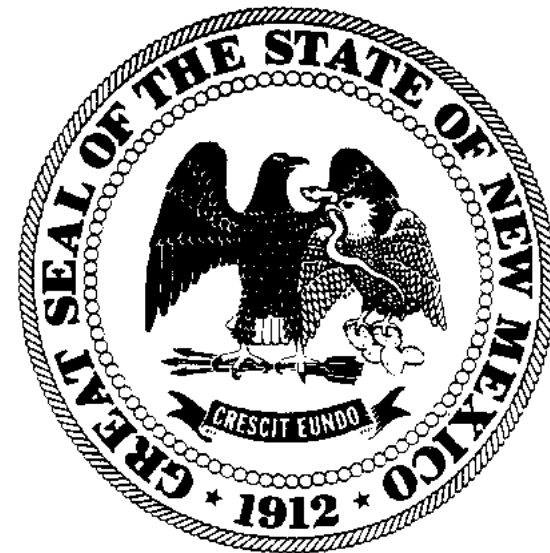


**STATE OF NEW MEXICO  
PUBLIC EDUCATION COMMISSION**



**RULES OF PROCEDURE**

**Adopted July 9, 2004**

**Amended April 2, 2009**

## **I. CONSTITUTIONAL FRAMEWORK**

Article XII, Section 6 of the New Mexico Constitution establishes an elected Public Education Commission (“Commission”):

- A. There is hereby created a "public education department and a “public education commission” that shall have such powers and duties as provided by law. The department shall be a cabinet department headed by a secretary of public education who is a qualified, experienced educator who shall be appointed by the governor and confirmed by the senate.
- B. Ten members of the public education commission shall be elected for staggered terms of four years as provided by law. Commission members shall be residents of the public education commission district from which they are elected. Change of residence of a commission member to a place outside the district from which he was elected shall automatically terminate the term of that member.
- C. The governor shall fill vacancies on the commission by appointment of a resident from the district in which the vacancy occurs until the next regular election for membership on the commission.
- D. The secretary of public education shall have administrative and regulatory powers and duties, including all functions relating to the distribution of school funds and financial accounting for the public schools to be performed as provided by law.
- E. The elected members of the 2003 state board of education shall constitute the public education commission, until their terms expire, and the districts from which the state board of education were elected shall constitute the state public education commission districts until changed by law.

## **II. DUTIES AND CONDUCT OF PUBLIC EDUCATION COMMISSION MEMBERS**

- A. Duties of Commission Members (“Commissioners”):
  - 1. It is the policy of the Commission to encourage the active participation of all Commissioners in all aspects of the

Commission's activities, including active service in the leadership. Commissioners are expected to attend all regular, special, and emergency Commission meetings.

2. Commissioners are expected to edify themselves regarding issues and requirements concerning education in New Mexico so as to give informed advice. Commissioners are further expected to avail themselves of educational opportunities to keep abreast of such issues, including training conducted by Public Education Department ("Department") staff for new Commissioners and the annual training provided by Department staff and the New Mexico School Boards Association for local school board members.
3. It is the expectation of the Commission that Commissioners will express themselves both as individuals and in representing the Commission. When a Commissioner expresses an opinion or articulates a position, the Commissioner shall clearly state whether he or she is speaking as an individual or is representing the Commission.

#### B. Code of Conduct

1. The Commission will conduct its business in an atmosphere of respectful behavior and mutual respect between and among individual Commissioners. The expectation of respectful behavior extends to interactions with members of the public and with Department staff. Commissioners will refrain from using cellular telephones or other communication devices during Commission meetings. If it is not possible to attend a meeting without access to a communication device, the device shall be operated using a silent notification mode, and any communication using the device shall take place outside of the room in which the meeting is being conducted.
2. When appropriate, each Commissioner should use the services of the Department in answering questions from his or her constituents or in resolving problems arising within his or her district. Commissioners who receive inquiries from constituents other than their own shall refer the matter to the appropriate Commissioner and the Secretary of Public Education ("Secretary"). Responses to inquiries addressed to or affecting the Commission, as a whole, shall be coordinated by the Secretary on behalf of the Chairperson.

Replies to such inquires shall state that the responses are being made on behalf of the Commission, as a whole.

3. Requests for services of staff of the Department by individual Commissioners:
  - a. All requests for services of Department staff, including secretarial services, shall be made through the Secretary, or his or her designee.
  - b. All requests for formal meetings with non-exempt staff shall be scheduled through the Secretary.

D. Conflict of Interest

No Commissioner shall engage in any activity which gives rise to a conflict of interest or the appearance of a conflict of interest with the performance of his or her duties as a Commissioner. Commissioners are subject to the provisions of the Governmental Conduct Act (Section 10-16-1 et seq. NMSA 1978); and the Financial Disclosure Act (Section 10-16A-1 et seq. NMSA 1978). It is unlawful for a public officer or employee to take an official act for the primary purpose of directly enhancing his own financial interest or financial position, nor shall a Commissioner vote on a question in which the member has a direct personal or pecuniary interest not common to other members of the Commission.

### **III. OFFICERS: SELECTION, TENURE AND DUTIES**

A. Selection of Officers

1. The General Counsel for the Department shall preside over the election of the Chairperson of the Commission. No second is required for a nomination. After nominations are closed, Commissioners shall record their votes in a manner consistent with the Open Meetings Act. If there is one (1) nominee, the election shall be conducted by voice vote. The Chairperson shall be elected by a majority vote. In the event that a tie persists after three (3) ballot attempts to elect any officer, the winner shall be decided by an equal game of chance, such as a roll of dice, or card draw.
2. Upon election, the Chairperson shall take office and preside over the election of the Vice-Chairperson and Commission Secretary, who shall be elected according to the same procedures used in electing the Chairperson.

B. Tenure of Officers

1. Officers will be elected at the first regular meeting subsequent to the adjournment of the regular session of the Legislature in a given calendar year and will serve until the first regular meeting subsequent to the adjournment of the regular session of the Legislature in the following calendar year.
2. If a vacancy occurs in any Commission office, the Commission shall elect an officer to serve until the next regular election of officers.

C. Officers

1. Chairperson
  - a. The Chairperson shall call to order and preside at Commission meetings.
  - b. To address the Commission, a member must be recognized by the Chairperson.
  - c. The Chairperson shall have powers and duties including, but not limited to, the following:
    - (i) to rule motions in or out of order, including the right to rule out of order any motions offered for obstructive or dilatory purposes, subject to appeal to the Commission as specified in the Rules;
    - (ii) to determine whether a speaker has gone beyond reasonable standards of courtesy in his remarks and to entertain and rule on objections from other members on this ground;
    - (iii) to entertain and answer questions of parliamentary law or procedure, as contained in these Rules;
    - (iv) to call a brief recess at any time;
    - (v) to adjourn in an emergency;
    - (vi) to call special and emergency meetings pursuant to the Commission's Open Meetings Policy;

- (vii) to manage public address(es) to the Commission.
  - d. The Chairperson may appoint subcommittees of the Commission as the Chairperson deems necessary and advisable to enable the Commission to conduct its business in an efficient manner. Subcommittees will be composed of fewer than a quorum of the Commission membership and will make recommendations to the Commission on issues and matters as directed by the Chairperson. The Chairperson will dissolve any such subcommittee(s) upon completion of their assigned charge(s).
- 2. Vice-Chairperson. The Vice-Chairperson, in the absence of the Chairperson or at the request of the Chairperson, shall have the powers and duties set forth for the Chairperson.
  - 3. Commission Secretary.
    - a. The Commission Secretary will call the role and perform other duties as established in the Rules of Procedure.
    - b. The Commission Secretary, in the absence of the Chairperson or at the request of the Chairperson, shall have the powers and duties set forth for the Chairperson if the Vice-Chairperson is not available to assume such powers and duties. If the Vice-Chairperson is acting for the Chair-Person pursuant to Subparagraph C(2) of this Paragraph, the Commission Secretary, in the absence of the Vice-Chairperson or at the request of the Vice-Chairperson, shall have the powers and duties set forth for the Chairperson if the Vice-Chairperson is not available to execute such powers and duties.

#### **IV. EXECUTIVE COMMITTEE:**

- A. Membership and Organization: The Executive Committee shall be composed of the officers of the Commission.
- B. Purposes: The purposes of the Executive Committee are to recommend draft agendas to the Secretary, to facilitate the Commission's leadership role, and to otherwise ensure that the business of the Commission is accomplished.

C. Responsibilities: The Executive Committee will perform the following functions:

1. Pursuant to Paragraph V.A, consult with the Secretary to prepare the agenda for Commission meetings. In no instance shall a quorum of the Commissioners be present at the committee meeting convened for this purpose.
2. Perform governmental relations functions on behalf of the Commission.
3. Assist the Commission in making policy recommendations to the Secretary regarding legislative initiatives in support of public education.
4. It is the expectation of the Commission that all committee meetings will begin promptly. It is the responsibility of a committee member who is unable to attend the entire meeting to familiarize himself or herself with any material presented or discussed during the absence of the committee member.

## **V. AGENDA**

- A. The Executive Committee, in consultation with the Secretary, shall prepare the agenda for each meeting.
- B. An individual or a representative of an organization seeking to place an item on an agenda must submit a request in writing to the Secretary at least three (3) weeks prior to the date of the next scheduled meeting.
- C. Discussion items may be presented by Commissioners and/or the Secretary at the start of the meeting for addition to the agenda.
- D. Discussion items added to the agenda are customarily heard at the conclusion of all scheduled items on the agenda.

## **VI. PUBLIC ADDRESS TO THE COMMISSION**

- A. Agenda Items
  1. An individual or representative of an organization seeking to address the Commission may make a written request to the

Chairperson or Secretary prior to the start of the regular meeting.

2. Prior to hearing the agenda item, the Chairperson will determine whether to permit requested address(es) concerning the agenda item.
3. If the Chairperson determines that he or she will permit such address(es), the Chairperson shall determine the rules by which such address(es) will be governed, including the time allowed for public address(es).

**B. Open Forum**

1. An individual or representative of an organization who desires to speak on an item not on the agenda may speak during the Open Forum item on the agenda. The Commission will endeavor to include an Open Forum on the agenda for each regular meeting.
2. The Chairperson will conduct the Open Forum in accordance with the following parameters:
  - a. establish and maintain time limitations for presentation;
  - b. discourage, and, if necessary, rule multiple or repetitious presentations out of order;
  - c. rule out of order any presentation that addresses an agenda item, a matter of pending litigation, or is disruptive to the conduct of the meeting; and
  - d. rule out of order any debate between a speaker and a Commissioner or between, or among, Commissioners that does not go through the Chair.

**VII. APPLICABILITY OF ROBERT'S RULES OF ORDER**

Unless otherwise specifically addressed in these rules, the Commission shall follow the authorized version of Robert's Rules of Order in conducting its meetings. Substitute motions are allowed pursuant to the Rules of Procedure.

## VIII. QUORUM & TELEPHONIC ATTENDANCE AT MEETINGS

- A. Regardless of the attendance at a meeting, a majority of the total membership of the Commission shall constitute a quorum.
- B. Commissioners may attend meetings as voting members by conference telephone and their attendance shall count towards the quorum under the following circumstances:
  - 1. Telephonic attendance must be requested and approved by the Chair of the Commission or if not available by the Vice Chair. A public announcement shall be made at the Commission meeting of the reason for a member's telephonic participation.
  - 2. Because of equipment installation, preparation, and maintenance needed to support telephonic attendance, the Chair and Vice Chair shall only permit meetings to be attended telephonically by Commissioners at locations where conference-telephone and speaker technology are available.
  - 3. The Chair shall coordinate with the Vice Chair the reason for any meeting in which the Chair can only attend telephonically, which the Vice Chair or other presiding officer shall announce during the meeting to the attending Commissioners and to the public.
  - 4. Telephonic attendance shall only be permitted when circumstances have occurred that are beyond the control of a Commissioner that would make attendance in person extremely burdensome if not impossible. (e.g., beyond control: weather; Commissioner's sickness or injury; family member's sickness, injury or death; catastrophic event; traffic conditions; transportation malfunction; flight delay; jury duty) (e.g., not beyond control: vacations, business trips, scheduling conflicts; family reunions; weddings)
  - 5. Even if permitted by the Chair or Vice Chair, telephonic attendance cannot be permitted if each member participating by conference telephone cannot be identified when speaking, all other attending Commissioners are not able to hear each other at the same time, and members of the public attending the meeting are not able to hear the Commissioner(s) attending by telephone. If technological malfunctions prevent all members from hearing each other

or from the public hearing the telephonically attending member(s), then the telephonically attending member(s) must be withdrawn from further participation until the malfunction is corrected. The record of the Commission will reflect these events if that occurs.

6. The Chair or designee shall provide the PED with as much advance notice as possible of any Commissioners who will be attending an upcoming meeting by telephone so that appropriate arrangements can be made.

## **IX. VOTING**

- A. It is the policy of the Commission that each member shall vote in the affirmative or in the negative on every issue before the Commission, subject to Subparagraph C of this Paragraph.
- B. The voting order shall be alphabetical by members' surnames.
- C. Abstentions

Abstentions from voting shall be the exception; however, no Commissioner should vote on a question in which he or she has a direct personal or pecuniary interest not common to other members of the Commission.

1. If a Commissioner wishes to abstain from a vote, he or she shall so state before the vote is taken. Failure to announce his or her intent to abstain before the vote is taken shall result in the Commissioner's forfeiture of the right to abstain. After the final vote has been announced, an abstaining Commissioner shall state the reasons for his or her abstention.
  2. Abstentions shall not be counted in the tally of the vote.
- D. Roll Call Votes

The roll shall be called by the Commission Secretary, or, in the absence of the Commission Secretary, a Commissioner as designated by the Chairperson, and the vote of each Commissioner shall be recorded.

E. Explanation of Vote

A member may explain their vote only after the result has been announced.

**X. ACTION BY THE COMMISSION**

A. The Commission shall proceed by motion. Anyone, including the Chairperson, may make a motion. The Chairperson may also engage in the debate,

B. The following rules shall apply:

1. A motion must be seconded.
2. A motion must be adopted by a majority of the votes cast, a quorum being present, unless otherwise required by these Rules or the laws of New Mexico. No motion shall be adopted upon less than a number of affirmative votes equal to a majority of a quorum.
3. The Chairperson shall state the motion and then open the floor for debate.
4. The Chairperson shall preside over the debate according to the following general principles:
  - a. The introducer (the member who makes the motion) is entitled to speak first;
  - b. A member who has not spoken on the issue shall be recognized before someone who has already spoken;
  - c. To the extent possible, the debate shall alternate between opponents and proponents of the measure;
  - d. A reasonable time for debate shall be allowed;
  - e. Points of personal privilege may be recognized at the discretion of the chair and shall not be raised while a motion is on the floor.
  - f. A motion that is defeated may be renewed at any subsequent meeting;

- g. A motion may be withdrawn by the introducer at any time before a vote, with agreement of the second.

**XI. PROCEDURAL MOTIONS**

- A. The following procedural motions and no others shall be in order. Unless otherwise noted, each motion is debatable, may be amended, and requires a majority vote for adoption.
- B. In order of priority if applicable, the procedural motions are as follows:
  - 1. To adjourn. The motion to adjourn may be made only when action on a pending matter concludes; it may not interrupt deliberation of a pending matter;
  - 2. To take a recess;
  - 3. To overrule a ruling by the Chairperson. This motion requires an affirmative vote of at least two-thirds of the members present, and operates to overrule the Chairperson on any procedural ruling;

The determination as to whether the required number of affirmative votes have been cast shall be made as follows:

NUMBER PRESENT	AFFIRMATIVE VOTES REQUIRED
10	7
9	6
8	5
7	5
6	4

- 4. To table. This motion postpones consideration indefinitely; a motion which is tabled shall expire six months after being tabled, unless a motion to revive consideration is properly passed;
- 5. Call to follow the agenda. This motion must be made at the first reasonable opportunity or it is waived;

6. To suspend the Rules. For adoption, the motion requires a vote equal to the number required for a quorum.
7. To divide a complex motion and consider it by paragraph;
8. Call of the previous question. The motion is not in order until there has been debate, and every member has had an opportunity to speak;
9. To postpone to a certain time or day;
10. To amend. An amendment to a motion must be pertinent to the subject matter of the motion, but it may achieve the opposite of the motion's intent. The motion may be amended and an amendment may be amended, but no further amendments may be made;
11. To revive consideration. The motion is in order any time after a vote to table;
12. To reconsider. The motion must be made by a member who voted with the prevailing side. It must be made at the same meeting as the vote was taken. It cannot interrupt deliberation on a pending matter but is in order at any time before actual adjournment;
13. To rescind or repeal;
14. To ratify.

## **XII. EXECUTIVE SESSIONS**

The Commission may hold executive (closed) sessions as provided by the Open Meetings Act. The minutes of an open meeting that was closed, or the minutes of the next open meeting if the closed meeting was separately scheduled, shall state that the matters discussed in closed meeting were limited to those specified in the motion for closure or in the notice of the separate closed meeting. This statement must be approved by the Commission as part of its minutes.

## **XIII. MINUTES**

- A. Minutes shall be kept of all Commission meetings in accordance with the Open Meetings Act.

- B. The Commission may delegate the task of preparing the minutes, but the Commission must formally approve them before they become an official record of Commission action.
- C. The minutes of an open meeting that was closed, or the minutes of the next open meeting if the closed meeting was separately scheduled, shall state that the matters discussed in closed meeting were limited to those specified in the motion for closure or in the notice of the separate closed meeting. This statement must be approved by the Commission as part of its minutes.

#### **XIV. AMENDMENT OR REVISION OF RULES OF PROCEDURE**

- A. The Executive Committee may initiate amendments or revisions to the Rules of Procedure by recommending placement of the item on the agenda in accordance with Paragraph V. The text of such proposed amendments or revisions shall be provided in writing so as to inform the Commission of the changes proposed.
- B. Amendments or revisions shall not be acted upon until a subsequent meeting of the Commission unless the Rules are suspended by an affirmative vote of six (6) Commissioners and notice has been given in accordance with the provisions of the Open Meetings Act.
- C. An affirmative vote of at least seven (7) Commissioners shall be required to amend these rules.

#### **XV. PER DIEM AND MILEAGE**

- A. Each member of the Commission shall be reimbursed for travel expenses incurred in the discharge of official duties as provided in the Per Diem and Mileage Act and regulations issued pursuant thereto.
- B. Public funds shall be paid out under the Per Diem and Mileage Act only upon presentation of a duly executed voucher, together with any required receipts attached thereto.
- C. Out-of-State Travel
  - 1. It is the policy of the Commission to utilize any out-of-state travel budget set aside for the Commission and funded by legislative appropriation to the Department in support of its mission.

2. All Commission out-of-state travel shall be implemented as follows:

- a. At the beginning of every fiscal year, the Commission shall determine such portion of its out-of-state travel budget for that fiscal year to be allocated to the Chairperson of the Commission or his or her designee.
- b. From that portion of the out-of-state travel budget remaining after the allocation for travel by the Chairperson or his or her designee, Commissioners will be afforded the opportunity for out-of-state travel in accordance with the rotation set forth. This rotation shall be maintained by Commission districts regardless of changes of incumbents.
- c. At the beginning of every State fiscal year, the Commission Secretary shall advise the Commission as to the current status of each Commission position with regard to out-of-state travel.
- d. Commission positions shall be placed at the bottom of the rotation cycle upon utilization of out-of-state travel by Commissioner. For purposes of this paragraph, utilization includes the election by a Commissioner not to avail himself or herself of the opportunity for out-of-state travel prior to the end of the twelve (12) month period immediately following the eligibility of the Commission position for out-of-state travel or out-of-state travel subject to the prohibition set forth in Section 10-8-5(F) NMSA 1978.
- e. Any cost incurred by the failure of a Commissioner to conform with any conditions and/or restrictions imposed upon any aspect of arrangements for out-of-state travel shall be borne by the Commissioner.
- f. The following rotation for out-of-state travel is hereby established:

Order	Board District
1	District 1
2	District 2
3	District 3
4	District 4

- 5 District 5
- 6 District 6
- 7 District 7
- 8 District 8
- 9 District 9
- 10 District 10

**XVI. EFFECTIVE DATE**

- A. These Rules shall become effective upon adoption by the Commission.
- B. Amendments shall become effective upon adoption by the Commission.