



P o l i c i e s

Northwest Regional Education Cooperative #2

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Serving the following school districts:

Chama Valley Schools
Cuba Independent Schools
Dulce Independent Schools
Jemez Mountain Schools
Mesa Vista Consolidated Schools
Penasco Independent Schools
Questa Independent Schools

Adopted by the NWREC Governing Council on the 23rd of June 2016.

It is the policy of the NORTHWEST REGIONAL EDUCATION COOPERATIVE #2 Coordinating Council to provide equal opportunities without regard to race, color, national origin, sex, religion, age, marital status, disability, qualified handicap or veteran status in its educational program and activities. This includes, but is not limited to, educational services and employment. Inquiries concerning application of this policy may be referred to the Executive Director/Coordinator.

**Northwest Regional Education Cooperative #2
Official Policies**

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It is the policy of the Northwest Regional Education Cooperative Governing Council to provide equal opportunities without regard to race, color, national origin, sex, religion, age, marital status, disability, qualified handicap or veteran status in its educational program and activities. This includes, but not limited to, education services and employment. Inquiries concerning application of this policy may be referred to the Executive Director/Coordinator who is the Compliance Administrator for: Title IX of the Education Amendments of 1972, 20USC&1681, Age Discrimination in Employment Act of 1967 as amended, 29USC&621, Section 504 of the Rehabilitation Act of 1973, 29USC&701 et seq., Americans with Disabilities Act, 42USC&1201 et seq., Title VI, Title VII of the Civil Rights Act of 1964 as amended, 42 USC&2000e, and Governmental Dispute Prevention and Resolution Act, 12-8A-2 NMSA 1978. The address is: Executive Director/Coordinator, Northwest Regional Education Cooperative, 182 N. Pine Street, P.O. Box 113, Chama, New Mexico 87520. Telephone: (575) 756-1274

I. INTRODUCTION

The Northwest Regional Education Cooperative #2 was established to provide cooperative education services to seven school districts:

- Chama Valley Schools
- Cuba Independent Schools
- Dulce Independent Schools
- Jemez Mountain Schools
- Mesa Vista Consolidated Schools
- Penasco Independent Schools
- Questa Independent 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 program;
- Grants administration;
- Grants management;
- Hiring of related service personnel;
- Medicaid in the Schools program administration;
- School- Based Health Centers;
- Professional development; and
- Other services as directed by the Coordinating Council, as referred to as the Governing Council or Council of Director/Coordinators.

Contact information for the Northwest Regional Education Cooperative #2:

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Vision of the Northwest Regional Education Cooperative #2:

The Northwest Regional Education Cooperative #2 aspires to be the premier provider of choice for comprehensive, specialized, and collaborative educational services for its member school districts with cost effective solutions to current and emerging needs.

Mission of the Northwest Regional Education Cooperative #2:

The Northwest Regional Education Cooperative #2 exists to provide educational services to students, staff, and families of the member districts and communities. Areas of support include:

- Ancillary support and technical assistance in implementing federal and state statutes and regulations, including but not limited to the Individuals with Disabilities Education Act and No Child Left Behind legislation and accompanying regulations.
- Professional Development in response to identified needs and state licensure requirements.
- Support for members in meeting the Public Education Department's requirements.

II. POLICIES – NORTHWEST REGIONAL EDUCATION COOPERATIVE #2 COORDINATING COUNCIL

100

Legal Authority

Regional Education Cooperatives (RECs) are established by the Regional Cooperative Education Act, 22-2B-1 to 22-2B-6, NMSA 1978. The purpose of a REC is to provide education-related services to students of participating education entities.

Northwest Regional Education Cooperative (NWREC) is an educational service agency committed to providing services to children, families, schools, and communities of Rio Arriba, Sandoval, and Taos Counties.

101 History

In 1984, the New Mexico State Board of Education (SBE) established ten Regional Center Cooperatives (RCCs) under SBE Regulation No. 84-6. The purpose of the RCCs is to provide services for local education agencies and eligible state supported schools under Public Law 94-142, the Education of the Handicapped Act (IDEA-B). SBE Regulation No. 84-6 permits districts to submit consolidated applications to the State Department of Education (SDE) for certain entitlement and discretionary funds under IDEA-B. Since 1984, RCCs have also established cooperative programs of education services with funds other than IDEA-B entitlement or discretionary funds, including Drug Free School and Communities Act of 1986, Title II – Critical Skills Improvement, Medicaid in the Schools, and the Carl D. Perkins Vocational and Applied Technology Education Act of 1990, as well as other direct federal and state/local funding sources.

The 41st Legislative Session authorized the establishment of Regional Educational Centers (RECs) and the State Board of Education adopted SBE Regulation 93-23, which establishes the minimum criteria for the establishment, operation, and oversight of RECs. RECs are state agencies administratively attached to the State Department of Education. The State Board of Education authorizes the existence and operation of Regional Educational Cooperatives (RECs) formed by local school boards joining with other school boards or other state-supported education institutions. Regional Educational Cooperatives are exempt from the provisions of the Personnel Act [10-9-1 to 10-9-25 NMSA 1978]¹, and other NMSA 1978 statutes.

102 Establishment

Northwest Regional Education Cooperative #2 has been in operation since 1984 when New Mexico began accepting federal funds through the Education for Handicapped Act (P.L. 94-142) reauthorized as the Individuals with Disabilities Education Act – Part B (IDEA-B) in 1997. Members of NORTHWEST REGIONAL EDUCATIONAL COOPERATIVE #2 as approved by the SBE are those entities approved in the New Mexico State Plan for distribution of P.L. 94-142 funds. Chama Valley Schools, Cuba

Independent Schools, Dulce Independent Schools, Jemez Mountain Schools, Mesa Vista Consolidated Schools, Penasco Independent Schools and Questa Independent Schools.

The NORTHWEST REGIONAL EDUCATION COOPERATIVE #2 will be an agency providing cooperative education services for seven public school districts. The services available to member districts include: grants management, grants administration, Child Find Coordination, compliance with state and federal regulations, professional development, Medicaid in the Schools Program administration, a coordinated Health services program, hiring of related service personnel, and other services as prescribed by the Council.

These activities commensurate with the mission of the NORTHWEST REGIONAL EDUCATION COOPERATIVE #2 and will assist member districts in providing appropriate education to the students.

1. The cooperative will assist the region's schools in effective management of the Individuals with Disabilities Act (IDEA-B) grant. This will facilitate a supportive learning environment to ensure each student the best education possible. The services provided through the grant include:
 - a. Entitlement funding for children ages 6 to 21 using the I.E.P. process to coordinate special services;
 - b. Early childhood entitlement funding for children ages 3 to 5 to provide support services for children identified with a developmental disability;
 - c. Child Find services for children from birth to 22 years to identify children with developmental delays; and
 - d. Provide assistance to private school students in the region for special services.

¹Legal Reference: 22-2B1 to 22-2B-6, NMSA 1978
SBE Regulations 84-6; 93-23
PL 94-142; New Mexico State Plan

201 Statutory Requirements

2010 Council Requirement

SBE Regulations 93-23 requires that the NWREC be governed by a Regional Education Coordinating Council (Council). The Council shall be composed of the superintendents or chief administrative officers of each participating local school district or state-supported education institution.

All meetings of the NWREC Council are subject to the Open Meetings Act [Section 10-15-1 through 10-15-4 NMSA 1978].¹

2020 Organizational Requirements

The Council shall elect a chairperson from its members. Meetings shall be held at the call of the chairperson or Executive Director on a quarterly basis. A meeting of the majority of the members of the Council constitutes a quorum for the purpose of conducting business.

2030 Policy Requirements

The Council shall oversee the operation of the NWREC and develop a manual of policies and procedures governing the operation of the NWREC. These policies must include fiscal accountability and policies related to the accrual and utilization of leave by all employees, and policies relating to performance evaluations of all employees. Employee salaries are determined by the Executive Director/Coordinator on a yearly basis and approved by the council. Policies will be reviewed, as needed.

2040 Council Responsibilities

Responsibilities of the NWREC Council are to provide:

- Education services to all entities participating in the NWREC;
- Technical assistance and staff development opportunities to all entities participating in the NWREC;
- Cooperative purchasing capabilities and fiscal management opportunities to all entities participating in the NWREC;
- Additional services to participating entities as may be determined by the Council to be appropriate.

Pursuant to regulation of the state board, the Council shall:

- Develop bylaws governing its own operation which incorporate State Board of Education Regulation 93-23 requirements².
- Adopt a budget and administrative guidelines as necessary to carry out the purposes of the cooperative; and
- Hire an Executive Director.

2050 NWREC Governing Council Compensation

General Council members shall serve without compensation from the NWREC. The council chairperson will be compensated for oversight responsibilities at a rate set by the Governing Council on an annual basis. The current compensation of the NWREC council chairperson is at the rate of \$3,000 per year.

2060 Department of Finance and Administration

The Secretary of the Department of Finance and Administration (DFA) has granted an exemption for the prior submission of proposed vouchers, purchase orders or contracts to the Financial Control Division of DFA. However, RECs must still comply with the provisions of the Procurement Code [Chapter 13 NMSA 1978], and all applicable Department of Finance and Administration regulations (i.e., Mileage and Per Diem Act).³

¹Legal Reference: SBE Regulation 93-23
10-15-1 to 10-15-4, NMSA, 1978

²Legal Reference: SBE Regulations 93-23

³Legal Reference: SDE REC Budgeting/Financial Procedures Manual

301 Introduction

NORTHWEST REGIONAL EDUCATION COOPERATIVE #2 (NWREC) is organized in compliance with the New Mexico State Plan FY 1991-93: Part B – Education of the Handicapped Act [Public Law 94-142] as authorized by Public Law 98-199 Individuals with Disabilities Education Act – Part B (IDEA- B) and Public Law 105-17¹.

302 Purpose

To assist the NWREC participating school districts with the application process. The NWREC is specifically organized to facilitate the ability of member districts and institutions to:

1. Assist member districts in their child find efforts;
2. Conduct professional development and information dissemination activities;
3. Assist member districts in providing a free appropriate public education to all school age children with disabilities within the cooperative area;
4. Assist member districts in providing a full education opportunity for school age children with disabilities including those enrolled in private schools;
5. Provide ongoing professional development, support, and technical assistance to educators;
6. Provide related services on a fee for service basis;
7. Develop other cooperative support programs and services, as deemed necessary for participating districts and/or institutions; and
8. Provide for equitable participation of member districts and/or institutions.

303 General Goals

The NWREC will:

1. Gather and disseminate information on issues and trends that support providing quality educational services for students.
2. Provide technical and fiscal support in the program areas.
3. Develop interagency collaboration between and among the member districts, community and other social service agencies.
4. Seek funding opportunities that will enhance educational services and opportunities for students and staff in the member districts.
5. Assist districts with state and federal compliance issues.
6. Promote the NWREC in a professional and positive manner.

304 General Organization

NWREC shall be governed by a Regional Education Coordinating Council, hereafter designated as the NWREC Council. The Council is composed of the superintendents of each participating entity, and functions only when in official session. As prescribed by statute, only superintendents of each participating body may serve on the Council; no substitute representation shall

be allowed. Termination of council membership shall occur when the agency represented no longer participated in the cooperative.²

305 Legal Status

Control of the NWREC is placed in the hands of the NWREC Council by the NWREC/District Agreement signed by all district's superintendents within the cooperative.

The districts and institution, in accordance with and pursuant to the Joint Powers Agreement Act, Section 11-1-1 through 11-1-7, NMSA 1978, agree to submit a consolidated application to the Public Education Department for certain funds granted to the State of New Mexico pursuant to IDEA-B³, and other state and federal programs.

The Council will annually determine during the grant application process, upon the advice of the Executive Director/Coordinator, a percent of total discretionary allocations which will be used for cooperative regional projects and the percent of the discretionary allocation which will be allocated to local bodies for district and institution use. Entitlement and preschool allocations are budgeted for use directly to the districts/institution.

They further agree to establish and maintain a cooperative program of non-special education programs funded by federal, state, local, foundational, or other funding sources.

306 Council Membership

The membership of the NWREC Council will be the superintendent of each school district/institution: Chama Valley, Cuba, Dulce, Jemez Mountain, Mesa Vista, Penasco and Questa. Each member of the Council shall have one vote and only superintendents may exercise the voting privilege.

3060 Officers

Officers and duties of the office shall include:

- A. Chairperson – Shall preside at meetings, appoint committees, sign required applicable documents on behalf of the Council, offer resolutions, discuss questions and vote. The Chairperson must be accessible to the Executive Director/Coordinator/ and the NWREC staff members at the NWREC office for business related signatures, contracts, and other documents that may need immediate attention.
- B. Vice-Chairperson – Perform the duties of the council chair in case of resignation, absence, or disability of the chair and any other duties as assigned by the council chair.
- C. Secretary – Assist the council chair with preparations and dissemination of agenda for all meetings in accordance with

council policy, and be responsible for official minutes of each meeting in accordance with council policy.

3061 Terms of Office

Terms of office shall be one fiscal year in length. Reorganization of the Council shall occur at the last meeting of each fiscal year. The council will hold an election for the chair, vice-chair, and secretary by nomination and majority vote. Duties of the office will be assumed upon adjournment of the meeting at which the election takes place.

307 Meetings

Meetings of the Council shall be held at the call of the chairperson, Regular meetings will be held every other month on the first Thursday of that month, beginning in August of the new fiscal year, unless otherwise agreed on by the Council, subject to the Council's Open Meetings Resolution and the Open Meetings Act [Section 10-15-1 through 10-15-4 NMSA 1978]⁴. The Council shall annually adopt an Open Meetings Resolution for publication, which shall include a schedule of regular meetings, times, and places for the following fiscal year. The council chair may call special meetings as necessary following procedures outlined in the annual Open Meetings Resolution.

3070 Place of Meetings

The regular meeting place of the Council will be scheduled by the NWREC Office. Regular meetings may also be held at any of the member districts/institution. Location of all regular meetings will be specified in the Open Meetings Resolution and/or posted as per that Resolution. Special meeting places will be specified by the chairperson or Executive Director.

3071 Time of Meetings

Regular meetings will be at 10:00 a.m., unless otherwise indicated. Times will be specified at the calling of special meetings.

308 Rules of Procedure

- A. The chairperson (or vice-chairperson in the absence of the chairperson) will conduct all meetings. In the absence of both the chairperson and vice-chairperson, the members present shall elect a chairperson elect pro tempore, who will serve only for that meeting, or part of the meeting in which the chairperson and vice-chairperson are absent.
- B. A complete agenda, including supporting data, will be prepared by the Executive Director in consultation with the chairperson of the Council, and delivered to each Council member at least three (3) working days before the date of the regular Council meeting. This requirement will be waived only for emergency meetings. Any individual or group wishing to

address the Council must request placement on the agenda. Requests are to be made to the Executive Director/Coordinator 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. Agenda items requiring Council action must be posted a minimum of 72 hours prior to the opening of the meeting.

- C. The regular order of business may include, but is not limited to:
 - 1. Call to Order
 - 2. Roll Call
 - 3. Approval of Agenda
 - 4. Approval and Signature of Minutes
 - 5. Executive Director's Report
 - 6. Coordinator's Report
 - 7. Financial Report
 - 8. Personnel (if needed)
 - 9. Executive Session (if needed)
 - 10. Issues from Participants
 - 11. Adjournment

- D. All members of the Council may make motions, second motions and vote. Members not voting will be recorded as abstaining. A meeting of a majority of the members of the Council constitutes a quorum for the purpose of conducting business. **A majority of members present and voting will constitute official action of the Council.** A Council member may participate in a meeting by means of a conference telephone or other similar communications 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.

- E. A member of the Council who cannot be physically present at a meeting and who cannot participate by conference telephone but who wishes to vote on a proposed action item may file a confidential written proxy vote with the Chairperson **prior** to the opening of the meeting at which the vote will be called.

- F. Any member of the Council who wishes to make a motion, second a motion or discuss pending business will first secure recognition of the Chairperson of the Council.

- G. The Chairperson will present each agenda item for discussion, or designate the Executive Director/Coordinator or other member who will present the agenda item.

- H. All formal actions of the Council will be taken by ordinary motions unless a formal resolution is legally required.
- I. It will not be necessary for a motion to be before the Council in order to discuss any agenda item, which has been presented by the Chairperson for consideration. In the ordinary course of events, the Council will discuss all matters other than routine procedural questions prior to the making of a motion, in order that the reaching of a consensus may be facilitated.
- J. The following motions will be in order:
 - 1. To adopt the agenda
 - 2. To recess
 - 3. To take action
 - 4. To amend a motion made to take action
 - 5. To set aside the rules
 - 6. To defer action
 - 7. To adjourn, either finally, or to a specific time, date or place.
- K. Minutes of the previous meeting will be sent to each Council member within seven (7) business days prior to the subsequent meeting. Upon Council approval of minutes, they shall become official. Official minutes will be maintained at the NWREC office.
- L. Reasonable efforts shall be made to accommodate the use of audio and video recording devices. Anyone who wishes to record Council meetings shall file a written request to record the meeting with the Executive Director/Coordinator at least seventy-two (72) hours prior to the designated meeting.
- M. Policies, bylaws, or rules of procedure of the Council may be amended by a majority vote of the Council.

309 Powers and Responsibilities of the Council

- A. **Powers of the Council.** The powers, duties and responsibilities of the Council are outlined in the Regional Cooperative Education Act [22-2B-1 to 22-2B-6 NMSA 1978], SBE Regulation 92-23 and the Fiscal Agents Agreement or Joint Powers Agreement approved by each governing body⁵.
- B. **Responsibilities of the Council.** The Council shall:
 - 1. Hire an Executive Director/Coordinator and necessary additional staff and, subject to the provisions of law, approve the salaries of all employees and set the Director/Coordinator's salary. The administrative and supervisory functions of the Council shall be delegated to the Executive Director/Coordinator.

2. Authorize or affirm disbursements based on the presentation and recommendation of the Business Manager, Coordinator, and Executive Director/Coordinator.
3. Delegate to the NWREC staff the responsibility of maintaining personnel, education, programmatic and financial records in accordance with federal and state statute and state board regulation.
4. Permit authorized representatives of regulatory agencies to inspect and audit all records relating to the cooperative.
5. Subject to any applicable requirements of state or federal laws and regulations, take action on any other matters, which the Council considers necessary or desirable in furtherance of the NWREC's programs, operations or interests.

310 Action in Absence of Policy

In cases where action must be taken within the cooperative and the Council has provided no guidelines for administrative action, the Executive Director shall have the power to act. The decisions shall be subject to review by the Council at its regular meeting. It shall be the duty of the Executive Director to inform the Council promptly of such action and of the need for policy.

311 Complaint Policy and Procedure

- A. **Policy.** The NWREC Council and administration will afford parents, consumers and districts the opportunity to resolve complaints and grievances in both an informal and formal manner. Complainants are to utilize informal procedures prior to initiating formal procedures. Nothing in this policy will in any way limit or restrict parent rights under due process but are in addition to such rights.
- B. **Informal Procedure.** When the complainant or aggrieved party feels the need to resolve an issue relating to program, services and/or program administration, the use of an informal conference is encouraged. The complainant may contact a district superintendent or the Executive Director/Coordinator for assistance in organizing a conference between the complainant and the appropriate other party. The contacted superintendent or the Executive Director/Coordinator will schedule the conference and provide to both parties a written summary of the issue and agreed upon resolution. Both parties will agree that any informally agreed upon resolution will not be used as part of formal procedures without the written consent of both parties.
- C. **Formal Procedures.** The complainant or aggrieved party will provide, in writing, the specific program, service and/or program administration issue in question. The written complainant will be sent directly to the NWREC Council in care of the NWREC office. At the next council meeting, the Council will name a hearing officer to hear the issue. The hearing officer will, within five (5) working days, provide a copy of the written

complainant to all other individuals directly involved in the issue and schedule a hearing within ten (10) working days of receipt of the formal complaint. The agreed upon resolution or, in cases where agreement is lacking, the resolution decision of the hearing officer will be reduced to writing and signed within five (5) working days of the hearing. An agreed upon resolution will be signed by the hearing officer and all parties directly involved. The hearing officer alone will sign the resolution decision when consensus is not reached. When consensus is reached, the agreement is binding on all parties. When consensus is not reached, the decision of the hearing officer is binding on all parties providing there is no appeal.

D. **Appeal.** Within ten (10) working days of receipt of the hearing officer's decision, any party directly involved in the complaint may appeal the decision of the hearing officer. To appeal the hearing officer's decision, a letter requesting a hearing before the NWREC Council must be sent directly to the Council chairperson in care of the NWREC office. The Council chairperson will obtain copies of the hearing officer's decision. The chairperson will determine whether to schedule a review of the complaint or grievances with parties directly involved at the next regular meeting of the Council or call a special meeting of the council within thirty (30) working days of receipt of the request for appeal. The decision of the Council will be considered final and binding on all parties pending remedies available under other regulations.

312 Records Available

All public records shall be available to citizens for inspection at the REC administrative office according to the Inspection of Public Records Act⁶. A written request for access to desired records shall be given to the Executive Director as custodian of the REC's records.

313 Facilities

The member district which provides the facilities for the NWREC office will not charge rent, custodial services or utilities excluding communication, e.g. telephones, fax, and internet services.

¹Legal Reference: PL 94-142; PL 98-199, IDEA-B, PL 105-17

²Legal Reference: 22-2B-1 to 22-2B-5, NMSA 1978

³Legal Reference: 11-1-1 to 11-1-7, NMSA 1978

⁴Legal Reference: Open Meetings Act 10-15-1 to 10-15-4, NMSA 1978

⁵Legal Reference: 22-2B-1 to 22-1B-6, NMSA 1978

SBE Regulations 93-23

Fiscal Agents Agreement

Joint Powers Agreement

⁶Legal Reference: 14-2-1 to 14-2-12, NMSA 1978 Comp.

401 Executive Director**4010 Qualifications**

The Executive Director shall have or be eligible for an administrative license issued by the New Mexico Public Education Department; shall have specialized training in the leadership and business administration of public schools and/or related organizations with at least a Masters 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.

4011 Appointment

The contract of the Executive Director shall be considered at the first regular Council meeting of the calendar year. The Director will be employed on a 240-day contract; the contract may be up to three (3) years.

4012 Responsibilities

The Executive Director shall:

1. Exercise all administrative and supervisory functions delegated by the NWREC Council.
2. 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.
3. Interpret Council policies for staff, as well as all state and federal laws and regulations relevant to the operation of the NWREC.
4. 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 NWREC Business Manager and Coordinator. Assure sound fiscal management and compliance with state and federal audit procedures.
5. Maintain records required by the Council, state and federal statutes and regulations.
6. Provide districts with technical assistance in the interpretation of special education laws and regulations.
7. Prepare the agenda for each Council meeting; notify Council members in advance of the items to be discussed and set up dates, times and locations of meetings.
8. Attend all Council meetings. Prepare a report of activities for the Council and provide information as needed.
9. Serve as the official representative of the Council in relations with the Public Education Department, New Mexico legislature, and other applicable agencies in matters pertaining to all programs adopted by NWREC.

10. Conduct studies and appraisals of the development and needs of all districts and make recommendations to the Council. Encourage ideas and active participation in the development of programs among personnel. Develop objectives to address specific problems, facing local educators, administrators, teachers, educational assistants, staff, parents, etc. that work with students.
11. Arrange and coordinate in-service training for each school district as needed. Assist directly and indirectly with the training and technology needs to facilitate success for all involved with educating all students. Assist the Business Manager in the financial arrangements of all workshops and in-services through the NWREC.
12. Strive to enhance cooperation between the public school, community, state and federal agencies.
13. Provide districts with technical assistance for state and federal monitoring activities.
14. Define job requirements and responsibilities for NWREC personnel. Conduct evaluations of all NWREC contracted personnel and office staff. Assist personnel with professional development plans as applicable. Make decisions regarding all employment, reemployment, termination, dismissal and discharge of staff.
15. Serve as recruitment agent for NWREC.
16. Assist and support Child Find activities if requested
17. Perform other duties as assigned by the NWREC Council.

4013 Separation

The Executive Director may be separated from service with the Council upon a majority vote of the full Council.

4014 Resignation

The Executive Director may resign upon providing the Council with proper notice of the intention to resign. The notice will be in conformance with contractual and statutory provisions.

4015 Compensation and Benefits

The Executive Director's compensation and benefits will be established by the Council and may be renegotiated at the time of issuance of contract or upon the preparation of yearly compensation and schedules.

Regular leave benefits will be the same as provided for other employees of equal contract length. Any additional annual leave benefits will be established by the contract.

The 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. Funding for this payment will not emanate from proceeds generated from NWREC member districts.

4016 Retirement

The Executive Director will be subject to the same retirement conditions as the total staff and will be entitled to all retirement benefits accumulated during total services as provided by statute¹.

4017 Travel Expenses

The Executive Director shall keep informed of current educational thought and practice by study, by visiting school districts, by attendance at educational conferences, by participation in professional organizations, and by any other appropriate means. The expenses of the Executive Director for such travel will be paid by NWREC. This expense item will be a part of appropriate yearly budgets and will follow all requirements of the Mileage and Per Diem Act.

4018 Evaluation

The Council will evaluate the Executive Director in terms of the efficiency of operation and accomplishments of the total REC program on an annual basis.

402 Council-Executive Director Relations

4020 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 annual report may include, but not limited to:

1. Demographic data related to each school district/agency served.
2. Child Find information for the region.
3. Budget use for each of the REC's programs.
4. Plans and programs for staff improvement, including both REC and district staff.
5. An overview of programs in progress; plans for any innovative, experimental and/or new programs.
6. Reports on anticipated changes in state and federal statutes or regulations, which may impact program offerings.
7. Needs of the REC office and staff.
8. Proposals for policy changes or improvements.
9. Ongoing evaluation of staff.
10. Staff recruitment efforts.

4021 Administration in Policy Absence (see 310)

In cases where action must be taken within the cooperative and the Council has provided no guidelines for administrative action, the Executive Director shall have the power to act. The decisions shall be subject to review by the Council at its regular meeting. It shall be the duty of the Executive Director to inform the Council promptly of such action and of the need for policy.

4022 Delegation of Authority as Hearing Officer

The NWREC Council acknowledges the following: Under the provision of NMSA 1978, Section 22-4-4D² the Council must approve the employment, termination, or discharge of all personnel upon recommendation of the Executive Director; (2) The Council has the power and duty under Section 22-5-4C³ to delegate administrative and supervisory functions to the Executive Director; and (3) In the course of supervising and administering the daily operation of the REC, circumstances arise in which the Executive Director is called upon to take action with regard to employees within the REC.

The REC Council therefore delegates to the Executive Director the authority and responsibility 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 procedures established by state law or regulation or Council policy. Instances in which the Executive Director may exercise such delegation of authority include, but are not limited to, the following circumstances:

1. In effecting the immediate and temporary suspension with pay of employees, whether certified or non-certified, where alleged misconduct of the employee is so severe or extreme that the Executive Director in his sole discretion determines such immediate action to be necessary to preserve the health, safety or welfare of students or other employees of districts of the REC 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 suspend such employee without pay or to terminate or discharge such employee.
2. In offering employment to prospective employees in the interim between Council meetings where such offer is necessary to obtain qualified staff, so long as all such offers are expressly conditional on the subsequent recommendation to and approval of the Council.
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 procedure.

The delegation of authority provided herein may not be used in a manner contrary to state law or regulations or to deny any employee rights to

which he or she may otherwise be entitled. The Council may expand the delegation prescribed herein in appropriate circumstances. The enumeration of delegated authorities to the Executive Director to take such further actions as may be necessary to administer programs or to execute Council policy, unless such authority is reserved to the Council by state law⁴.

4023 Delegation of Authority as Procurement/Purchasing Officer

The NWREC Council delegates to the Executive Director the authority and responsibility to act as procurement/purchasing officer for NWREC within federal, state, and local regulation and policies. All such purchases and procurements are subject to the Procurement Act and to Council review and/or approval. This responsibility will include the ability to delegate the authority to the Certified Procurement Officer.

403 Coordinator

4030 Qualifications

Shall hold or be eligible for a New Mexico Licensure in School Administration and Education. At least five years' experience in public schools or related agencies, or such alternatives to the qualifications as the Council may find appropriate and acceptable. Strong background and knowledge of fiscal management and accountability for educational institutions, including educational cooperatives is required. An educational background in administration and high-quality instructional practices including knowledge of Special Education and ancillary requirements for school districts is also required. Technology background including distance education, e-rate, online dual credit collaboration with universities and colleges, excellent computer, video conferencing, and related software skills.

Shall possess a Master's degree with a major in educational administration, a valid New Mexico license to practice school administration, at least five years experience in public schools or related agencies, or such alternatives to the qualifications as the Council may find appropriate and acceptable.

4031 Supervises

The Coordinator directly supervises all programs (related services and non-administrative office staff).

4032 Responsibilities

The job responsibilities of the Coordinator shall include but not be limited to:

1. Carrying out the NWREC Council's policies as delegated by the Executive Director/Coordinator.
2. Coordinating all NWREC programs: IDEA, Medicaid, Title I, Title II, Title IV, Title V, Child Find, and other NWREC programs.

3. Providing staff level leadership for curriculum and staff development.
4. Arranging and coordinating in-service training for each school district, as needed. Assisting directly and indirectly with the training and technology needs to facilitate success for all involved with educating all students. Assist the business manager in the financial arrangements of all workshops and in-services through the NWREC.
5. Assisting and supporting activities necessary to conduct Child Find as requested.
6. Assuring maintenance of accurate and complete personnel files.
7. Serving as the recruitment agent for the REC.
8. Making recommendations to the Executive Director regarding the employment, assignment, and evaluation of personnel. Assisting the Executive Director with the development of the REC staff evaluation and development plan. Maintaining documentation that each staff member has been evaluated and has demonstrated the essential competencies.
9. Establishing an atmosphere, which will promote communications with faculty, staff, parents, and community and promoting a mutual understanding of the concerns, opinions, and feelings of each group.
10. Making appointments or setting meetings for staff, as requested.
11. Monitoring services by related services personnel to assure compliance with state and federal regulations.
12. Providing and/or coordinate parents/staff training and technical assistance to member school districts.
13. Acting as a liaison between the REC and member school districts.
14. Performing other duties as assigned by the Executive Director.

4033 Terms of Employment

The contract is for 220 days and may be for one (1) or two (2) years. Salary is established by the Council upon recommendation of the Executive Director. Regular leave benefits will be the same as provided for other employees of equal contract length. Any additional annual leave benefits will be established by the contract.

4034 Evaluation

The Executive Director in accordance with provisions of the NWREC evaluation procedures evaluates the Coordinator annually.

4035 Employment Conditions

Recruitment: The Executive Director will hire the Coordinator and fill any other vacancies with the best-qualified person available.

1. Hiring: Coordinator applicants will be interviewed and hired by the Executive Director.
2. Assignment: All Coordinator responsibilities are assigned by the Executive Director.

3. Separation: Coordinator may be separated from service with the NWREC upon recommendation of the Executive Director in accordance with statute and regulation.
4. Resignation: Coordinator may resign his position by providing the Executive Director with a notice of at least thirty days of his intention to resign. The Executive Director is authorized to waive the thirty days notice and to accept the resignation without penalty according to his discretion.
5. Retirement: Administrative personnel are entitled to all retirement benefits accumulated during total service as provided by statute.
6. Reduction-in-Staff: Reduction in administrative staff will be accomplished, when necessary, in accordance with the NWREC reduction-in-force policy.

¹Legal Reference: Educational Retirement Act 22-11, NMSA 1978

²Legal Reference: 22-4-4D NMSA 1978 Comp.

³Legal Reference: 22-5-4C NMSA 1978 Comp.

⁴Legal Reference: 22-4-4C-D NMSA 1978

501 Equal Opportunity Employment

NWREC is an Equal Opportunity Employer and does not discriminate on the basis of race, color, national origin, sex, religion, age, marital status, disability, handicap, or veteran status in employment or the provision of services. This includes, but is not limited to educational services or employment. Inquiries concerning the application of Title VI, and Title VII of the Civil Rights Act, Section 504 of PL 92-112, and the Age Discrimination Act may be referred to the Executive Director of the NWREC. The Americans with Disabilities Act of 1990 as amended, prohibits discrimination on the basis of disability, and protects qualified applicants and employees with disabilities from discrimination in hiring, promotion, discharge, pay, job training, fringe benefits, and other aspects of employment. The law also requires that covered entities provide qualified applicants and employees with disabilities with necessary reasonable accommodations that do not impose undue hardship. It is the responsibility of the applicant or employee to inform the Executive Director that an accommodation is needed¹.

5010 Classification of Staff Members

The Council designates and defines the following classification of staff members:

1. **Licensed/Certified Personnel** (Exempt) – Staff members of NWREC who are required to be licensed by the New Mexico Public Education Department or other professional licensing boards.
2. **Support Personnel** (Non-exempt) – Staff members of NWREC who do not require a license (i.e., Secretaries, Clerks, Bookkeepers, and other office staff).
3. **Administrators.** (Exempt) – Administratively licensed personnel who are paid as administrators and carry out administrative duties assigned by the Council and/or Executive Director.

502 Background Investigations

The NWREC will conduct work history, education history and reference investigations on each applicant recommended for employment including substitutes and temporaries. Each such applicant will be subject to a criminal background investigation, including mandatory fingerprinting at the candidate's expense, as a condition for further consideration for employment. An applicant for employment who has been initially certified by the New Mexico Public Education Department within twelve months of applying for employment with NWREC, shall not be required to submit to another background check if the New Mexico Public Education Department has copies of his/her Federal Bureau of Investigation records on file and if such copies are released to NWREC².

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 NWREC, but, pursuant to the

Criminal Offender Act [NMSA 1978, 28-2-4 and 28-2-5], may be the basis for refusing employment³.

Criminal background checks, as presented above, shall also be conducted upon each contractor or staff member, at the expense of the contractor or staff member, if the contractor has unsupervised access to students. In such cases, contracts shall be subject to the satisfactory completion of background checks.

With regard to existing staff members, NWREC 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 staff member's background might disqualify him or her to continue in employment with the NWREC.

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 or a contractor or staff member with unsupervised access to students.

503 Chain of Command

NWREC Executive Director will report directly to the Council. All NWREC staff members will be responsible to and report to the Executive Director and their direct supervisor as detailed in the official NWREC organizational chart. When the NWREC staff member is working in a school district, he/she is to follow building/district policies and procedures. If there is a conflict, the staff member should try to resolve the issue(s) with the person involved. If it is not resolved, the NWREC staff member must inform the NWREC Executive Director and Coordinator in writing. The NWREC Executive Director will take appropriate and necessary action(s) per NWREC official policies.

504 Staff Development Opportunities

The Council recognizes that staff members should continue to improve their competencies during their service. It expects the Executive Director/Coordinator to promote opportunities for staff development and for staff members to take advantage of them. To the extent feasible, the Executive Director/Coordinator should establish procedures by which staff members can receive proper support and recognition for efforts to improve themselves.

Encouragement will be given to all staff members to attend meetings, take courses, belong to organizations, and read literature describing innovative practices and the solving of program problems. The NWREC Executive Director/Coordinator will provide for professional growth through such means as the following:

D. Planned training events offered within the NWREC.

- E. Released time for visits to other RECs and schools, and for attendance at conferences, workshops, and professional meetings. Application will be made to the Executive Director/Coordinator in advance. The Coordinator will forward any approved request to the Executive Director. (See 5105 Professional Leave policy)

Reimbursements for expenses related to conferences and visitations will be as approved by the Executive Director/Coordinator in accordance with NWREC Official Policy; provided such expenses are within budget allocations for such purpose. Advance payment for approved professional development shall be made according to the New Mexico Mileage and Per Diem Regulations.

505 Staff Member Grievance 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 after cleared according to the New Mexico State Records Center and Archives and access to the file shall be limited to the grievant, the immediate supervisor, the Executive Director, and members of the Council.
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/Coordinator 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. Since grievances are “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.

506 Conflict of Interest

Staff members of NWREC owe their full attention and loyalty while on the job to the best interest of NWREC and its member districts. Various situations can create the potential for interfering with the physical performance of staff member’s duties, or for bringing staff members’ personal interests or the interests of some other person, group or entity into conflict with NWREC’s best interest. All NWREC staff members must use their good judgment and avoid situations or relationships which interfere with their physical ability to perform their duties or which tend to divide their on-the-job loyalties.

A. Outside Employment

The Council recognizes that many NWREC staff members find it necessary or desirable to supplement their income through outside employment. Nevertheless, the Council considers that it has given full-time staff members’ full-time jobs during the term of contract and expects all NWREC staff members to give their assigned responsibilities priority over outside work.

The Council does not wish to infringe unduly upon any staff member’s ability to augment his or her income through legal outside activities. However, outside work may legitimately concern the council if it interferes with the effective performance of a staff member’s job related responsibilities, if it tends to compromise or embarrass the NWREC, or if it suggests a conflict of interest. Accordingly, the following rules shall govern staff members’ outside employment.

1. NWREC staff members shall not perform any duties related to outside employment during regular working hours or within other assigned job

related schedules. This restriction shall not apply to outside employment performed during time taken through annual leave.

2. No NWREC staff member may solicit or negotiate for, accept employment from or render any services for any outside person, firm, group or entity or own account if such employment or service
 - a. Physically impairs the proper discharge of the staff member's official duties, or
 - b. Creates or tends to create a conflict between the interest of the NWREC and the staff member's personal interests or the interests of the outside person, firm, group or entity.

A full-time staff member who contemplates accepting outside employment shall submit in writing a request for outside employment to the Executive Director/Coordinator. The staff member must receive approval of the Executive Director before making any commitment to undertake outside work.

B. Gifts and Gratuities

Staff members of the Council are prohibited from accepting anything of material value from companies, organizations or individuals doing business with the NWREC. Staff members are 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 NWREC.

C. Staff member Business Dealings with NWREC

1. **Philosophy.** NWREC exists to assist member schools and institutions in pursuance of excellence in education for the children of the region. To foster public confidence in the NWREC and to ensure fidelity to the mission of the member districts and institutions, it is essential that no staff member of the NWREC 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 NWREC. The Council accordingly adopts the following policies to guard against such eventualities.
2. **General Policy.** Section 22-21-1, NMSA, broadly prohibits certified staff members from profiting, even indirectly with their employing agencies, beyond the basic employment relationship. Violations are designated as fourth-degree felonies under the Criminal Code, which are punishable by imprisonment for up to 18 months and a fine of up to \$5,000⁴

The Council hereby adopts the statutory prohibitions for non-certified staff members as well as certified personnel. Except for authorized, special services as provided below; or for allowable overtime compensation for non-certified personnel, it is the policy of the Council that no staff member of NWREC shall, directly or indirectly, receive or seek to receive

any monetary gain from business dealings with or work for the NWREC beyond his or her official compensation. This policy shall govern despite the potential for a technically legal sale to the NWREC in the regular course of a staff member's business under the exceptions provided in Section 22-21-1B, NMSA.

3. **Special Contracts for Extra Duties.** Section 22-21-1B, NMSA accepts from the statute's general prohibitions "cases in which certified school instructors or certified school administrators 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 or administration." The Council, upon a recommendation by the Executive Director, may occasionally 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:
 - a. Where the additional responsibilities would interfere physically with the proper performance of the staff member's primary duties, or
 - b. Where the additional responsibilities would create a conflict of interest with or tend to influence the staff member's exercise of independent judgment in the performance of his or her primary duties, or where the potential for appearance of such a conflict or influence reasonably exists.

D. Paid Services. To assure all students 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 who is assigned to the service provider's assigned caseload.

E. Professional Research and Publishing. The Council considers that the NWREC has proprietary rights to publications, instructional materials, and other devices prepared by staff members of the NWREC during their paid work time. However, the Council also recognizes the importance of encouraging writing research, and other creative endeavors by employees as an aspect of their professional development.

When original materials are developed by staff members or staff committees during working time or as part of regular or special assignments for which they are paid, the NWREC will retain exclusive rights regarding publication or reproduction but will clearly acknowledge the contributions of the staff member(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 a staff member's own time, appropriate allocations of rights may be negotiated with the Executive Director approval.

507 Political Activities

The Council subscribes to the principle that NWREC staff members not only have the right but must also share in responsibility for the development of sound public policy by assuming full political and citizenship responsibilities. A staff member who is a candidate for political office or has been elected to a non-partisan political office has a joint obligation to the public and to the NWREC. NWREC staff members may not be candidates for partisan political office. During involvement with non-partisan political activities, a staff member will **not**:

1. Misrepresent the NWREC but will take adequate precautions to distinguish between his personal views and NWREC views.
2. Interfere with a colleague's exercise of political and citizenship rights and responsibilities.
3. Use NWREC privileges, resources, or working time to promote political candidates or partisan political activities.
4. Assign or expect children to participate in any aspect of campaigning, canvassing, or aiding in processes of attempting to persuade voters to vote for or against individuals or measures as a part or required or enrichment activities or course work. Nor will children be used as a forum for a staff member to express personal feelings for or against any candidate in any election at any level.

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

Upon request, the Council shall grant a political activity leave to a staff member to serve in the legislature and will consider on an individual basis requests for serving in other public offices that require time away from regular duties. Absences for public service leave shall not exceed 60 school days per contract year. However, if a need arises, such as special sessions, additional leave shall be granted upon the recommendation of the Executive Director/Coordinator and approval by the Council. Council approval for public service leave shall be required for the first term only.

Any NWREC staff member elected to a non-partisan public office who is appointed to a committee or committees dealing directly with program issues may file a request for leave without pay.

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

508 Public Appearances

Only those NWREC staff members receiving prior approval of the Executive Director may officially represent the Council and the NWREC before a public or professional group speaking on behalf of the NWREC on its policies, rules and regulations, philosophies and programs.

509 Personnel Records

The Business Manager shall be responsible for the development and maintenance of appropriate personnel records. Personnel records of current and past applicants and staff members shall be the property of the NWREC. These personnel folders shall be placed in locked fireproof files in the NWREC Office.

The personnel records may include but not be limited to the following documents where applicable:

1. Background information and documentation in regard to training, experience, references, credentials, application form, personal data, licensure information, proof of age and nationality and any other information deemed appropriate and necessary.
2. Record of service within the NWREC consisting of service and program assignments, copies of contracts, transfer and leave requests, payroll information, supervisory and evaluation documents, letters of resignation and other records deemed important and appropriate.
3. Termination information, which shall indicate whether termination was by resignation or dismissal. All information in an staff member's personnel file shall be open to the staff member 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.
4. Records related to medical conditions or disability, personnel grievances, and criminal background check results shall be contained in permanent confidential files apart from regular personnel files per federal regulations and council policies.

Access to General Personnel Files – General personnel files will be open to the following NWREC personnel:

1. Staff member concerned, except for confidential college placement papers and references received in confidence.
2. Executive Director and Coordinator.
3. Human Resource staff as required in the performance of duties.
4. Council during official personnel sessions.
5. Designated NWREC attorney during official personnel sessions of the Council or as requested by the Executive Director.

Access to Confidential Personnel Files:

Confidential personnel files which contain criminal background checks, confidential medical information and personnel grievances will be accessed only by the staff member, the Executive Director/Coordinator, and the Council when convened in personnel session including the Council's attorney as requested by the Executive Director/Coordinator/Coordinator.

Access by Outside Parties

It shall be the policy of NWREC to protect the privacy of current, former and prospective staff members to the extent permitted by law. Accordingly, all personnel information retained by NWREC shall be considered confidential unless the Inspection of Public Records Act [NMSA 14-2-1 et.seq.] requires otherwise.⁵

Confidential personnel information will 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 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:

1. Letters of reference concerning employment, licensing or permits;
2. 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 staff member or an applicant for employment;
3. Medical and related information pertaining to illness, injury, disability to perform a job task, or sick leave;
4. Names or other identifying information on applicants for positions within the NWREC until and unless one or more persons outside the NWREC are contacted for further information regarding a particular applicant; and
5. Other types of personal information, such as military discharge or arrest records, (a) which is solicited by the NWREC; (b) which is considered vital to the employment procedure; (c) which was furnished after a promise to keep the information confidential; and (d) for which disclosure would not appear to serve any identifiable interest.

Staff members are personally responsible for 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 NWREC 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 NWREC attorney or appropriate representatives determined by the Executive Director.

Lists of NWREC personnel will not be released to political, commercial, religious groups by NWREC staff. Release of lists of personnel to educational groups or organizations shall be at the discretion of the Executive Director.

510 Staff Member Leave Benefits

All leave benefits are limited to permanent full-time staff members and to permanent part-time staff members who work at least twenty (20) hours weekly for at least a 170 day contract. Leave benefits do not apply to occasional or temporary staff members such as substitutes, student workers, hourly-rate service providers, or staff members hired to complete short-term projects.

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/Coordinator or before leave is taken. In approving leave requests, the Executive Director/Coordinator 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.

5100 Sick/Medical 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/Coordinator, 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/Coordinator 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/Coordinator 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/Coordinator 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:

1. Personal medical treatment or illness of the staff member;
2. Medical treatment or illness of a member of the immediate family;
3. Death in the immediate family;

4. The actual period of temporary disability connected with childbearing or recovery therefrom as defined below:
 - a. The natural mother may use accumulated sick leave for the actual period of temporary disability caused or contributed to by pregnancy and childbirth.
 - b. The natural father may request sick leave to care for the mother and newborn infant during the natural mother's period of temporary disability. Since there is no certainty as to when disability actually begins and ends, a doctor's certificate or other acceptable proof shall be required verifying the employee's period of temporary disability. At the request of the Executive Director/Coordinator, the staff member may also be asked to provide a doctor's verification of any significant or continuing pre-delivery absences.
5. Adoption of a child under five years of age, limited to 30 days for each parent;
6. Medical appointments of the staff member's or staff member's immediate family.
7. Personal time requested as per supervisor's approval.

Definitions:

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/Coordinator. Details as to the close relationship must be included in the written request for leave.

51001 Family and Medical Leave Act Leave of Absence

If the NWREC meets thresholds for the requirement of offering FMLA benefits, then the following policy will apply. This policy is adopted to implement the federal Family and Medical leave Act of 1993 (FMLA) pursuant to the terms, conditions, and limitations of the Act. In the event of any conflict between the provisions of this or any other leave policy of the Council and the provisions of the FMLA, the latter shall prevail.

1. To be eligible for leave under the Act a staff member must have worked for the NWREC for a total of 12 months, during which the staff member must have worked a total of 1,250 hours.
2. Pursuant to the Family and Medical Leave Act, staff members are permitted up to 12 work weeks of unpaid leave per year during any 12-month period. Family and medical leave can be requested for the following reasons:
 - a. Childbirth and infant care:

- b. Placement of child with the staff member for adoption or placement of a child with the staff member by a state agency for foster care (entitlement to leave for birth or placement of a child expires 12 months after the birth or placement of the child);
- c. Care of the staff member's spouse, son or daughter or parent with a serious health condition; and
- d. The inability of the staff member to perform his or her job duties due to his or her own serious health condition, or the necessary absence from work of a staff member to receive medically necessary treatment.

The 12-month period within which each staff member may take 12 weeks of leave under the FMLA shall be a "rolling" 12-month period, measured backward for each staff member from the first time each such staff member uses leave under the FMLA.

- 3. A "serious health condition" is an illness, injury, impairment or physical or mental condition that involves:
 - a. any period of incapacity or treatment connected with inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility; or
 - b. a period of incapacity requiring absence of more than three calendar days from work, school, or other regular daily activities that also involves continuing treatment by (or under the supervision of) a health care provider; or
 - c. any period of incapacity due to pregnancy, or for prenatal care; or
 - d. any period of incapacity (or treatment therefore) due to a chronic serious health condition (e.g., asthma, diabetes, epilepsy, etc); or
 - e. a period of incapacity that is permanent or long term due to a condition which treatment may not be effective (e.g., Alzheimer's stroke, terminal diseases, etc); or
 - f. any absences to receive multiple treatments (including any period of recovery therefrom) by, or on referral by, a health care provider for a condition that likely would result in incapacity of more than three consecutive days if left untreated (e.g., chemotherapy, physical therapy, dialysis, etc.).
- 4. A staff member requesting leave shall submit a "Request for Leave" form to the Executive Director/Coordinator.

5. If a staff member requests leave for treatment of a staff members' serious medical condition or for that of a child, parent, or spouse, the staff member must make a reasonable effort to schedule the treatment at a time that is not unduly disruptive to the NWREC.
6. A staff member seeking leave for a foreseeable reason such as the birth or placement of a child or for planned medical treatment shall provide the NWREC with at least 30 days advance notice of the leave. If 30 days advance notice is not possible under the circumstances, e.g. in the case of a premature birth, the staff member shall give such notice as is practicable, e.g. within one or two business days of the day the employee learns of the need for leave. If a staff member's reason for seeking leave was unforeseeable, such staff member shall give such notice as is practicable. A staff member who fails to give notice of leave as required herein may be denied such leave until the notice requirements are met. If less than 30 days notice is provided, the staff member must schedule an appointment with the Executive Director/Coordinator for approval.
7. A staff member seeking leave on the basis of the serious medical condition of the staff member or the staff member's spouse, son or daughter, or parent, must provide certification issued by the health care provider of the staff member or of the staff member's spouse, son or daughter, or parent, stating:
 - a. The date the condition began,
 - b. It's probable duration,
 - c. Appropriate medical facts, and
 - d. That, for a specified time, either
 - i. The staff member is unable to perform his or her job functions or will be unavailable to do so while receiving medical treatment or
 - ii. The staff member will be needed to care for the sick family member

If the adequacy of medical certification is questioned by the NWREC, the NWREC may require the staff member to seek the opinion of a second health care provider, who is not regularly employed by the NWREC, at the NWREC's expense. If the opinions of the first and second health care providers differ, the NWREC may require the staff member to obtain a third opinion at the NWREC's expense, from a health care provider agreed upon by the staff member and the NWREC. The third opinion shall be final and binding.

8. Health care providers who may provide certification of a serious health conditions include:
 - a. Doctors of medicine or osteopathy authorized to practice medicine or surgery (as appropriate) by the State in which the doctor practices;
 - b. Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice in the State and performing within the scope of their practice under State law.
 - c. Nurse practitioners, nurse-midwives, and clinical social workers authorized to practice under State law and perform within the scope of their practice as defined under State law.
 - d. Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts;
 - e. Any health care provider recognized by NWREC or NWREC's group health plan's benefit manager; and
 - f. A health care provider listed above who practices in a country other than the United States and who is authorized to practice under the laws of that country.
9. Spouses employed by the NWREC are limited to a combined total of 12 workweeks per year for the birth or placement of a child, or to care for a parent. However, for other covered leaved, such as to care for a spouse or child, or for treatment of the staff member's own serious health condition, each spouse may take up to 12 weeks a year.
10. Intermittent leave and reduced work schedules are allowed when such are medically necessary; however, staff members may not take intermittent leaves or go on reduced work schedules that reduce the number of hours worked per week or per day for child birth/infant care or adoption leave.
11. If any staff member requests intermittent leave or leave on a reduced work schedule to care for a seriously-ill family member or for the staff member's own serious health condition, and the need for leave is foreseeable based upon planned medical treatment, the staff member may temporarily be transferred to an available alternative position with equivalent pay and benefits, if the staff member is qualified for the position and the position better accommodates recurring periods of leave than the staff member's regular job.

12. All requests for family/medical leave must be approved by the Executive Director.
13. Staff members who take family/medical leave must utilize any available paid leave they have accrued under another of the Council's leave policies when the reason for leave corresponds with the basis for leave under the other policy. Accrued vacation or personal leave shall be substituted for any FMLA-qualifying purpose. If the request leave period extends beyond the employee's accrued number of paid leave days, the remaining leave days will be unpaid.
(Example: An employee, who sought leave due to his or her own serious medical X and inability to perform his or her job duties, has accrued six weeks sick leave. The employee must use the six weeks of paid sick leave and may thereafter use the remaining six weeks of unpaid leave available under this policy.)
14. Any staff member seeking leave shall explain the reasons for the needed leave on forms provided by the NWREC. It shall be the NWREC's responsibility to identify the requested leave as covered by the FMLA as paid or unpaid on the basis of leave time accrued under other leave policies. Such identification shall be made at the time leave is requested or during such leave, on the basis of information provided by the staff member.
15. During the period of leave, the NWREC will maintain the employer's coverage for the staff member under its group benefits plan if enrolled; however, the staff member is responsible for continuing to pay the staff member's monthly portion of the premium. If a staff member fails to make payment of the staff member's share of health insurance premiums for 30 days after such payment is due, coverage of such staff member for benefits shall be discontinued. If the staff member fails to return to work following leave under the FMLA for any reason (1) other than the continuation of the FMLA-qualifying circumstances upon which the need for leave was originally based, or (2) circumstances beyond the control of the staff member, the staff member shall be required to reimburse the NWREC for the staff member's cost of benefit premiums the NWREC paid to maintain coverage for the staff member during the leave period.
16. Staff members will not accrue leave or other benefits during the family/medical leave period.

17. A staff member other than a “key staff member,” who has taken family/medical leave will be restored to his or her previous position or to a position of equivalent pay, benefit, and other terms and conditions of employment. Equivalency of positions shall be determined on the basis of NWREC policy. A “key staff member” may be denied reinstatement if it would create a substantial and grievous economic injury for the NWREC. A “key staff member” is one whose compensation is within the highest 10 percent of the work force of the NWREC.

18. A notice to staff members 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.

5101 Personal Leave

Twelve-month full-time NWREC staff members on a 245-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/Coordinator.

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.

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 excess of 400 but less than 800 miles and two (2) additional days if in excess 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/Coordinator. Funeral Leave is not cumulative.

5102 Court or Jury Duty Leave

Court/Subpoena – Leave shall be granted a staff member to respond to a subpoena, which requires that staff member’s absence from duty. Leave will be granted only in response to a subpoena and not for the purpose of legal consultation or voluntary courtroom attendance.

Jury Duty –Staff members of NWREC are eligible for leave with pay when required to serve as a juror or to appear as a witness in obedience to a subpoena before a federal or state grand jury or court. Any public staff member shall not be compensated for jury services during normal working hours. If the staff member receives compensation for services, not including reimbursement for travel, the payment shall go directly to NWREC

If a staff member, upon reporting for jury duty in the morning, learns that he/she is dismissed for jury duty for the remainder of the day, he/she is to report for duty at NWREC/assigned school and resume duties or do work as assigned by the Executive Director/Coordinator for the remainder of the day. A leave request must be submitted with a copy of the subpoena or the letter from the court assigning jury duty.

5103 Maternity/Paternity Leave

For eligible staff members (those with at least 12 months/1250 hours NWREC employment), absence for childbirth or adoption is covered by and may be taken under the family and medical leave policy described in 51001. For staff members not eligible for family and medical leave. Or those staff members not wanting to use family and medical leave, absence for childbirth or adoption is covered by Policy 5100 Sick/Medical leave; also, in addition to leave provided under 5100 and 51001, 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 doctor’s documentation required by Policy 5100.

Maternity/Paternal leave is available to permanent full-time or part-time (regularly scheduled to work 20 hours a week or more) staff members who are the natural parents of a newborn child or the adoptive parents of a newly adopted child under five years of age. Maternity/paternal leave is first charged against sick leave, then vacation or annual leave, then leave without pay, or any appropriate combination as determined by the Executive Director.

The contract amount of the staff member will be reduced by a per diem amount based on the number of days granted as leave without pay. Upon the written request of the staff member, the Executive Director may direct the payroll clerk to equalize the reduction of salary paid on any remaining

payroll checks so that the reduction is spread out over the remaining contract period rather than from the final payroll period only.

Thirty (30) days notice shall be given prior to the beginning of maternity/paternal leave when medically possible: if thirty (30) days notice is not possible under the circumstance, e.g., in the case of a premature birth, the staff member shall give such notice as is practicable, but not later than five (5) working days from the date the staff member learns of the need for leave.

5104 Workers' Compensation Leave Benefits

Staff member Accidents. All staff members are covered under the provisions of Worker's Compensation for injuries occurring on the job. Accident reports are available in the Business Manager's office and must be completed and forwarded to the immediate supervisor at the time of injury.

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 sick leave benefits in that all accumulated sick leave is used prior to workers' compensation leave benefits.

The day of injury is considered as a full day worked; no sick leave will be charged regardless of time of injury if staff member seeks medical treatment. When a staff member is off work more than seven days due to a work-related incident, worker's compensation benefits will be paid by the worker's compensation carrier based on a weekly rate payable every two weeks and continued while the staff member is disabled. A staff member may use his personal sick leave for the initial seven-day period (normally five working days). If a staff member is off work more than four weeks, compensation is retroactive to date of disability and sick leave is reinstated. The Worker's Compensation carrier will reimburse the NWREC for this absence. The weekly compensation rate for total disability is 66 2/3% of the staff member's average weekly gross earnings subject to the maximum specified by law. (Worker's Compensation Act, Chapter 52, NMSA 1978)

At the time of a qualifying disability, the staff member will be removed from the NWREC's payroll and will receive worker's compensation benefits from the insurance carrier according to Worker's Compensation Administration regulations. In order to continue current personal insurance benefits (health, dental, etc.), it will be necessary for the staff member to pay directly to the NWREC the amount of his payroll deduction or insurance premiums once he has been removed from the

payroll to be placed on worker's compensation. The premium payment will be due in the payroll office on or before the first working day of each month. The NWREC will continue payment of its portion of this insurance premium while the staff member is under contract.

A worker injured on the job is entitled to medical care. Either the worker or the employer may choose the health care provider for the initial sixty (60) day period. The party who did not choose the initial health care provider may select the health care provider for the remaining medical benefit period beyond the initial sixty (60) day period. Either may challenge the health care choice of the other by notifying the Executive Director of Workers' Compensation Administration in writing. A Workers' Compensation Judge will hear the challenge and render a final decision within seven (7) days.

5105 Professional Leave

Professional leave is available for those NWREC staff members representing the NWREC or a participating district in a particular instructional area. Such leave is subject to approval by the Executive Director/Coordinator. All such leave is subject to review based on budget available.

After professional leave is approved, the staff member will be entitled to travel and per diem and workshop cost as approved by the Executive Director/Coordinator and as permissible under the Mileage and Per Diem Act. Professional leave is to provide an opportunity for staff to participate in professional organizations, meetings and in –service on a local, district, state and national basis and when serving as a leader in such an activity. Permission for such absence is to be requested two (2) weeks in advance. Special consideration on an individual basis shall be given to those elected or appointed as a state or national officer.

Requests for professional leave over and beyond set limits shall be evaluated by the Executive Director/Coordinator as to their benefit to the NWREC and member institutions. Ordinarily, such leave will be limited to four (4) days per year per staff member or requires Executive Director/Coordinator's approval.

5106 Military Leave

The Veteran's Reemployment Rights law requires that employees be granted a leave of absence to perform their military duties. Employees granted a military leave of absence are entitled to participate during the leave period in insurance and other benefits offered by the employer to the same extent as employees granted other types of leave. The NWREC will discontinue contractual payments to the employee when military leave begins.

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 his 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; reserve personnel called for active duty for more than 180 days must reapply within 90 days from release.

NWREC staff members who are members 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 they are 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 or vacation times with pay to which such staff members are otherwise entitled.

Any staff member of the NWREC who is a member of a military reserve unit and is ordered to active duty shall be given military leave. Such military leave for active duty will be granted as follows:

1. **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 NWREC will continue the co-payment amount of the staff member's insurance premium(s).

2. **Leave without Pay.** Should a staff member 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 accrued annual or personal leave have been exhausted, the staff member must pay the full premium for insurance.

Upon application for re-employment, the staff member shall be placed in his former position or in one, which is available and suitable. No staff member will be subject to loss of seniority or benefits because of such leave.

In order to exercise the above rights, a staff member must apply for reemployment within 90 days following an honorable discharge or release

from active duty or within a period of one (1) year should hospitalization continue after honorable discharge.

5107 Other Leave of Absence

After a staff member is employed for the fourth consecutive year, it is possible to request a leave of absence for academic study, extended illness or community service. Maximum leave is for one year, unless absence begins at mid-term, and then the leave may be extended through the following school term. Any leave will be without pay; re-employment will be contingent upon a vacancy for which the staff member is qualified, such qualifications to be established by the Executive Director/Coordinator. Such re-employment will be considered only during the immediate school year following the leave; subsequent years would require a new application for employment with no consideration given for past employment. If leave is approved and the individual returns to the NWREC during the school term immediately following leave, the status of the individual would remain the same as it was at the time the leave was granted regarding sick leave and insurance (if full premiums are paid during the leave by the staff member). Applications for such leave should be made to the Executive Director/Coordinator in writing at least sixty (60) days prior to the granting of such leave. A leave of absence shall require Executive Director approval before being granted.

5108 Emergency Road Conditions Leave

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/Coordinator 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/Coordinator (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 available 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/Coordinator. 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.

5109 Vacations

Twelve (12) month (245 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/Coordinator at least two weeks prior to leave and will be granted at the discretion of the Executive Director/Coordinator.

511 Insurance Programs

The NWREC will annually determine an insurance benefit program for staff members as allowed by law. Such benefit programs are limited to full-time staff members or staff members who work at least 20 hours weekly for a minimum 170-day contract or equivalent as determined by the Executive Director/Coordinator. They do not apply to occasional workers such as substitute teachers, student workers, or hourly-rate service providers.

The NWREC will pay the statutorily required percentage of insurance premium on those insurance programs it elects to offer. Other programs may be provided to staff members on a staff member-pay-all basis. NWREC will pay only its percentage of insurance premium for those staff members collecting worker's compensation benefits.

512 Retirement

NWREC staff members are provided retirement benefits through the Educational Retirement Board of New Mexico as per Sections 22-11-1 through 22-11-52 NMSA, 1978 Compilation. Required deductions for such benefit shall be made from employee paychecks.⁶

513 Travel Expenses

Every effort should be made to minimize travel time and thus maximize child service time.

1. Related Service Personnel

Reimbursement for travel expense for assigned/scheduled work will be based on the New Mexico Per Diem and Mileage Act and NWREC travel procedures as outlined in the procedure manual. All out of state travel must be approved in advance by the Executive Director/Coordinator.

2. NWREC Office Personnel

Travel reimbursements are prescribed by the New Mexico Per Diem and Mileage Act. Travel requests will be made by completing an Advance Request Form. All travel must be approved in advance by the Executive Director/Coordinator.

514 Staff and Student Health and Safety Issues

5140 Harassment and Violence

1. General Statement of Policy

It is the policy of NWREC Council to maintain learning and working environment that is free from religious, racial or sexual harassment and violence. The Council prohibits any form of religious, racial or sexual harassment and violence.

It shall be a violation of this policy for any NWREC staff member to harass a pupil, teacher, administrator or other school or NWREC personnel through conduct or communication of a sexual nature or regarding religion and race as defined by this policy. (For purposes of this policy, personnel include Council members, NWREC staff members and administrators, volunteers, contractors or persons subject to the supervision and control of the Council.)

It shall be a violation of this policy for any NWREC personnel to inflict, threaten to inflict, or attempt to inflict religious, racial, or sexual violence upon any pupil, teacher, administrator or other school or NWREC personnel.

The Council will act to investigate all complaints, formal or informal, verbal or written, of religious, racial or sexual harassment or violence, and to discipline or take appropriate action against any NWREC personnel who is found to have violated this policy.

2. Definitions

- a. Sexual Harassment; Definition. Sexual harassment consists of unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact or other verbal or physical contact or communication of a sexual nature when:
 - i. Submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining or retaining employment, or of obtaining an education; or
 - ii. Submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's employment or education; or
 - iii. That conduct or communication has the purpose or effect of substantially or unreasonably interfering with an individual's

employment or education, or creating an intimidating, hostile or offensive employment or educational environment.

Sexual harassment may include but is not limited to:

- 1) Unwelcome verbal harassment or abuse;
- 2) Unwelcome pressure for sexual activity;
- 3) Unwelcome, 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;
- 4) Unwelcome sexual favors, accompanied by implied or overt threats concerning an individual's employment or educational status;
- 5) Unwelcome 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
- 6) Unwelcome behavior or words directed at an individual because of gender.

- b. Racial Harassment; Definition. Racial harassment consists of physical or verbal conduct relating to an individual's race when the conduct:
 - i. Has the purpose or effect of creating an intimidating, hostile or offensive working or academic environment;
 - ii. Has the purpose or effect of substantially or unreasonably interfering with an individual's work or academic performance; or
 - iii. Otherwise adversely affects an individual's employment or academic opportunities.
- c. Religious Harassment; Definition. Religious harassment consists of physical or verbal conduct which is related to an individual's religion when the conduct:
 - i. Has the purpose or effect of creating an intimidating, hostile or offensive working or academic environment;
 - ii. Has the purpose or effect of substantially or unreasonably interfering with an individual's work or academic performance; or
 - iii. Otherwise adversely affects an individual's employment or academic opportunities.
- d. Sexual Violence; Definition. 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:

- 1) Touching, patting grabbing or pinching another person's intimate parts, whether that person is of the same sex or the opposite sex;
 - 2) Coercing, forcing or attempting to coerce or force the touching of anyone's intimate parts;
 - 3) Coercing, forcing or attempting to coerce or force sexual intercourse or a sexual act on another, or
 - 4) Threatening to force or coerce sexual acts, including the touching of intimate parts or intercourse, on another.
- e. **Racial Violence; Definition.** Racial violence is a physical act of aggression or assault because of, or in a manner reasonably related to, race.
- f. **Religious Violence; Definition.** Religious violence is a physical act of aggression or assault upon another because of, or in a manner reasonably related to, religion.
- g. **Assault; Definition.** Assault is:
- 1) An act done with intent to cause fear in another of immediate bodily harm or death;
 - 2) The intentional infliction of or attempt to inflict bodily harm upon another; or
 - 3) The threat to do bodily harm to another with resent ability to carry out the threat.

3. Reporting Procedures

Any person who believes he or she has been the victim of religious, racial or sexual harassment or violence by NWREC personnel, or any person with knowledge or belief of conduct which may constitute religious, racial or sexual harassment or violence toward a pupil, teacher, administrator or other school or NWREC personnel should report the alleged acts immediately to an appropriate administrator or Council member designated by this policy. Nothing in this policy shall prevent any person from reporting harassment or violence directly to the Executive Director or Council chair.

- a. **NWREC Service Providers/District Personnel.** The Executive Director is responsible for receiving oral or written reports of religious, racial or sexual harassment or violence from or regarding NWREC staff members who provide service in participating school districts/institutions. Any adult staff member who receives a report of religious, racial or sexual harassment or violence shall inform the Executive Director immediately

Upon receipt of a report, the Executive Director must notify the Council chairperson immediately, without screening or investigating the report. The Executive may request, but may not insist upon, a written complaint. A written statement of the facts alleged will be forwarded as soon as practicable by the Coordinator to the Executive Director. If the report was given verbally, the Coordinator will personally reduce it to written form within 24 hours and forward it to the Executive Director. Failure to forward any harassment or violence report or complaint as provided herein will result in disciplinary action against the Coordinator. If the complaint involves the Coordinator, the complaint shall be made or filed directly with the Executive Director by the reporting party or complainant.

- b. In the NWREC. The Council hereby designates the Executive Director to receive reports or complaints of religious, racial or sexual harassment or violence. The name, address, and telephone number of the Executive Director shall be conspicuously posted.
- c. Submission of a good faith complaint or report of religious, racial or sexual harassment or violence will not affect the complainant or reporter's future employment, grades or work assignments.
- d. Use of formal reporting forms is not mandatory.
- e. The NWREC 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 with any discovery or disclosure obligations.

4. The Investigation

By authority of the Council, the Executive Director, upon request/receipt of a report or complaint alleging religious, racial or sexual harassment or violence, shall immediately undertake or authorize an investigation. The investigation may be conducted by NWREC officials or by a third party designated by the NWREC.

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 given 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 NWREC should 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 NWREC may take immediate steps, at its discretion, to protect the complainant, pupils, teachers, administrators or other school personnel pending completion of an investigation of alleged religious, racial or sexual harassment or violence.

The investigation will be completed as soon as practicable and filed with the Executive Director. If the Executive Director personally conducts the investigation or if the complaint involves the Executive Director, the report will be filed with the 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.

5. Council Action

- a. Upon receipt of a report, the Council 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 Council policies.
- b. The result of the investigation of each complaint filed under these procedures will be reported in writing to the complainant by the NWREC in accordance with state and federal law regarding data or records privacy.

6. Reprisal

The Council and/or Executive Director will discipline or take appropriate action against any NWREC personnel who retaliates against any person who reports alleged religious, racial or sexual harassment or violence or any person who testifies, assists or participates in a proceeding or hearing relating to such harassment or violence. Retaliation includes, but is not limited to, any form of intimidation, reprisal or harassment.

7. 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.

8. Harassment or 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 Council from taking immediate action to protect victims of alleged harassment, violence or abuse.

9. Dissemination of Policy and Training

- a. This policy shall be distributed to all employees in the policy handbook and shall be posted in the NWREC office.
- b. The NWREC will develop appropriate methods of discussing this policy with students and employees.
- c. This policy shall be reviewed at least annually for compliance with state and federal law.

5141 Staff – Student Relations

Staff Members of NWREC 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.

5142 Child Abuse Reporting

It is the responsibility of each and every NWREC staff member to report child abuse directly to the appropriate agencies as per state law in addition to informing the building administrator. The NWREC Executive Director must also be notified.

5143 Drug Free Schools and Campuses/Drug Free Workplace

The purpose of this policy is to insure a drug-free environment for all employees, to establish a drug awareness program for all personnel; to provide assurances to state and federal government agencies that the NWREC is complying with the requirements of the Drug-Free Workplace Act of 1988 and the Drug-Free Schools and Communities Act of 1986, as amended in 1989, and all regulations promulgated thereunder; and to declare that the NWREC shall make a good faith effort to maintain a drug-free workplace through implementation of this policy.

- 1. No staff member or contractor engaged by NWREC shall unlawfully manufacture, distribute, dispense, possess, or use alcohol or controlled substances in the workplace.

Compliance with this policy is mandatory; violation of this prohibition may result in termination of employment with the NWREC or another appropriate disciplinary action, including referral to law enforcement.

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

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.
2. Definitions:
- a. Alcohol: All consumable non-prescription substances, which contain alcohol, specifically including, without limitations, spirits, wine, malt beverages, and intoxicating liquors.
 - b. Drug: Marijuana, cocaine, opiates, phencyclidine (PCP), and amphetamine; a metabolite of those drugs; or any other nonprescription substance containing those drugs or any other controlled substance, as defined in schedules I through V of Section 202 of the Controlled Substances Act (21 VSC 812) and as further defined by Regulation 21 CFR 1300.11 through 1300.15.3.
 - c. Workplace: The site for the performance of work done in connection with employment, and shall include any place where work of the NWREC and its member districts and institutions is performed, including a school building or other premises, any school or NWREC owned vehicle or any other approved vehicle used to transport students for services and away from NWREC, school district or institutional property during any activity, event or function where students are under the supervision of the NWREC's staff members.
3. 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.
4. Each staff member of the NWREC shall be given a copy of this policy and be notified that compliance with the terms of this policy is mandatory.
5. The NWREC shall make a good faith effort to maintain a drug-free workplace through implementation of this policy. The NWREC Council will review this policy annually to determine the program's effectiveness and implement changes as necessary. This review shall ensure that disciplinary sanctions are consistently enforced.

5144 Reporting Procedures – Known/Suspected Student Alcohol/Drug Use

Section 22-5-4.4 NASA 1978 Comp. requires that NWREC staff members who know or in good faith suspect any student of using or abusing alcohol or drugs shall report such use or abuse pursuant to procedures established by the Council. So long as such report is made in good faith, the reporting employee shall be immune from any civil damage for his or her action. This policy is enacted to provide a procedure to be followed by all employees in reporting known or suspected use or abuse of alcohol or drugs by students.⁷

1. 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.

2. 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.

3. 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.

4. 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.

5. 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.

5145 Clean Indoor Air Act/Tobacco-Free Policy

Pursuant to the New Mexico Clean Indoor Air Act (Sections 26-16-1, NMSA, 1978) smoking or the use of smokeless tobacco in any form is prohibited in any NWREC facility and by any NWREC staff member while providing services to or transporting students to or from any participating school district or institution. This policy will be enforced 24 hours a day, 7 days a week.⁸

5146 Exposure to Blood Borne Pathogens

NWREC shall implement and enforce a comprehensive bloodborne pathogen Exposure Control Plan to ensure compliance with the Occupational Safety and

Health Administration Safety Standards and for the safety and protection of its employees and clients.

5147 Hazard Communication/Right to Know Policy.

The NWREC 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 staff members of the NWREC fully cooperate and participate in this program.

515 Employment Issues

5150 Staff Member Contracts

All contracts or employment agreements with staff members shall be in writing and the salary shall be in accordance with Council approved salaries. The contract or employment agreement is to be signed by the Executive Director/Coordinator.

Written offer of employment by the Executive Director/Coordinator to the staff member shall constitute a contract, if written acceptance by the staff member is forwarded to the Executive Director/Coordinator within fifteen (15) days of receipt.¹¹

Support staff with less than three years consecutive service for the NWREC are considered “at-will” staff members and will be proffered employment agreements instead of contracts.

Selection of certified and support employees shall be at a regular meeting of the Council each year. Written offer of employment by the Executive Director/Coordinator to the employee following such election shall constitute a contract if written acceptance by the employee is forwarded to the Executive Director/Coordinator within fifteen (15) days of receipt.⁹

Written employment contracts for returning employees must be executed no later than ten days before the first day of a school year.

51510 Acceptance of Employment

Each certified staff member shall deliver to the Council through the Executive Director/Coordinator a written acceptance or rejection (Letter of Intent) of reemployment for the ensuing school year within fifteen days from the following:

- 1) The date written notice of reemployment is served upon the person; or
- 2) The last day of the school year when no written notice of reemployment or termination is served upon the person on or before the last day of the school year.

Delivery of the written acceptance of reemployment by the certified staff member creates a binding contract/agreement until the parties

enter into a formal written employment contract/agreement. Written employment contracts/agreement shall be executed not later than ten days before the first day of the school year.

If the certified staff member does not indicate acceptance of reemployment within the fifteen days as outlined above, the Executive Director/Coordinator will consider that he/she has rejected the offer

5151 Salaries

On an annual basis, the Executive Director/Coordinator will prepare proposed salaries for each staff member classification within the budgetary constraints of anticipated revenues for the review and approval of the Council. These budgets will form the basis for determining the annual salary of staff members.

Each staff member is responsible for verification of applicable training and experience. All verification of experience and training must be in the Executive Director/Coordinator's office by September 15, in order to be counted on current year salaries.

Increments for experience may be granted upon the satisfactory completion of a year's work; however, the Council reserves the right to refuse annual increments.

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

Daily rates are computed on the contract year.

The maintenance and integrity of salaries is dependent upon the receipt of adequate federal and/or state funds.¹⁰

5152 Recruitment and Applications

The Executive Director/Coordinator, within the limits of its budget and the Council approved salaries, is committed to the policy of acquiring and retaining the most qualified personnel. Applications will be accepted on a year round basis. All applicants will become part of the applicant pool and given consideration in filling positions within the NWREC. Applicants will be screened based on information submitted and selected applicants will be invited for an interview. All applications are kept on file for one (1) year. Applications may be reactivated for an additional year by notifying the NWREC Executive Director/Coordinator in writing.

Applications, job descriptions and requirements will be available in the NWREC office.

5153 Hiring

The Executive Director is responsible for making hiring decisions based on the criteria established by the Council.

The Executive Director may issue such applicant a letter of intent. This letter will state that employment is subject to validation of the applicant's credentials, qualifications, criminal background checks, and other sources of information.

51540 Conditions of Employment

Immigration Reform Act Requirements – All persons employed on or after November 7, 1986, will be required to prove their legal right to work in the United States as required by the United States Immigration and Control Act of 1986.

Functional Capacity Evaluation – Post Offer – After an offer of employment has been made, any applicant selected for a position may be required to complete a functional capacity evaluation to determine their ability to perform job-related functions and their fitness for duty. The functional capacity evaluation will be conducted by a medical professional selected by the NWREC. The employment contract and commencement of work will be contingent upon the results of the evaluation. The cost for this evaluation will be assumed by the NWREC.

51541 Health Requirements

Communicable Diseases – Any staff member 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.

When a staff member is identified as having a chronic communicable disease such as HIV, AIDS, Hepatitis B Carrier, etc., the NWREC will seek to accommodate the staff member's medical condition while maintaining a safe and healthy environment for students and other staff members. Decisions in all situations will be made on a case-by-case determination, based on the medical facts of each, and with concern for the best interests of all involved. A team of qualified physicians, including the physician of the staff member, will be impaneled by the NWREC to evaluate each case.

Medical Examination – If at any time there is a question as to the ability of a NWREC staff member to perform job related functions

consistent with business necessity, the NWREC will require a complete physical examination by a NWREC-appointed doctor to be paid by the NWREC. The Equal Employment Opportunity Commission has identified four situations under which a medical examination or inquiry will be considered job-related and consistent with business necessity and, therefore, permissible:

- a. When a staff member wishes to return to work following an absence due to illness or injury. An examination may be conducted to determine if the staff member, with reasonable accommodation, can safely and effectively perform the essential functions of the job.
- b. When a staff member requests an accommodation. If a staff member requests an accommodation on the basis on a claimed disability, an examination may be conducted to determine if the staff member is an “individual with a disability” to who a duty of accommodation is owed and, if so to help identify potential accommodations.
- c. When an examination is required by federal law. 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. The NWREC may conduct voluntary medical examinations as part of a staff member health or “wellness” program information obtained through medical inquiries or examinations must be treated as confidential staff member medical files, separate from other personnel information about the staff member.

5154 Suspension

A staff member may be suspended from duty pending the outcome of a hearing or the investigation of charges, such suspensions to be made by the Executive Director in accordance with the rights of the individual and the due process procedure.

5155 Re-employment/Termination Decisions

Re-Employment Decisions. Re-employment decisions regarding certified and non-certified staff members with three years of consecutive service with the NWREC will be in compliance with state statutes and State Board of Education regulations.

On or before the fourteenth calendar day prior to the last day of the NWREC year, the Executive Director will serve written notice of re-employment or termination on each certified staff member employed. A notice of re-employment shall be an offer of employment for the ensuing school year. A notice of termination shall be a notice of intention not to re-employ for the ensuing school year. Failure of the Executive Director to serve a written note of re-employment or termination on a

certified staff member shall be construed to mean notice of re-employment has been served upon the person according to the terms of the existing employment contract, but subject to any additional compensation allowed other certified staff member of like qualifications and experience employed by the NWREC.

Termination Procedures

1. The Executive Director may terminate a staff member with fewer than three years of consecutive service for any reason it deems sufficient. Upon request of the staff member, the Executive Director shall provide written reasons for the decision to terminate. The reasons shall be provided within ten working days of the request. The reasons shall not be publicly disclosed by the Executive Director. The reasons shall not provide a basis for contesting the decision under the School Personnel Act.¹¹
2. Before terminating non-certified staff member the Executive Director will serve the staff member with a written notice of termination.
3. A staff member who has been employed by the NWREC for three consecutive years and who receives a notice of termination pursuant to either Section 22-10-12 NMSA 1978 or 22-10-14 NMSA 1978, may request an opportunity to make a statement to the Council on the decision to terminate him/her by submitting a written request to the Executive Director within five working days from the date written notice of termination is served upon him/her. The staff member may also request in writing the reasons for the action to terminate him/her. The Executive Director shall provide written reasons for the notice of termination to the staff member within five working days from the date the written request for a meeting and the written request for the reasons were received by him/her. Neither the Executive Director nor the Council shall publicly disclose its reason for termination.
4. The Executive Director may not terminate a staff member who has been employed by the NWREC for three consecutive years without just cause.
5. The staff member's request pursuant to Subsection 3 of this section shall be granted if he/she responds to the Executive Director's written reasons as provided in Subsection 3 by submitting in writing to the Executive Director a contention that the decision to terminate him/her was made without just cause. The written contention shall specify the grounds on which it is contended that the decision was without just cause and shall include a statement of the facts that the staff member believes support his/her contention. This written statement shall be submitted within ten working days from the date the staff member receives the written reasons from the Executive Director. The submission of this statement constitutes representation on the part of the staff member that he/she can support his/her contentions and an acknowledgement that the Executive Director

may offer the causes for its decision and any relevant data in its possession in rebuttal of his contentions.

6. The Council shall meet to hear the staff member's statement in no less than five or more than fifteen working days after the Executive Director receives the statement. The hearing shall be conducted informally in accordance with the provisions of the Open Meetings Act.¹² The staff member and the Executive Director may each be accompanied by a person of his choice. First, the Executive Director shall present the factual basis for his/her determination that just cause exists for the termination of the staff member, limited to those reasons provided to the staff member pursuant to Subsection 3. Then, the staff member shall present his/her contentions, limited to those grounds specified in Subsection 5. The Council may offer such rebuttal testimony, as it deems relevant. All witnesses may be questioned by the Council, the staff member or his/her representative and the Executive Director or his/her representative. The Council may consider only such evidence as is presented at the hearing and need consider only such evidence as it considers reliable. No record shall be made of the proceeding. The Council shall notify the staff member and the Executive Director of its decision in writing within five working days from the conclusion of the meeting.

"At-will" Staff Members

Non-licensed staff with less than three (3) years consecutive service is considered "at-will" staff members; if service becomes unsatisfactory, fifteen (15) days notice will be given before dismissal from employment.

5156 Discharge During Term of Contract – Certified Staff Member **Definitions:**

Discharge. The act of severing the employment relationship with a staff member prior to the expiration of the current employment contract.

Just Cause. A reason that is rationally related to a staff member's competence or turpitude or the proper performance of their duties and that is not in violation of the staff member's civil or constitutional rights.

1. The Executive Director may discharge a certified staff member only for just cause according to the following procedure:
 - a. The Executive Director shall serve written notice of intent to recommend discharge on the certified staff member in accordance with the law for service of process in civil actions; and
 - b. The Executive Director shall state in the notice of intent to recommend discharge the cause for the recommendation and shall advise the

certified staff member of his right to a discharge hearing before the Council.

2. A certified staff member who receives a notice of intent to discharge in accordance with Paragraph A may exercise his/her right to a hearing before the Council by submitting to the Executive Director written notice of that election within five (5) working days of receipt of the notice to recommend discharge.
3. The Council shall hold a discharge hearing no less than twenty (20) and no more than forty (40) working days after the Executive Director receives the written election from the licensed staff member and shall give the certified staff member at least ten (10) days written notice of the date, time, and place of the discharge hearing.
4. Each party, the Executive Director and the certified staff member, may be accompanied by a person of his choice.
5. The parties shall complete and respond to discovery by deposition and production of documents prior to the discharge hearing.
6. The Council shall have the authority to issue subpoenas for the attendance of witnesses and to produce books, records, documents, and other evidence at the request of either party and shall have the power to administer oaths.
7. The Executive Director shall have the burden of proving by a preponderance of the evidence that, at the time of the notice to recommend discharge, there was just cause to discharge the certified staff member.
8. The Executive Director shall present evidence first, with the certified staff member presenting evidence thereafter. The Council shall permit either party to call, examine, and cross-examine witnesses and to introduce documentary evidence.
9. An official record shall be made of the hearing. Either party may have one copy of the record at the expense of the Council.
10. The Council shall render its written decision within twenty (20) days of the conclusion of the discharge hearing.

Appeals – When an appeal is filed as provided in 22-10-17.1, the Council will follow the procedures required by the statute in 22-10-17.A-N.¹³

5157 Reduction-in-Force (RIF)

1. **Authority** Pursuant to NMSA 1978 § 22-5-14 (2003), the Executive Director has the authority to discharge licensed personnel during the term of their contracts or to terminate licensed and non-licensed staff members with rights created by NMSA 1978, Section 22-10A-24(C) (hereinafter “tenured staff members”), after notice and a hearing when a reduction in such personnel is required as a result of circumstances justifying a reduction in force as specified herein. Reduction-in-force (RIF) is “just cause” for discharge of licensed staff members and terminations of tenured staff members, when established pursuant to this policy. This policy is

adopted as the procedure by which reductions in the personnel who are covered by the policy may be accomplished, within the context of the NWREC's general personnel policies.

2. **Council Discretion** The Council is vested with the discretion to develop educational policies for NWREC, so long as the state educational standards and statutorily-required standards are met. The Executive Director, in carrying out the educational policies of the Council and administering and supervising the NWREC, shall exercise his/her discretion in accordance with this policy in determining when decreased enrollment, financial exigency or other caused justify a reduction in personnel
3. **Grounds Justifying Reduction-In-Force** Situations that justify a reduction-in-force (hereinafter RIF), shall include, but not be limited to the following:
 - a. Decrease in district enrollment or reduced district demand for or participation in programs or services
 - b. Decrease in revenue
 - 1) Because decrease of district enrollment;
 - 2) Because of loss or reduction of tax revenues;
 - 3) Because of reduction of state, local, or federal financial support; or
 - 4) Because of inflation reducing the value of revenues received or significantly increasing costs of operation;
 - c. Change in the educational program of the member districts, as determined by the Council in its good faith exercise of discretion;
 - d. Consolidation or de-consolidation involving the NWREC;
 - e. Court orders;
 - f. Orders of the Secretary of Education; or
 - g. Legislative mandates;
 - h. Unanticipated financial or programmatic exigencies identified by the Executive Director/Coordinator which warrants initiation of a RIF process.
4. **Good Faith Determination** The Executive Director shall exercise discretion in good faith, and determinations that RIF is necessary shall be based on bona fide educational considerations, and not be a subterfuge for discharging or terminating licensed personnel without just cause of for impermissible reasons.
5. **Timing of Reduction-In-Force** A RIF may occur at any time during the calendar year when the Executive Director in his/her discretion, determines that it is justified and the procedures prescribed herein are applicable and are followed. A RIF may be based upon projections of future enrollment, revenues or expenses, and the subsequent receipt of more revenue than expected or a subsequent saving of projected expenses shall not invalidate any actions previously taken in good-faith reliance on

such projections, nor shall it require the reemployment of any employees who were released on the basis of such projections.

6. Determination of Need for Reduction-In-Force Except as required by legislative mandate or orders of the State Secretary of Education and to the extent that circumstances permit, the Executive Director, with the assistance of the administrative staff, shall report to the Council any circumstances which may ultimately require RIF and so that consideration be given to means by which a RIF may be avoided. Preparation of RIF plan shall not be necessary if the reductions can be accomplished through attrition (i.e., resignations, retirements, etc.), or by termination of a sufficient number of non-tenured staff.

a. Preparation of RIF Plan: When the Executive Director concludes that a RIF is necessary, a plan for RIF shall be developed for presentation to the Council. The RIF Plan shall not identify individuals to be discharged or terminated, but rather focus upon the total operations of the NWREC and how it may be modified to reduce costs, programs and personnel while still providing the services required of school districts. Where circumstances warrant, a RIF plan may address particular programs, departments, content areas or activities if the causes for the RIF predominately impact that aspect of the educational program. Such impact shall be described in the RIF plan shall include, but need to be limited to the following:

1. A detailed description of the cause or causes requiring RIF;
2. 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.)
3. A designation of the part or parts of the total operation or particular program or activity in which the RIF is proposed and the number of positions proposed to be reduced in each program or activity;
4. A designation of non-essential services or activities which are to be retained, with a justification for retaining such programs; and
5. A discussion of alternatives (if any) considered by the Executive Director with an explanation as to why such alternatives were rejected.

The Executive Director shall include in the RIF plan a listing of all programs or services which may be considered for rating points in the proposed RIF rating sheet and the proposed weight to be given each category of such programs or activities for discussion at the public meeting at which the RIF plan is considered.

- b. 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.

1. **Adopted Plan** 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 and Section 71, Laws 2003, Ch. 153 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.

7. Criteria for Selection of Employees for RIF

a. Licensed Personnel

1. 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. 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.
- b. A licensed person working in the affected service area pursuant to an “assignment waiver” (per NMSA 1978 Section 22-10A-14C), but possessing full licensing in another content area not affected by the RIF shall be allocated five (5) points on the rating sheet.
- c. A person who is fully licensed and teaching in the affected content area shall be allocated ten (10) points on the rating sheet.

2. 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.

3. 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.

4. 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.

a. 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 uninterrupted service with NWREC, prior to the current year, excluding approved extended leaves of absence, up to a maximum of twenty (20) points.

b. **Tenure Status**
Where certification or licensure qualification status is equal between two or more certified REC staff members or ancillary staff members being considered for termination or discharge, tenured REC staff members or ancillary staff members shall be retained in preference to NWREC staff members or ancillary staff members who have been employed by the NWREC for less than three consecutive years.

c. **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.

1. **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.

5. 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

6. **Performance**[Optional-The Executive Director shall determine whether this criterion shall 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.

7. 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.

8. 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:

1. Existing Vacancy – If, upon the effective date of the termination or discharge due to a RIF, there is an existing vacancy in another program for which the person is certified or licensed and qualified, he or she shall be transferred or reassigned to that vacant position. There shall be no obligation to create a vacancy to accommodate such person.
2. 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.
 - a. 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.
 - b. 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 or 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 of the termination of tenured staff members. The written decision of the Executive Director, to the extent required by statute and regulation from a RIF and not from any cause personal to the person released.

d. Non-Licensed Personnel

Seniority shall be the primary criterion in determining which non-certified personnel shall be recommended for complete or partial termination in order to implement the RIF Plan. More senior non-certified 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:

1. **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.
2. **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 three (3) full consecutive years of service in NWREC) shall be retained over non-tenured, noncertified individuals.
3. **Performance: (Optional – to be used only if directly by Executive Director/Coordinator).** 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.

4. **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.
5. **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.
6. **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 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.

e. Appeal

Appeals to an independent arbitrator from termination or discharge pursuant to this policy are governed by the provisions of NMSA 1978, Section 22-10A-25, NMSA 1978 22-10A-28, respectively, and any applicable regulations of the State Secretary of Education.

f. Recall of Released Staff

For a period of one (1) year after the effective date of the discharge or termination of any employee pursuant to this policy, the Executive Director shall offer to such person any position(s), which becomes available for which such person is licensed and qualified, provided that such person has complied with the requirements specified below.

1. Every person discharged or terminated under this policy who wishes to be considered for recall, in the event that an opening occurs, must file with the Executive Director, within (30) days after the effective date of discharge or termination, a written statement indicating a desire to be considered for recall and providing an address at which the person may be contacted. Such person must notify the Executive Director of any change in address, within ten (10) days after changing residences, in order to insure proper notification in the event of a recall.
2. In the event that more than one interested person who was discharged or terminated within the calendar year prior to recall is qualified for the position by experience, training, and/or licensure to which a person will be

recalled. The points accrued for “Service” and “Performance” shall be the same as when the persons were discharged or terminated, but additional points for any additional education earned after the discharge or termination which is directly related to NWREC’s operations shall be credited and considered.

3. Any person selected for recall hereunder shall receive written notification of the recall, by certified mail, at the address provided. The recalled person must accept the position offered through recall in writing. Such acceptance must be received in the Executive Director’s office within fifteen (15) calendar days after mailing of the recall notice to the person. Rejection of the offer, in writing or by failure to timely respond, shall result in forfeiture by the recalled person of any further recall rights under this policy. Thereafter, an offer of recall will be made to the next person qualified to be recalled, or if there is none, the position will be filled by another qualified applicant.
4. Any person recalled pursuant to this policy shall have all accrued but unused sick leave restored and be given credit for all years of actual service in NWREC for salary purposes.
5. After the one (1) year recall period has expired, any person discharged under this policy shall no longer have any right to be recalled. Such persons who wish to be re-employed thereafter shall file applications for employment and will be treated as would any other applicant for a vacant position.

In event legislation is passed which requires the Executive Director to reduce licensed personnel, for any reason, the Executive Director shall follow the legislative procedures, if any, in lieu of this policy.

5158 Resignation

Certified staff members shall file a written notice of resignation with the Executive Director thirty (30) days prior to the effective date of resignation. Failure to do so may result in a complaint being filed against the staff member’s license with the New Mexico Public Education Department

Non-certified/licensed staff is required to give fifteen (15) days notice.

The Executive Director may waive the period of time due to extenuating circumstances.

516 Work Requirements

5160 Work Day/Year

Work Year. The work year for twelve month 240- days staff members will begin on July 1 and end June 30. The work year for related service personnel (172-days) staff members will be documented on the Council approved salary schedule.

The yearly calendar will indicate days to be worked for school year staff members and staff member contracts will reflect the number of days of contract.

Work Day. Length of work day and schedule of hours of work for all staff members shall be determined by the Executive Director/Coordinator.

NWREC staff assigned to school districts will follow the assigned school district's staff hours for reporting time, lunch time and departing time. NWREC staff assigned to NWREC office will follow hours established for that office the Executive Director/Coordinator.

Time Accountability. Each staff member assigned to school districts must turn in to the payroll office time sheets/accountability sheets (i.e., Task and Travel Logs) signed by either his supervisor or appropriate district personnel, as per NWREC official calendar. Failure to submit completed task and Travel Logs will result in the issuance of manual payroll checks and may result in disciplinary action.

Time sheets for office personnel shall be approved and signed by the Executive Director/Coordinator.

5161 Assignment/Duty Station

Staff members shall be assigned by the Executive Director, in consultation with the Coordinator, to such duty and location as may be in the best interest of the school districts and students served.

5162 Overtime

The Fair Labor Standards Act will be followed in regard to overtime payment or compensatory time allowance for support personnel as delineated in administrative regulations

5163 Extra Duty

The NWREC Executive Director/Coordinator will inform staff members of after hours activities which they are expected to attend. The coordinator will make all assignments on an equitable basis.

5164 Supervision and Evaluation

The Executive Director/Coordinator shall be responsible for designing and implementing an effective personnel supervision program. The goal of the staff evaluation plan is the improvement and development of staff.

517 Professional Organizations

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

518 Discipline

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 dismissal, is appropriate without first having imposed a less severe form of discipline.

Employment at NWREC carries a responsibility for each member of the staff to comply with established policies and ethical behavior at all times. Since rules are of utmost importance, staff members will be expected to familiarize themselves with them and to observe them all.

Rules and regulations have been established to protect the welfare of NWREC, its clients and staff members, and to maintain its professional image to the public. Violation of these rules may result in corrective action, which takes the following points into consideration:

1. All corrective action shall be fair and impartial, and shall conform to all applicable Equal Employment Opportunity laws.
2. Effort will be made to obtain all the facts before any action is taken.
3. The corrective action may be a verbal warning, written warning, suspension, or dismissal- in progressive stages or in a single action- depending upon the facts and circumstances in relation to NWREC policy and practices. All corrective actions shall be reviewed and approved by the Executive Director. Copies of all counseling and warnings should bear the staff member's signature indicating that the staff member is aware of the action. Signature does not necessarily signify agreement or admission of the action. If the staff member refuses to sign, the Executive Director/Coordinator should initial the action confirming the employee's verbal refusal.
4. The purpose of any corrective action is to correct the action and/or reinforce adherence to the rules. Should a staff member continue the violation, corrective action will follow depending on the severity of the infraction.

¹Legal Reference: Civil Rights Act
PL 92-112, Section 504
Age Discrimination Act
American with Disabilities Act

- ²Legal Reference: 22-10-3.3NMSA, 1978
- ³Legal Reference: 28-2-4 NMSA, 1978
- ⁴Legal Reference: 22-21-1 NMSA, 1978 Comp.
- ⁵Legal Reference: Inspection of Public Records Act 14-2-1 et.seq. NMSA, 1978 Comp.
- ⁶Legal Reference: 22-11-1 to 22-11-52 NMSA, 1978 Comp.
- ⁷Legal Reference: 25-5-4.4 NMSA, 1978 Comp.
- ⁸Legal Reference: New Mexico Clean Indoor Act, 26-16-1 NMSA, 1978 Comp.
- ⁹Legal Reference: 22-10-11 NMSA, 1979 Comp.
- ¹⁰Legal Reference: 22-10-7 NMSA, 1978 Comp.
- ¹¹Legal Reference: 22-10-14A NMSA, 1978 Comp.
- ¹²Legal Reference: Chapter 10, Article 15 NMSA 1978.
- ¹³Legal Reference: 22-10-14, 22-10-17.1(A-N) NMSA, 1978 Comp.
- ¹⁴Legal Reference: SBE Regulation 89-6.

600 FISCAL ACCOUNTABILITY

A. Determination

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

B. Responsibilities

Fiscal accountability responsibilities shall include:

1. Disbursement of funds at the Executive Director/Coordinator's direction and in compliance with grant applications and federal/state regulations.
2. Compliance with the requirements of 11-1-4 NMSA, 1978 Comp. for fund accountability.
3. Compliance with the Regional Educational Center (REC) Budgeting/Financial Procedures Manual.
4. Retention of records for five (5) years pursuant to the Joint Powers Agreement and maintenance of financial records for seven (7) years.
5. Assuring compliance with the Procurement Code 12-1-1 to 13-1-199 NMSA, 1978 Comp.
6. Compliance with programmatic and financial audit requirements.
7. Maintenance of required fixed asset inventory controls.
8. Compliance with the Mileage and Per Diem Act.
9. Preparation of required financial and programmatic reports for the Public Education Department, the Department of Finance and Administration, and the State Auditor's office.
10. Compliance with the Joint Powers Agreement(s) and/or Interagency Governmental Agreement(s).
11. Compliance with all state and federal regulations in the processing of Medicaid claims and the disbursement of Medicaid funds back to participating districts.
12. Accounting for all NWREC financial activities.

601 Program and Budget Development

A. Ancillary Services/State Appropriations Funding

1. Each district will budget a proposed reimbursement to the REC at 12.5% of IDEA-B Entitlement and SDAA (State Directed Activities Allocation) funds, and 5% of Title II funds. Support for Ancillary Services will be on a case-by-case basis.
2. If Applicable, each district shall forward to NWREC a request for estimated ancillary FTE services which that district proposes to purchase cooperatively through the NWREC during the coming school year.
3. If applicable, ancillary staff will be employed based on district FTE requests; districts will be billed on a monthly basis for FTE purchased at the percentage determined by Council for those ancillary services provided through the NWREC. Each billing will be based on the requested

FTEs for the current year. The Executive Director/Business Manager will determine the billing structure based on the needs of the NWREC and the affected districts.

4. Northwest REC will assist districts on December 1 FTE and caseload calculations for ancillary and program staff and with student data entry requirements. Requirements as needed.

C. Annual Operating Budget Development

1. Chart of Accounts – the NWREC will use the Uniform Chart of Accounts and Manual of Procedures in the development and submission of budgets. NWREC will submit individual program budgets as well as a combined total budget for all funds to be expended.
2. The budget will show an estimate of total anticipated revenue for the ensuing year and expenditures itemized by fund will include SDAA, Title Programs, and revenues and expenditures from any other program adopted by the Council to be administered by NWREC personnel.

602 Budget Review and Approval

A. Budget Approval

NWREC total operating budget will be reviewed and approved by the Council before final submission to NMPED. Copies of each program's budget will be entered into the official minutes and will be available to all citizens for inspection.

B. Budget Submission

1. NWREC budget will be submitted in accordance with NMPED timelines for NWRECs in order to be submitted with the NMPED budget
2. The NMPED will provide final budget approval.

C. Budget Adjustments

The Council may adjust any program's budget if deemed necessary to meet unforeseen program requirements or changes in preliminary budget figures. Changes will be made by action of the Council at a regularly scheduled meeting upon submission of such proposed changes by the Business Manager and Executive Director/Coordinator. Each adjustment will be recorded in official Council minutes.

- D. All Budget Adjustment Requests (BARs) must be submitted to and approved by the NMPED**

Budget reports must be submitted to NMPED as required.

603 Procurement Requirements

NWREC will adhere to all applicable requirements of the Procurement Code (13-1-1 to 13-1-199 NMSA, 1978 Comp.) in its purchasing practices. RECs are excluded from the requirements of procurement through the state purchasing agent, but not from the requirements of the State Procurement Code. Purchasing policies and procedures for grant funding shall comply with requirements of the grant as well as the Procurement Code.

A. **Procurement Officer.** The Executive Director or designee, is designated as the procurement officer for NWREC and is authorized to enter into or administer contracts and make written determinations regarding procurements.

1. REC Purchases. All purchase procedures will be made in accordance with the State Procurement Code as interpreted in regulations promulgated by the New Mexico Public Education Department's Financial Procedures Manual.

a. Contracts

The Executive Director may enter into employment contracts or contract with school district, institution, or independent contractor for the procurement of professional services. All contracts shall be subject to the non-supplanting requirements of 34 CFT 300.230 and certification requirements of Section 22-10-3 NMSA, and the regulations promulgated thereto. Contracts for the professional services of independent contractors shall be obtained consistent with the Procurement Code 13-1-125(B) and 13-1-117.1 NMSA, 1978 Comp. and with the procurement regulations adopted by the Council and will meet the IRS definitions for independent contractor status.

b. Procurement Policies

1) Pursuant to 13-1-105 (Competitive Sealed Bids)

Criteria which will affect the bid price specified in competitive sealed bids will be objectively measurable, defined by regulation, and shall be set forth in the invitation for bids. Such criteria might include trade and quantity discounts, transportation costs, total or life cycle costs, and evaluation for energy efficiency. Samples of items may be required in the invitation to bid and must be furnished free of expense to Northwest REC purchasing officer and prior to the time set for the opening of bids. Nothing in this regulation shall be deemed to permit contract award to a bidder submitting a higher quality item than that designated in the invitation for bids if such a bidder is not also the lowest bidder.

2) Pursuant to 13-1-125, 13-1-117.1 NMSA, 1978 Comp. (Small Purchases)

Section 13-1-102 of the Procurement Code requires sealed bids for all purchases, except for the following: small purchases, sole source procurement, emergency procurement, existing contracts and purchases from antipoverty program businesses.

Small purchases are defined as purchases \$20,000 or less and as such do not require written or oral quotations.

Nonprofessional service purchases, construction, or items of tangible personal property of more than \$20,000 but less than \$60,000 and professional services not exceeding \$60,000 require three written or oral quotations but do not require competitive sealed bids or proposals.

Purchases of professional services exceeding \$60,000 will be affected by request for sealed proposals with awards according to evaluation factors set forth in the call for proposals.

3) Pursuant to 13-1-129 NMSA, 1978 Comp. (Existing Contracts).

The purchasing officer may elect to “piggy-back” on an existing contract with another governmental entity or local public body without going through the request for bids or proposal process if the conditions listed in 13-1-129 are met and if the provider and contracting agency agree to do so. In such case, the purchase documents would specify the contract relied upon. (GSA or SPA or other governmental entity contracts)

- c. Purchase Order Requirement. Purchase orders are required for all purchases other than employee contracts for services, employee authorized deductions from payroll and federal/state required payments, i.e. educational retirement, FICA, insurance program payments, etc. Upon approval of the Business Manager, blanket purchase orders may be used for items purchased on a recurring basis from the same vendor within a specified time frame including purchases under SPA or GSA agreements.

B. Non-procurement Suspension & Debarment

Prior to expenditure of Federal funds, Northwest NWREC will verify if any vendor and/or contractor has been suspended or debarred and should be excluded from Federal contracts, sub contracts or any other receipt of Federal funds for purchases in the amount of \$20,000 or more. Verification will be made through the System for Award Management at <https://www.sam.gov>.

C. District Purchasing Requirements – Each district has approved budget amounts in the proposals adopted by the Council which require separate accounting.

1. Purchases made through the NWREC

- a. All purchases made through the NWREC will have prior approval of the district superintendent or designee and Executive Director or designee.
 - b. The procurement code should be followed for all purchases. Requisitions from school districts should have the signature of the superintendent or designee. The fund and function/object code should be designated on the requisition. Procurement documentation should be attached, i.e., quotes or bids, contracts for stipends, travel request forms as required. Shipping and handling costs or an estimate thereof (15%) should be added as necessary.
 - c. Requisitions and/or travel requests are submitted by district designee to the NWREC Business office who will verify that budget money is available to that district in the correct fund and function/object code. A purchase order is then prepared and submitted through the electronic financial system to the NWREC Coordinator who reviews the requisition to assure that it fits within the intent of the program application. If approved, the purchase order is approved and issued.
 - d. When the order is complete, the district will confirm receipt and will authorize payment acknowledging receipt of the order with NWREC staff.
2. Purchases/Payroll Reimbursed by the NWREC
- Districts may request reimbursement for services or purchases approved in program applications up to the limit of their individual pre-approved district budgets.

- a. Other Purchase Reimbursements
- District Business Managers may submit requests on a monthly or quarterly basis to the NWREC for NWREC reimbursement of allowable expenses under each district's program and budget approval. Such requests will be accompanied by district purchase documents, i.e. a copy of the warrant showing payment, copies of appropriate purchase orders or approved travel requests as well as procurement information (quotes or bids as necessary). The NWREC will determine if funds are available in the proper function/object codes and prepare a purchase order to the district for the Executive Director/Coordinator's approval. The Executive Director/Coordinator is responsible for assuring that such purchases meet approved program requirements. Upon the Executive Director/Coordinator's approval, the district will be reimbursed for reimbursable purchases.

604 Cash Disbursement Accounting

Cash disbursements shall be for the following transactions:

- 1. Invoices for goods and services received,
- 2. Disbursement for employment of casual or other labor not under contract,
- 3. Disbursements for contracts (other than payroll),
- 4. Contracted payroll disbursements, and
- 5. Requests for reimbursements or advances.

- A. **Approval of Warrants.** In order to assure timely payment of NWREC obligations and in fairness to vendors, the NWREC Coordinator is authorized to approve warrants for payment prior to a Council meeting. A summary listing of the warrants shall be presented to the Council at its next regular meeting for formal acceptance and entry in the minutes.
- B. **Cash Reconciliation.** All bank accounts shall be reconciled monthly by NWREC Business Manager Assistant and shall be reviewed by the Business Manager..
- C. **Separation of Duties.** The Executive Director/Coordinator will establish procedures, which assure segregation of duties in payroll processing as well as the processing of other payments/vouchers.
- D. **Security of Checks.** All checks shall be stored in fireproof locking vaults or cabinets.

The following procedures shall assure segregation of duties between A/P processing and payroll processing.

1. The Administrative Assistant shall be responsible for accepting all requisitions, matching them with invoices and preparing them for payment.
2. The Business Manager shall review the requisition package for proper approval and any discrepancies between requisition and invoice amount.
3. The Business Manager shall print the checks and prepare the checks with supporting documentation for review and approval of the NWREC Executive Director/Coordinator.
4. The Business Manager shall secure blank checks and account for all checks: blank, voided and used.
5. On a monthly basis the Business Manager shall furnish the NWREC Executive Director/Coordinator an accounting of all checks with the amount, payee and date issued.
6. The Business Manager Assistant shall provide the NWREC Director/Coordinator with a reconciliation of all bank accounts within thirty (30) days of receipt of statements, pointing out any possible discrepancies.
7. In the event of a sudden vacancy of the business manager position, the Business Manager Assistant will assume the duties of the business manager until specific assignments are made by the Director.

E. Payroll

The NWREC Executive Director/Coordinator will authorize the employment of each individual employee.

1. The Administrative Assistant shall be responsible for maintaining personnel files, providing justification for salaries. This file shall

- contain documentation of all licensures, transcripts and required training as outlined by the Public Education Department.
2. The Coordinator shall present to the NWREC Executive Director a contract ready for signatures. The contract shall then be referred to the Business Manager for further processing.
 3. The Business Manager will then meet with the employee presenting all deductions and benefit options.
 4. The Business Manager shall be responsible for timely payments to the IRS and retirement systems.
 5. The Business Manager shall be responsible for reconciliation of payroll accounts and reporting results to the NWREC Executive Director/Coordinator.
 6. The Business Manager shall track all leave: sick, vacation and personal.
 7. The Business Manager shall be responsible for maintaining all accounts at all times in an 'audit ready' condition.

605 Travel and Training

The NWREC will comply with the Per Diem and Mileage Act and all DFA rules governing travel and per diem.

Reimbursement for actual expenses for travel and training may be reimbursed within the limitations established by DFA if approved in advance by the Executive Director/Coordinator.

Staff members may request travel advances of 80% of the cost of the travel with required documentation to be submitted upon return.

606 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 (such as a stop for a personal errand on the way between a business delivery and the employee's home). If an NWREC vehicle is used for commuting, the IRS Regulation will be followed, and the rule will be applied. Employee will reimburse the REC at \$1.50 each one-way commute (i.e. from home to work or work to home).

607 Inventory Control and Fixed Assets Management

The purpose of this policy is to provide direction for the proper accounting of fixed assets.

Fixed assets are defined in the Audit Act (12-6-10 NMSA 1978) as "Any movable chattel or equipment which has an initial cost to the agency, whether in cash or trade value, of more than \$5,000.00 and which is expected to be used or held

beyond the fiscal year in which it was acquired and which is not consumed in its use”.

While fixed assets over \$5,000.00 are required to be inventoried by State statutes, Northwest Regional Education Cooperative #2 (NWREC) requires other items to be inventoried for control purposes. All of these items are given an Inventory Number.

These items include:

1. Purchases over \$5,000.00
2. Object codes:
 - 57111-Land (purchase and cost of acquiring land)
 - 57112-Land improvement (parking lots, lighting, sidewalks, permanent equipment such as tables, benches, etc.)
 - 57200-Building Purchase (acquisition and construction costs)
 - 57200-Building Improvement (remodeling, major repairs)
 - 57311-Vehicles
 - 57331-Fixed Assets over \$5,000.00
 - 57332-Acquisitions (not supplies) under \$5,000.00
3. All computer hardware.
4. All Audio/Visual Equipment.
5. Other as Identified by the Executive Director/Coordinator or Business Manager.

- A. **Purchasing Inventory.** Requisitions for Purchase must be approved by the Executive Director/Coordinator prior to being submitted to the Business Manager (see Purchases and Disbursement in the Resource Manual for more information).

When the items are received, Inventory Control “tags” will be affixed to each item with an inventory number for inventory control. Once this has been done, arrangements for delivery will be made as to where the items should go and to whom it is to be assigned. Each staff member is responsible for maintaining inventory records on all items assigned to them.

- B. **Transfers Of Property/Equipment.** When fixed assets are transferred within and/or outside of the agency, a Request for Authorization to Dispose Equipment form must be completed to transfer the item(s). All sections of the form will be completed in detail.

- C. **Disposal Of Fixed Assets.** The disposal of fixed assets will be done in accordance with Sections 13-6-1 and 13-6-2 of the NMSA 1978. In order to dispose of fixed assets, a Request for Authorization to Dispose Equipment must be completed. No property or equipment will be disposed of without Board Approval. Once the Board has approved the proposed disposition of equipment, items may be disposed. In addition, Sections 13-6-1 and 13-6-2 of the NMSA 1978 states that “prior to disposing of a computer, an agency shall erase all licensed software and any electronic media pertaining to the agency.

The agency will certify in writing the erasure of the hard drive and submit the certification, along with the notification of the proposed disposition of property, to the State Auditor at least thirty (30) days prior to taking action". In compliance with this State requirement of notification, Business Manager will initiate a memo to the Executive Director/Coordinator providing notification of the items to be disposed 35 days before action is actually taken. The Executive Director/Coordinator will then submit a letter to the State Auditor, 30 days prior to disposition of property, certifying the proposed disposition of the hard drives, along with a copy of the Board's approval.

- D. Procedures For Fixed Asset Management.** All staff members are responsible for property/equipment within their location. An agency-wide inventory will be conducted annually. The agency's inventory and tracking forms should be up to date and match those of the Business Office. Instructions for completing the inventory are as follows:
1. Items that are present-
Make a distinguishable check mark next to the item on the inventory sheet.
 2. Items that are present but not on the inventory-
Note on the back of the form the inventory #, description, and location of the item. Also note whether or not this item needs to be added to the agency's permanent inventory.
 3. Items that are on the inventory listing but are not present at the site-
The staff member must make every effort to locate the item and/or explain its absence on the inventory form.
 4. Excess or Unusable items-
The staff member must submit a Request for Authorization to Dispose Equipment form to the Business Manager for removal of the items.

Once the inventory is complete the person responsible for that location will sign the inventory and return it to the Business Manager. Once the entire inventory has been correlated, and reviewed for accuracy, the Executive Director/Coordinator must sign the original inventory sheets. At the end of the fiscal year, the Business Manager will present to the Governing Council an updated inventory report for approval.

The NWREC will maintain a fixed assets inventory of items over \$5,000 in a format which meets GSD requirements; any additional inventory information required under EDGAR for federal grant purchases will be maintained.

A separate inventory of all supply assets valued under \$5,000 will be maintained for accountability purposes.

Equipment/property disposition procedures will be according to statute and applicable regulation.

608 Financial and Compliance Audits

The State Auditor requires that state agencies maintain adequate accounting records, prepare financial statements in accordance with generally acceptable accounting principles, and cooperate with an Independent Public Accountant by providing to the IPA in a timely manner the information the IPA requires to express an opinion on the agency's financial statements.

NWREC will 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 NMPED Agency Support Division by the due date in the State Auditor rule.**

6080 Internal Control Policy

Internal control is a management process for keeping NWREC on course in achieving its organizational objectives. A management control system, including comprehensive internal controls, should provide reasonable assurance that entity objectives are being met. Entity objectives may fall into the following three separate but related categories:

1. Effectiveness and efficiency of operations,
2. Reliability of financial reporting,
3. Compliance with applicable laws and regulations.

Safeguarding of assets is an example of a control objective, when in place and effective, aids in the achievement of all three of the above objective categories.

The Executive Director/Coordinator is responsible for establishing and maintaining an effective system of internal control throughout the agency. An internal control system should provide reasonable assurance that an organization will accomplish its objectives.

The Executive Director/Coordinator must identify and analyze the risks to achieving entity objectives and then determine how those risks should be managed. The Executive Director/Coordinator defines the level of risk that the organization is willing to accept and strives to maintain risks within those levels.

The Executive Director/Coordinator should make it clear that NWREC staff have explicit or implicit control activity duties including delivery of services to the public; producing information for the management control system; maintaining financial information; and inspecting or maintaining physical assets.

A. Risk Assessment. A risk assessment is an ongoing process to identify, analyze, and manage risk. Risk identification can often be integrated with an organization's planning activities.

B. Internal Control Components. The five components of internal controls NWREC uses for control system are as follows:

1. **Control Environment-** Control environment factors include the integrity, ethical values, and competence of the entity's staff; management's philosophy and operating style.
2. **Risk Assessment-** Risk assessment is the identification and analysis of relevant risks to achieving the objectives and forms a basis for determining how the risks should be managed.
3. **Control Activities-** Control activities occur throughout the organization, at all levels and in all functions. They include a range of activities as diverse as approvals, authorizations, verifications, reconciliation, review of operating performance, security of assets, and segregation of duties.
4. **Information and Communication-** Effective communication must occur in a broader sense, flowing down, across, and throughout NWREC. All personnel must receive from top management a clear message that control responsibilities must be taken seriously. Also, all staff members must understand their own role in the management control system, as well as how individual activities relate to the work of others.
5. **Monitoring-** Management systems and internal activities need to be monitored to assess the quality of their performance overtime. Assessment is accomplished through ongoing monitoring activities and separate evaluations. Ongoing monitoring occurs in the course of operations, including regular management and supervisory activities and other action personnel take in performing their duties. The scope and frequency of separate evaluations will depend primarily on an assessment of risks and the effectiveness of ongoing monitoring procedures. Deficiencies will be reported to the Executive Director, with serious matters reported to the Council.

C. **Control Activities.** Control activities are the policies and procedures that help ensure management directives are carried out. Control activities are actions taken to minimize risk. The need for a control activity is established in the risk assessment process. When the assessment has identified a significant risk to the achievement of an objective, a corresponding control activity should be determined.

These activities and procedures may be categorized into one of the following areas and completed by personnel at various levels:

D. **Administrative Controls**

1. **Top-level performance reviews-** Performance reviews should be made of actual performance versus budgets, forecasts, and performance in prior periods.

2. Direct functional or activity management reviews- Performance reviews should be made of specific functions or activities. The reviews may focus on compliance, financial, or operational issues.

E. Accounting Controls

1. Information processing- A variety of control activities should be performed to check the accuracy and completeness of information, as well as the authorization of transactions.
2. Physical controls- Equipment, inventories, securities, cash, and other assets should be secured physically, and periodically counted and compared with amounts shown on control records.
3. Performance indicators- Certain operating results can be anticipated. By investigating unexpected results or unusual trends, circumstances that jeopardize the achievement of objectives can be identified.
4. Segregation of duties- Duties are divided, or segregated, among different people to reduce the risk of error or inappropriate actions.
5. Internal Auditing/Risk Assessments
6. Internal audits may be performed during or after a fiscal period. In either case, an audit is not part of any control activity; however, it serves as an important component of the management control system.
7. The activities of an internal audit, whether performed during or after a fiscal period, may include:
8. Consultation and education sessions to familiarize agency staff with control activity responsibilities;
9. Assisting agency staff in preparing for new processes or requirements;
10. A review of agency activities to serve as a basis for recommending improvements as necessary to aid in the accomplishment of agency identified goals and objectives.

- F. Procedures.** Protection of public trust is paramount in all decision making. To achieve this trust, NWREC must have policies & procedures to link its vision and the day to day operations. It is important that all staff members understand their roles and responsibilities within predefined limits and in turn allows management to guide operations without constant management intervention. The ultimate goal of every procedure is to provide the reader with a clear and easily understood plan of action required to carry out or implement a policy.

A well written procedure will also help eliminate common misunderstandings by identifying job responsibilities and establishing boundaries or controls for the job holders. Good procedures actually allow managers to control events in advance and prevent the organization (and staff members) from making costly mistakes. Procedures can:

1. Identify specific actions
2. Explain when/what to take actions
3. Describe alternatives
4. Give examples
5. Show how to complete forms or processes
6. Give examples

In order to complete NWREC transactions, all activity cycles will have a procedures manual defining specific tasks to complete defined transactions. Procedure manuals will be maintained on site and will establish authorization of and recording of all transactions.

609 Records Retention and Disposition

The NMPED and the State Records Center and Archives Rules state that, as a minimum, the following current and prior year items are to be stored in fireproof/theft security daily:

1. All blank warrants/checks;
2. Board Minutes;
3. Employees' earnings records;
4. Insurance policies and statements of value;
5. Motor vehicle titles;
6. Deeds and abstracts;
7. Audits;
8. Bank statements;
9. Paid warrants (bids, quotations, purchase orders, invoices, etc.);
10. Software/databases

The Executive Director/Coordinator is responsible for assuring that all permanent financial and programmatic documents are protected from fire and theft.

Records will be retained and disposed of as directed by EDGAR and the State Records Center.