



NEW MEXICO
**LAW OFFICES OF THE
PUBLIC DEFENDER**

**Chief Public Defender
Bennett J. Baur**

TITLE: **State Vehicle Usage Policy** **Issue Date:** **7/1/14**
Effective Date: **7/1/14**
Revision Date: **9/1/2021**

AUTHORITY: New Mexico Public Defender Department Act NMSA 31-15-1 et. seq. (2013)
NMAC 1.5.3.21 State Vehicle Care and Maintenance

REFERENCES:

- A. Procurement Code, NMSA 13-1-28 through 13-1-199 (1978)
- B. Public Records Act, NMSA 14-3-1 et. seq. (1978)
- C. Department of Finance and Administration (DFA) State Procurement Card Policy and Procedures
- D. State of New Mexico Manual of Model Accounting Practices
- E. State Personnel Board Rule, NMAC 1-7-11 Discipline

PURPOSE: The purpose of the State Vehicle Usage Policy is to establish standards for New Mexico Public Defender Department employees' operation and reporting of the State of New Mexico's owned, leased or rented vehicles.

SCOPE: The State Vehicle Usage Policy is applicable to all employees who hold a valid New Mexico Driver's License and have completed and hold a valid New Mexico Defensive Driving Certificate.

BACKGROUND: N/A

DEFINITIONS:

- A. *CFO:* Chief Financial Officer.
- B. *Chief Public Defender:* Head of the Public Defender Department.
- C. *Department:* New Mexico Public Defender Department, that is accountable to the Judicial Branch and the Public Defender Commission of the State of New Mexico.
- D. *Employee(s):* Any person directly employed by the Public Defender Department whether full-time, part-time, or temporary.
- E. *State Vehicle:* Any motor vehicle purchased and owned by the State of New Mexico or any vehicle leased or rented from a commercial vendor or General Services Department Motor Pool, where the rental is paid for by the State of New Mexico.

POLICY: The Department shall follow the State of New Mexico Administrative Code 1.5.3.21 State Vehicle Care and Maintenance.

- A. Use of a personal vehicle for state business is only authorized when the use is approved by the employee's direct supervisor and one of the following conditions are met:
 - 1. A state vehicle is not available for use.
 - 2. The cost the State would be less than if the employee operated a state vehicle.

In computing the number of miles required to be driven by an employee, the distance between the individual's residence and office or designated post of duty, may not be included in the total sum of miles.

- B. Long Term Take Home Vehicle Assignment Criteria: the Chief Public Defender has the

discretion to determine whether a take home vehicle should be assigned to an employee.

1. It must be shown that the majority of the employee's assigned duties require travel on state business in excess of one thousand (1,000) miles each month or that the vehicle is an integral part of job assignment. In addition, at least one of the following criteria must be met:
 - a. The job requires an employee to be on call on a recurring basis beyond normal duty hours and, when requested, requires immediate travel from a residence to a location where specific skills, services, equipment or supplies are necessary to perform the duties of the job.
 - b. The job involves leaving directly from home to a continually variable work station, in which travel to a central location to obtain a state vehicle would result in a significant amount of unnecessary travel time and loss of productive hours.
 - c. The employee works from a home office with continual variable work station (case workers, investigators, etc.).

C. Short Term Take Home Vehicle Assignment Criteria: the Chief Public Defender has the discretion to determine whether a take home vehicle should be assigned to an employee.

1. It must be shown that the majority of the employee's assigned duties require travel on state business in excess of one thousand (1,000) miles each month or that the vehicle is an integral part of job assignment. In addition, at least one of the following criteria must be met:
 - a. The job requires an employee to be on call on a recurring basis beyond normal duty hours and, when requested, requires immediate travel from a residence to a location where specific skills, services, equipment or supplies are necessary to perform the duties of the job.
 - b. The individual trip would be fiscally beneficial to the Department to allow the employee to leave directly from their residence, travel to and from work. This travel would result in a significant amount of unnecessary travel time and loss of productive work hours.
 - c. The employee may take the State vehicle home when return travel is estimated to be very late in the day or when the departure time is very early in the morning.

D. Vehicle Operation:

1. Authorized Operator: only state employees may operate a state vehicle when the following conditions are met:
 - a. The state employee must possess a valid New Mexico driver's license for the appropriate type of vehicle to be driven. The license may not be suspended, revoked, expired or expected to expire before the state employee is expected to complete their travel.
 - b. The state employee must possess a valid New Mexico Defensive Driving Certificate.
 - c. Must be an employee of the Public Defender Department for the duration of the period of travel.
 - d. Must be conducting official state business of behalf of the Public Defender Department.
2. Authorized Passengers: the Department employee conducting state business and employees of the State of New Mexico may be authorized passengers. The following may be transported if the Department driver is on the General Services Division Waiver to transport non-state employees:
 - a. A ward of the State or a non-State employee who is an independent contractor conducting business on behalf of the Department.
 - b. Any request for an exception to this policy must be submitted in writing to the Department Fleet Administrator who will coordinate submission to the General Services Division, Transportation Services Division.
3. Out-of-State/Out-of-Country Usage: employees may not take a state vehicle out of the state of New Mexico without the prior, written approval of the Department's Fleet Administrator. The process for obtaining this approval may take up to 15 business days. Employees may not drive a state vehicle out of the country for any purpose.

E. Authorized Use: when traveling between the point of origin and the location to conduct official state business; additionally, when traveling to obtain meals and lodging related to

official state business.

- F. Unauthorized Use: the following conditions are deemed unauthorized use of the State Vehicle:
1. Travel for personal use.
 2. Travel or tasks that are beyond the vehicle rated capability or capacity.
 3. Out of state travel unless preapproved.
 4. Travel out of the country.
 5. Transporting pets, children, family members, or non-state employees, unless authorized driver is named in LOPD waiver as authorized to transport non-state employees.
 6. Operating a State Vehicle without a valid driver's license or while license is under suspension or revocation.
 7. Transport of alcohol or illegal substances is prohibited.
 8. Operating a State Vehicle at any time with any measurable amount of alcohol or controlled substances in the driver's body, or smoking while in a State Vehicle.
 9. The Chief Public Defender has the authority and responsibility to restrict employees from operating State vehicles when an employee has a history of being an unsafe or irresponsible vehicle operator.
- G. Employee Vehicle Use Responsibility:
1. Employees are required to fully complete the vehicle log sheet each time the State Vehicle is used.
 2. Employees shall notify the Department's Fleet Administrator immediately if the State Vehicle appears to be damaged or in need of repairs or maintenance.
 3. Employees shall immediately take steps to report any mechanical or operating problem that occurs while a State Vehicle is in operation.
 4. Employees shall not continue to operate a State Vehicle if continued operation could endanger any person or property.
 5. The State Vehicle must be fueled to at least three quarters of a tank after each use.
 6. State employees are responsible for the cleanliness of the vehicle. All personal items and trash must be removed from the vehicle after each use.
 7. State employees are expected to use the State Vehicle in a responsible manner and within the bounds of all traffic and parking laws.
 8. The vehicle operator must pay any towing, storage, parking or traffic fines resulting from the operator's violation of existing laws.
 9. Damages or other financial assessments related to the State Vehicle that, after official Department review, are determined to have been the result of the driver's poor judgement, irresponsibility, negligence or violation of these rules may be charged to the employee (such as towing charges, damage to the vehicle and all traffic and parking violations).
 10. Employees are to lock the doors and secure the State Vehicle.
 11. Employees will not use cellular phones while driving a State Vehicle.
 12. Employees are expected to use their WEX card for fueling the State Vehicle.
 13. When fueling a State Vehicle, employees should make every effort to purchase fuel at the least expensive outlet, and purchase the lowest grade fuel available for the vehicle, generally regular unleaded gasoline.
- H. Vehicle Operation Risk:
1. State Vehicle Damages (employee at fault): the Department pays for the repairs. After investigation, the Chief Public Defender shall determine if the employee's State Vehicle driving privileges should be revoked or temporarily suspended.
 2. State Vehicle Damages (non-State employee at fault): the Department can seek third party insurance reimbursement.
 3. Personal Vehicle Damages: the employee files a claim with their personal insurance carrier and must pay their deductible according to the terms of their policy.
- I. Vehicle Accident:
1. Call the State Police to file a police report. Do not make a statement as to the fault or liability.
 2. Record the officer's name and badge number. Document the police report case number.

3. Obtain the name, address, phone number, driver's license number, vehicle license plate, insurance company and policy number of all involved drivers.
4. Diagram the accident and take photos.
5. Obtain the name, address and phone number of witnesses and passengers.
6. If the vehicle needs to be towed, contact the Department's Fleet Administrator and arrange for transport of the State Vehicle to the State Motor Pool or to the contracted service provider.
7. Notify the Department's Fleet Administrator of the accident within 24 hours and forward photos of the vehicle damages and accident. If they are not notified within 24 hours, then the Department will be responsible for the cost of vehicle repairs.

J. Vehicle Theft:

1. Call the State Police to file a police report. Record the officer's name and badge number. Document the police report case number.
2. Obtain the name, address and phone number of any witnesses.
3. Notify the Department's Fleet Administrator.

K. Care and Maintenance: the Department must ensure preventative maintenance services are completed at the appropriate intervals listed on the vehicle manual. When servicing the vehicle, the Department must ensure that the vehicle is taken to a vendor listed on the approved vendor maintenance list (produced by the Transportation Services Division of the General Services Division). The vendor maintenance list will be maintained within the Department by the Fleet Administrator.

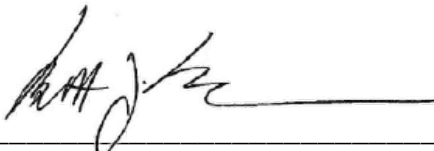
L. Emergency Use of Vehicles: nothing in this policy shall be construed to prohibit the use of occupancy of a state vehicle when rendering emergency aid or assistance to any person, of the use or occupancy by private sector mechanics or repair personnel in the course of performing required maintenance or repairs.

PROCEDURE:

- A. Use of a Personal Vehicle must meet one of the conditions listed in the Policy section A above.
- B. Long Term Take Home Vehicle must meet the criteria listed under the Policy section B above.
 1. A state vehicle may not be taken home without the Chief Public Defender's approval in writing.
 2. Chief Public Defender must approve, in writing, requests for a Long Term Take Home Vehicle. The request must be submitted in writing to the Chief Public Defender annually, and re-submitted one month before the expiration of the previous approval.
 3. This approval will be authorized for a maximum period of twelve (12) months.
- C. Short Term Take Home Vehicle must meet the criteria of the Policy section C above and must be approved in writing, via email by the Chief Public Defender.
 1. A state vehicle may not be taken home without the Chief Public Defender's approval in writing.

MANAGEMENT:

- A. The Chief Public Defender may cancel, restrict or revoke authorization for personal vehicle usage for state business, short term and long term take home vehicle privileges at any time.
- B. Appropriate and timely notification will be made regarding change(s) in policy or procedures, as deemed appropriate by the Chief Public Defender.
- C. Each reported infraction of this policy will be handled on its own merit and may be subject to disciplinary action in conjunction with the State Personnel Board Rule, 1 NMAC 7, 11 Discipline.
- D. The Chief Financial Officer will review this policy annually.



Bennett J. Baur, Chief Public Defender
Law Offices of the Public Defender

September 1, 2021
Date