuant to the Procurement Code and to the extent possible the PED Manual of Procedures PSAB Supplement 13 – Purchasing.

The Executive Director is delegated authority to approve and execute employment contracts, contracts with school districts, higher education institutions and independent contractors for the procurement of professional services. The Executive Director shall assure that contracts utilizing funds subject to non-supplanting requirements are adhering to such legal requirements and personnel contracts adhere to the School Personnel Act.

Contracts for the professional services of independent contractors shall also adhere to the Governmental Conduct Act and shall meet the definitions for independent contractor status under federal laws applicable to independent contractors and regulations adopted by the Internal Revenue Service (IRS) applicable to independent contractors.

A purchase order is required for all purchases other than employee contracts for employment and benefits. A blanket purchase order may be used for items purchased on a recurring basis from the same vendor within a specified time-frame including purchases under State Price Agreements and approved GSA agreements.

It is unlawful to divide purchases into two (2) or more orders to circumvent the limits of the Procurement Code and procedural requirements stated above.

508 Cash Disbursement, Signatory Authority and Security of Checks

Cash disbursements shall be for the following transactions:

- Invoices for goods and services received;
- Employment of casual or other labor not under the School Personnel Act;
- Contracts for professional services;
- Payroll disbursements; and
- Requests for reimbursements or authorized advancements.

Approval of Vouchers. In order to assure timely payment of REC financial obligations and in fairness to REC vendors, the Executive Director is authorized to approve vouchers for payment prior to a Council meeting. A summary listing of such vouchers shall be presented to the Council at its next regular meeting for ratification and entry in the Council minutes.

Cash Reconciliation. All REC bank accounts shall be reconciled monthly by the REC business manager or their designee.

Separation of Duties. The Executive Director shall establish procedures to assure required segregation of duties between A/P processing and payroll processing and other internal controls as required by the PED PSAB2.

Security of Checks. All warrants shall be stored in a fireproof locking vault or cabinet.

The Council delegates signatory authority for all checks for the REC to the Executive Director, or an appointed designee. The Executive Director, or designee, are prohibited from being issued blank checks for their own discretion.

509 Payroll

Payroll period shall be in accordance with the annually adopted State of New Mexico payroll schedule.

510 Fixed Assets Inventory

The Executive Director or designee shall maintain a fixed assets inventory of all items over \$1,000 in a format that meets state laws and audit requirements. Additional inventory information required for purchases made using federal grant funding shall also be maintained.

A separate inventory of all supply assets valued under \$1,000 shall be maintained for accountability purposes.

Such inventories shall remain current and will be available at all times. The Executive Director shall provide member districts an annual summary of such inventory.

511 Salvageable Materials

The REC's procedures for the accumulation and disposition of salvageable materials shall be in accordance with federal law and NMSA 1978, §§ 13-6-1 and 13-6-2.

For purpose of this policy, the term "salvageable materials" shall mean materials, equipment, or items of tangible personal property owned by the REC which have a current resale value of any amount and which are worn out, unusable or obsolete to the extent that the item(s) is no longer economical or safe for continued use by the REC. The term shall include materials or equipment from construction or renovation projects which have resale or salvage value and which have not been contracted for salvage or disposition to private entities.

Council approval by resolution and affidavit is required for the disposition of salvageable materials with a current resale value of five thousand dollars (\$5,000) or more.

The Council designates the Executive Director, the Business Manager and the Procurement Officer as committee members who shall approve and oversee such disposition and assure compliance with the procedural and approval requirements of NMSA 1978, § 13-6-1 and NMSA 1978, § 13-6-2. All dispositions of salvageable materials require the written approval of committee, who shall assure that reporting of such dispositions is made in accordance with federal and state statutes, rules and regulations.

All cash or other consideration received from the disposition of salvageable materials shall be handled directly by or be delivered immediately upon receipt to the Business Manager or designee, who shall account for such as required by federal and state statutes, rules and regulations.

Legal Reference: 34 C.F.R. §80.32
 NMSA 1978, §§ 13-6-1 (2013), 13-6-2 (2007)
 PSAB Supplement 12

512 Asset Insurance

The Executive Director shall assure that adequate insurance purchased and maintained on REC property to protect the investment and interests of the Council and REC.

513 Financial and Compliance Audits

The New Mexico State Auditor requires that all state agencies maintain adequate accounting records, prepare financial statements in accordance with Generally Accepted Accounting Principles (GAAP), and cooperate with an approved Independent Public Accountant (IPA) by providing to the IPA in a timely manner the information the IPA requires to express an opinion on the REC's financial statements.

The REC shall annually contract with an IPA to perform a financial compliance audit as required by the State Auditor. The audit report will be formally accepted by the Council at a regular meeting and a copy of the approved audit shall be forwarded to the PED by the date specified in the current rules adopted by the State Auditor.

The Executive Director shall present a statement of financial condition at each regular meeting of the Council, or at the discretion of the Executive Director or upon the request of the Council.

514 Charge Backs

The REC shall adhere to the PED PSAB Supplement 7 regarding Cash Controls. The Executive Director shall be responsible for ensuring a procedure is developed and implemented for creating an allowance for charge backs/bad debt, creation of an Insufficient Funds Subsidiary ledger and to remove such debt from accounts receivable.

The Executive Director shall assure a monthly review of accounts receivable and assure any receivable that is 30-days past due is sent a reminder. Any account over \$1,000 that is considered delinquent shall be presented to the Council for consideration of further action.

515 Purchasing Card

The purpose of this Purchasing Card Policy is to set forth the requirements for accountability and compliance for all expenditures related to the procurement of goods and services related to the use of an REC Purchasing Card. This Policy sets forth the minimum requirements and in no way limits the authority of the Executive Director in establishing internal controls and procedures which exceed these minimum standards.

The REC Purchasing Card may only be used as follows:

- For official purchases in compliance with all state laws and Council policy, and where applicable federal laws and regulations;
- To purchase non-restricted commodities directly from vendors; and
- When a vendor will not accept an REC issued purchase order;

The Purchasing Card is not intended to circumvent the REC designated purchasing, approval or payment process.

A Purchasing Card shall be issued in the Executive Director's name, or designees approved by the Executive Director, and the "Region Education Cooperative" clearly indicated on the card.

The Cardholder must use the Purchasing Card for REC business purposes only. The Purchasing Card may not be used for unauthorized or prohibited purchases and services, or personal purchases of any kind. Monthly recurring charges are not allowed on the Purchasing Card. Misuse of the card

will subject Cardholder to disciplinary action in accordance with REC Policies and the School Personnel Act.

The Executive Director shall develop internal controls and procedures to establish the following:

- Cardholder responsibilities;
- Purchasing Card Administrator Responsibilities;
- Acceptable Purchasing Card Purchases;
- Unacceptable Purchasing Card Purchases;
- Purchasing Card Termination;
- Lost, Misplaced or Stolen Purchasing Cards;
- Disputes and Billing Errors;
- Security and Storage of Purchasing Card; and
- Card Holder Liability.

516 Use of NWREC Owned Vehicles

NWREC owned vehicles should at no time be used for private or personal business other than for commuting or de minimis personal use (e.g. a stop for a personal errand on the way between a business delivery). If an NWREC vehicle is used for commuting, the IRS Regulation will be applied. The NWREC employee will reimburse the NWREC at the rate under the applicable federal mileage rate.

517 Records Retention and Disposition

The REC is subject to the State Records Act and the rules adopted by the Commission for Public Records. The Executive Director is responsible for ensuring REC staff adheres to all applicable rules related to the records created and received by the REC. The Executive Director shall ensure all financial records and appropriate programmatic documents are protected from fire and theft.

Records shall be retained as directed by applicable federal and state laws and relevant rules and regulations. Disposition of records shall only be in accordance with the Public Records Act and the rules adopted by the Commission of Public Records.

600 CONDUCT, ETHICS, AND PROFESSIONALISM

601 - Standards of Conduct

The Governing Council of the Regional Education Cooperative hereby adopts Title 6, Chapter 60, Part 9 of the New Mexico Administrative Code -Code of Ethical Responsibility of the Education Profession as the standards of conduct by which all REC employees are required to conduct themselves. It is further the policy of REC that in addition to the above-referenced state rule, all REC employees are required to comply with all written policies, regulations, rules, or procedures established by the Public Education Department, the Governing Council, the Executive Director and employee's supervisor; and the lawful written or oral orders, requests, or instructions of administrative authorities.

602 - Nepotism

The Governing Council and the Executive Director shall avoid the initial employment or approval of initial employment of any person who is related by consanguinity or affinity within the third degree of any member of the Governing Council or the Executive Director. The Governing Council may waive the nepotism rule, but shall not authorize direct supervision of such family member.

603 - Conflict of Interest

Employees of Region Education Cooperative are expected to maintain the highest standards of conduct and give their full attention to their employment responsibilities at Region Education Cooperative and its member districts and institutions.

Various situations can create the potential for interfering with the physical performance of an employee's duties, or for bringing employee's personal interests or the interests of some other person, group or entity into conflict with Region Education Cooperative's best interests. All Region Education Cooperative employees are expected to avoid situations or relationships, which interfere with their ability to perform their duties.

a. Outside Employment:

The Governing Council expects all Region Education Cooperative employees to give their assigned employment responsibilities priority, this may include working overtime. Therefore, outside employment shall not interfere with the effective performance of an employee's job related responsibilities, shall not compromise the Region Education Cooperative, and shall not create a conflict of interest. Accordingly, the following rules shall govern any outside employment.

1. Employees shall not perform any duties related to outside employment during regular working hours or within other assigned job-related schedules.
2. Employees may not accept employment from or render any services for any outside person, firm, group or entity if such employment or service:
 - i. Physically impairs the proper discharge of the employee's official duties;
 - ii. Creates or tends to create a conflict between the interests of the cooperative and the employee's personal interests or the interests of the outside person, firm, group or entity; or
 - iii. Violates the Governmental Conduct Act or any other state or federal laws.
3. Any employee who has employment outside the REC, shall, pursuant to NMSA 1978, § 10-16-4.2 (2011), complete a Financial Disclosure Statement and submit the completed form to the Human Resources Department within 5 days of accepting such employment. Forms are available at the Human Resources Office. State employees with financial interests that may be affected by their employment or service, but who are otherwise not required to file, shall submit a completed Financial Disclosure Statement to the Human Resources Office prior to entering employment and during the month of January every year thereafter.
4. Employment with the REC may be terminated if an employee fails to submit a Conflict of Interest form or outside employment violates state or federal laws or interferes with the employee's ability to perform the duties of their current job.

b. Gifts and Gratuities:

The federal Anti-Kickback Act of 1986 prohibits those involved in government contracting, using federal funds, from offering, accepting, or attempting to accept inducements for favorable treatment in awarding contracts for materials, equipment, or services of any kind. The New Mexico Governmental Conduct Act, NMSA 1978, § 10-16-1 et. Seq., further prohibits employees from taking official action or accepting gifts for the primary purpose of enhancing the employee's financial interest or financial position. Therefore, employees of the REC are prohibited from accepting anything of material value from companies, organizations or individuals doing business with the cooperative. Employees are further prohibited from accepting anything of material value from any other individual, organization or company, which might compromise or reasonably appear to influence the exercise of independent judgment in the performance of official duties for the cooperative.

c. Employee Business Dealings with REC:

To foster public confidence in REC and to ensure fidelity to the mission of the member districts and institutions, it is essential that no employee of the REC be permitted to exploit the employment relationship for personal financial gain beyond his or her authorized compensation. Even a suspicion of such exploitation is sufficient to erode public confidence in the REC. The Governing Council accordingly adopts the following guidelines to guard against such eventualities.

1. General Policy: NMSA 1978, § 22-21-1, broadly prohibits employees from profiting, even indirectly with their employing agencies, beyond the basic employment relationship. Any person violating any provision of this section is guilty of a fourth-degree felony under the Criminal Code [NMSA 1978, 30-1-1 et. Seq]. Furthermore, the New Mexico Public Education Department may suspend or revoke the licensure of a licensed school employee for violation of this section. Except for authorized, special services as provided below or allowable overtime compensation, it is the policy of the REC that no employee of Region Education Cooperative shall, directly or indirectly, receive or seek to receive any monetary gain from business dealings with or work for the cooperative beyond their official employment compensation. This policy shall govern despite the potential for a technically legal sale to the cooperative in the regular course of an employee's business under the exceptions provided in NMSA 1978, § 22-21-1B.
2. Special Contracts for Extra Duties: NMSA 1978, § 22-21-1B, exempts from the statute's general prohibitions "cases in which school instructors or school administrator's contract to perform special services with the district with which they are employed during time periods wherein service is not required under a contract for instruction, administration or other employment." For the purpose of this section, Special Contracts does not include stipends for extra duties during the work day. The Executive Director, may authorize special services contracts when such action seems appropriate to meet a particular need. However, no special services contract shall be authorized in any situation:
 - I. Where the additional responsibilities would interfere physically with the proper performance of the employee's primary duties; or
 - II. Where the additional responsibilities would create a conflict of interest with or tend to influence the employee's exercise of independent judgment in the performance of their primary duties, or where the potential for the appearance of such a conflict or influence reasonably exists.
3. Paid Services: To assure all students/families receive reasonable assistance without charge from their service providers and to avoid the potential for conflicts of interest, no service

provider may receive any pay or anything of material value directly from any student/family who is assigned to the service provider's caseload.

4. Professional Research and Publishing: The Governing Council considers that the Region Education Cooperative has proprietary rights to publications, instructional materials, and other devices prepared by employees of the REC during their paid work time. However, the Governing Council also recognizes the importance of encouraging writing research, and other creative endeavors by employees as an aspect of their professional development. Therefore, when original materials are developed by employees or staff committees during working time or as part of regular or special assignments for which they are paid, the REC will retain exclusive rights regarding publication or reproduction but will clearly acknowledge the contributions of the employee(s) who developed the materials. When proprietary rights are reasonably in doubt, such as when original materials have been developed partly on work time and partly and demonstrably on an employee's own time, appropriate allocations of rights may be negotiated with the Governing Council's approval.

d. Annual Code of Conduct:

Pursuant to NMSA 1978, § 22-2B-3 (A), the REC is deemed to be an individual state agency that is administratively attached to the Public Education Department (PED). Therefore, at the beginning of each calendar year all REC employees shall review and acknowledge receipt of the Code of Conduct issued by the Governor, under NMSA 1978, § 10-16-11 The signed acknowledgement form shall be retained within each employee's personnel file.

Legal Reference: NMSA 1978, § 22-21-1; NMSA 1978, § 10-16-4.2; NMSA 1978, § 22-2B-3 (A); NMSA 1978, § 10-16-4.2; NMSA 1978, § 10-16-1 et. Seq.; NMSA 1978, § 30-1-1 et. Seq.

604 - Confidentiality

All REC employees shall receive training and instruction regarding the requirements of the Family Educational Rights and Privacy Act (FERPA) and the Individuals with Disabilities Education Act (IDEA). It is essential for staff and special service staff to be committed to confidentiality and all FERPA/IDEA requirements. Interns and substitutes shall be provided information explaining their responsibility under FERPA/IDEA and shall only have access to student records when there is a legitimate educational interest.

The Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. 1232g; 34 CFR part 99) is a federal law that protects the privacy of student education records. The law applies to all educational agencies and institutions that receive funds under an applicable program of the U.S. Department of Education, which includes the REC. FERPA protects the privacy of a student's "education records," including information contained within education records. The Individuals with Disabilities Education Act (IDEA) (20 U.S.C. 1412(a)(8); 1417(c); 34 CFR part 300) also provides protections and rights with regard to special education records.

FERPA gives parents certain rights with respect to their children's education records. These rights transfer to the student when he or she reaches the age of 18 or attends a school beyond the high school level. Students to whom the rights have transferred are "eligible students." Parents or eligible students have the right to inspect and review the student's education records maintained by the REC, unless the REC has been provided with evidence that there is a court order, state statute, or legally binding document relating to such matters as divorce, separation, or custody that specifically revokes these rights.

For student records governed by this policy, the REC designates as its custodian of records for currently enrolled students and students who have withdrawn or graduated, the Executive Director. For special education records governed by this policy, the REC designates as its custodian of records, the Executive Director or designee.

Definitions:

- A parent means a parent of a student and includes a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or a guardian.
- An eligible student is a student who is either 18 years old or attends a postsecondary school. Once a student reaches 18 years of age or attends a post-secondary school, the parents' rights transfer to him/her.
- Directory information is information contained in the education records of a student that would not generally be considered harmful or an invasion of privacy if disclosed. "Directory information" may include information such as name, address, telephone listing, degrees, honors and awards received, grade level, participation in officially recognized activities and sports, and dates of attendance. The Council through this policy has determined what constitutes directory information.
- Educational records are those records that are:
 - Directly related to a student; and
 - Maintained by an educational agency or institution or by a party acting for the agency or institution.
- Educational records does not include:
 - Records that are kept in the sole possession of the maker, are used only as a personal memory aid, and are not accessible or revealed to any person except a temporary substitute for the maker of the record;
 - Records of the law enforcement unit of an educational agency or institution that are created and maintained by law enforcement for law enforcement purpose.
- Disclosure means to permit access to or the release, transfer, or other communication of personally identifiable information contained in education records to any party, by any means, including oral, written, or electronic means. Personally identifiable information includes direct identifiers, such as a student's name or identification number, and the name of the student's parent or other family members; indirect identifiers, such as a student's date of birth, place of birth, and mother's maiden name. Personally identifiable information also includes other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty; and information requested by a person who the REC believes knows the identity of the student to whom the education record relates.
- School official means:
 - An employee or agent of the REC, including an attorney, a consultant, a contractor, a school resource officer, and any outside service provider used by the REC to perform institutional services.
 - An employee of a facility with which the REC contracts for placement of students with disabilities and a contractor retained by a facility with which the REC contracts for placement of students with disabilities.

The REC shall comply with a request for access to educational records within a reasonable period of time, but not more than 45 days after it has received the request. The REC shall also respond to reasonable requests for explanations and interpretations of the records.

The REC is not required to provide copies of records unless, for reasons such as great distance, it is impossible for parents or eligible students to review the records or the REC is not able to make other arrangements to view the records. The REC may charge a fee for copies that is consistent with the New Mexico Inspection of Public Records Act, unless charging the fee would prevent the parent or eligible student from exercising the right to inspect and review the student's educational records.

If the educational records of a student contain information on more than one student, the parent or eligible student may inspect and review or be informed of only the specific information about that student.

Parents or eligible students have the right to request that a school amend records which they believe to be inaccurate, misleading or in violation of the student's rights of privacy. If the REC decides the information is inaccurate, misleading or otherwise in violation of the privacy rights of the student, the REC shall amend the record and notify the parent or eligible student of the amendment in writing. If the REC decides not to amend the record, the REC shall inform the parent or eligible student that they have the right to a hearing. After the hearing, if the REC decides the information is inaccurate, misleading or otherwise in violation of the privacy rights of the student it shall amend the record and notify the parent or eligible student of the amendment in writing and if the school still decides not to amend the record, the parent or eligible student has the right to place a statement with the record setting forth his or her view about the contested information.

The hearing must, at a minimum, meet the following requirements:

- The REC shall hold a hearing within a reasonable time;
- The REC shall give the parent or eligible student notice of the date, time and place reasonably in advance of the hearing;
- The hearing may be conducted by any individual, including an official of the REC, who does not have a direct interest in the outcome of the hearing;
- The parent or eligible student shall have a full and fair opportunity to present evidence relevant to the issues raised and they may, at their own expense, be assisted or represented by one or more individuals of their choice, including an attorney;
- The REC shall make its decision in writing within a reasonable period of time after the hearing; and
- The decision must be based solely on the evidence presented at the hearing, and must include a summary of the evidence and reasons for the decision.

Generally, the REC must have prior written consent from the parent or eligible student in order to disclose any information from a student's education record. The written consent must:

- Specify the records that may be disclosed;
- State the purpose of the disclosure; and
- Identify the party or class of parties to whom the disclosure may be made.

When a disclosure is made the parent or eligible student may request and the REC shall provide a copy of the records disclosed. Signed and dated written consent may include a record and signature in electronic form that identifies and authenticates a particular person as the source of the electronic consent and indicates the person's approval of the information contained in the electronic consent.

FERPA allows the REC to disclose such educational records, without consent, to the following parties or under one or more of the following conditions (34 CFR § 99.31):

- School officials with legitimate educational interest;
- Other schools to which a student seeks or intends to enroll;
- Specified officials for audit or evaluation purposes;
- Appropriate parties in connection with financial aid to a student;
- Organizations conducting certain studies for or on behalf of the school;
- Accrediting organizations;
- Parents of a student who is not eligible, the student, or the parent of a dependent student, as defined in the Internal Revenue Code;
- To comply with a judicial order or lawfully issued subpoena;
- Appropriate officials in cases of health and safety emergencies;
- The disclosure is designated as directory information;
- Subject to certain requirements, the disclosure is to a victim of an alleged perpetrator of a crime of violence or a non-forcible sex offense;
- The disclosure concerns sex offenders and other individuals required to register under the Violent Crimes Control and Law Enforcement Act; and
- State and local authorities, within a juvenile justice system, pursuant to New Mexico laws. Children's health, education, and social service records may be disclosed to related service staff, special consultants, and authorized reviewers on a "NEED TO KNOW" basis.

The REC must maintain a record of each request for access to and each disclosure of personally identifiable information from the educational records of each student. This record shall be maintained so long as the records are maintained. Each request or disclosure must include:

- The parties who requested or received the records; and
- The legitimate interests the parties had in requesting or obtaining the records.

The REC must maintain the following information when it discloses personally identifiable information from educational records under the health and safety emergency exception:

- The articulable and significant threat to the health or safety of a student or other individuals that formed the basis for the disclosure; and
- The parties to whom the REC disclosed the information.

The REC shall annually notify parents students currently in attendance, or eligible students currently in attendance, of their rights under FERPA and said declaration shall be published annually on the REC website and in all student and parent handbooks. The REC shall effectively notify parents who are disabled and parents of students who have a primary or home language other than English.

The notice must inform parents or eligible students that they have the right to:

1. Inspect and review the student's education records;

2. Seek amendment of the student's education records that the parent or eligible student believes to be inaccurate, misleading, or otherwise in violation of the student's privacy rights;
3. Consent to disclosures of personally identifiable information contained in the student's education records, except to the extent that the Act and 34 C.F.R. 99.31 authorize disclosure without consent; and
4. File with the U.S. Department of Education a complaint under 34 C.F.R. 99.63 and 99.64 concerning alleged failures by the district to comply with the requirements of the Act and 34 C.F.R. part 99. C.

The notice must include all of the following:

1. The procedure for exercising the right to inspect and review education records.
2. The procedure for requesting amendment of records.
3. The criteria for determining who constitutes a school official and what constitutes a legitimate educational interest for disclosing education records to such officials without parent or eligible student consent consistent with FERPA and this policy.
4. A statement that notifies the parent or student that REC forwards education records on request of the other school to such officials.

The FERPA annual notice of rights shall also include the directory information notice containing the types of information the Council has designated as directory information, the procedures that parents and eligible students may take to request that the REC not disclose directory information about them, and the period of time within which a parent or eligible student has to notify the REC that he or she does not want any or all of those types of information designated as directory information.

The REC may disclose directory information to third parties without parent or eligible student consent if it has given annual notice as required by this policy of the types of information which it has designated as "directory information," the parent's or eligible student's right to restrict the disclosure of such information, and the period of time within which a parent or eligible student has to notify the REC in writing that he or she does not want any or all of those types of information designated as directory information.

The REC designates and classifies directory information into two separate categories as follows:

1. Items for use only for REC sponsored purposes: All REC publications and announcements, as well as communications with vendors whom the REC has a contractual relationship for providing goods and services to students. Directory information includes student name, address, telephone listing, electronic email address, photograph, date of birth, major field of study, degrees, honors, awards, dates of attendance, grade level, enrollment status, participation in officially recognized activities and sports, weight and height of members of athletic teams, and student identification number or identifiers that cannot be used alone to gain access to electronic education records.
2. Items for all other purposes – Directory information shall include student name, address, photograph, degrees, honors, awards, grade level, enrollment status, participation in officially recognized activities and sports, and weight and height of members of athletic teams.

A school official shall be allowed access to student records without parent or eligible student consent if he or she has a legitimate educational interest in the records. A school official has a legitimate educational interest in a student's records when he or she is:

- Working with the student;
- Considering disciplinary or academic actions, the student's case, or an individualized education program for a student with disabilities;
- Compiling statistical data;
- Reviewing an education record to fulfill the official's professional responsibility; or
- Investigating or evaluating programs.

All contractors, or other parties to whom the REC has outsourced institutional services or functions, provided with student records shall remain under the direct control of the REC with respect to the use and maintenance of personally identifiable information from education records and shall follow the same rules as employees concerning the privacy of the records.

Volunteers in the service programs are general prohibited from reviewing records other than those of their own children; unless the Executive Director or designee has determined there is a legitimate educational interest. Volunteers will sign a confidentiality agreement prior to volunteering in educational programs.

The REC shall comply with the Federal Child Abuse Prevention and Treatment Act (CAPTA) and New Mexico's Abuse and Neglect Act, NMSA 1978, Section 32A-4- 3(E). Under CAPTA and New Mexico's Abuse and Neglect Act, notwithstanding FERPA, a law enforcement agency or the New Mexico Children Youth and Families Department shall be given access to any of the records pertaining to a child abuse or neglect case maintained by a registered nurse, a visiting nurse, a schoolteacher, a school official, or a social worker acting in an official capacity, except as otherwise provided in the Abuse and Neglect Act.

The Executive Director, or designee, shall be responsible for ensuring the confidentiality of any personally identifiable information in records of students in special education. The REC shall comply with a request by parents to inspect and review their child's special education records without unnecessary delay and before any meeting regarding an IEP, or any special education due process hearing or resolution session, and in no case more than 45 days after the request has been made.

All confidential files shall be maintained in a locked file cabinet or using approved data security measures. A paper or electronic access sheet shall be maintained for authorized staff to sign-in and sign-out.

Staff working in programs requiring confidentiality of medical records must also adhere to the Health Insurance Portability and Accountability Act (HIPPA) and regulations as well as FERPA requirements.

Legal Reference: Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g; 34 CFR Part 99; Inspection of Public Records Act, NMSA 1978, 14-2-1 et seq.

605 - Staff and Student Relations

Staff members of Region Education Cooperative are encouraged to take a sincere, professional interest in students. However, professional ethics require that staff members avoid social situations through which they could exploit their positions of authority over students.

- Staff shall not discriminate or permit students within our control, supervision or responsibility to discriminate against any other student on the basis of race, age, color, national origin, ancestry, spousal affiliation, physical or mental handicap, sex, pregnancy, sexual orientation, gender identity, disability, religion, or serious medical condition;
- Staff shall avoid using our positions to exploit or unduly influence a student into engaging in an illegal act, immoral act, or any other behavior;
- Staff shall tutor students only in accordance with their designated job duties and REC policies and shall not tutor students outside of their REC duties, without written permission from the student's parent(s)/legal guardian;
- Staff shall not give a gift to any one student unless all students situated similarly receive or are offered gifts of equal value for the same reason;
- Staff shall not lend a student money except in clear and occasional circumstances, such as where a student may go without food or beverage or be unable to participate in a school activity without financial assistance;
- Staff shall not have inappropriate contact with any student, whether or not on school property, which includes but is not limited to:
 1. all forms of sexual touching, sexual relations or romantic relations;
 2. inappropriate touching which is any physical touching, embracing, petting, hand-holding, or kissing that is unwelcome by the student or is otherwise inappropriate given the age, sex and maturity of the student;
 3. any open displays of affection toward mostly-boys or mostly-girls; and
 4. offering or giving a ride to a student unless absolutely unavoidable, such as where a student has missed his/her usual transportation and is unable to make reasonable substitute arrangements;
- Staff shall not interfere with a student's right to a public education by sexually harassing a student or permitting students within our control, supervision or responsibility to sexually harass any other student, which prohibited behavior includes:
 1. making any sexual advances, requests for sexual favors, repeated sexual references, any name calling by means of sexual references or references directed at gender-specific students, any other verbal or physical conduct of a physical nature with a student even where the licensed educator believes the student consents or the student actually initiates the activity, and any display/distribution of sexually oriented materials where students can see them; and
 2. creating an intimidating, hostile or offensive work/school environment by at a minimum engaging in any of the prohibited behaviors set forth above.

Legal Reference: 6.60.9.9 NMAC

606 - Child Abuse Reporting

Each and every REC employee who knows or has a reasonable suspicion that a child is an abused or a neglected child must report the matter immediately to:

- a local law enforcement agency;
- the Children, Youth and Families Department (CYFD); or

- a tribal law enforcement or social services agency for any Indian child residing in Indian country.

The law states: that every person, including a licensed physician; a resident or an intern examining, attending or treating a child; a law enforcement officer; a judge presiding during a proceeding; a registered nurse; a visiting nurse; a schoolteacher; a school official; a social worker acting in an official capacity; or a member of the clergy who has information that is not privileged as a matter of law must report. Any person who violates the provisions of this law are guilty of a misdemeanor and may be subject to disciplinary action, up to and including termination or discharge.

The following may signal the presence of child abuse or neglect.

The child:

- shows sudden changes in behavior or school performance;
- Has not received help for physical or medical problems brought to the parents' attention;
- Has learning problems (or difficulty concentrating) that cannot be attributed to specific physical or psychological causes;
- Is always watchful, as though preparing for something bad to happen;
- Lacks adult supervision;
- Is overly compliant, passive, or withdrawn; and
- Comes to school or other activities early, stays late and does not want to go home.

The Parent/Legal Guardian:

- Shows little concern for the child;
- Denies the existence of-or blames the child for-the child's problems in school or home;
- Asks teachers or caregivers to use harsh physical discipline if the child misbehaves;
- Sees the child as entirely bad, worthless or burdensome;
- Demands a level of physical or academic performance the child cannot achieve; and
- Looks primarily to the child for care, attention and satisfaction of emotional needs.

The parent/legal guardian;

- Rarely touch or look at each other;
- Consider their relationship entirely negative; and
- State that they do not like each other.

For additional information related to the signs of physical abuse, neglect, sexual abuse and emotional maltreatment go to www.childwelfare.gov.

An employee or service provider with a legal duty to inform third parties or authorities if a client poses a threat to himself or herself or another identifiable individual, pursuant to licensure - certification or a code of ethics, shall also report such information as authorized by law.

A person making a report in good faith is immune from civil and criminal liability. The Head Start program holds confidential any reports to CYFD, both for the reporter and the child/family involved. A report of suspected abuse is only a request for an investigation. The person making the report does not need to prove the abuse. If additional incidents of abuse occur after the initial report has been made, make another report. It is recommended that the appropriate district superintendent and the REC Executive Director, or designee also be notified in writing as soon as possible.

Legal Reference: NMSA 1978, 32A-4-3

607 - Unlawful Conduct: Harassment and Violence

a. General Statement

Unlawful discrimination, harassment or violence because of race, color, national origin, ancestry, sex, age, physical or mental handicap, disability, equal compensation, genetic information, pregnancy, serious medical condition, sexual orientation, gender identity, spousal affiliation, religion, and any other protected class, as well as retaliation against persons, who file a complaint, is illegal and will not be tolerated by the REC.

The REC is committed to creating and maintaining a learning and working environment for employees that is free from all forms of discrimination, harassment, violence and retaliation. This policy applies to all REC officers and employees, substitutes and paid or unpaid interns as well as applicants, all of which are referred to in this policy as “employees”, (regardless of immigration status), and prohibits conduct described in this policy whether engaged in by fellow employees, including by a supervisor or manager, or by someone not directly connected to REC (e.g., an outside vendor, consultant, grantee, partners, education programs or visitor). REC encourages the reporting of all incidents of unlawful discrimination, harassment, violence or retaliation, regardless of who the offender may be.

With regard to non-employees, the protections and prohibitions against sexual harassment as set forth in this policy apply to non-employees who provide services to REC (including contractors, subcontractors, vendors, and consultants) while they are on REC premises and/or while engaged in conducting business for or on behalf of REC.

Conduct prohibited by this policy is unacceptable in the workplace and in any work-related setting outside the workplace, such as during business trips, business meetings and business-related social events or parties. Calls, texts, emails and social media usage by employees in violation of this policy may constitute unlawful workplace harassment, even if they occur away from REC premises, on personal devices, or during non-work hours.

The purpose of this policy is to establish procedures employees must follow if they are aware of or subject to discrimination, harassment, violence or retaliation.

Discipline for employees found to have engaged in unlawful discrimination, harassment, violence or retaliation will be in accordance with applicable laws and relevant policies. All contractual agreements shall include a prohibition of unlawful discrimination, harassment, violence or retaliation.

The Executive Director will act promptly to investigate all allegations, formal or informal, verbal or written, of discrimination, harassment, violence or retaliation and discipline or take appropriate action against any REC employee, contractor, vendor, consultant or volunteer who is found to have violated this policy. If the allegation concerns the Executive Director, the Human Resources Director will promptly investigate the complaint.

b. Definitions

Sexual Harassment: Sexual harassment by either an employee or non-employee, can include unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact or other verbal or physical contact or communication of a sexual nature.

Sexual harassment may include but is not limited to:

- Verbal harassment or abuse;
- Pressure for sexual activity;
- Sexually motivated or inappropriate physical contact, other than necessary restraint of pupil(s) by teachers, administrators or other personnel to avoid physical harm to persons or property;
- Sexual behavior or words, including demands for sexual favors, accompanied by implied or overt threats concerning an individual's employment or educational status;
- Sexual behavior or words, including demands for sexual favors, accompanied by implied or overt promises of preferential treatment with regard to an individual's employment or educational status; or
- Behavior or words directed at an individual because of gender.

c. Types of Sexual harassment

- **Quid Pro Quo:** A claim of “quid pro quo” sexual harassment arises when an employer (or one exercising authority delegated by an employer) makes a decision affecting an employee’s job status, based on the willingness or refusal to submit to sexually harassing conduct of the employer. Quid pro quo also occurs when an employee is required to put up with the sexually harassing conduct or a co-employee is required to participate with some other employee, not necessarily the employer (supervisor), in providing sexual favors.
- **Hostile Work Environment:** These claims differ from “quid pro quo” in that the employee was subjected to unwelcome sexual harassment; the harassment occurred because of the employee’s gender employee’s sex; the harassment was sufficiently severe or pervasive to create an abusive work environment affecting a term, condition, or privilege of employment; and the employer knew, or should of known, of the harassment and failed to take remedial action. The harasser can be the victim's supervisor, a supervisor in another area, a co-worker, or someone who is not an employee of the employer, such as a client or customer.

Racial Harassment: Racial harassment consists of physical or verbal conduct relating to an individual's race when the conduct:

- Has the purpose or effect of creating an intimidating, hostile or offensive working environment;
- Has the purpose or effect of substantially or unreasonably interfering with an individual's work performance; or
- Otherwise adversely affects an individual's employment opportunities.

Religious Harassment: Religious harassment consists of physical or verbal conduct which is related to an individual's religion when the conduct:

- Has the purpose or effect of creating an intimidating, hostile or offensive working environment;

- Has the purpose or effect of substantially or unreasonably interfering with an individual's work performance; or
- Otherwise adversely affects an individual's employment opportunities.

Sexual Violence: Sexual violence is a physical act of aggression or force or the threat thereof, which involves the touching of another's intimate parts, or forcing a person to touch any person's intimate parts. Intimate parts include the primary genital area, groin, inner thigh, buttocks or breast, as well as the clothing covering these areas.

Sexual violence may include, but is not limited to:

- Touching, patting, grabbing or pinching another person's intimate parts, whether that person is of the same sex or the opposite sex;
- Coercing, forcing or attempting to coerce or force the touching of anyone's intimate parts;
- Coercing, forcing or attempting to coerce or force sexual intercourse or a sexual act on another, or
- Threatening to force or coerce sexual acts, including the touching of intimate parts or intercourse, on another.

Racial Violence: Racial violence is a physical act of aggression or assault because of, or in a manner reasonably related to race.

Religious Violence: Religious violence is a physical act of aggression or assault upon another because of, or in a manner reasonably related to religion.

Assault consists of:

- An attempt to commit a battery upon the person of another;
- any unlawful act, threat or menacing conduct which causes another person to reasonably believe that he is in danger of receiving an immediate battery; or
- the use of insulting language toward another impugning his honor, delicacy or reputation.

Battery is the unlawful, intentional touching or application of force to the person of another, when done in a rude, insolent or angry manner.

d. Reporting Procedures

An employee or covered non-employee who believes he or she has been the victim of unlawful discrimination, harassment, violence or retaliation or has knowledge or belief of such conduct that may constitute unlawful discrimination, harassment, violence or retaliation, shall report the alleged acts immediately to an appropriate administrator at partner program sites and the Executive Director or Human Resources Manager. Upon receipt of an allegation, the Executive Director or HR Manager may request, but may not insist upon, a written complaint. If the report was given verbally, the Executive Director or HR Manager will personally reduce it to written form within 24 hours. Use of a formal reporting form is not mandatory. However, the REC encourages a written complaint through the use of a complaint form which can be found on the REC website or obtained from the HR Manager

Submission of a good faith complaint will not affect the complainant or reporter's future employment or work assignments.

The REC will respect the privacy of the complainant, the individual(s) against whom the complaint is filed, and the witnesses as much as possible, consistent with its legal obligations to investigate, to take appropriate action, and to conform to any discovery or disclosure obligations.

e. Investigation

The Executive Director, or designee, upon receipt of a report or complaint alleging unlawful discrimination, harassment, violence or retaliation, shall immediately undertake or authorize an investigation. The investigation may be conducted by REC officials or by a third party designated by the Executive Director.

The investigation may consist of personal interviews with the complainant, the individual(s) against whom the complaint is filed, and others who may have knowledge of the alleged incident(s) or circumstances giving rise to the complaint. The investigation may also consist of any other methods and documents deemed pertinent by the investigator.

In determining whether alleged conduct constitutes a violation of this policy, the investigator will consider the surrounding circumstances, the nature of the behavior, past incidents or past or continuing patterns of behavior, the relationships between the parties involved and the context in which the alleged incidents occurred. Whether a particular action or incident constitutes a violation of this policy requires a determination based on all the facts and surrounding circumstances.

In addition, the Executive Director, or designee, may take immediate steps, at its discretion, to protect the complainant, employees or non-employees pending completion of an investigation of alleged unlawful discrimination, harassment, violence or retaliation.

The investigation will be completed as soon as feasible and filed with the HR Manager. If the complaint involves the Executive Director, the report must be filed directly with the Governing Council. The report shall include a determination of whether the allegations have been substantiated as factual and whether there appears to be a violation of this policy.

f. Executive Director Action

Upon receipt of a report, the Executive Director will take appropriate action. Such action may include, but is not limited to, warning, suspension, transfer, remediation, termination or discharge. Action taken for violation of this policy will be consistent with New Mexico and federal law and Governing Council policies.

The result of the investigation of each complaint filed under these procedures will be reported in writing to the complainant by the Executive Director in accordance with state and federal law regarding data or records privacy.

g. Retaliation

The Executive Director will discipline or take appropriate action against any REC employee or non-employee who retaliates against any person who reports alleged harassment, discrimination or violence or any person who testifies, assists or participates in a proceeding or hearing relating to such harassment, discrimination or violence. Retaliation includes, but is not limited to, any form of intimidation, reprisal or harassment.

h. Right to Alternative Complaint Procedures

These procedures do not deny the right of any individual to pursue other avenues of recourse, which may include initiating civil action or seeking redress under state criminal statutes and/or federal law.

i. Harassment and Violence as Abuse

Under certain circumstances, alleged harassment or violence may also be possible abuse under New Mexico law. If so, the duties of mandatory reporting may be applicable. Nothing in this policy will prohibit the Executive Director from taking immediate action to protect victims of alleged harassment, violence or abuse.

j. Dissemination of Policy and Training

This policy will be available to all employees and non-employee and may be accessed on the REC website. The REC will develop appropriate methods of discussing this policy with employees and ensuring non-employees are aware of their responsibilities. The Executive Director will ensure the policy is reviewed at least annually for compliance with state and federal law.

700 - GENERAL EMPLOYMENT PROVISIONS

701 - Equal Opportunity Employment

Region Education Cooperative is an Equal Opportunity Employer and does not discriminate on the basis of race, color, national origin, ancestry, sex, religion, age, disability, serious medical condition, disability, equal compensation, genetic information, pregnancy, sexual orientation, gender identity, veteran status or spousal affiliation in its educational program and activities. This includes, but is not limited to, educational services and any aspect of employment, including hiring, firing, pay, job assignments, promotions, layoff, training, fringe benefits, and any other term or condition of employment.

Legal Reference: Title VI and Title VII of the Civil Rights Act of 1964 as amended; The Pregnancy Discrimination Act; Equal Pay Act; Age Discrimination in Employment Act of 1967 as amended; Americans with Disabilities Act; Title IX of the Education Amendments of 1972; Section 504 of the Rehabilitation Act of 1973; and New Mexico Human Rights Act.

702 – Delegated Hiring Authority

Pursuant to rules of the Public Education Department, the Council shall hire the Executive Director and necessary additional staff. The REC Governing Council delegates authority to the Executive Director to hire necessary additional staff. Specifically, the Executive Director is responsible for making employment decisions based on the best interests of the REC and pursuant to the provisions of the School Personnel Act. The Executive Director shall report employment actions at each meeting of the Council.

703 - Types of Employment

a. Full-time:

These are positions in which the required workweek equals or exceeds the established full-time workweek.

b. Part-time:

These are either long-term or temporary jobs in which the required workweek is less than twenty (20) hours.

c. Temporary:

These positions (whether working part-time or full-time hours) are comparatively short, irregular, infrequent or “as-needed” for a defined limited duration. The required work week may equal that of a full-time position. These positions are “at-will” and may not have access to benefits such as disability, retirement plans or health insurance.

Legal Reference: School Personnel Act, NMSA 1978, §§ 22-10A-1 et seq.
Public School Code, NMSA 1978, Chapter 22
Education Retirement Act, NMSA 1978, 22-11-1 et seq.

704 – Licensed and Unlicensed Classifications

a. Licensed School Administrator:

These positions have an educational and licensure requirement. An applicant must provide an active license from the Public Education Department to be qualified. These employees are required to have an annual contract in writing to include the terms of service and other provisions required by the Public Education Department rules and are exempt from Sections 22-10A-22, 22-10A-23, 22-10A24 and 22-10A-25 of the School Personnel Act.

b. Unlicensed District-wide Management (Unlicensed Administrator):

There is no statutory definition in the School Personnel Act for an unlicensed district-wide manager, but the key legal term in the Act is “performing primarily district wide management functions.” The term district is applicable to the REC. Factors to be considered in determining if the position is an unlicensed management position include the following:

- does the position manage a resource that is used district wide;
- does the position have purchasing authority;
- does the position supervise other employees and have authority to recommend the hiring, termination and discipline of those employees;
- does the position title indicate a district wide responsibility;
- does the position receive a higher salary than non-managerial positions;
- does the position job description require district wide management functions;
- and
- does the position accrue annual and sick leave consistent with other managerial positions?

Positions meeting these factors typically include managers/directors in IT, HR, transportation, and may have the title of administrator. It is important to note that while a person may hold a license from PED, if the position does not require a license, the employee would not be classified as a licensed school administrator; the position would be considered an unlicensed district-wide manager (administrator). These employees are not eligible for annual contracts, are “at-will” and exempt from Sections 22-10A-22, 22-10A-23, 22-10A24 and 22-10A-25 of the School Personnel Act.

c. Licensed School Employee:

These positions are defined in the School Personnel Act as teachers and instructional support providers. Most of these positions require a license from the Public Education Department and have an educational requirement from an institution of higher learning.

Teacher means a person who holds a level one, two or three license and whose primary duty is classroom instruction of supervision, below the school principal level, of an instructional program or whose duties include curriculum development, peer intervention, peer coaching or mentoring or serving as a resource teacher for other teachers. [NMSA 1978, § 22-1-2]

Instructional support provider means a person who is employed to support the instructional program of a school district, including educational assistant, school counselor, social worker, school nurse, speech-language pathologist, psychologist, physical therapist, occupational therapist, recreational therapist, marriage and family therapist, interpreter for the deaf and diagnostician. [NMSA 1978, § 22-1-2]

These employees are salaried, required to have an annual contract in writing to include the terms of service and other provisions required by the Public Education Department rules and may only be discharged for just cause during the term of the contract. [NMSA 1978, § 22-10A-21]

Termination of licensed employees is subject to the School Personnel Act. [NMSA 1978, § 22-10A-21]

d. Unlicensed Employees:

These positions include occupations such as trades, labor, technical and clerical, i.e. custodians, maintenance, cook, bookkeeper, payroll and benefits specialist. These employees are not eligible for annual contracts and after employment for one year can only be terminated for just cause.

Legal Reference: School Personnel Act, NMSA 1978, §§ 22-10A-1 et seq.
Public School Code, NMSA 1978, Chapter 22

705 - Recruitment and Applications

The REC, within the limits of its budget and the approved salary schedule, is committed to the policy of acquiring and retaining the most qualified personnel. Applications are only accepted when a job is advertised in a newspaper and/or REC website. All qualified applicants will become part of the applicant pool and given consideration in filling positions within the REC. Applications, job descriptions and requirements, and salary schedules will be available in the REC personnel office.

706 - Background and Reference Checks

The REC will verify employment history, verify educational credentials and contact personal/professional references for each applicant recommended for employment; including substitutes and temporary employees. Each such applicant will also be subject to a background investigation, based upon fingerprint identification, as a condition for further consideration for employment.

An applicant who has been offered employment shall provide two fingerprint cards or the equivalent electronic fingerprints to the Executive Director, or designee, to obtain the applicant's federal bureau of investigation record. The REC will pay the cost of obtaining a background check for an applicant offered employment.

A volunteer, contractor or contractor's employee who may have unsupervised access to students on school premises shall provide two fingerprint cards or the equivalent electronic fingerprints to the Executive Director, or designee, to obtain the school volunteer, contractor or contractor employee's federal bureau of investigation record. A school volunteer, contractor or contractor's employee may be required to pay for the cost of obtaining a background check. In such cases, permission to volunteer and approval of contracts shall be subject to the satisfactory completion of background checks.

Convictions of felonies or misdemeanors contained in the federal bureau of investigation record shall be used in accordance with the New Mexico Criminal Offender Employment Act; provided that other information contained in the federal bureau of investigation record, if supported by independent evidence, may form the basis for employment decisions.

All offers of employment are contingent upon the satisfactory completion of background investigations. Criminal convictions shall not automatically bar an applicant from obtaining employment with REC, but, pursuant to the Criminal Offender Act, may be the basis for refusing employment.

In accordance with the Head Start Act, Section 648A: Before REC employs an individual for the Head Start program, it will conduct a criminal record check, including fingerprinting, covering all jurisdictions where the grantee provides Head Start services to children.

With regard to existing employees, REC may conduct equivalent background investigations if it becomes aware of facts; circumstances or conduct giving rise to a reasonable suspicion that undisclosed aspects of the employee's background might disqualify him or her to continue in employment with the REC.

Records and any related information shall be privileged and shall not be disclosed to a person not directly involved in the employment decision affecting the specific applicant who has been offered employment, permission to volunteer or a contracting decision affecting the specific applicant, volunteer, contractor or contractor's employee who has been offered employment, a volunteer position or a contract and will have unsupervised access to students on school premises.

Legal Reference: Criminal Offender Employment Act, NMSA 1978, § 28-2-1 et seq.
School Personnel Act, NMSA 1978, § 22-10A-5 and § 22-14-32

707 - Acceptance of Initial Offer of Employment

An applicant who has been offered initial employment or another position, excluding temporary, summer school and federally funded programs approved for less than a year, shall deliver to the Executive Director, or designee, a written acceptance or rejection of employment within five days of the offer or as stated in the offer of employment.

Legal Reference: School Personnel Act, NMSA 1978, § 22-10A-22

708 - Employment Eligibility Verification (Form I-9)

All persons employed on or after November 7, 1986, will be required to verify their identity and employment authorization to work in the United States as required by the United States Immigration and Control Act of 1986. The REC must ensure proper completion of Form I-9 for each individual hired for employment. This includes citizens and noncitizens. Both the employee and an authorized representative of the REC must complete the form. On the form, an employee must attest to his or her employment authorization. The employee must also present the REC with acceptable documents evidencing identity and employment authorization. The REC authorized representative must examine the employment eligibility and identity document(s) an employee presents to determine whether the document(s) reasonably appear to be genuine and to relate to the employee and record the document information on the Form I-9. The list of acceptable documents can be found on the last page of the form. The REC must retain the Form I-9 for a designated period and make it available for inspection by authorized government officers.

Legal Reference: Immigration Reform and Control Act of 1986

709 - FLSA Classification of Positions

The Fair Labor Standards Act, commonly known as the FLSA, establishes standards for minimum wages, overtime pay and exemption therefrom, as well as record keeping requirements and child labor restrictions. With regards to overtime pay, the FLSA requires positions to be classified as exempt or non-exempt. Pursuant to this requirement, REC Human Resource staff shall classify each position when the job description is created, when a vacancy occurs or when duties are changed. The designation of exempt or non-exempt shall be clearly reflected in each job description.

Exempt: Positions may be designated as "exempt" (salaried) under the federally defined Executive, Professional, Administrative, or Computer-Related occupation provisions of the law. Job titles do not determine exempt status. In order for these exemptions to apply, the position specific job duties and compensation must meet all the requirements of the U.S. Department of Labor regulations.

Individuals appointed to exempt positions are paid on a salaried basis and are expected to work the hours necessary to complete the work required of the position. The REC has established core work hours and/or work schedules for exempt employees, however, positions with exempt status are not eligible for overtime or compensatory time.

Non-Exempt: Positions designated as "non-exempt" (hourly) are paid on an hourly basis for hours worked. Such positions are eligible for overtime and/or compensatory time. Additional time and overtime beyond the defined work-week requires prior approval from the program supervisor before the work is performed.

Legal Reference: Fair Labor Standards Act of 1938, 29 U.S.C. §§ 201 -219

710 - Compensatory Time / Overtime

All employees are expected to perform the duties set forth in their job description during the hours set forth in their job description, REC policy or their contract. In order to accrue/use compensatory/overtime an employee must have prior written approval from their supervisor.

Non-exempt employees may be granted compensatory time. Compensatory time may be accumulated up to 30 hours and utilized in accordance with the current procedure or by the end of the employee contract whichever occurs first.

Failure to comply and follow Policy and Procedures will result in disciplinary action, up to and including termination or discharge.

Exempt employees are not entitled to overtime pay or compensatory time. However, it is the purpose of this policy to reflect the Executive Director's intent to recognize an exempt employee's occasional preauthorized extra duty performed beyond the minimum time set forth in their job description, REC policy or their contract. It is not the intent of the Executive Director to compensate the exempt employee hour for hour for extra duty, but rather to recognize that compensatory time may be granted to exempt employees by the Executive Director subject to the rules listed below.

Legal Reference: Fair Labor Standards Act of 1938, 29 U.S.C. §§ 201 -219

711 - Salary Schedules

On an annual basis, prior to the start of a new fiscal year, the human resource manager will prepare salary schedules for each employee classification within the budgetary constraints of anticipated revenues for the review and approval of the Governing Council. These schedules will form the basis for determining the annual salary of employees.

Each employee is responsible for verification of applicable experience and educational credited courses. All verification of education and experience must be in the human resource manager's office by October 1st to be considered on the current year salary schedules. New employees must provide transcripts and proof of work experience within 30 days from their contract date. In order to be counted on current year salary schedules.

Increments for experience may be granted on an annual basis, however, the Executive Director reserves the right to refuse annual increments.

Prior experience in approved settings may be credited on the salary schedule as determined by the Executive Director. A full year's experience may be credited on the salary schedule if approved by the Executive Director; fractional years of experience will be dropped if less than one-half year.

The maintenance and integrity of salary schedules is dependent upon the receipt of adequate federal and/or state funds.

Legal Reference: NMSA 1978, § 22-10A-7, § 22-10A-10, § 22-10A-11 and § 22-10A-39

712 – Re-Employment of Licensed School Employees

On or before fifteen working days prior to the last day of the school year, the Executive Director, or designee, shall serve written notice of reemployment or termination on each licensed school employee employed by the REC; with the exception of Licensed School Administrators. A notice of reemployment shall be an offer of employment for the ensuing school year. A notice of termination shall be a notice of intention not to reemploy for the ensuing school year. Failure of

the Executive Director, or designee, to serve a written notice of reemployment or termination on a licensed school employee shall be construed to mean that notice of reemployment has been served upon the licensed school employee for the ensuing school year according to the terms of the existing employment contract but subject to any additional compensation allowed other licensed school employees of like qualifications and experience.

Each licensed school employee shall deliver to the Executive Director or designee, a written acceptance or rejection of reemployment for the ensuing school year within fifteen days from the following:

1. the date written notice of reemployment is served upon the licensed school employee; or
2. the last day of the school year when no written notice of reemployment or termination is served upon the licensed school employee on or before fifteen working days prior to the last day of the school year.

Delivery of the written acceptance of reemployment by a licensed school employee creates a binding employment contract between the licensed school employee and the Executive Director until the parties enter into a formal written employment contract. Written employment contracts between the Executive Director and licensed school employees shall be executed by the parties not later than ten days before the first day of a school year.

Legal Reference: NMSA 1978, § 22-10A-22, § 22-10A-23, § 22-10A-24 and § 22-10A-25
6.67.2 NMAC

713 - Employee Grievance/Complaint Resolution Procedure

a. Purpose

The purpose of this policy is to provide for the reporting and resolution of legitimate employment-related concerns of the staff members of the NWREC at the earliest possible time and with the least possible expense, disruption and conflict. The Council recognizes that most personnel difficulties encountered by staff members arise from a lack of communication. This procedure is designed to provide a formal mechanism for promoting or restoring such communication so that problems may be resolved before more serious difficulties result.

b. Definitions and Limitations

1. "Grievant" shall mean a staff member who is personally and directly affected by a condition for which he or she seeks a resolution.
2. A "grievance" shall be an allegation by a staff member that the treatment he or she has received from a supervisor is unfair or improper or that there has been a violation, a misinterpretation or an inequitable application of NWREC Official Policy, administrative rules or procedures that directly and adversely affects the grievant. A single grievance may be submitted jointly by more than one grievant.
3. "Resolution(s)" shall be the proposed written decision by the appropriate administration(s), grievance review committee or Council, in response to the grievance.
4. "Parties in interest" shall be the grievant and the supervisor or other staff members(s) of NWREC whose conduct or actions are the subject of the grievance.
5. The following situations are not covered by this grievance procedure and are therefore not grievable under this policy:

- a. The discretionary act(s) of professional judgment relating to the evaluation of the work performance of any staff member by his or her immediate supervisor;
 - b. Any personnel decision by the Council, including, but not limited to, a refusal to re-employ, a discharge, a demotion, or any other action directly and adversely affecting the employment of an staff member;
 - c. Situations in which the Executive Director and the Council are without authority to act;
 - d. Situations in which the remedy for the alleged violation exclusively resides in some person, agency, or authority other than the Council;
 - e. Situations as to which a different procedure within the NWREC is prescribed by state or federal authority;
 - f. Situations as to which a different procedure or remedy has been provided by the Council; and
 - g. Situations involving a grievance by a contractor for the NWREC.
6. A grievance cannot be filed by a former staff member after the effective date of termination or discharge from employment.

c. General Procedural Requirements

1. A grievance must be initiated at Level 1, as provided in Section D, within ten (10) work days of the date upon which the grievant became aware of the circumstances which gave rise to the grievance.
2. No persons shall suffer retaliation, recrimination, discrimination, harassment, or be otherwise adversely affected because of this grievance procedure.
3. Whenever possible, any grievance conference or hearing at any level shall be scheduled during a mutually convenient time that does not conflict with regularly scheduled provision of service.
4. A grievant requiring the attendance and testimony of other employees shall have the right to bring such witnesses as are willing to testify on his or her behalf, and any necessary released time shall be provided and the expense borne by the NWREC when hearings must be scheduled during service time.
5. A separate file shall be maintained by the NWREC for grievances. All documents produced during the processing of a grievance shall be filed herein. All parties shall maintain confidentiality with regard to proceedings and the resolution of the grievance shall not be made public unless agreed to by the grievant and the Executive Director, or unless the grievant pursues the matter beyond this policy. The grievance shall be maintained for one (1) year and access to the file shall be limited to the grievant, the immediate supervisor, the Executive Director, and members of the Council, unless disclosure is required by court order or applicable federal or state law.
6. Nothing contained herein shall be construed to limit in any way the ability of the NWREC and the grievant to resolve any grievance by informal means, and nothing herein shall be construed as requiring resort to the formal procedures when grievable problems arise.
7. A grievant may terminate the process at any level if he or she indicates in writing a desire to do so, accepts the resolution at that level, or fails to pursue his or her grievance by filing at the next level within the specified time limit.
8. All grievances shall be filed and processed on grievance forms prepared by the NWREC and available in the NWREC's administrative office.

9. The time limits at any level may be extended by mutual agreement between the grievant and the supervisor, Executive Director, review committee, or Council.
10. Except as otherwise provide herein, unless a party can demonstrate prejudice arising from a departure from the proceedings established in this policy, such departure shall be presumed to be harmless error.

d. Procedural Steps

Level I (Informal Conference)

Prior to the filing of a formal written grievance, the grievant shall first discuss his or her grievance with his or her immediate supervisor (within ten working days of the alleged incident) in a good faith attempt to resolve the grievance prior to the filing of a formal grievance. In the case of a claim of sexual harassment in which a grievant's supervisor is the subject of the claim, the grievant may initiate the grievance at the next supervisory level above that of the subject supervisor.

Level 2 (Supervisor)

If the grievant is not satisfied with the discussion and disposition of his or her grievance at Level I, he or she may file a written grievance with his or her immediate supervisor within ten days of the disposition. The immediate supervisor shall communicate his or her proposed resolution in writing to the grievant within five (5) workdays from the filing of the written grievance. Although no hearing or conference is required at this level, the immediate supervisor shall have the discretion to require a hearing or conference and gather such evidence prior to the preparation of the decision as he or she, in his or her discretion, feels would assist in any appropriate resolution of the grievance. The hearing or conference, if any, shall be as informal as possible and shall be conducted as the immediate supervisor, in his or her discretion, feels is appropriate for a full understanding of the grievance, the position of the grievant and the evidence supporting that position.

Level 3 (Executive Director)

If the grievant is not satisfied with the resolution of the grievance at Level 2, or if the supervisor fails to issue a proposed resolution within the time limit set forth above, the grievant may file the grievance with the Executive Director within five (5) work days after the resolution was rendered or was due, if none was received. The Executive Director shall conduct a closed informal hearing with the parties in interest to the grievance within five (5) working days after receipt of the grievance. The hearing by the Executive Director shall have the right to ask any questions of the interested parties, as he or she deems necessary. Within five (5) workdays following the hearing, the Executive Director shall render his or her written proposed resolution to the grievant.

Level 4 (Council)

If the grievant is not satisfied with the resolution of the grievance at Level 3, or if the Executive Director fails to issue a proposed resolution within the specified limit, the grievant may make a written request to the Executive Director for a hearing with the Council within five (5) work days after the Executive Director's resolution was rendered or was due, if none was received. At its sole option, the Council may appoint a Grievance Review Committee shall be composed of three (3) persons, one from each of the following staff categories:

1. Certified Instructor - to be selected from either NWREC staff members or participating entity staff members;

2. Administrator - to be selected from either NWREC staff members or participating entity staff members:
3. Non-certified staff member of the NWREC or participating entities.

The members shall be appointed by the Council. The Committee shall select its chairperson prior to the processing of any grievance. The chairperson of the Committee shall schedule an informal hearing within five (5) workdays of receipt of the grievance. If a Committee member is unable to participate in the informal hearing, the chairperson shall designate a substitute from within the employee category of the non-attending member.

The procedure for the hearing shall be as follows:

1. The grievant shall present his/her grievance first, through testimony, witnesses, documents, etc. Cross-examination shall not be allowed by the other party in interest, if any.
2. The other party or parties in interest, if any, shall present their responses to the grievance. Cross-examination shall not be allowed.
3. The committee may ask any questions that it deems necessary.
4. Arrangements to make a taped recording or to keep minutes of the proceeding shall be made by the chairperson. A verbatim written transcript is not required, but any minutes or other written record shall fairly reflect the substance of the hearing.
5. Within five (5) workdays following the date of the hearing, the Committee shall transmit its findings and recommendations for proposed resolutions to the Council. Within (10) workdays, the Council shall accept the recommendations of the Committee by a majority vote or agree to hear the grievance.

The holding of a hearing by the Council is discretionary with the Council, and such decision shall be made by the Council at its next regularly scheduled meeting after receipt of the written request for a hearing. If the Council rules that it is appropriate to hear the grievance, it shall set the date for such hearing and the parties in interest shall be notified by the Executive Director. The parties in interest shall submit written statements of position, which shall be delivered to the Council members at least five (5) workdays prior to the hearing. In addition, any other documentary evidence desired to be reviewed by the Council shall be submitted at that time.

The hearing shall be conducted as follows:

1. Each party in interest to the grievance shall have the opportunity to present oral statements limited to 30 minutes each. The presentation shall be limited to a review of evidence previously presented, unless the Council, in its discretion, allows new evidence to be presented during the hearing. Evidence may not be cross-examined by the other party in interest.
2. If a grievance is a "personnel matters," the hearing may be conducted in an executive session, if the grievant so requests and the Council votes to close the hearing. The grievant may demand that the hearing be held in open session, in which case the hearing must be open.
3. The Council may make such inquiries of any party in interest, as it deems necessary or appropriate.
4. The Council shall render a written decision within a reasonable time. In arriving at its decision, the Council has complete discretion in fashioning such relief, if any, as it believes is appropriate, regardless of the relief requested.

800 - EVALUATION, DISCIPLINE AND DISCHARGE/TERMINATION OF EMPLOYMENT

801 - Supervision and Evaluation

The Executive Director shall be responsible for designing and implementing an effective personnel supervision structure.

The Executive Director shall also maintain a system of evaluation for all personnel in compliance with federal and state laws. Personnel evaluations shall be utilized to monitor employee continued growth and professional development.

Legal Reference: School Personnel Act, NMSA 1978, § 22-10A-1 et seq.

802 - Chain of Command

The NWREC Executive Director reports directly to the Council. All NWREC employees will be responsible to and report to the Executive Director and their direct supervisor as detailed in the official NWREC organizational chart or the applicable contract. When an NWREC employee or contractor is working in another location other than the REC main office, he/she is to follow building/district policies and procedures. If there is a conflict, the employee/contractor should try to resolve the issue(s) with the person involved. If it is not resolved, the REC employee/contractor must inform the Executive Director in writing. The Executive Director will take appropriate and necessary action(s) per REC policies.

803 - Discipline

All REC employees are expected to perform the duties and responsibilities of their positions competently and professionally. All REC employees are also expected to adhere to applicable laws, policies, procedures, and applicable codes of conduct and/or ethics for the specific sites to which each is assigned.

Progressive discipline shall be used whenever appropriate. Progressive discipline can range from a reminder, to an oral or written reprimand, to a suspension or dismissal. There are instances when a disciplinary action, including termination or discharge, is appropriate without first having imposed a less severe form of discipline.

Employment at REC carries a responsibility for each member of the staff to comply with established state and federal laws, rules and regulations, policies and procedures and ethical behavior at all times. Employees will be expected to familiarize themselves with all applicable laws and policies.

Violation of these laws or policies may result in corrective action, which may take the following into consideration:

- All corrective action shall be fair and impartial, and shall conform to all applicable laws;
- Effort will be made to obtain all the facts before any action is taken;
- Corrective action may be a verbal warning, written warning, suspension, termination or discharge - in progressive stages or in a single action- depending upon the facts.

All corrective actions shall be reviewed and approved by the Executive Director. Written copies of all counseling and warnings should bear the employee's signature indicating that the employee

is aware of the action. Signature does not necessarily signify agreement or admission of the action. If the employee refuses to sign, the Executive Director shall initial the action recording the employee's verbal refusal.

The goal of corrective action is typically to correct the action and/or reinforce adherence to the rules. Should an employee continue the violation, additional corrective action may follow depending on the severity of the infraction.

Insubordination means actual or implied willful refusal to follow written policies, regulations, rules, or procedures established by the Public Education Department, the Governing Council, Executive Director, or administrative authorities; or the lawful written or oral orders, requests, or instructions of administrative authorities. Acts of insubordination may be grounds for immediate termination or discharge.

a. Initial Conference Regarding Unsatisfactory Work Performance:

In the event that the immediate supervisor or Executive Director identifies unsatisfactory work performance or any other concern related to an employee's employment with the REC that does not warrant immediate discharge or termination but which requires correction or improvement, the immediate supervisor or Executive Director may conference with the employee individually. Such conference is for the supervisor or Executive Director to identify the nature of the concern or unsatisfactory work performance and to provide the employee with directives, recommendations, reprimands, warnings, or other measures designed to give the employee an opportunity to improve or correct the unsatisfactory work performance or other concerns. Within a reasonable time after the conference, the supervisor or Executive Director will provide to the employee a brief written summary of the nature of the unsatisfactory work performance or other concerns. Such summary may be incorporated into the formal evaluation process and the employee's personnel file.

b. Improvement or Growth Plans

Depending on the nature of the unsatisfactory work performance or other concerns related to the employee's employment with the REC, the immediate supervisor or Executive Director may require the creation and implementation of an Improvement or Growth Plan. Such a plan shall include directives for improvement and timelines. The immediate supervisor or Executive Director shall monitor the progress of the employee's implementation of the plan as appropriate for the position and provide periodic oral or written feedback to the employee regarding such progress.

c. Failure to Improve or insubordination

In the event the employee fails to improve unsatisfactory work performance or is insubordinate, the employee may be provided an opportunity to resign, may be discharged, or may have his or her employment terminated. This policy does not modify the rights of the REC to terminate or discharge an employee in accordance with the School Personnel Act, without warning, conferences, or growth plans, when the Executive Director determines that the employee's conduct warrants immediate termination or discharge.

804 - Reduction in Force (RIF)

The REC reserves the right to initiate a reduction in force of REC personnel if it is in the best interest of the REC. If the Executive Director deems a RIF is necessary and/or appropriate, the

Executive Director will first consider attrition and nonrenewal or termination of probationary employees. Council approval is required for the implementation of a RIF.

a. Definitions for RIF

“Financial exigency” means any event or occurrence that creates a need for the reduction of financial expenditures for personnel including, but not limited to, decreased financial resources, insufficient legislative appropriation or authorization being made by the state or federal government, decreased participation of participating school districts for REC services, or decreased student enrollment.

“Program change” means any decrease or revision of educational programs or services or offerings of the REC, including but not limited to a change in legislation, modification or reorganization of staff, a redirection of financial resources to meet the needs of the member districts, legislative revisions to programs affecting the REC, or reorganization of individual schools or school districts.

“Employment Area” means an individual program, service, function or department within the REC

b. Recommendation and Action by the Governing Council

When a RIF is to be implemented the Executive Director shall prepare a RIF plan for consideration by the Governing Council that includes:

- A detailed description of the cause or causes requiring RIF;
- A description of all adjustments already made by the Executive Director in an attempt to avoid a RIF, if any (e.g. reduction by attrition, cuts in non-licensed staff, abolition of non-essential services or activities, etc.);
- Identification of one or more Employment Areas being recommended for staff reduction;
- Identification of positions within the Employment Area being recommended for staff reduction;
- A designation of non-essential services or activities which are to be retained, with a justification for retaining such programs;
- Whether there are other positions for which licensed individuals are qualified, consistent with the academic necessities of the REC (this provision is not applicable for unlicensed employees);
- Identification of individuals within the Employment Area being recommended for termination or discharge, based on the criteria for selection; and
- A discussion of alternatives (if any) considered by the Executive Director with an explanation as to why such alternatives were rejected.

Upon Council approval of the RIF, affected employees shall be accorded the procedures consistent with applicable termination or discharge requirements as provided by the School Personnel Act.

c. Criteria for Selection

The Executive Director shall identify individuals within the Employment Area being recommended for termination or discharge, based upon the criteria set forth below. These criteria are listed in order of importance. The Executive Director shall apply them sequentially to the extent necessary to identify the employees who least satisfy the criteria and are therefore subject to the reductions; i.e., if all necessary reductions can be accomplished by applying the first criterion, it is not necessary to apply the second criterion.

- Credentials, such as levels of education, licensure and/or certification specifically relevant to the position;
- Placement of licensed school employees in another position has been considered, and there is no other position for which an individual is qualified, consistent with the academic necessities of the REC;
- Length of service or seniority, defined as consecutive length of service in the REC, as measured from the employee's most recent date of hire; and
- Employment performance, based on effectiveness in the position held as reflected in evaluations and other written evaluative information.

d. Council Considerations

The Council shall consider the recommendations of the Executive Director for the adoption of the RIF Plan at the duly called Council meeting, the public notice of which announces that a RIF Plan will be considered. The discussion and action on the Plan shall be in open session; however, nothing herein shall restrict the Council from holding portions of those discussion in closed session, if such discussion would be proper under the New Mexico Open Meetings Act. The Council may allow such review, consultation, and comment by staff members and members of the public, as the Council, in its discretion, deems appropriate, provided that the Executive Director shall be the final decision-maker on the content and scope of the plan after giving due consideration to the Council's proposals.

If a mid-year RIF is proposed which would require the discharge of tenured certified staff, the Executive Director and Council shall adopt a joint determination that as to the projected financial burdens to the NWREC in the future and concluding the NWREC cannot survive financially for the fiscal year already underway, if the RIF is not carried out.

If a RIF plan is adopted, the Council shall not be required to deplete its operational cash balances maintained or carried over as permitted by NMSA 1978 § 22-8-41C, in order to avoid the RIF, if the Council, in its discretion, determines that the cash balance must be maintained at the level determined by the Council, in order to cover other permitted expenditures or as a contingency for unforeseen expenditures or emergencies.

Based upon the RFI plan approved by the Council, the Executive Director shall perform a study of NWREC's personnel to determine which person or persons must be wholly or partially terminated or discharged in order to implement the plan. The primary concern to be applied in making the RIF selections shall be the Council's interest in maintaining a sound and balanced operation, which meets state and federal or regulatory requirements or standards, as well as the educational, and extracurricular program established for the NWREC. In performing the study, the Executive Director shall prepare a rating sheet and apply a point scale using the criteria applicable to the affected personnel specified in the following section.

e. Criteria for Selection of Employees for RIF

Licensed Personnel

Licensing as Qualifications/Substandard Licenses: Substandard licensure is inferior to full licensure, and a person who is fully licensed to provide services within the presently assigned content area shall be retained in preference to a person holding a substandard license.

A person holding a “waiver” of licensure requirements approved by the Public Education Department (per NMSA 1978 Section 22-10A-14B) shall be treated as having substandard licensure for the purpose of this policy, and shall receive zero (0) points for licensure in the survey and on the rating sheet.

A licensed person working in the affected service area pursuant to an “assignment waiver” (per NMSA 1978 Section 22-10A14C), but possessing full licensing in another content area not affected by the RIF shall be allocated five (5) points on the rating sheet.

A person who is fully licensed and teaching in the affected content area shall be allocated ten (10) points on the rating sheet.

Endorsements

Licensed personnel possessing endorsements and/or certifications recognized by the Public Education Department beyond those requested or required as qualifications for the individual’s current assignment of content area shall receive an additional two (2) points per current valid endorsement, up to a maximum of six (6) points.

Extracurricular Licensing/Experience/Assignment

The Council shall also possess the discretion to grant up to, but no more than, three (3) points for current co-curricular assignments, requiring specialized knowledge, training, expertise, or significant time commitment, but for which licensing is not available, in programs or services which the Council has determined to retain as an integral part of its overall program.

No employee may receive in excess of ten (10) total points on the rating sheet for co-curricular assignments. The Administration shall include in the proposed RIF Plan a listing of all co-curricular programs or activities which may be considered for rating points in the proposed RIF rating sheet and the proposed weight to be given to each category of such programs or activities for discussion at the Council meeting at which the RIF is considered.

Service in NWREC

Where cumulative scores on the rating sheet are equal between two or more licensed staff members being considered for termination or discharge, tenured licensed staff members shall be retained in preference to licensed staff members who have been employed by NWREC for less than three consecutive school years of service.

Each licensed individual considered for termination or discharge shall be awarded one (1) point for each year of full time service during the most recent period of uninterrupted service with NWREC, prior to the current year, excluding approved extended leaves of absence, up to a maximum of twenty (20) points.

Tenure Status

Where licensure qualification status is equal between two or more licensed REC staff members being considered for termination or discharge, tenured REC staff members shall be retained in

preference to NWREC staff members who have been employed by the NWREC for less than three consecutive years.

Other Selection Criteria

If two or more individuals are equal or equivalent in certification or licensure and qualification and it is necessary to decide which shall be discharged, the following selection criteria shall be applied.

Service in Region – Each individual considered for discharge shall be awarded one (1) point for each year of full-time service during the most recent period of uninterrupted service with the Regional Educational Center, prior to the current year, excluding approved leaves, up to a maximum of ten (10) points.

Education

The amount of credit for education shall be determined based on degree and additional hours:

- (1) B.A. 1 point
- (2) B.A. + 15 2 points
- (3) B.A. + 45 or M.A. 4 points
- (4) M.A. + 15 6 points
- (5) M.A. + 45 & higher 8 points
- (6) Ed.D. & Ph.D. 10 points

Performance

[Optional-The Executive Director may determine whether this criterion will be used at the time the RIF Plan is approved.]

The current supervisor of each licensed staff member considered for termination or each licensed person considered for discharge shall rate the relative performance of each person on a rating form to be prepared by the Executive Director, or under his/her direction. Such rating form may be based on NWREC’s standard evaluation form(s) rating competencies but may include additional competencies identified by the Executive Director, which reflect his or her judgment as to the attributes necessary for success in the particular program(s) affected by a RIF. The rating form shall include not more than a total of ten (10) standard and specific competency areas, shall specify the score for each performance category or attribute, and shall allow for a maximum score of twenty (20) points. The supervisor(s) may consult with the Executive Director within the time specified for completion of the evaluations.

If different individuals considered for a RIF have different supervisors, the supervisors may consult with each other and/or with the Executive Director to insure that the rating system is applied uniformly. There shall be no requirement of observation of performance by a supervisor specifically for the purpose of completing the rating form; however, each supervisor shall review prior evaluations of the individuals considered for RIF, if available. If a supervisor lacks familiarity with an individual’s performance (e.g., a new supervisor), the Executive Director may assign the evaluation to a supervisor who has greater familiarity with the individual’s performance. The Executive Director may devise such other measures as he or she deems necessary to address with situations where implementation of the performance rating cannot occur in the normal manner, so long as such measures are rationally designed to award points to licensed personnel based on the employee’s performance.

Selection Based on Score

The Executive Director shall total the points allocated based on the criteria specified above. The person with the lowest score shall be the person who is released by termination or discharge unless such action would have a serious and detrimental effect on the total education program. In such event, the Executive Director may select a higher scoring person for termination or discharge but shall prepare a written justification for such action in the best interests of NWREC, along with the rating sheets for such positions. The computations of the Executive Director, plus the rating forms on the persons considered for release, shall be available for review by the person released.

Transfers and Re-assignments

If, as a result of the application of the selection criteria, a person is selected to be released from the affected program, but such person (“the affected person”) is also licensed and qualified for another program(s) within NWREC, the person shall be considered for transfer or re-assignment to such program(s). The fact that there are one or more other licensed staff members within the program affected by the RIF who scored higher than the affected person, and that such person(s) may be licensed and qualified to work in other programs, in other programs in NWREC, shall not require that the higher scoring persons be transferred or reassigned to the other program or programs, even if there is a vacancy in the other program or programs. The transfer/re-assignment obligation shall not arise until after the selection of the person or persons to be released from the program affected by the RIF and shall only apply to the person or persons selected for release. Consideration of transfer or reassignment of the affected person shall be governed by the following criteria:

- **Existing Vacancy:** Once the Executive Director has identified the appropriate employees in the affected area(s), those employees, if not already placed or re-assigned to another position for which they are qualified, may apply for other available positions for which they are qualified. An employee is responsible for reviewing posted vacancies, submitting an application, and otherwise complying with REC procedure to be considered for a particular vacancy.
- **No Existing Vacancy** – Where the affected person is licensed and qualified for another program or programs in the NWREC, but all such positions are currently filled, the selection criteria described above, subject to the modifications described below, shall be applied to determine whether the affected person will be transferred or reassigned to another program and another person, currently employed in the other program, shall be released.
 - If the person is fully licensed for a position in another program or an administrative position but has not actually performed services in such program or held such a position during any part of the preceding five (5) years, such person shall not be considered qualified for transfer or reassignment to the other position.
 - If the Executive Director has observed the person being considered for transfer or re-assignment performing the duties of the other program, it is impractical for the relative performance of the person or persons currently working in the program to be rated based on direct observation. Under such circumstances, the Executive

Director or his/her designee shall make a judgment as to the likely performance of the person being considered for transfer of reassignment and assign the performance score that may be used in the selection process in comparison to the person or persons currently employed in the other program. The Executive Director shall consider the affected person's performance in other programs and his/her knowledge of all persons in the program in question in making the judgment, and may consult with other knowledgeable persons in making this determination.

Each licensed staff member discharged and each tenured staff member terminated pursuant to this policy shall be entitled to the procedural rights provided under the applicable statutes and regulations of the State Secretary of Education governing discharge of licensed personnel or the termination of tenured staff. The written decision of the Executive Director and the Council, to the extent required by statute and regulation from a RIF and not from any cause personal to the person released.

Non-Licensed Personnel

Seniority shall be the primary criterion in determining which noncertified personnel shall be recommended for complete or partial termination in order to implement the RIF Plan. More senior noncertified personnel ordinarily shall be retained in preference to less senior non-certified personnel within the same job category. However, where multiple positions and programs are affected by the RIF, the Executive Director may prepare a rating sheet which includes the following criteria in making the selection:

- Specialized Qualifications/Licenses: Specialized training/certification or licensing directly related to the current job duties of the non-certified employee (e.g. electrician's license held by maintenance employee) may be allocated up to, but no more than, five (5) points.
- Service in NWREC: Each noncertified employee rated shall be awarded one (1) point for each complete year of full-time service during the most recent period of uninterrupted service with NWREC, up to a maximum of twenty (20) points. Periods of extended leave of absence without pay shall not be included.
- Where cumulative scores are equal, tenured, noncertified individuals (those who have completed one (1) year of service in NWREC) shall be retained over non-tenured, noncertified individuals.
- Performance: (Optional – to be used only if directly by Executive Director). If two or more individuals have equal ratings on the above criteria, the current supervisor of each person classified as support staff who is considered for termination shall rate the relative performance of such person on a rating form to be prepared by the Executive Director. Such rating form will be designed based on NWREC's performance evaluation form for non-certified employees. The rating form will allow for a maximum score of twenty (20) points. The forms will be returned to the Executive Director for tabulation.
- Selection Based on Scores: The Executive Director shall total the points for service and performance. The person with the lowest score shall be the person who is released. The computations of the Executive Director, plus the rating forms on the persons considered for release, shall be available for review by the person released.
- Transfer/Reassignments: If, as a result of the application of the selection criteria, a person is selected to be released from the affected program, but such person is tenured and

qualified for another program within NWREC in which a vacancy exists, that person shall be considered for transfer/reassignment to the other program.

- Termination: Each non-licensed employee terminated pursuant to this policy shall be entitled to the procedural rights provided under the applicable New Mexico statutes and regulations governing the termination of non-licensed personnel. The written decision of the Executive Director and the Council, to the extent required by statute and regulation, shall clearly specify that the termination resulted from a RIF and not from any cause personal to the person released.

Legal Reference: NMSA 1978, § 22-10A-22, 22-10A-23, 22-10A-25, 22-10A-27 and 22-10A-28

6.67.3.8 NMAC (2006)

805 - Resignation

Licensed employees may resign by providing the Executive Director or immediate program supervisor with written notice at least thirty (30) calendar days prior to the effective date of resignation.

Unlicensed employees may resign by providing the Executive Director or immediate program supervisor with written notice at least 15 calendar days prior to the effective date of the resignation.

The Executive Director may waive the period of time required for the notice due to extenuating circumstances consistent with the academic or operational necessities of the REC.

Unless the required notice for a licensed employee is waived by the Executive Director, failure to provide such notice shall entitle the REC, at its discretion, to file a written complaint with the Licensing Bureau of the Public Education Department requesting suspension, revocation, or other sanction of the employee's certification or licensure, if applicable.

Legal Reference: 6.66.2.8 NMAC (2006)

806 – Administrative Leave with Pay – Investigative Suspension

An employee may be placed on administrative leave with pay pending the outcome of an investigation. Such leave shall only be approved by the Executive Director in accordance with the School Personnel Act.

Legal Reference: School Personnel Act, NMSA 1978, 22-10A-1 et seq.

807 - Discharge During Term Of Contract (Licensed Employees)

The Executive Director may only recommend discharge of a licensed employee for just cause in accordance with the notice and due process requirements of the School Personnel Act. The term "discharge" means the act of severing the employment relationship with a licensed employee prior to the expiration of the current employment contract.

Legal Reference: Discharge Hearing; procedures, NMSA 1978, § 22-10A-27 and 22-10A-28

808 - Termination

The Executive Director shall only terminate an unlicensed or licensed employee pursuant to the School Personnel Act. Unlicensed employees and licensed educational assistants are probationary for one year. Licensed employees are probationary less than three consecutive years.

Legal Reference: NMSA 1978, § 22-10A-22, § 22-10A-23, § 22-10A-24 and § 22-10A-25

900 – LEAVE AND BENEFITS

901 - General Leave Provision

All leave benefits are limited to permanent full-time employees and to permanent part-time employees who work at least twenty (20) hours a week for at least a 170 day contract. Leave benefits do not apply to occasional or temporary employees such as substitutes, student workers, hourly-rate service providers, contractors or employees hired to complete short-term projects. All leave benefits are available during each fiscal year (July 1-June 30).

Leave benefits for part-time staff members who work at least twenty (20) hours weekly are pro-rated based on how their work hours relate to a full-time 40-hour week. A staff member who works 20 hours weekly would receive .50 of the leave granted a full time staff member, i.e., such a staff member would be awarded .50 sick day for each contract month completed. A twelve-month staff member who works 20 hours weekly would be awarded .50 day personal leave per year without deduction in salary upon advance approval of the Executive Director. Leave benefits for staff members who are considered permanent full-time staff members but whose contracts are for less than 170 days will also be accrued on a pro rated basis.

Except in cases of illness or emergency, all leave must be requested in advance and approval granted by the Executive Director or before leave is taken. In approving leave requests, the Executive Director will consider both the staff member's need for leave and the NWREC's purpose to provide efficient services to its member districts. In cases of illness or emergency, NWREC is to be contacted as soon as possible.

Electronic approval must be granted by the program supervisor before leave is taken. In approving leave requests, the supervisor will consider both the employee's need for leave and the impact on REC business operations of providing efficient services. Leave requests of five or more consecutive days requires approval from the Executive Director.

Employees are expected to report to work daily. Should an employee demonstrate a questionable pattern of absences, this may result in a review and possible disciplinary action by their supervisor. Questionable patterns of absences include, but are not limited to frequent absences before and after a weekend, holiday, or repeated emergency call-ins.

When an employee will be absent due to unplanned illness or emergency, the employee must notify their supervisor no later than the first hour-and-a-half of the employee's work-day.

An employee absent for 3 days/72 hours without notifying their supervisor, will be considered for termination due to job abandonment.

902 Sick Leave

Full-time NWREC staff members are allowed one (1) day paid sick/medical leave per contract month per year without deduction in salary. This leave is accumulated at the rate of 4 hours per pay period or one (1) day per month (.50 day per month for part-time staff members who work 20 hours weekly) of active service up to a total accumulation of the length of the annual contract/employment agreement. Staff members who are considered permanent full-time staff members but who work less than a 170-day contract will accrue medical leave at the percentage their contract relates to a 170-day contract, i.e., a staff member who has a 140-day contract will receive 140/170 day for each contract month or .82 days per month. Sick leave will be pro-rated according to number of contract days.

At the discretion of the Executive Director, a staff member may be granted advance leave based on individual circumstances and organizational requirements. The maximum advancement is the amount that the staff member could earn for the remainder of the current contract year. If advance leave is granted, the Executive Director must insure that the staff member will make up the leave deficiency within the contract year or repay NWREC for any overpayment of salary caused by overdrawn sick leave should there be a termination of employment or when a deficit exists at the end of the contract year. A negative sick leave balance shall not be carried over from one contract year to the next. Before salary reduction is implemented to repay advance sick leave, the staff member must first use sick leave as accumulated, then annual leave or comp time accumulation, then personal leave; after these leave sources are exhausted, the overdrawn amount will be deducted from the staff members pay on a day-for-day basis. Upon the written request of the employee, the Executive Director may authorize the payroll clerk to reduce the amount of payroll checks so that the anticipated deficit payment is spread out over the remaining contract period rather than for the final payroll period only.

Accrued leave will be given at the first of the contract year. If a staff members' employment is terminated before the date stated in the regular contract, the staff members' final salary compensation shall be reduced by the monetary amount of any sick leave taken, but not earned. Sick leave is accumulative up to ninety (90) days. Upon termination of employment or retirement the employee will not be reimbursed for unused accumulated sick leave.

A staff member claiming sick leave who is absent more than four consecutive workdays shall submit a doctor's certificate attesting to said illness. If at any time the Executive Director has reason to suspect the abuse of sick leave benefits, i.e., an employee who misses the day before or after a weekend on a regular basis, etc., the Executive Director may request a doctor's certificate.

If at any time there is a question as to the ability of a staff member to perform one's assigned responsibilities, the NWREC will require an examination by a NWREC appointed doctor; the NWREC will pay for such a required examination.

Sick leave may be authorized for:

- Personal medical treatment or illness of the staff member;
- Medical treatment or illness of a member of the immediate family;
- Death in the immediate family;
- Medical appointments of the staff member's or staff member's immediate family.
- Personal time requested as per supervisor's approval.

The immediate family is defined as the staff member and spouse, their children, brothers, sisters, parents, grandparents, grandchildren, Mother-in-Law, Father-in-Law, son-in-law, daughter-in-law, brother-in-law, sister-in-law. Absence due to illness or death of a close relative or friend of the staff member, other than those individuals listed in the definitions above, must be approved in advance by the Executive Director. Details as to the close relationship must be included in the written request for leave.

903 Personal Leave

Twelve-month full-time NWREC staff members on a 240-day contract and full-time NWREC related service personnel on a 172-day are allowed one (1) day personal leave per contract year without deduction in salary upon advance approval of the Executive Director.

Personal leave does not accumulate but must be used during the contract year in which it is accrued. Personal leave must be requested one week in advance. Personal leave cannot be taken on mandatory in-service days and may not be used to fulfill the last day of a contract.

904 - Family and Medical Leave Act - Maternity/Paternity Leave

The REC shall implement the Family and Medical Leave Act of 1993 as amended (FMLA) pursuant to the terms, conditions, and limitations of the Act. The Executive Director shall adopt procedures for the implementation and enforcement of the Act.

A notice to employees shall be posted describing the provisions of the FMLA, provided and approved by the Wage and Hour Division of the United States Department of Labor.

Maternity/Paternity leave is available to permanent full-time or part-time employees who are the natural parents of a newborn child or the adoptive parents of a newly adopted child under five years of age regardless of whether the employee qualifies for FMLA leave.

Maternity/paternity leave shall first be charged against personal leave, then compensatory time, and then leave without pay, or any appropriate combination as determined by the Executive Director. A reasonable leave of absence without compensation will be granted for maternity/paternity. The executive director will make a determination as to the length of unpaid leave to be provided after consideration of the length of available FMLA leave, the length of paid leave, and consideration of a doctor's certificate attesting to a reasonable length of leave and/or incapacity that shall be provided by the employee

905 – Bereavement/Funeral Leave

In case of death in the immediate family the staff member is allowed leave with full pay for up to three (3) working days immediately following the date of such death. The immediate family is defined to include: husband, wife, child, grandchild, parents, grandparents, sister, brother, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law or sister-in-law. If requested, one (1) additional day leave with pay may be granted when travel out of town is required in excel of 400 but less than 800 miles and two (2) additional days if in excel of 800 miles. Bereavement Leave is not cumulative.

Staff may be excused without loss of pay for a period of up to four (4) hours to attend funeral services of relatives other than those defined as immediate family in the Bereavement Leave section and/or friends, at the discretion of the NWREC Executive Director. Funeral Leave is not cumulative

906 - Voting Leave

Employees who are registered voters may absent themselves from work for two hours for the purpose of voting between the time of the opening and the time of the closing of the polls. The REC may specify the hours during the period in which the voter may be absent. This leave is not available to employees whose workday begins more than two hours subsequent to the time of opening the polls or ends more than three hours prior to the time of closing the polls.

Legal Reference: NMSA 1978, § 1-12-42

907 - Court or Jury Duty Leave

An employee receiving a court summons for jury duty or a court-issued subpoena will be released from work in accordance with state and federal law.

Court/Subpoena --Leave shall be granted an employee to respond to a subpoena, which requires the employee's absence from duty. Employees receiving a subpoena to testify will be released on leave without pay except in the case where said subpoena concerns matters related to REC business. An employee may also use accrued leave. Leave will be granted only in response to a subpoena and not for the purpose of legal consultation or voluntary courtroom attendance.

Jury Duty --Employees who are called to jury duty will be released to serve as requested by the judicial system. A REC employee may not receive dual pay for services during the regular hours. Employees ordered to jury duty will be released on paid time and shall remit any payment received from the Court for jury duty to the REC, exclusive of meal and mileage reimbursements.

If an employee, upon reporting for jury duty in the morning, is dismissed for jury duty for the remainder of the day, employee is to report for duty at the REC/assigned school and resume duties or do work as assigned by the Executive Director or program supervisor for the remainder of the day.

An employee must submit a leave request and provide the Executive Director with a copy of the jury duty order or subpoena immediately after receipt of such document. Following the leave, the employee must submit the court attendance record issued from the courts to the HR Manager.

908 - Caregivers Leave Act

An employee may use accrued leave to care for their family members in accordance with the same terms and procedures that the REC imposes for any other use of sick leave by eligible employees.

Family member includes an individual who is the spouse or domestic partner of or is by blood, marriage or legal adoption a parent, grandparent, great-grandparent, child, foster child, grandchild, great-grandchild, brother, sister, niece, nephew, aunt or uncle of an eligible employee.

909 - Workers' Compensation Leave Benefits

Employee Accidents – All employees are covered under the provisions of the Workers' Compensation Act for injuries occurring on the job. Accident reports are available in the personnel office and must be completed and forwarded to the immediate program supervisor at the time of injury. Failure to report an incident within 30 days of accident can jeopardize workers' compensation coverage.

Workers' Compensation Coverage -Statutorily required workers' compensation leave benefits are provided through the State of New Mexico Risk Management Program. This program covers loss of wages and disability (partial, temporary, or permanent) for work-related injuries only. The program coordinates with leave benefits in that all accumulated personal leave is used prior to workers' compensation leave benefits. Workers' Compensation benefits, including leave, will be granted in accordance with state law.

Legal Reference: NMSA 1978, §§ 52-1-1 through 52-10-1

910 - Professional Leave

Professional leave provides opportunities for an employee to participate in professional organizations, meetings and in-services on a local, district, state and national basis; and an opportunity for an employee to serve as a leader in such activity.

Professional leave must be submitted via the online leave request form and approved by the program supervisor in advance. Special consideration on an individual basis shall be given to an employee elected or appointed as a state or national officer.

Approval of all such leave is based on impact to REC operations, benefit to REC program, and available funds. After professional leave is approved in writing, the employee may be entitled to travel, per diem, and workshop cost as approved by the Executive Director and as permissible under the Per Diem and Mileage Act.

Legal Reference: Per Diem and Mileage Act, NMSA 1978, § 10-8-1 et seq

911 - Military Leave

Military leave and reemployment will be granted in accordance with state and federal law. Employees granted a military leave of absence are entitled to participate during the leave period in insurance and other benefits offered by the REC to the same extent as employees granted other types of leave. The REC will discontinue contractual payments to the employee when military leave begins.

Any regular employee who is a member of the National Guard (Army or Air) or Reserves (Army, Air Force, Navy, Marine or Coast Guard) shall be given military leave with pay when the employee is ordered to duty for training. Such leave shall not exceed fifteen (15) working days per federal fiscal year. This leave shall be in addition to other leave to which such employee is otherwise entitled.

The governor may grant any member of the national guard or reserves who is a state employee additional military leave with pay in excess of that allowed above, not to exceed fifteen working

days per federal fiscal year, for periods of active duty for training when he or she deems that such training will benefit the state by enabling that employee to better perform the duties required in his or her state occupation.

Any regular employee who is a member of a military reserve unit and is ordered to active duty shall be entitled to military leave. Such military leave for active duty will be granted as follows:

- Leave with Pay: Leave with pay will be given for a period not to exceed fifteen (15) working days in any one calendar year or in any one continuous period for such absence. During the fifteen (15) days of paid leave, the REC will continue the copayment amount of the employee's insurance premium(s).
- Leave without Pay: Should an employee need to be on extended military leave for active duty, leave without pay will be granted. Once the 15-day period of paid military leave and all other leave to which the employee is entitled have been exhausted, the employee must pay the full premium for insurance premium(s).

The REC adheres to the Uniformed Services Employment and Reemployment Rights Act of 1994, as amended. The USERRA is a Federal law that establishes rights and responsibilities for uniformed Service members and their civilian employers.

The Uniformed Services Employment and Reemployment Rights Act (USERRA) is administered by the Veterans' Employment and Training Service (VETS). USERRA applies to persons who perform duty, voluntarily or involuntarily, in the "uniformed services," which include the Army, Navy, Marine Corps, Air Force, Coast Guard, and Public Health Service commissioned corps, as well as the reserve components of each of these services. Federal training or service in the Army National Guard and Air National Guard also gives rise to rights under USERRA. In addition, under the Public Health Security and Bioterrorism Response Act of 2002, certain disaster response work (and authorized training for such work) is considered "service in the uniformed services."

Uniformed service includes active duty, active duty for training, inactive duty training (such as drills), initial active duty training, and funeral honors duty performed by National Guard and reserve members, as well as the period for which a person is absent from a position of employment for the purpose of an examination to determine fitness to perform any such duty.

Staff members retain employment rights over a period of up to five years of active duty. The period may be extended to a total of five years if the extension is at the request and for the convenience of the government. An staff member who leaves their position voluntarily, or involuntarily, has the right to return to employment if certification of reemployment is made as follows:

- regular military personnel released from active duty must apply for reemployment within 90 days;
- reserve personnel called to active duty for an initial period of 90 days or less, or for 180 days or less if extended, must apply for reemployment within 31 days of release from active duty; and
- reserve personnel called for active duty for more than 180 days must reapply within 90 days from release.

The U.S. Department of Labor's Veterans' Employment and Training Service (VETS) administers the Uniformed Services Employment and Reemployment Rights Act (USERRA). Additional information related to application of the USERRA is available at: www.dol.gov.

Legal Reference: NMSA 1978, § 20-4-7
NMSA 1978, § 20-5-14
NMSA 1978, § 20-7-5
38 U.S.C. §§ 4301 - 4335

912 - Other Leave Of Absence

After employed for the fourth consecutive year, an employee may request a leave of absence for academic study, extended illness or community service. The maximum leave of absence for such endeavors will be for one year, unless the leave of absence begins mid-term, and then the leave of absence may be extended through the following school term at the discretion of the Executive Director.

Approved leave of absence for such purposes is without pay and reemployment is contingent upon a vacancy for which the employee is qualified as determined by the sole and absolute discretion of the Executive Director. Such reemployment will be considered only during the school year immediately following the approved leave of absence. Reemployment during subsequent years requires a new application for employment and no consideration will be given for past employment.

If a leave of absence is approved and the employee returns to employment during the school term immediately following the approved leave of absence, the employee leave and insurance benefit status will be the same as it was at the time the leave of absence was granted regarding leave and insurance, but only if full insurance premiums are paid during the approved leave of absence by the employee. Applications for such an approved leave of absence will be made to the Executive Director in writing at least sixty (60) days prior to the requested leave of absence.

Paid sabbatical leave shall only be granted pursuant to state law.

Legal Reference: NMSA 1978, §§ 22-10A-35 through 22-10A-38

913 - Leave for Worksite Closure and Emergency Road Conditions

When a staff member is unable to work at their regular duty station due to impassable road conditions or school closures resulting from weather conditions, the Executive Director may assign the staff member to a different duty station for that day or may require the staff member to make up the day as scheduled by the Executive Director (as documented on a Schedule Change form). If the staff member does not make up one (1) contract day missed due to weather conditions, that day shall be counted against accumulated leave, if available. If all accumulated leave has been exhausted or if any additional days missed due to weather conditions are not made-up, deduction will be made on a per diem basis from the staff member's paycheck.

A staff member under contract who misses work due to road conditions may make up one (1) such day at the discretion of the Executive Director. Any additional such days missed will be counted against available leave-first against personal leave, then against vacation/annual leave or

comp time accumulation. If all accumulated leave has been exhausted, deduction will be made on a per diem basis from the staff member's paycheck.

914 - Vacations, Holidays

Twelve (12) month (240 day contract) staff members may accrue 4 hours per pay period or 1 day per month. Up to forty (40) days of vacation leave can be carried forward from year to year. Use of earned vacation leave by all staff members is in the best interests of both the NWREC and the individual staff member. It is the policy of NWREC, therefore, to encourage staff members to make appropriate use of earned vacation leave each year. Every effort will be made to grant vacation leave according to each staff member's request. Authorization will be granted only for such times as will least interfere with the efficient operation of the NWREC. Vacation with pay shall not be granted to part time employees.

Requests for vacation leave must be submitted to the Executive Director at least two weeks prior to leave and will be granted at the discretion of the Executive Director.

915 - Sick Leave Donation Program

As an additional leave benefit for REC employees, the Governing Council supports a sick leave donation program. The purpose of the leave donation program is to provide donated leave to an eligible employee who has exhausted paid leave days and flex days due to an extended illness. An employee is eligible to use donated leave only in the case of catastrophic illness, accident, or injury, which is supported by appropriate medical documentation. An employee who is receiving other forms of paid benefits because of illness, accident, or injury is not eligible to use donated leave.

An employee, or a responsible person acting on behalf of said employee, must submit a written request for donated leave. Use of donated sick leave is subject to final approval of the Executive Director and may be terminated by the Executive Director based on the best interest of the REC.

In the event of an appeal from an employee, the leave donation committee, which consists of the REC leadership team members, will meet to make a final decision. That decision is not subject to appeal.

The leave donation committee may recommend a maximum of 10 days leave at a time. Should an employee need more leave days, the employee must request additional leave days and the committee must re-approve the additional leave days for each leave request up to a maximum of 10 days each. Such approval is subject to the employee's submission of documentation supporting the need for leave.

Donated leave days come from employee donations. Once an employee has accumulated at least 30 days of leave, that employee may donate 1 day of leave. The leave donation committee has authority delegated by the REC Governing Council to operate the leave donation program. Exceptions to the 30 day rule may be made on a limited basis, as recommended by the Human Resources Manager and approved by the Executive Director.

916 - Non-Contract Days

A non-contract day is defined as a day during a typical workweek (Monday-Friday) that an employee does not report to work and is not counted as leave as defined in this policy. REC recognizes that there are program positions that require a workday beyond a typical school calendar

or workweek and that to meet the program requirements, there are occasions where an employee may need to take a non-contract day during a typical workweek. The non-contract day must be approved by the program supervisor in advance. An employee is expected to complete their annual contract in order to receive full compensation.

917 - Insurance Benefits

The REC will determine an insurance benefit program for employees as authorized by law. Such benefit programs are limited to full-time employees or part-time employees who work at least 20 hours weekly. They do not apply to occasional workers such as substitute teachers, student workers, or hourly-rate service providers. The REC will pay the statutorily required percentage of insurance premium on those insurance programs it elects to offer.

New hire employees are required to complete an online enrollment form regardless if you are participating in the NM State Benefits Plan. New hires have 31 days to complete the enrollment form. Failure to submit an enrollment form will result in denial of coverage until the next open enrollment or qualifying event.

An employee may elect changes to their benefits if they experience any of the following life events: Birth, Adoption, Legal Guardianship, Marriage, Cessation of Domestic Partnership, Divorce, Dependent turning 26 years old, Change in job status (reduction of hours, Part time to full time (vice versa) or termination), Gain of other coverage, or Death of Dependent. Employees will have only 31 days from life event to complete an online enrollment form to request any changes.

918 - Retirement

REC employees are provided retirement benefits through the Educational Retirement Board of New Mexico (ERB) as per NMSA, 1978, §§ 22-11-1 through 22-11-52. Required deductions for such benefit are deducted from an employee's paycheck. Additional information is also available on the ERB website at: www.nmerb.org/Contact.html.

Legal Reference: 22-11-1 to 22-11-52 NMSA, 1978 Comp.

1000 – HEALTH AND SAFETY

1001 - Drug-Free Schools and Campus/Drug-Free Workplace

The REC is committed to complying with the Drug- Free Schools and Communities Act, as amended, and all regulations promulgated thereunder. Compliance with this policy is mandatory; violation of this prohibition may result in discharge or termination of employment or other appropriate disciplinary action, including referral to law enforcement.

No employee or contractor engaged by REC shall unlawfully manufacture, distribute, dispense, possess, or use alcohol or controlled substances in the workplace.

All employees will be informed of this policy through the policy handbook when initially employed and on an annual basis thereafter.

Through this policy a drug awareness program shall be established within the NWREC to inform all staff members about:

- a. The dangers of drug abuse in the workplace;

- b. The NWREC policy of maintaining a drug-free workplace;
- c. That assistance will be provided in finding counseling and rehabilitation programs for drug problems upon request from the staff member;
- d. The penalties that may be imposed upon staff members for drug abuse violations occurring in the workplace.

Definitions:

- a. Alcohol: Any liquor, wine, beer, or other beverage containing alcohol.
- b. Controlled Substance: Any narcotic drug, hallucinogenic drug, amphetamine, barbiturate, or any other controlled substance, as defined in Schedules I through V of Section 202 of the Controlled Substances Act (21 U.S.C. 812) and as further defined by regulation 21 C.F.R. sections 1300.11 through 1300.15.3.
- c. Workplace: The site for the performance of work done in connection with employment shall include any place where work of the REC and its member districts and institutions is performed, including a school building or other premises, or any school or REC-owned vehicle or any other approved vehicle used to transport students for services and away from the REC, school district or institutional property during any activity, event or function where students are under the supervision of the REC's employees.

Reporting Procedures

REC employees who know or in good faith suspect any student of using or abusing alcohol or drugs shall report such use or abuse to the appropriate administrator of the school district in which the child attends school.

REC employees who know or in good faith suspect any REC employee of using or abusing alcohol or drugs shall report such use or abuse to his or her immediate supervisor or the Executive Director.

Any staff member who is convicted of a violation of a criminal drug statute occurring in the workplace shall, within five (5) days of the date of such conviction, notify his immediate supervisor in writing of such conviction. The NWREC, upon receiving such written notice, shall take one of the following actions within thirty (30) days:

- a. Impose appropriate personnel action against the staff member up to and including termination of employment; or
- b. Require the staff member to participate satisfactorily in a drug abuse assistance counseling or rehabilitation program approved for such purposes by a federal, state, or local health, law enforcement, or other appropriate agency.

Duty to Report

All employees have a mandatory, non-discretionary duty to report known or suspected alcohol or drug use or abuse by any student of the participating districts.

Administration to Whom Reports Should Be Made

All reports made hereunder shall be on a uniform reporting form, available from the school official and shall be given to the school official.

Timely Reporting

Reports required hereunder shall be made within a reasonable time after the staff member first learns or suspects the use or abuse of drugs or alcohol by a student; in no case should the report be made later than five (5) days after the staff member has such knowledge.

Duty to Investigate

It is not the duty of the staff member making the required report to conduct an investigation to determine whether or not the student identified has in fact used or abused drugs or alcohol. The duty to investigate shall be upon the responsible school official and responsible school official to whom the report is made provided, however, that the reporting staff member shall cooperate with the responsible school official during the course of the investigation.

Failure to Report

The failure of any staff member to report knowledge or suspicion of student alcohol or drug abuse in a timely manner may be cause for discipline of the staff member.

1002 - Lynn and Erin Compassionate Use Act – Medical Marijuana

The REC Governing Council recognizes that under federal law, the possession, use and distribution of cannabis is a crime regardless of whether state law has decriminalized the possession and use of cannabis for medicinal purposes. The Council also recognizes that under the Lynn and Erin Compassionate Use Act, NMSBA 1978, Sections 26-2B-1 through 26-2B-7 (2007), an employee or child may be issued a Registry Identification Card which identifies a qualified patient authorized to engage in the use of cannabis for medicinal purposes.

For purposes of this policy, the following definitions shall apply:

1. “Cannabis” means cannabis or a cannabis-derived product, including cannabis and cannabis-derived products that remain illegal under federal laws, but may be prescribed pursuant to the provisions of the Lynn and Erin Compassionate Use Act. This does not include cannabis or cannabis-derived products that are not regulated by the Food and Drug Administration (FDA) and cannabis or cannabis-derived products that are approved by the Food and Drug Administration.
2. “Department” means the New Mexico Department of Health or its agent.
3. “Registry Identification Card” means a document issued and owned by the Department which identifies a qualified patient authorized to engage in the use of cannabis for a debilitating medical condition or a document issued by the Department which identifies a primary caregiver authorized to engage in the intrastate possession and administration of cannabis for the sole use of the qualified patient pursuant to the provisions of the Lynn and Erin Compassionate Use Act.

All staff, including employees who have been issued a Registry Identification Card, are prohibited from the possession, distribution, transfer or use of cannabis or cannabis-derived products on school premises; or at an REC sponsored event.

A Qualified employee is prohibited from reporting to work or a sponsored event while having the odor of cannabis or being under the influence of cannabis to the degree that the employee is, in the judgment of the Executive Director or designee, disruptive or impaired.

Employee possession, use, distribution, sale or being under the influence of medical cannabis inconsistent with this policy is a violation of REC policy and may subject the employee to disciplinary consequences, including termination or discharge, in accordance with the School Personnel Act.

If the federal government declares that the REC federal funds are jeopardized by this policy, this policy shall be suspended immediately and the REC will comply with any federal guidance and/or directives related to this policy.

Legal Reference

- §26-2B-1 et seq. NMSA 1978
- 7.34.3 NMAC

1003 - Clean Indoor Air Act/Tobacco-Free Policy

Pursuant to the New Mexico Clean Indoor Air Act (Sections 26-16-1, NMSA, 1978) and in recognition of the fact that the use of tobacco and other nicotine products is one of the nation's great health hazard that can have serious implications for both users and non-users. Therefore, the use of tobacco or smokeless tobacco in any form is prohibited during work hours and non-work hours in any REC building, on any property owned, leased, or used by the REC for any REC purpose, in REC owned vehicles or REC approved vehicles used to transport students or staff to and from REC related activities and at any REC sponsored event, in which students are under the jurisdiction of the REC or member districts.

Tobacco and tobacco products includes cigarettes (machine or hand-rolled), cigars, pipe tobacco, chewing tobacco, dipping tobacco, snuff, electronic cigarettes, vaporizers, and smoking devices.. This policy will be enforced 24 hours a day, 7 days a week.

Legal Reference: New Mexico Clean Indoors Act, 26-16-1 NMSA, 1978 Comp.

1004 - Exposure to Bloodborne Pathogens

REC shall implement and enforce a comprehensive blood borne pathogen Exposure Control Plan and documented training for employees to ensure compliance with the Occupational Safety and Health Administration Safety Standards and for the safety and protection of its employees and clients.

1005 - Hazard Communication/Right to Know

The REC will maintain an effective "Hazard Communication Program" in accordance with the current New Mexico Occupational Health and Safety Act regulation 29 CFR 1910.1200. It is expected that all employees of the REC fully cooperate and participate in this program.

The above noted regulation is intended to ensure that the hazards of chemicals produced or imported by chemical manufacturers or importers are evaluated, and that information concerning their hazards is transmitted to affected employers, and employees. The transmittal of information is to be accomplished by means of comprehensive hazard communication programs, which are to include container labeling and other forms of warning, material safety data sheets and employee training.

This program as well as the regulation is otherwise referred to as the "Right to Know Law", which in effect is designed to provide knowledge, warning, protection, and training to employees who may be exposed to hazards of chemicals and other materials.

RESPONSIBILITY

- a. The Council designates its Executive Director to have the prime responsibility for the administration of the "Hazard Communication Program"; the Executive Director will be the Hazard Communication program supervisor.
- b. All employees (staff, administrative, program supervisory, therapists, support personnel) will fully participate in the program as it may apply to their work area and work responsibility.
- c. The "Hazard Communications Program" will consist of five basic parts, which are:
 - I. Inventory and audit of hazardous chemicals and materials.
 - II. Labels and labeling of hazardous chemicals and materials containers.
 - III. Material safety data sheets (MSDS) maintenance, distribution, availability and locations.
 - IV. Employee training and information, general and specific.
 - V. A written "Hazard Communication Program" as herewith prescribed.

The written "Hazard Communication Program" for the REC with its associated inventory list, records, materials, etc. will be maintained in the REC business office. Employees may review the program, MSDS and chemical listing at this location.

MATERIALS, INVENTORY, AUDITS

An initial inventory of all chemicals and materials will be made of all work areas and facilities. An annual audit will be conducted thereafter. All hazardous chemicals and materials required will be identified and listed. The listing will note at least the following information:

- a. The name of the chemical.
- b. The manufacturer or supplier.
- c. The location(s) where the chemical or material is used.
4. The workers exposed.

A system will be maintained to add any newly introduced hazardous chemicals or materials to the listing.

MATERIAL SAFETY DATA SHEETS (MSDS)

- a. A MSDS will be provided on all required chemicals and materials used in the REC.
- b. There will be a Master MSDS File and index of all required chemicals and materials, which will be located in the REC business office.
- c. The original inventory listing and audits will be used to ascertain that there is an MSDS as may be required for each chemical or material item and that all containers are properly labeled and stored.
- d. In the event an MSDS is not available or should a new chemical or material be introduced for use without a required MSDS the Executive Director should be contacted immediately so that the matter may be corrected.

LABELS AND LABELING

- a. All hazardous chemicals or materials on hand or received must have a label which must specify at least:
 - I. The chemical name.

- II. Any specific warning or other hazard information.
- III. Identification of the manufacturer or supplier and address.
- b. A hazardous chemical or material label will not be removed from its container, nor will such label be defaced. Should it become necessary for a label to either be introduced by the REC or replaced on a hazardous chemical or material container, such label will display the information noted above.
- c. All containers of hazardous chemicals or materials will be received, and the label assured to be affixed on each and all containers by individuals responsible for their individual areas; i.e., program supervisor, or any employee who utilizes a hazardous substance as a part of their employment responsibilities.
- d. It is the responsibility of the employee to ensure that all secondary containers are properly labeled with a duplicate of the manufacturer's label or a REC label as noted above.

INFORMATION & TRAINING

- a. All employees will be informed of the "Hazard Communication Program" / "Right to Know Law" annually, and/or at the time of initial assignment and annually thereafter.
- b. Employees will sign a form or list that they attended a general or specific training session or received the REC's policy on Hazard Communication or received any technical or specific training relative to hazards of chemicals or materials.
- c. General program information and training will be accomplished by lecture, photo slides, movie, video, literature or any combination thereof, and will cover the contents of this program to include a review of the following:
 - I. REC's policy statement.
 - II. The basic definition of the regulation.
 - III. Statement of responsibility, both program and employee.
 - IV. Information relating to labels and placards.
 - V. Description of MSDS and how to read all sections.
 - VI. Location and availability of the written hazard communication program, MSDS's master and locations, and chemical listing.
- d. Definition of hazardous chemicals or materials:
 - I. Hazardous chemicals
 - II. Health hazard
 - III. Physical hazard
- e. Steps the REC and employees can take to lessen or prevent exposure to hazardous chemicals or materials, i.e., knowledge of chemicals, storage, posting, warnings, training, methods and observation techniques used to determine the presence or release of hazardous chemicals or materials in a work area, i.e., flame or fire, smell or odor, fumes, itching, color, irritation, etc.
- f. The emergency procedure to take in the event there is exposure to a hazardous chemical. (Immediately report to program supervisor.)
- g. Notice of hazardous chemicals or materials that are in an employee's work area.
- h. Periodically, employees may be required to perform non-routine work or tasks using hazardous chemicals, materials, or work in associated hazardous locations. Prior to starting such projects, each affected employee will be given information about the chemicals, materials, or exposure of such activity. Such information will include:
 - I. Specific hazards that may be associated with the chemical or material.
 - II. Protective and other safety measures to be taken.

- III. Measures the REC are taking to lessen or prevent hazards, i.e., ventilation, storage, postings, fire extinguishers, etc.
- IV. Review of the chemical or material, MSDS or other technical information applicable.
- V. Review of emergency procedures to be taken.

INFORMING CONTRACTORS

- a. It will be the responsibility of the Executive Director to provide contractors with the following information:
 - I. Any hazardous chemicals to which they may be exposed while on the job site.
 - II. Precautions and controls to be taken to lessen or prevent possible exposure by use of appropriate protective measures.
- b. The Executive Director will also be responsible for contacting each and all contractors before work is started to gather and disseminate any information concerning chemical hazards that the contractor may be bringing onto the work-site.

PROGRAM MAINTENANCE -OTHER FUNCTIONS

- a. Purchasing/MSDS Supply: A boilerplate statement will be applied to any purchase orders for any potentially hazardous chemical substance: "Suppliers must furnish a Material Safety Data Sheet applicable to any chemical substance on this purchase request which is potentially hazardous."
- b. Other supplied chemicals or materials: No chemical or material requiring a MSDS will be introduced into the REC or any work area of the REC by petty cash purchase, supplier samples or other means without the knowledge of the Executive Director.

HAZARD DEFINITIONS:

HAZARDOUS CHEMICAL - means any chemical that is a physical or health hazard.

HEALTH HAZARD -means a chemical for which there is statistically significant evidence based on at least one study conducted in accordance with established scientific principles that acute or chronic health effects may occur in exposed employees. Includes chemicals, which are carcinogens, toxic or highly toxic agents, reproductive toxins, irritants, corrosives, and sensitizers, agents that damage the lungs, skin, eyes, or mucous membranes.

PHYSICAL HAZARDS -means a chemical for which there is scientifically valid evidence that it is a combustible liquid, a compressed gas, explosive, flammable, or organic peroxide, an oxidizer, pyrophoric, unstable (reactive) or water reactive.

NON-MSDS ITEMS -single use consumer products normally will not require an MSDS. This would apply to such items as a can of spray paint, nail polish remover, paint or gallon of latex paint, etc. However, should such items be supplied in large amounts and used in a regular process then an MSDS would be required. This is a gray-line area and common sense application will have to be used. Think of amount and application plus hazard involvement, if any. Likewise, FDA, FTA Agriculture and other government-controlled items do not have to have an MSDS. This would apply to foods and food products, cosmetics, drugs, tobacco products, fertilizer, insecticides, pesticides, liquors, etc.

Legal Reference: Federal Register/Vol. 3, No. 183, 8/24/87 Rules and Regulations /Pg. 31879

1006 - Health Requirements

Communicable Diseases – Any employee who is infected with any acute communicable disease dangerous to the public health shall absent themselves from employment activities during the prescribed period of recovery.

Medical Examination – If at any time there is a question as to the ability of a REC employee to perform job related functions consistent with business necessity, the Executive Director may require a complete physical examination by a REC appointed doctor to be paid by the REC.

The Equal Employment Opportunity Commission has identified limited situations under which a medical examination or inquiry will be considered job-related and consistent with business necessity and, therefore, permissible:

- a. When an employee wishes to return to work following an approved FMLA absence due to illness or injury. An examination may be conducted to determine if the employee, with reasonable accommodation, can safely and effectively perform the essential functions of the job. The employee must be notified of such requirement at the time FMLA approval is authorized.
- b. When an employee requests an accommodation. If an employee requests an accommodation on the basis of a claimed disability, an examination may be conducted to determine if the employee is an “individual with a disability” to who a duty of accommodation is owed and, if so, to help identify potential accommodations.
- c. When federal law requires an examination, medical examinations or monitoring are required under certain circumstances by regulations issued by the Department of Transportation and the Occupational Safety and Health Administration.
- d. When the employer has reasonable belief, based on objective evidence, that the employee's ability to perform the job's essential functions is impaired by a medical condition; or the employee poses a direct threat to the employee’s own safety or the safety of others due to a medical condition.

The REC may conduct voluntary medical examinations as part of an employee health or “wellness” program. All information obtained through medical inquiries or examinations must be treated as confidential employee medical files, separate from other personnel information about the employee.

1100 – Miscellaneous

1101 - Professional Organizations

Membership in all professional associations is voluntary. Professional association activities shall not interfere with a staff member’s accepted responsibilities to the REC.

1102 - Staff Development Opportunities

The REC recognizes that staff members should continue to improve their competencies. The REC will promote opportunities for staff development and for staff members to take advantage of them.

Reimbursements for expenses related to conferences, workshops, professional meetings and visitations will be as approved by the Executive Director in accordance with the state Per Diem and Mileage Act and REC policy, provided such expenses are within budget allocations for such purpose. Advance payment for approved travel will be according to the Per Diem and Mileage Act and regulations governing the Act.

Legal Reference: Per Diem and Mileage Act, NMSA 1978, 10-8-1 et seq.
NMAC 2.42.3 – Regulations Governing the Per Diem and Mileage Act

1103 - Political Activities

The Governing Council subscribes to the principle that REC employees not only have the right but must also share in the responsibility for the development of sound public policy by assuming full political and citizenship responsibilities. An employee who is a candidate for partisan or nonpartisan political office or has been elected to a partisan or nonpartisan political office has a joint obligation to the public and to the REC. During this involvement with political activities, an employee shall not:

- Misrepresent the REC but will take adequate precautions to distinguish between their personal views and REC views;
- Interfere with a colleague's exercise of political and citizenship rights and responsibilities;
- Use REC privileges, resources, or working time to promote political candidates or partisan political activities; or
- Assign or expect children to participate in any aspect of campaigning, canvassing, or aiding in the process of attempting to persuade voters to vote for or against individuals or measures as a part of required or enrichment activities or course work. Nor will children be used as a forum for an employee to express personal feelings for or against any candidate in any election at any level, whether partisan or non-partisan.

Campaigning in person, circulating political literature for or against any candidate or cause, or the posting of such literature, is prohibited on REC premises with the exception of information and literature pertaining to REC, city, county, or higher education levies and bond issues. The Executive Director will act to ensure that unauthorized campaigning or distribution of literature is not permitted.

Upon request, the Governing Council may grant a political activity leave to an employee that requires time away from regular duties. Absences for public service leave shall not exceed 60 school days per fiscal year. However, if a need arises, the Governing Council may grant additional leave upon the recommendation of the Executive Director.

Employees approved for absence from all assigned duties while serving an elected position shall be granted a political activity leave without pay for all job time missed. Except, should the elected employee fulfill partial job responsibilities while absent from regular duties, they will be paid on a pro-rata basis for verified hours/days worked.

Employees covered by the provisions of the Hatch Act [5 U.S.C. Sections 1501 to 1508] may not be candidates for partisan political office elections.

NOTE: Regional Education Cooperatives are deemed individual state agencies administratively attached to the Public Education Department. There may be other legal limitations due to such relationship with the PED and the state. However, this guide and the REC do not serve as legal advice regarding the ability to serve in any elected position, whether partisan or non-partisan.

Legal Reference: NMSA 1978, § 10-16-3.1
NMSA 1978, § 22-14-14
6.60.9.8 NMAC
Hatch Act of 1939

1104 - Public Appearances

Only those employees receiving prior approval of the Executive Director may officially represent the REC before a public or professional group speaking on behalf of the REC. Employees wishing to express their personal opinions at a public meeting during work hours must request annual leave and may not identify as an employee of the REC.

1105 - Personnel Records

The HR Manager shall be responsible for the development and maintenance of appropriate personnel records. Personnel records of current and past applicants and employees shall be the property of the REC. These personnel folders shall be kept in locked files in the REC office.

When required for licensure/credentialing of a specific program, modified personnel records may be kept at a program sites (i.e., Head Start, School Based Health Center, etc.). These modified personal records must adhere to the same procedures for confidentiality and employee access.

Personnel files may include, but are not limited to, the following documents where applicable:

- Background information and documentation in regard to training, experience, references, credentials, application form, personal data, licensure information, REC information forms, and any other information deemed appropriate and necessary.
- Records of service within the REC consisting of service and program assignments, copies of contracts, transfer and leave requests, payroll information, program supervisory and evaluation documents, letters of resignation, and other records deemed important and appropriate.
- Termination and discharge information, which shall indicate whether termination or discharge was by resignation or dismissal. All information in an employee's personnel file shall be open to the employee except access to the confidential papers of placement bureaus and references received from former employers or personal references given by an employer on an application prior to employment which such placement offices or employers have requested be kept confidential.
- Records related personnel grievances, and criminal background check results shall be contained in a confidential file per federal regulations and REC policies.

a. Access to Personnel Files:

Personnel files shall be disclosed to the following REC personnel upon reasonable notice and appointment set with the human resource manager:

- Employee, except for confidential papers of placement bureaus and references received from former employers or personal references given by an employer on an application prior

to employment which such placement offices or employers have requested be kept confidential;

- Executive Director and program supervisor;
- Personnel office staff as required in the performance of duties.
- Governing Council during official personnel matters;
- Designated REC attorney during official personnel matters of the Governing Council or as requested by the Executive Director;
- Staff member's supervisor as required in performance of duties; and
- A signed authorization of release of information for employment purposes

b. Access to Confidential Information:

Files that contain criminal background checks and personnel grievances will be accessed only by the employee, the Executive Director and program supervisor, the Governing Council when convened in personnel matters, and the Governing Council's attorney as requested by the Executive Director.

c. Access by Outside Parties:

It is the policy of REC to protect the privacy of current, former and prospective employees to the extent permitted by law. Accordingly, all personnel information retained by REC shall be considered confidential unless the Inspection of Public Records Act [NMSA 14-2-1 et. seq.] requires otherwise.

Confidential personnel information shall not be released without the affected person's written consent unless an administrator who is responsible for maintaining the relevant records determines that exceptional circumstances justify such an action. Other personnel information will be made available pursuant to the Inspection of Public Records Act, as interpreted by New Mexico courts. The Act and decisions interpreting it provide that the following types of personnel information may be treated as confidential:

- Letters of reference concerning employment, licensing or permits;
- Letters of memoranda which are matters of opinion in personnel files, including documents concerning infractions and disciplinary actions, performance evaluations, and related materials, opinions as to whether a person should be rehired or reasons why an applicant was not hired, and any other material expressing an opinion as to a current or former employee or an applicant for employment;
- Protected personal identifier information, which includes all but the last four digits of a taxpayer identification number, financial account number or driver's license number and all but the year of a person's date of birth.

d. Medical Records:

Under the Americans with Disabilities Act (ADA) and the Family and Medical Leave Act (FMLA) information obtained through post-offer medical examinations and inquiries must be maintained in a separate file. Compliance with the ADA also requires that information related to medical disabilities be handled in a confidential manner. Records and documents relating to medical certifications, re-certifications or medical histories of employees or employees' family members, created for purposes of FMLA must also be maintain separate. Therefore, the REC keeps the medical records of its employees (i.e., any information related to an employee's medical condition

or the medical condition of his or her family members) confidential and separate from other personnel records.

This information may be revealed only in very limited circumstances, such as to safety and first aid workers if necessary to treat an employee; to public safety officials to protect the employee or others from a serious and imminent threat to health or safety; to mandated reporters to law enforcement to report child, elder or dependent abuse; to the employee's supervisor, if appropriate under applicable law and the employee's disability requires restricted duties or a reasonable accommodation; and to REC officials as required by law for the purposes of defending the REC in judicial or administrative proceedings; or for purposes of compliance with worker's compensation programs.

While physically separate from the official personnel file, the medical file may be stored in the same locked cabinet as an employee's official personnel file. The medical file may even be placed next to the official personnel file as long as there is a clear division between them and they can be accessed independently of each other.

Employees are personally responsible for securing verification of service, transcripts, health certificates, birth certificates, required licenses, fingerprinting and criminal background checks, etc.

Materials shall not be removed from the individual personnel folder except for review. Personnel records shall not be removed from the personnel office or the office of the Executive Director except as designated in policy.

Copies may be provided at a reasonable cost except as to matters involving litigation or threat of litigation in which event copies will be made available through a designated REC attorney or appropriate representatives determined by the Executive Director.

The REC shall not sell student, faculty or staff lists with personal identifying information for the purpose of marketing goods or services directly to students, faculty, staff or their families by means of telephone or mail. Release of lists of personnel to educational groups or organizations shall be at the discretion of the Executive Director. This does not apply to legitimate educational purposes, or when a parent of a student authorizes the release of the student's personal identifying information in writing.

Legal Reference: Americans with Disabilities Act of 1990, as amended.
 Family and Medical Leave Act of 1993
 NMSA 1978, § 22-21-2

1106 - Travel Expenses

Every effort should be made to minimize travel time and thus maximize child service time. The following policy will apply to travel reimbursement:

- Travel reimbursement will be made for regular and overnight travel associated with the employee's assigned duties.
- The program supervisor must give prior approval for overnight travel.
- REC provides reimbursement for travel and per diem. REC may implement procedures that are stricter than State procurement code.

- Mileage for travel will be paid from an employee's duty station. Travel will not be paid from home to the duty station.
- Travel will not be reimbursed after 2 months from the end of the month that the travel occurred. i.e.: travel for January will not be paid after March 30th.

Legal Reference: Per Diem and Mileage Act, NMSA 1978, §§ 10-8-1 to 10-8-8
2.42.2 NMAC – Regulations Governing the Per Diem and Mileage Act

1107 - Cell Phones/Computers/Vehicles/Internet

The Executive Director must authorize cell phone and computer purchases. Employees shall not use computers purchased by REC for personal use, except in cases of emergency. The business manager will process technology use stipend requests.

Personal use of an agency automobile/vehicle must be authorized by the Executive Director. Mileage for personal use is considered a benefit to the employee and must be reported on W-2.

Internet service provided by the REC prohibits personal use at home or at the workplace.

1108 - Purchasing Cards

Purchasing cards issued by REC are to be utilized for agency approved purchases only in accordance with rules adopted by the Public Education Department.

1109 - Social Media Acceptable Use

REC recognizes that access to technology gives employees greater opportunities to learn, engage, communicate, and develop skills that will prepare them in the workplace. REC staff are expected to follow the same policies when using work related technologies or when using personally-owned devices in the workplace.

Social media in the workplace creates an environment to connect with others, share educational resources, create and curate educational content, and enhance classroom and workplace experiences. Employees are expected to adhere to the following when using social media.

- Employees will be respectful, ethical, positive and considerate.
- Employees will follow the code of conduct and privacy policy.
- Employees will maintain confidentiality.
- Employees will respect brand, trademark, copyright information.

Deviation from this policy may result in disciplinary action. REC will not be held accountable for any harm or damages that result from misuse of social media.

1110 - Children in the Workplace

There may be occasions when employees who have an emergency situation and lack adequate childcare arrangements may need to bring a child into the REC workplace. A child brought to the REC workplace will be the responsibility of the employee and must be accompanied and be under the direct supervision of the employee at all times. No REC employee will be permitted to take a child to a member district site.

The Executive Director and the employee's director supervisor have authority to approve or deny the presence of non-student children in the workplace. In approving or denying the presence of an employee's child, the factors below shall be utilized. Under no circumstances will children be permitted in workplace areas that involve high risk safety issues. In addition, consideration will not be given to allowing a child with an illness to come to work with the employee.

The following factors when determining when an employee child may be present in the workplace;

- Safety and health: The primary consideration when approving the presence of children at the REC is the safety and health of the child and others present in the workplace.
- Disruption: Children should not disrupt or negatively impact the work of any employee or the operations of the REC operations. The child should only be at the workplace for a brief period of time, on rare occasions.
- Age and behavioral characteristics: Acceptability of children in the workplace depends on the age and behavioral characteristics of the child and any related issues of safety and disruption. Nature of the workplace: Some workplaces are more adaptable to the presence of children than others. Each will be evaluated on a case-by-case basis.
- The employee's supervisor may direct the employee to remove the child from the workplace at any time the supervisor determines that this policy has been violated or that the child's presence negatively impacts the operations of the REC.

1111 - Assignment/Duty Station

Employees shall be assigned by the Executive Director, in consultation with the program supervisor, to such duty and location as may be in the best interest of the agency, school districts and students served.

1112 - Work Day / Week / Year

Employment contracts will reflect the number of days or hours to be worked based on job classification. REC staff will follow their departmental guidelines for daily work hours.

All employees will report daily work hours in the timekeeping method as determined within the REC procedures.

1113 - Staff Meetings

All REC employees must attend:

- The REC orientation unless excused by the Executive Director;
- All staff meetings called by the Executive Director unless excused by the Executive Director; and
- All staff meetings called by the program supervisor unless excused by the program supervisor.

1114 - Inspection of Public Records

NOTICE OF RIGHT TO INSPECT PUBLIC RECORDS: By law, under the Inspection of Public Records Act, every person has the right to inspect public records of the Region Education Cooperative (REC). Compliance with requests to inspect public records is an integral part of the routine duties of the officers and employees of the REC. Procedures for Requesting Inspection. Requests to inspect public records should be submitted to the records custodian, located at [ADDRESS, PHONE NUMBER AND EMAIL].

A person desiring to inspect public records may submit a request to the records custodian orally or in writing. However, the procedures and penalties prescribed by the Act apply only to written requests. A written request must contain the name, address and telephone number of the person making the request. Written requests may be submitted in person or sent via US mail, email or facsimile.

The request must describe the records sought in sufficient detail to enable the records custodian to identify and locate the requested records. The records custodian must permit inspection immediately or as soon as practicable, but no later than 15 calendar days after the records custodian receives the inspection request.

If inspection is not permitted within three business days, the person making the request will receive a written response explaining when the records will be available for inspection or when the public body will respond to the request. If any of the records sought are not available for public inspection, the person making the request is entitled to a written response from the records custodian explaining the reasons inspection has been denied. The written denial shall be delivered or mailed within 15 calendar days after the records custodian receives the request for inspection.

Procedures for Requesting Copies and Fees. If a person requesting inspection would like a copy of a public record, a reasonable fee may be charged. The fee for printed documents 11 inches by 17 inches or smaller is (\$.50) per page. The fee for larger documents is (\$.60) per page. The fee for downloading copies of public records to a computer disk or storage device is (\$25.00). If a person requests that a copy of a public record be transmitted, a fee of (\$5.00) may be charged for transmission by mail and (\$.50 per page) for transmission by facsimile. The records custodian may request that applicable fees for copying public records be paid in advance, before the copies are made. A receipt indicating that the fees have been paid will be provided upon request to the person requesting the copies.

1115 - Retention of Public Records

The Council desires to ensure that REC public records are maintained in a cost-effective, efficient and legal manner. Therefore, all employees and agents shall adhere to the records retention schedules adopted by the New Mexico Commission of Public Records.

1116 - Dress Code

Employee appearance contributes to REC's culture and reputation. Employees are expected to present themselves in a professional manner that results in a favorable impression by member districts, students, staff and community.

Although it is impossible and undesirable to establish an absolute dress and appearance code, REC will apply a reasonable and professional workplace standard. The department managers may exercise reasonable discretion to determine appropriateness in employee dress and appearance. Employees who do not meet a professional standard may be sent home to change, and nonexempt employees will not be paid for that time. Reasonable accommodations will be made where required.