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PERSONNEL RESPONSIBILITIES OF MUNICIPAL ELECTED OFFICIALS

All municipal elected officials have a policy-making responsibility concerning municipal employees. In addition, certain municipal officials have selection, hiring, supervising, disciplinary and discharge responsibilities depending upon the form of government under which the municipality operates. Many aspects of personnel administration are governed by State and federal laws, such as the Fair Labor Standards Act (minimum wage and overtime pay requirements and age discrimination), the federal Civil Rights Act of 1964, the Americans with Disabilities Act and the State Human Rights Act (nondiscrimination), the Workers Compensation Act (injury on the job), and others.

ALL MUNICIPALITIES

MAYOR

The Mayor is responsible for causing "the ordinances and regulations of the municipality to be obeyed" [§3-11-4A, NMSA 1978]. This includes all personnel ordinances and regulations.

GOVERNING BODY

Regardless of the form of government, the Governing Body is responsible for approving the municipal budget, including the amounts to be set aside for paying for salaries, wages and benefits of all municipal employees.

For all municipal employees except those of the municipal court, the Governing Body is responsible for establishing policies and adopting rules and regulations governing recruitment, selection, hiring, pay, benefits, retention, promotion, demotion, layoff, discipline and discharge of municipal employees and for complying with State and Federal laws governing employment. The Governing Body may, if it wishes, enact a merit system of personnel management [§3-13-4, NMSA 1978] governing all municipal employees except those of the Municipal Court.

The Governing Body is also responsible for prescribing "the compensation and fees to be paid municipal officers and employees" and for prescribing "the powers and duties of those officers whose terms of office or powers and duties are not defined by law" and for imposing "additional powers and duties upon those officers whose powers and duties are prescribed by law." [§3-12-3A]

The Governing Body is not responsible for direct assignment of duties or for supervision of municipal employees, which is the responsibility of the Mayor or City Manager and, for court employees, the Municipal Judge.

MUNICIPAL JUDGE

The Municipal Judge is responsible for submitting and administering the municipal court budget approved by the Governing Body and for establishing and carrying out policies and adopting rules and regulations for recruitment, selection, hiring, pay, benefits, retention, promotion, demotion, layoff, discipline and discharge of municipal court employees (including a merit system) and for complying with State and federal laws governing employment, as well as for assignment of duties and supervision of municipal court employees.

The Municipal Judge may choose to have municipal court employees covered by the same personnel ordinances, policies, rules and regulations covering other municipal personnel, but the Municipal Judge is not required to do so, since the court is a separate branch of municipal government.

MAYOR-COUNCIL MUNICIPALITY WITHOUT CITY MANAGER

MAYOR

§3-11-6A says: "Subject to the approval of the majority of all members of the Governing Body, the Mayor shall:

1. appoint all officers and employees except those holding elective office (and except court employees); and
2. designate an employee to perform any service authorized by the Governing Body."

The Mayor may appoint temporary employees but the appointment must be approved by the majority of all members of the Governing Body at the next regular meeting [§3-11-6B].

"The Mayor shall:

1. supervise the employees of the municipality;
2. examine the grounds of reasonable complaint made against any employee; and
3. cause any violation or neglect of the employees' duties to be corrected promptly or reported to the proper authority for correction or punishment." [§3-11-6C]

The Mayor may:

1. discharge an appointed official or employee upon the approval of a majority of all members of the Governing Body; and
2. suspend an appointed official or employee until the next regular meeting of the Governing Body at which time the suspension shall be approved or disapproved by a majority of all members of the Governing Body. [If the suspension is disapproved, the appointed official or employee shall be paid back pay for the period of the suspension] [§3-11-6D(3)].

If the Governing Body has enacted a Merit System, all the above actions of the Mayor are governed by it.

GOVERNING BODY

Subject to any Merit System which has been enacted, the Governing Body:

1. Shall approve or disapprove all appointments, suspensions and discharges of appointed officials and employees by vote of a majority of all members; and
2. May discharge any appointed official or employee by vote of a majority of all members, whether the Mayor has recommended it or not [§3-11-6D(1)].

MAYOR-COUNCIL WITH MANAGER OR COMMISSION-MANAGER MUNICIPALITY

MAYOR

In a Mayor-Council-Manager form of government, the Mayor appoints the City Manager subject to the approval or disapproval of a majority of all members of the Governing Body. In a Commission-Manger form of government, the manager is appointed by the Commission. The Mayor does not appoint, assign, supervise, discipline or fire any appointed official or employee. The Mayor may fire the City Manager, subject to approval of a majority of all members of the Governing Body and any contract provisions.

GOVERNING BODY

The Governing Body approves or disapproves the appointment of the City Manager. It may or may not act as a board of appeal from the decisions of the City Manager, depending on what the personnel ordinance, rules and

regulations provide. A majority of all members of the Governing Body may dismiss the City Manager, subject to any contract provisions.

CITY MANAGER

The City Manager's responsibilities, powers and duties are exactly the same whether s/he is appointed in a Mayor-Council municipality which has established the position by ordinance or in a Commission-Manager municipality.

The City Manager, who is an appointed official, recruits, selects, hires, assigns, supervises, retains, promotes, demotes, disciplines, suspends and dismisses all employees (except court employees), subject to any personnel ordinance, policies, rules and regulations adopted by the Governing Body.

The City Manager carries out the provisions of any personnel ordinances, policies, rules and regulations enacted by the Governing Body.

The City Manager may or may not have a contract, but should not be covered by tenure provisions of any Merit System.

CHARTER MUNICIPALITIES

The personnel responsibilities of the Mayor and Governing Body are as defined by the charter. The personnel responsibilities of the City Manager may be defined in the charter or by ordinance. All charters adopted thus far, except Albuquerque's, provide for essentially Commission-Manager or Mayor-Council with Manager governments. Some charters specifically exempt certain appointed officials and employees from the tenure provisions of any Merit System.