

NOTICE OF PROPOSED RULEMAKING

Public Notice: The Public Defender Commission provides notice that it will conduct a public hearing at the Law Offices of the Public Defender, 505 Marquette Ave NW, 17th Floor, Albuquerque, NM on Friday, April 17, 2026 at 9:00 a.m. Virtual participation will also be available via Zoom. Log-in details for the Zoom meeting will be available on the Law Offices of the Public Defender website (www.lodnm.us) beginning Wednesday, April 15, 2026. The purpose of the public hearing is to receive public input on proposed amendments to 10.12.6 NMAC – General Working Conditions

Authority: Paragraph (6) of Subsection B of Section 31-15-2.4 NMSA 1978, Section 31-15-7 NMSA 1978, Section 12-5-2 NMSA 1978 and Sections 24-2B-1 to 24-2B-9 NMSA 1978, 5 U.S.C. Sections 1501 to 1508.

10.12.6.12 – Rescission of Resignation

Purpose: The purpose of the repeal to 10.12.6.12 NMAC is to make an employee resignation effective immediately. Under the current rule, an employer must allow an employee three (3) days to rescind their resignation, and the repeal of this section will eliminate that time requirement.

Summary of Proposed Repeal to 10.12.6.12 NMAC:

This is an amendment to 10.12.6 NMAC, repealing Section 12, effective xx/xx/2026.

~~10.12.6.12 **[RESCISSION OF RESIGNATION:** An employee may rescind a letter of resignation within three workdays of its submission and the agency must honor the rescission if it is submitted within the prescribed time limit.]~~ **[RESERVED]**

[10.12.6.12 NMAC - N, 7/1/2015; Repealed, xx/xx/2026]

10.12.6.13 – Employee Complaints

Purpose: The purpose of the rule change to 10.12.6.13 NMAC is to provide a ten (10) day deadline for an employee to appeal a Level Two decision to the Chief Public Defender.

Summary of Proposed Amendments to 10.12.6.13 NMAC:

10.12.6.13 **EMPLOYEE COMPLAINTS:**

A. Employees are provided with an in-house method for resolving complaints. All employees are encouraged to resolve complaints at the lowest level and informally if possible. Employees are encouraged to contact the human resource human resource director before filing a formal written complaint. A complaint may be withdrawn at any time by the initiating party. Employees who utilize the formal complaint procedure or participate in the investigation of any complaint will not be subject to retaliation for participation. The employee filing the complaint is responsible for ensuring all the time limits are followed. Time limits may be waived by the complainant at any time.

B. Complaints pursuant to these sections must be submitted in writing and must include the following information:

(1) Employee name, job title, work location, date the complaint is filed and work phone number.

(2) A description and the date of the alleged incident for which the complaint is filed.

(3) The relief requested.

(4) The employee signature.

C. The complaint procedure has three levels:

(1) Level One.

(a) The employee shall present the complaint in writing to the immediate supervisor or to the district defender if the complaint is against the immediate supervisor, within 10 calendar days after the complainant became aware or reasonably could have been aware, of the incident giving rise to the complaint.

(b) The supervisor or district defender notifies the human resource director to coordinate investigation of the complaint and the response to the employee. The response is due 10 calendar days from the date that the supervisor is made aware of the complaint. This response will be made in writing after review by the human resource director.

(c) If the complainant determines that the supervisor or district defender's decision is unsatisfactory, the employee may appeal directly to the deputy chief. The appeal is due within 10 calendar days of the level one response.

(d) If the level one complaint does not receive a response within 10 calendar days,

the complaint shall be deemed denied and the employee may submit the complaint to the next level.

(2) Level Two.

(a) If the complaint is against the district defender or seeks to appeal the response in level one the employee may submit the complaint to the deputy chief within 10 calendar days after the complainant became aware or reasonably could have been aware, of the incident giving rise to the complaint or after the response, if any, is provided in level one.

(b) The complaint should include the response received in level one, if any, and the reasons that the response was unsatisfactory.

(c) The employee or the deputy chief sends a copy of the complaint to the human resources human resource director.

(d) Where appropriate the deputy chief reviews the level one complaint and response.

(e) The deputy chief determines if additional information is necessary or if an informal meeting is appropriate and attempts to resolve the matter.

(f) The deputy chief's decision will be returned within 14 calendar days.

(g) A copy of the response will be send to the human resources human resource director.

(h) If the complainant determines that the deputy chief's decision is unsatisfactory, the employee may appeal directly to the chief. The appeal is due within [~~14~~] 10 calendar days of the level two response.

(i) If the level two complaint does not receive a response within 14 calendar days, the complaint shall be deemed denied and the employee may submit the complaint to the next level.

(3) Level Three.

(a) If the complaint is against the deputy chief or seeks to appeal the response in level two the employee may submit the complaint to the chief within 10 calendar days after the complainant became aware or reasonably could have been aware, of the incident giving rise to the complaint or after the response, if any, is provided in level two.

(b) The complaint should include the previous response(s), if any, and the reason that the previous responses were unsatisfactory.

(c) A copy of the appeal is sent to the human resources human resource director.

(d) The chief determines if additional information or informal meetings are needed prior to making a final decision and responds to the complaint in writing within 21 days.

(e) A copy of the response is sent to the human resource director.

D. After exhausting internal procedures, a complainant may appeal to outside agencies.

(1) Complaints alleging discrimination may be appealed to the department of workforce solutions, human rights division within 180 calendar days of the alleged act; or

(2) to the equal employment opportunity commission within 300 calendar days of the alleged act.

[10.12.6.13 NMAC - N, 7/1/2015; A, XX/XX/2026]

How to Comment on the Proposed Rules:

Interested individuals may provide comments at the public hearing and/or submit written or electronic comments to Abby Adamo, via email at abby.adamo@lopdm.us or mail to Attn: Abby Adamo – Rule Changes to 10.12.6.12 & 13 NMAC, 505 Marquette Ave NW, Ste 1720, Albuquerque, NM 87102.

Written comments must be received no later than 5:00 pm on April 16, 2026. However, the submission of written comments as soon as possible is encouraged. Persons may also submit written comments at the public hearing.

Copies of Proposed Rules:

Copies of the proposed rules are available for download on the LOPD's website at <http://www.lopdm.us>. A copy of the proposed rules may also be requested by contacting Abby Adamo, via email at abby.adamo@lopdm.us

Special Needs:

Individuals with disabilities who require this information in an alternative format or need any form of auxiliary aid to attend or participate in the public hearing are asked to contact Abby Adamo at (505) 796-4402 as soon as possible to provide requested special accommodations.