

Chapter 76

PERSONNEL POLICIES

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|---|---|
| § 76-1. Short title. | discharge employees; Personnel Office; Personnel Officer. |
| § 76-2. Declaration of policy. | |
| § 76-3. Factors of employment. | § 76-12. Personnel duties and responsibilities of Mayor. |
| § 76-4. Prerogatives of employer. | § 76-13. Contracts with employees. |
| § 76-5. Discrimination prohibited. | § 76-14. Personnel Board duties. |
| § 76-6. Employees covered. | § 76-15. Permitted and prohibited political activity. |
| § 76-7. Adoption of rules and regulations. | § 76-16. Personnel records. |
| § 76-8. Supplemental rules and regulations, policies or interpretative memoranda. | § 76-17. Limitations. |
| § 76-9. Employment preferences. | § 76-18. Fraudulent resignations. |
| § 76-10. Prohibited employment; nepotism. | § 76-19. Civic activities. |
| § 76-11. Authority of Mayor and governing body to employ and | § 76-20. Financial interests of employees. |
| | § 76-21. Interference with administration. |
| | § 76-22. Violations and penalties. |

[HISTORY: Adopted by the Board of Trustees of the Village of Jemez Springs 8-14-1996 by Ord. No. 114 (Ch. 2, Art. 4, §§ 2-4-4 through 2-4-25, of the 1996 Village Code). Amendments noted where applicable.]

GENERAL REFERENCES

Administration of government — See Ch. 7.

Employee Manual — See Ch. A140.

§ 76-1. Short title.

This chapter may be cited as the "Village Personnel Ordinance."

§ 76-2. Declaration of policy.

Pursuant to the authority granted in NMSA 1978, § 3-13-4, it is the policy of the Village to endeavor to achieve quality public service by the adoption of a personnel merit system consistent with:

- A. Recruitment, selection, and advancement of employees on the basis of qualified candidates for initial appointment;
- B. Providing equitable and adequate compensation;

- C. Training employees, as needed, to assure high-quality performance and technical expertise, and on-the-job safety;
- D. Retaining employees on the basis of the adequacy of their performance, correcting inadequate performance, and separating employees who do not adhere to personnel policy or whose inadequate performance cannot be corrected;
- E. Assuring fair treatment of candidates and employees in all aspects of personnel administration without regard to political affiliation, race, color, national origin, sex, religious creed, age, or disability and with proper regard for their privacy, and constitutional rights as citizens; and
- F. Assuring that employees are protected against coercion for political purposes and are prohibited from using their official authority for the purpose of interfering with or affecting the results of an election or a nomination for office.

§ 76-3. Factors of employment.

- A. Employment by the Village shall include:
 - (1) Consideration of qualifications, merit, performance on the job, and increases in ability;
 - (2) Just and equitable incentives and conditions of employment which shall be established and maintained to promote efficiency and economy in Village operations;
 - (3) Adequate compensation based upon budgetary availability; and
 - (4) Performance and compensation appraisals.
- B. Every consideration shall be given to the rights and interests of employees, supervisors and administrators, consistent with the best interests of the organization and the public. This chapter is not to be construed to invest any rights in any employee that would impair or infringe on the rights of another employee, supervisor, the governing body or the public.
- C. Continuous employment, advancement and transfer of employees covered by this personnel system shall be subject to good behavior, performance of work, necessity for the performance of work, cooperation and the availability of funds.
- D. High morale and security shall be promoted by the fair administration of this personnel system, and its application to and among all employees.
- E. Every person is expected to comply with the spirit and intent of this chapter.

§ 76-4. Prerogatives of employer.

It is the exclusive responsibility and prerogative of the Village to determine the purpose of each of its agencies and departments, to set standards of services to be offered to the public,

and to exercise control and discretion over its organization and operations. Nothing in this chapter or rules and regulations shall be interpreted to prohibit the right of the Village to make a decision or choice based on other factors not specifically set forth therein. It is the responsibility and exclusive prerogative of the Village to direct its employees, to take corrective/disciplinary action for just cause, to relieve its employees from duty because of lack of work, lack of funds or for other legitimate reasons, and to determine the methods, means and personnel by which the Village's operations are to be conducted.

§ 76-5. Discrimination prohibited.

- A. The Village is an equal opportunity employer. The following acts of discrimination on the part of any person are expressly prohibited, and if such discriminatory acts occur, the person found to violate these provisions is subject to dismissal or suspension from Village employment or other appropriate corrective/disciplinary action. No Village employee shall:
- (1) Unless based on a bona fide occupational qualification, refuse to hire, discharge, promote or demote or discriminate in matters of compensation against any person otherwise qualified, because of race, age, religion, disability (as delineated under ADA), national origin, ancestry, sex, or political affiliation;
 - (2) Deny equal treatment or otherwise favor any employee on the basis of race, color, religion, disability (as delineated under ADA), national origin, ancestry, sex, age or political affiliation;
 - (3) Print or circulate or cause to be printed or circulated any statement, advertisement or publication or to use any form of application for employment to make any inquiry regarding prospective employment which expresses, directly or indirectly, any limitation, specification or discrimination as to race, color, religion, disability (as delineated under ADA), national origin, ancestry or sex, unless based on a bona fide occupational qualification;
 - (4) Intimidate, dismiss or otherwise discriminate against any person because he has filed a complaint, testified or participated in any proceeding under this chapter;
 - (5) Aid, abet, incite, compel or coerce the doing of any of the acts forbidden under this chapter, or to attempt to do so; or
 - (6) Attempt to favor or deny treatment to any employee or prospective employee or to attempt to cause any person to violate the terms of this chapter on the basis of race, color, religion, national origin, disability (as delineated under ADA), ancestry, sex, age or political affiliation.
- B. Charges of violations of this chapter or the rules and regulations shall be presented to the Mayor, who shall hear and consider the complaint and take appropriate action.

§ 76-6. Employees covered.

- A. This chapter covers all positions except officials elected by popular vote or appointed to fill vacancies in elective offices; members of Village boards, commissions and committees appointed by the governing body; and those on professional services contract.
- B. Those employees designated as "at-will," are covered by this chapter and entitled to the same rights and privileges afforded other employees, except for the rights and privileges of selection, appeal of corrective/disciplinary action, grievance procedures or dismissal. Such employees include:
 - (1) Temporary employees; and
 - (2) Employees of the Municipal Court (see *Mowrer vs. Rusk*, 95 N.M. 48).

§ 76-7. Adoption of rules and regulations.

- A. The rules and regulations are adopted for the purpose of implementing this chapter to assure the continuance of the personnel merit system, thereby promoting efficiency in the conduct of public business and assuring fair and impartial treatment of all candidates for employment and all employees in the Village. Rules and regulations shall be adopted by resolution of the governing body, and upon such adoption and approval shall be filed in the personnel office and distributed to Village employees, and shall be open to inspection by the public during normal business hours. The rules and regulations shall provide for:
 - (1) Employment classifications, employment policies and standards of conduct, including corrective/disciplinary actions, and appeal and grievance procedures;
 - (2) Compensation and performance standards, including wage and salary policies, performance and compensation reviews, and work standards;
 - (3) An overview of employee benefits, types of leave, and other employee assistance; and
 - (4) Other policies and standards of a general or specific nature affecting employment with the Village.
- B. The rules and regulations may provide for:
 - (1) A classification plan providing for the classification of Village positions based on the duties and responsibilities of each position with provisions for the reclassification and combining, expanding or reducing any position when warranted by changed circumstances;
 - (2) A pay plan for positions, including merit, productivity and step pay increases, the rules and regulations may also provide for compensation plans for longevity, training and incentive.

§ 76-8. Supplemental rules and regulations, policies or interpretative memoranda.

- A. The Mayor or department directors with the approval of the Mayor may promulgate rules and regulations or policies to supplement:
- (1) General rules adopted by the governing body;
 - (2) Policies and procedures governing employees holding provisional appointments;
 - (3) Policies and procedures governing employees' relations with boards, commissions or committees of the Village;
 - (4) Policies and procedures regarding in-service training programs;
 - (5) Policies and procedures necessary to the administration of the personnel merit system;
 - (6) Policies and procedures governing other employees serving at will;
 - (7) Other policies and procedures governing employees as may be deemed necessary and not in conflict with this chapter, other ordinances or the rules and regulations; and
 - (8) Interpretative memoranda dealing with the provisions of this chapter or the rules and regulations.
- B. The supplemental rules and regulations, policies or memoranda shall be on file and available for inspection during normal business hours in the personnel office and will be made available to Village employees.

§ 76-9. Employment preferences.

Employment preference may be given to current Village employees, former Village employees in good standing, veterans, and local area residents who have lived in the area for six months or longer.

§ 76-10. Prohibited employment; nepotism.

- A. No person shall be employed as a clerk, deputy or assistant whose compensation is to be paid out of public funds by any person elected or appointed to any public office, if the person is related by consanguinity or affinity within the third degree to the person giving such employment, unless such employment shall first be approved by the governing body (NMSA 1978, § 10-1-10). No person employed in violation of this section shall be paid or receive any compensation from public funds and such employment shall be null and void (NMSA 1978, § 10-1-11).
- B. No person shall be hired, promoted, or transferred to a position which is under the direct supervision or the departmental chain of command of a relative by consanguinity or affinity within the third degree.

- C. In the event two employees are: in positions of direct or indirect supervision through any departmental chain of command; or in positions in the Police Department where their job duties may require them to be in communication with each other during an emergency response situation, and these two employees establish a relationship by marriage, other operation of law, or through lifestyle accommodations being the equivalent of a family relationship, then the Mayor may transfer one of the employees to a position removed from the supervisory control of the other if it is determined that such transfer will serve the best interests of the Village.
- D. Except as provided in A and B above, no applicant or employee who is a relative of another Village employee shall be prohibited from seeking and holding a Village position or from promotion within the Village service, provided such recruitment or promotion is conducted in accordance with the provisions of this chapter and the rules and regulations, and any applicable administrative regulations.
- E. Relationships by consanguinity or affinity within the third degree include parents, children, grandparents, grandchildren, brothers, sisters, great-grandparents, great-grandchildren, aunts, uncles, and nieces and nephews of the employee and his spouse.

§ 76-11. Authority of Mayor and governing body to employ and discharge employees; Personnel Office; Personnel Officer.

The Mayor, with the approval of the governing body, has the sole authority to employ and discharge all Village employees and to act in accordance with the provisions of this chapter and the rules and regulations. The Mayor shall establish a Personnel Office and shall have the authority to designate a Personnel Officer. The Personnel Officer shall perform duties to be delegated to him by the Mayor and in accordance with the rules and policies established by the governing body. The Personnel Officer shall work under the direct control and supervision of the Mayor.

§ 76-12. Personnel duties and responsibilities of Mayor.

The Mayor is the chief executive officer of the Village and is responsible for the administration of the personnel merit system and shall perform the duties and have the following additional powers concerning personnel matters:

- A. Administer and maintain the Village personnel merit system and recommend rules necessary and incidental to the operation and maintenance of same, in accordance with the provisions of this chapter;
- B. Issue supplemental personnel rules and regulations, policies or interpretative memoranda necessary for the effective implementation of this chapter;
- C. As necessary, develop, maintain and apply procedures for the recruitment, compensation, promotion, training, discipline, and related aspects of personnel management for all Village personnel in accordance with the purpose and intent of this chapter; and

- D. Recommend contractual arrangements with any qualified person or agency for the performance of such technical or professional services as may be required.

§ 76-13. Contracts with employees.

- A. The governing body shall contract through the Mayor with other employees to provide for continuity of Village services under certain terms and conditions.
- B. Within 10 days following the adoption of the merit system through this chapter, an employee in a position covered by the merit system may file with the Village Clerk/Treasurer a declaration stating that the employee does not desire to have his employment subject to this chapter together with the rules and regulations issued pursuant to this chapter (NMSA 1978, § 3-13-4D).

§ 76-14. Personnel Board duties.

- A. The rules and regulations shall state the duties and responsibilities of the Personnel Board or a hearing officer. For purposes of this chapter, the governing body shall sit as the Personnel Board.
- B. The Personnel Board shall advise and assist the Mayor in the improvement of personnel standards in all positions.
- C. The Personnel Board shall make any investigation which has been requested by either the Mayor or the majority of the governing body concerning personnel administration or grievance issue.
- D. The rules and regulations or an administrative order shall provide for the orderly procedure and responsibility of the Personnel Board. The Personnel Board shall render a timely decision of grievance and submit its decision, in writing, to the Mayor. The decision of the Personnel Board is final.

§ 76-15. Permitted and prohibited political activity.

- A. Nothing in this chapter shall be construed to restrict off-hour political or organizational activities, or to prohibit any employee from making voluntary contributions for political or organizational purposes, to restrict the rights of employers to vote as they may choose, or to restrict the rights of employees to express their opinions on political or organizational meeting after working hours or to go to the polling place the purpose of voting during working hours in accordance with a reasonable schedule of timing established by the department. Further, nothing in this chapter shall be construed as prohibiting the Mayor from requiring an employee to assist the Village Clerk/Treasurer in the conduct of municipal elections. Service on the local school board or on a community college board are considered permitted political activity.
- B. Prohibited acts, including the federal requirements of the Hatch Act, are to be delineated in the rules and regulations.

§ 76-16. Personnel records.

Formal personnel records shall be maintained in the Personnel Office and shall be disclosed only pursuant to the disclosure provisions of the state Inspection of Public Records Act,¹ and the federal Freedom of Information Act and the rules and regulations.

§ 76-17. Limitations.

Nothing contained in the rules and regulations, policies or memoranda shall be construed to take precedence over any ordinance of the Village or any resolution duly adopted by the governing body under proper authority granted the governing body by state law.

§ 76-18. Fraudulent resignations.

If an employee resigns without a break in service for purposes of withdrawing retirement contributions the employee shall not be reemployed by the Village (NMSA 1978, § 10-11-1 et seq.).

§ 76-19. Civic activities.

Notwithstanding the restrictive provisions of this chapter, all employees are encouraged to become involved in civic affairs, and assist in the promotion and improvement of the Village, county and schools, and the economic and social well-being of the community.

§ 76-20. Financial interests of employees.

- A. No employee, during the period of his employment with the Village, shall acquire a financial interest in any new or existing business venture or business property when such employee believes or has reason to believe that the financial interest will be directly affected by his official act;
- B. No employee shall use confidential information acquired by virtue of his Village employment for his or another's private gain;
- C. No employee may participate directly or indirectly in a procurement (as defined in the Procurement Code, NMSA 1978, §§ 13-1-28 through 13-1-199, or other applicable statutes) when the employee knows that the employee or any member of the employee's immediate family has a financial interest in the business seeking or obtaining a contract. The employee or any member of the employee's immediate family who holds a financial interest in a disclosed trust shall not be deemed to have a financial interest with regard to matters pertaining to that trust;
- D. No employee who is participating directly or indirectly in a procurement process (as defined in the Procurement Code, NMSA 1978, §§ 13-1-28 through 13-1-199) can be or become, while such an employee, the employee of any person or business contracting with the Village; and

1. Editor's Note: See NMSA 1978, § 14-2-1 et seq.

- E. The governing body may grant a waiver from unlawful employee participation pursuant to Subsections C and D above upon making a determination that:
- (1) The contemporaneous employment or financial interest has been publicly disclosed; the employee will be able to perform his procurement functions without actual or apparent bias or favoritism; and
 - (2) The employee's participation is in the best interests of the Village.

§ 76-21. Interference with administration.

No person shall interfere in the administration of this chapter or the rules and regulations.

§ 76-22. Violations and penalties.

Any employee, who by himself or with others, willfully violates any provision of this chapter, in addition to any other penalty imposed for such violation, is subject to corrective/disciplinary action which may include suspension or dismissal.