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WHAT ABOUT MERIT SYSTEMS?

New Mexico law (§3-13-4, NMSA 1978) authorizes any municipality to adopt a merit system by ordinance, but **does not require** adoption of a merit system. §3-13-4 does not spell out what a true merit system includes and several municipalities have adopted what they thought were merit systems but which really do not contain all the basic requirements.

A true merit system contains at least the following provisions:

1. recruiting of applicants and hiring through open competition based solely on individual merit (qualifications to perform the job, such as experience, training, knowledge and skill);
2. that all decisions on hiring, assignment, retention, compensation, promotion, demotion and terminations shall be based solely on individual merit (qualifications and job performance);
3. that an employee who has successfully completed a prescribed probationary period has attained job tenure (a property right to the job) and may only be suspended without pay, demoted or dismissed for "just cause" such as unsatisfactory performance or misconduct of some kind;
4. that an employee who has attained tenure through completion of probation may appeal his suspension without pay, demotion or dismissal, and may receive a fair hearing on the merits of the case ("due process" on depriving him of his "property right.")

In addition, the U.S. Supreme Court has ruled in the case of *Cleveland Board of Education v. Loudermill*, (3/19/85), that an employee who has received tenure through successful completion of a probationary period must be given an informal hearing **before** he is dismissed, even though he may have a formal right of appeal after the dismissal. The court said that public employers do not have to give an employee tenure (a "property right") in his job, but **if they do give that tenure**, the hearing must take place **before** the tenure is taken away. In fact, the minority opinion said that the pre-disciplinary hearing should apply to demotion and suspension without pay as well - don't be surprised if subsequent case decisions extend the hearing right to demotion and suspension without pay.

DON'T MERIT SYSTEMS INCLUDE JOB CLASSIFICATION AND PAY SYSTEMS?

Yes. In order to establish what qualifications applicants will be judged on, you have to know what the jobs actually do and what qualifications are required to do them. The easiest way to do what is to establish a job classifications system where jobs with preponderantly similar duties and qualifications are given the same title and description (job classification).

Then in order to make sure that jobs with similar qualifications and responsibilities are compensated approximately the same (job-based pay), a formal pay structure of pay ranges (sometimes called grades) is established and each class of job is assigned to one pay range. The normal practice is for an employee to start at the lower end of the range and to progress solely on the basis of satisfactory or exceptional performance (although, too often, - supervisors not having guts enough to deny increases - pay increases become virtually automatic if the employee does not screw up royally).

Measuring performance as to unsatisfactory, satisfactory or exceptional requires a formal performance appraisal system.

If your municipality thinks it has established a merit system but has not provided for appeals of "adverse actions" (disciplinary procedures), job classification and pay system, and formal performance appraisal system, most personnel professionals would say that it doesn't truly have a merit system.

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