

BAR BULLETIN

September 11, 2024 • Volume 63, No. 9



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SPECIAL INSERT
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New Mexico State Bar Foundation
Center for Legal Education

CLE PROGRAMMING

from the Center for Legal Education



SEPTEMBER 12

Ethics for Business Lawyers

1.0 EP

11 a.m.– Noon

Teleseminar

SEPTEMBER 13

2024 Employment and Labor Law Institute

5.3 G, 1.0 EP

8 a.m.–4 p.m.

In-Person or Webinar

SEPTEMBER 18

Enough is Enough, Or Is It? Professional Liability Insurance: Are You Adequately Insured?

1.0 EP

Noon–1 p.m.

Webinar

SEPTEMBER 18

Defending Against IRS Audits of Closely Held Companies, Part 1

1.0 G

11 a.m.–Noon

Teleseminar

SEPTEMBER 19

Defending Against IRS Audits of Closely Held Companies, Part 2

1.0 G

11 a.m.–Noon

Teleseminar

SEPTEMBER 20

35th Annual Appellate Practice Institute

5.5 G, 1.0 EP

8:30 a.m.–4:30 p.m.

In-Person or Webinar

SEPTEMBER 25

2024 Elder Law Institute

3.7 G

10 a.m.–3 p.m.

In-Person or Webinar

SEPTEMBER 25

Maxims, Monarchy and Sir Thomas More

2.5 EP

11 a.m.–1:30 p.m.

Webinar

SEPTEMBER 27

2024 Fall Family Law Institute: Financial Issues for Family Law Practitioners

5.5 G, 1.0 EP

8:30 a.m.–4:30 p.m.

In-Person or Webinar

OCTOBER 10

2024 Administrative Law Institute

5.0 G

8:45 a.m.–3:45 p.m.

In-Person or Webinar

OCTOBER 16

Don't Blink, or it Will Probably Change: The Latest in the Legal Profession's Use of Generative A.I.

1.0 EP

Noon–1 p.m.

Webinar

Stay Ahead of the Pack:

Earn Newly Required **Equity in Justice (EIJ) Credits**

SEPTEMBER 12

UNM Law Professor Series: Byte-Sized Justice — Addressing AI Bias Through the Law

1.0 EIJ

Noon–1 p.m.

Webinar

SEPTEMBER 20

Practical Lessons in Diversity, Equity & Inclusion in Law Practice

1.0 EIJ

11 a.m.–Noon

Teleseminar

SEPTEMBER 26

UNM Law Professor Series: A True History of Public Accommodation Law — Contrasting Supreme Court Approaches

1.0 EIJ

Noon–1 p.m.

Webinar

SEPTEMBER 26

Why Women Attorneys Get Paid Less: What's Gender Bias Got to Do With It

1.0 EIJ

11 a.m.–Noon

Webinar

OCTOBER 17

UNM Law Professor Series: A Step Toward Solving the Housing Crisis — Eviction Records Sealing in New Mexico

1.0 EIJ

Noon–1 p.m.

Webinar

Any Center for Legal Education programs designated as EIJ credit are pre-approved to meet the new Equity in Justice Credit requirement found in Rule 18-201(D) and (E) NMRA. In accordance with the Rule, excess EIJ credits "can be converted to be used toward the substantive (general) requirement."

Register online at cle.sbnm.org or call 505-797-6020

Southwest CRIMES AGAINST CHILDREN CONFERENCE



October 15–17, 2024

A 3-Day Multidisciplinary Crimes Against Children Conference

Sponsored by the 13th Judicial District Attorney of New Mexico, Barbara Romo

A multi-disciplinary gathering. This conference encompasses three tracks: Prosecutors, Law Enforcement and Victim Advocates – focusing on issues related to the investigation and prosecution of crimes against children.

This conference is free and open to all who work directly with child victims of crime, especially those who are involved in the prosecution and investigation of these crimes.

For more information and to register, please visit
www.13th.nmdas.com

REGISTRATION OPENS AUG. 19

Santa Ana Star Casino and Hotel
54 Jemez Canyon Dam Road, Bernalillo, NM

Oct. 15 & 16 / 8 a.m. to 5 p.m.

Oct. 17 / 8 a.m. to 2 p.m.

A block of hotel rooms offered at the special conference price of \$121 will be available to reserve starting Aug. 19.



13th DISTRICT ATTORNEY
BARBARA ROMO
Cibola | Sandoval | Valencia
www.13th.nmdas.com

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New Mexico**
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www.sbnm.org



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For more information, site visits and reservations, contact Guest Services at **505-797-6070** or roomrental@sbnm.org

About Cover Image and Artist: R. Glenn Davis is an attorney practicing primarily in the southern New Mexico and El Paso, Texas regions. He spends a great deal of his spare time (what little there is) photographing landscapes, plant and animal life, and other interesting things, both in color and monochrome. The deserts and forests (and everything in between) of southern New Mexico are of particular interest.

Notices

Please email notices desired for publication to notices@sbnm.org.

COURT NEWS

New Mexico Supreme Court Rule-Making Activity

To view recent Supreme Court rule-making activity, visit the Court's website at <https://supremecourt.nmcourts.gov>. To view all New Mexico Rules Annotated, visit New Mexico OneSource at <https://mnesource.com/nmos/en/nav.do>.

Supreme Court Law Library

The Supreme Court Law Library is open to the legal community and public at large. The Library has an extensive legal research collection of print and online resources. The Law Library is located in the Supreme Court Building at 237 Don Gaspar in Santa Fe. Building hours: Monday-Friday 8 a.m.-5 p.m. (MT). Library Hours: Monday-Friday 8 a.m.-noon and 1-5 p.m. (MT). For more information call: 505-827-4850, email: libref@nmcourts.gov or visit <https://lawlibrary.nmcourts.gov>.

N.M. Administrative Office of the Courts

Learn About Access to Justice in New Mexico in the "Justice for All" Newsletter

Learn what's happening in New Mexico's world of access to justice by reading "Justice for All," the New Mexico Commission on Access to Justice's monthly newsletter! Email atj@nmcourts.gov to receive "Justice for All" via email or view a copy at <https://accesstojustice.nmcourts.gov>.

U.S. District Court, District of New Mexico Notice Concerning Reappointment of Incumbent U.S. Magistrate Judges Sweazea and Wormuth

The current terms of office of full-time United States Magistrate Judges Kevin R. Sweazea and Gregory B. Wormuth are due to expire on May 2, 2025, and May 17, 2025, respectively. The United States District Court is required by law to establish a panel of citizens to consider every reappointment of a magistrate judge to a new eight-year term. The duties of a magistrate judge in this court include: (1) presiding over most preliminary proceedings in criminal cases, (2) trial and disposition of misdemeanor cases, (3) presiding over various pretrial matters and

Professionalism Tip

With respect to my clients:

I will be courteous to and considerate of my client at all times.

evidentiary proceedings on delegation from a district judge, (4) taking of felony pleas and (5) trial and disposition of civil cases upon consent of the litigants. Comments are as to whether either incumbent magistrate judge should be recommended by the panel for reappointment by the court are welcome. Comments may be submitted by email to MJMSP@nmcourt.uscourts.gov. Please specify whether your comments pertain to Judge Sweazea or Judge Wormuth. Questions or issues may be directed to Monique Apodaca, 575-528-1439. Comments must be received by Oct. 19.

Second Judicial District Court Announcement of Vacancy - Family Court

A Family Court vacancy on the Second Judicial District Court will exist as of Sept. 1, due to the retirement of the Hon. Gerard J. Lavelle. Attorneys who meet the statutory qualifications in Article VI, Section 14 of the New Mexico Constitution are invited to apply by Aug. 29 at 5 p.m. (MT). Applications may be obtained at <https://lawschool.unm.edu/judsel/application.html>. The Second Judicial District Court Nominating Commission will meet at 9:30 a.m. (MT) on Sept. 17 to interview applicants for the position at the State Bar Center at 5121 Masthead St. NE., Albuquerque, N.M. 87109.

Notice of Court Closure

The Second Judicial District Court will be closed on Sept. 20 for training. The Court will reopen on Sept. 23.

Eleventh Judicial District Court - San Juan County Notice of Mass Reassignment of Cases

Effective Aug. 21, pursuant to his authority in Rule 23-109 NMRA, the Chief Judge of the Eleventh Judicial District Court has directed a mass reassignment of criminal cases from Judge, Division VIII, to Judge Stephen M. Wayne, currently presiding in Division VIII. Pursuant to Rule 5-106 NMRA, parties who have not yet exercised a peremptory excusal in a case being reassigned in this mass reassignment will have 10 business days from Sept. 11 to excuse Judge Stephen M. Wayne.

STATE BAR NEWS 2024 Annual Meeting Registration is Open for the State Bar of New Mexico's 2024 Annual Meeting on Oct. 25

The Annual Meeting looks a little different this year! "Be Inspired" during one full day of legal education featuring keynote speaker Camille M. Vasquez, Esq., networking with colleagues, inspirational speakers and activities, entertainment and much more. Join us either in-person at the State Bar Center or virtually and earn all 12 of your CLE credits for the year for only \$199! Sponsorship opportunities are now available. Register today and view more information at <https://www.sbnm.org/AnnualMeeting2024>.

2024 Annual Meeting Resolutions and Motions

Resolutions and motions will be heard at 8:30 a.m. (MT) on Oct. 25 at the opening of the State Bar of New Mexico 2024 Annual Meeting, in-person at the State Bar Center in Albuquerque, and online for virtual attendees. For consideration, resolutions or motions must be submitted in writing by Sept. 24 to Executive Director Richard Spinello, PO Box 92860, Albuquerque, N.M. 87199, fax to 505-828-3765, or email to richard.spinello@sbnm.org.

Access to Justice Fund Grant Commission

Notice of Commissioner Vacancy

One Commissioner appointment for a three-year term will be made to the State Bar of New Mexico ATJ Fund Grant Commission. The ATJ Fund Grant Commission solicits and reviews grant applications and awards grants to civil legal services organizations consistent with the State Plan for the Provision of Civil Legal Services to Low Income New Mexicans. To be eligible for appointment, applicants must not be affiliated with a civil legal service organization which would be eligible for grant funding from the ATJ Fund. Anyone interested in serving on the Commission should send a letter of interest and brief résumé by Oct. 1 to kate.kennedy@sbnm.org.

New Mexico Supreme Court

Administrative Order Regarding the Amendment of Forms 4-602B, 4-602C, 9-513B, and 9-513C NMRA For the Use of Personal Pronouns and Designated Salutations

The Supreme Court approved amendments to Forms 4-602B, 4-602C, 9-513B, and 9-513C NMRA, which allow jurors to identify their personal pronouns and designated salutations in the juror questionnaire and qualification forms. The Court also issued Order No. S-1-AO-2024-00030, which requires courts and attorneys to use the juror's name, designated salutation or personal pronouns, or other respectful means when addressing, referring to, or identifying the juror, either orally or in writing. The administrative order is available for viewing on the Court's website at <https://supremecourt.nmcourts.gov/rules-forms-files/administrative-orders/>.

Client Protection Fund Commission

Notice of Commissioner Vacancies

Two Commissioner appointments for three-year terms for the Client Protection Fund will be made in accordance with Rule 17A-005 (B). The purpose of the Client Protection Fund is to promote public confidence in the administration of justice and the integrity of the legal profession by reimbursing losses caused by the dishonest conduct of lawyers admitted and licensed to practice law in the courts of New Mexico. The new term will begin Jan. 1, 2025. Applicants must be active members of the State Bar of New Mexico. Anyone interested in serving on the Commission should send a letter of interest and brief résumé by Oct. 1 to kate.kennedy@sbnm.org.

New Mexico Lawyer Assistance Program New Mexico Well-Being Committee Meetings

The N.M. Well-Being Committee was established in 2020 by the State Bar of New Mexico's Board of Bar Commissioners. The N.M. Well-Being Committee is a standing committee of key stakeholders that encompass different areas of the legal community and cover statewide locations. All members have a well-being focus and concern with respect to the N.M. legal community. It is this committee's goal to examine and create initiatives centered on wellness. The Well-Being Committee will meet the following dates at 3 p.m. (MT): Sept. 24 and Nov 26. Email Tenessa Eakins at Tenessa.Eakins@sbnm.org.

New Mexico State Bar Foundation

New Mexico State Bar Foundation Golf Classic - Register to Play!

You're invited to the New Mexico State Bar Foundation Golf Classic on Sept. 30 at 9 a.m. (MT) at the Tanoan Country Club in Albuquerque! Register to play form.jotform.com/sbnm/GolfClassic. All proceeds benefit the New Mexico State Bar Foundation. Sponsorship opportunities are also available. Visit www.sbnm.org/NMS-BFGolfClassic2024 for more information.

UNM SCHOOL OF LAW Law Library Hours

The Law Library is happy to assist attorneys via chat, email, or in person by appointment from 8 a.m.-8 p.m. (MT) Monday through Thursday and 8 a.m.-6 p.m. (MT) on Fridays. Though the Library no longer has community computers for visitors to use, if you bring your own device when you visit, you will be able to access many of our online resources. For more information, please see lawlibrary.unm.edu.

OTHER NEWS N.M. Legislative Council Service

Legislative Research Library Hours

The Legislative Research Library at the Legislative Council Service is open to state agency staff, the legal community, and the general public. We can assist you with locating documents related to the introduction and passage of legislation as well as reports to the legislature. Hours of operation are Monday through Friday, 8 a.m. to 5 p.m. (MT), with extended hours during legislative sessions. For more information and how to contact library staff, please visit https://www.nmlegis.gov/Legislative_Library.

— *Featured* —

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www.lawpay.com/nmbar.

New Mexico Christian Legal Aid Notice of Upcoming Training Seminar

New Mexico Christian Legal Aid invites New Mexico's legal community to join them as they work together to secure justice for the poor and uphold the cause of those of modest means. They will be hosting a Training Seminar on Nov. 1, from noon to 5 p.m. (MT) at the State Bar Center located at 5121 Masthead St NE, Albuquerque, N.M. 87109. Join them for free lunch, free CLE credits and training as they update skills on how to provide legal aid. For more information or to register, contact Jim Roach at 505-243-4419 or Jen Meisner at 505-610-8800 or christianlegalaid@hotmail.com.

Board of Bar Commissioners Election Notice 2024



Notice is hereby given for the 2024 State Bar of New Mexico Board of Bar Commissioners election. Pursuant to Supreme Court Rule 24-101 NMRA, the Board of Bar Commissioners is the elected governing board of the State Bar of New Mexico (State Bar).

The five (5) commissioner positions described below expire December 31, 2024, and will be filled by this election. The positions are for three-year terms that run from January 1, 2025, through December 31, 2027. The election opens November 8, 2023, and closes at noon on December 2, 2024.

Nominations of State Bar active status members to fill the vacancies shall be made by petition of any ten (10) or more active status members of the State Bar who are in good standing and whose principal place of practice (address of record) is in the respective district. Members of the State Bar may nominate (sign a petition for) more than one candidate for a position.

Nominations must be made by completing the form at the link below or by completing the form on the next page. The nominee is responsible for collecting all nomination petitions and submitting them to the State Bar in either a single email or a single mailed packet **no later than 5:00 p.m. MT on October 9, 2024. Individual emails sent directly to the State Bar by a petitioner will not be counted.**

www.sbnm.org/BBCnomination2024

Primary Responsibilities of the Board of Bar Commissioners:

- › Carry out the organization's mission and purposes and the current Strategic Plan.
- › Ensure effective organization planning and evaluate the State Bar's programs and operations in line with the strategic plan and budget.
- › Ensure financial accountability for the organization.
- › Promote the programs and activities of the State Bar and communicate regularly with constituents regarding State Bar activities.
- › Attend Board meetings (up to six per year), including the Annual Meeting of the State Bar and a full Board Retreat every three years.
- › Establish and enforce bylaws and policies.
- › Represent the State Bar at local bar-related meetings and events.
- › Select, support, and annually evaluate the Executive Director.
- › Serve on internal Board Committees and Supreme Court committees and boards.
- › Support the New Mexico State Bar Foundation's mission and purposes.

Pursuant to the State Bar Bylaws, following are the names of the commissioners whose terms are expiring and their districts from which they were elected:

First Judicial District – One Position

Los Alamos, Rio Arriba and Santa Fe Counties

- › Currently held by Olga Serafimova

Second Judicial District – Two Positions

Bernalillo County

- › One currently held by Tomas J. Garcia
- › One currently held by Benjamin I. Sherman
(ineligible for reelection)

Fourth and Eighth Judicial Districts – One Position

Colfax, Guadalupe, Mora, San Miguel, Taos and Union Counties

- › Currently held by Brett Phelps

Out-of-State District – One Position

Principal place of practice (address of record) in New Mexico

- › Currently held by Sean M. FitzPatrick

Send all nomination petitions in one packet to:

Executive Director Richard B. Spinello, Esq.
State Bar of New Mexico
PO Box 92860, Albuquerque, NM 87199-2860
5121 Masthead St. NE, Albuquerque, NM 87109
or Email: bbc@sbnm.org

— PETITIONS MUST BE RECEIVED BY 5 P.M. MT, OCT. 9, 2024 —

Direct inquiries to 505-797-6038 or kbecker@sbnm.org.



State Bar of
New Mexico
Est. 1886

Nomination Petition for Board of Bar Commissioners

I, the undersigned, State Bar member in good standing and who has a principal place of practice (address of record) in the _____ District¹, hereby nominate _____, whose principal place of practice (address of record) is located in the _____ District.

Signature

Print Name

Address (principal place of practice)

Date

¹Members whose principal place of practice is located in El Paso County, Texas, are represented by, nominate and vote in the Third and Sixth Judicial Districts.

To make a nomination, complete all information in this petition and send to the nominee by either method below:

- **Electronically** by going to www.sbnm.org/BBCnomination2024; or
- **Hard copy** by printing the online form or completing this form and mailing or emailing it to the nominee.

*Do not submit this petition directly to the State Bar. The nominee is responsible for collecting all nomination petitions and submitting them to the State Bar in either a single email or a single mailed packet **no later than 5:00 p.m. MT on October 9, 2024.***

Legal Education Calendar

September

- | | | |
|--|---|---|
| <p>1-30 Self-Study - Tools for Creative Lawyering: An Introduction to Expanding Your Skill Set with Eric Sotkin
1.0 G, 2.0 EP
Online On-Demand
The Ubuntuworks Project
www.ubuntuworksschool.org</p> | <p>18 Defending Against IRS Audits of Closely Held Companies, Part 1
1.0 G
Teleseminar
Center for Legal Education of NMSBF
www.sbnm.org</p> | <p>25 Selling to Consumers - Sales, Finance, Warranty & Collection Law, Part 1
1.0 G
Teleseminar
Center for Legal Education of NMSBF
www.sbnm.org</p> |
| <p>11 Medical and Dental Office Leases
1.0 G
Teleseminar
Center for Legal Education of NMSBF
www.sbnm.org</p> | <p>19 Defending Against IRS Audits of Closely Held Companies, Part 2
1.0 G
Teleseminar
Center for Legal Education of NMSBF
www.sbnm.org</p> | <p>26 Selling to Consumers - Sales, Finance, Warranty & Collection Law, Part 2
1.0 G
Teleseminar
Center for Legal Education of NMSBF
www.sbnm.org</p> |
| <p>11 Unlocking the Sentencing Guidelines, Session 5 - Illegal Entry and Re-entry
1.0 G
Live Program
Administrative Office of the US Courts
www.uscourts.gov</p> | <p>20 Appellate Law Annual Institute
5.5 G, 1.0 EP
In-Person & Webinar
Center for Legal Education of NMSBF
www.sbnm.org</p> | <p>26 UNM Law Professor Series: A True History of Public Accommodation Law - Contrasting Supreme Court Approaches
1.0 EIJ
Webinar
Center for Legal Education of NMSBF
www.sbnm.org</p> |
| <p>12 Ethics for Business Lawyers
1.0 EP
Teleseminar
Center for Legal Education of NMSBF
www.sbnm.org</p> | <p>20 Practical Lessons in Diversity, Equity & Inclusion
1.0 EIJ
Teleseminar
Center for Legal Education of NMSBF
www.sbnm.org</p> | <p>26 Equity in Justice
2.0 EIJ
Live Program
New Mexico Department of Justice
www.nmdoj.gov</p> |
| <p>12 UNM Law Professor Series: Byte-Sized Justice: Addressing AI Bias Through the Law
1.0 EIJ
Webinar
Center for Legal Education of NMSBF
www.sbnm.org</p> | <p>20 Real-World Trial Practice: Lessons from the Trenches
6.2 G
Live Program
New Mexico Trial Lawyers Association & Foundation
www.nmtla.org</p> | <p>26 Why Women Attorneys Get Paid Less: What's Gender Bias Got to Do With It
1.0 EIJ
Webinar
Center for Legal Education of NMSBF
www.sbnm.org</p> |
| <p>13 Employment and Labor Law Annual Institute
5.3 G, 1.0 EP
In-Person & Webinar
Center for Legal Education of NMSBF
www.sbnm.org</p> | <p>25 Elder Law Annual Institute
3.7 G
In-Person & Webinar
Center for Legal Education of NMSBF
www.sbnm.org</p> | <p>27 Artificial Intelligence (AI) for Lawyers: Legal, Ethical, and Practical Issues
1.0 EP
Webinar
Center for Legal Education of NMSBF
www.sbnm.org</p> |
| <p>18 Enough is Enough, Or Is It? Professional Liability Insurance: Are You Adequately Insured?
1.0 EP
Webinar
Center for Legal Education of NMSBF
www.sbnm.org</p> | <p>25 Maxims, Monarchy and Sir Thomas More
2.5 EP
Webinar
Center for Legal Education of NMSBF
www.sbnm.org</p> | <p>27 Family Law Fall Institute: Financial Issues for Family Law Practitioners
5.5 G, 1.0 EP
In-Person & Webinar
Center for Legal Education of NMSBF
www.sbnm.org</p> |

Listings in the *Bar Bulletin* Legal Education Calendar are derived from course provider submissions and from New Mexico Minimum Continuing Legal Education. All MCLE approved continuing legal education courses can be listed free of charge. Send submissions to notices@sbnm.org. Include course title, credits, location/course type, course provider and registration instructions. For a full list of MCLE-approved courses, visit <https://www.sbnm.org/Search-For-Courses>.

**THE SUPREME COURT OF NEW MEXICO
ANNOUNCES OUT-OF-CYCLE RULE AMENDMENTS**

In accordance with Rule 23-106.1 NMRA, the Supreme Court has approved out-of-cycle rule amendments. What follows is a summary of amendments the Court approved on August 23, 2024. Unless otherwise noted in the history note at the end of each approved rule, the amendments will take effect October 7, 2024. The full text of the amendments in markup format and the related rules and administrative orders are available on the Court's website at <https://supremecourt.nmcourts.gov/2024-approved-amendments-to-rules-and-forms/>. The approved rule amendments will also be available on NMOneSource.com by their effective date.

BOARD GOVERNING THE RECORDING OF JUDICIAL PROCEEDINGS

Page Rate Increases for Court Reporter Transcripts – Amended Rule 22-207 NMRA

The Supreme Court approved the recommendation from the Board Governing the Recording of Judicial Proceedings to amend Rule 22-207 NMRA to increase the page rates for official court reporter transcripts. These increases are intended to reflect inflation and to help relieve the shortage of official court reporters in New Mexico.

NEW MEXICO SUPREME COURT COMMISSION ON EQUITY AND JUSTICE

Juror Questionnaire and Qualification Forms – Amended Forms 4-602B, 4-602C, 9-513B, and 9-513C NMRA

The Supreme Court approved the New Mexico Supreme Court Commission on Equity and Justice's recommendation to amend the juror questionnaire forms, Forms 4-602C and 9-513C NMRA, to allow jurors to identify their personal pronouns. The Court also approved (1) amendments to the juror questionnaire forms that allow jurors to include their preferred designated salutations, and (2) amendments to the juror qualification forms, Forms 4-602B and 9-513B NMRA, that allow jurors to identify their personal pronouns and preferred designated salutations. These amendments are intended to ensure that all participants in the judicial process will be treated with dignity, respect, and equality in New Mexico's courts. Finally, the Court approved technical amendments to the juror questionnaire and qualification forms.

SUPREME COURT

Pro Bono Services for Court Attorneys – Amended Rules 16-601, 21-310, and 24-108 NMRA

The Supreme Court has approved amendments to Rules 16-601, 21-310, and 24-108 NMRA that allow court attorneys to perform limited pro bono work. The amendments also clarify government attorneys' participation in pro bono work and clarify that full-time justices, judges, hearing officers, and special commissioners are prohibited from performing pro bono work. Amendments to the New Mexico Judicial Branch Personnel Rules and Outside Employment Form will be forthcoming to provide clear guidelines and requirements for the performance of pro bono work by court attorneys.

**THE RULE AMENDMENTS SUMMARIZED ABOVE
CAN BE VIEWED IN THEIR ENTIRETY AT THE
NEW MEXICO SUPREME COURT WEBSITE**

<https://supremecourt.nmcourts.gov/2024-approved-amendments-to-rules-and-forms/>

Congratulations to the

2024 Annual Awards Recipients



The State Bar of New Mexico is pleased to announce the 2024 Annual Awards recipients. The Annual Awards recognize those who have distinguished themselves or who have made exemplary contributions to the State Bar or legal profession in the past year. The awards will be presented at the awards ceremony during the 2024 Annual Meeting at the State Bar Center in Albuquerque on Friday, Oct. 25. For a schedule of events for the Annual Meeting and registration information, please visit: www.sbnm.org/CLE-Events/Annual-Meeting-2024.

Distinguished Bar Service Non-Lawyer Award

KATINA WATSON

◆ Recognizes nonlawyers who have provided valuable service and contributions to the legal profession over a significant period of time.

Excellence in Well-Being Award

BRIGGS F. CHENEY

◆ Many individuals have made significant contributions to the improvement of legal professional well-being to include destigmatizing mental health, strengthening resiliency and creating a synergic approach to work and life. This award was created to recognize an individual or organization that has made an outstanding positive contribution to the New Mexico legal community's well-being.

Judge Sarah M. Singleton Distinguished Service Award

GEORGE DAVID GIDDENS, JR.

◆ Recognizes attorneys who have provided valuable service and contributions to the legal profession, the State Bar of New Mexico, and the public over a significant period of time.

Justice Pamela B. Minzner Professionalism Award

M. MITCHELL MOSS

◆ Recognizes attorneys and/or judges who, over long and distinguished legal careers, have by their ethical and personal conduct exemplified for their fellow attorneys the epitome of professionalism.

Outstanding Legal Organization Award

**AMERICAN INDIAN LAW CENTER
JUDICIAL CLERKSHIP COMMITTEE**

◆ Recognizes outstanding, extraordinary law-related organizations or programs that serve the legal profession and the public.

**Outstanding Young Lawyer
of the Year Award**

CAMERON S. BUSH

◆ Awarded to attorneys who have, during the formative stages of their legal careers by their ethical and personal conduct, exemplified for their fellow attorneys the epitome of professionalism by demonstrating a commitment to clients' causes and to public service, enhancing the image of the legal profession.

**Robert H. LaFollette
Pro Bono Award**

RONALD T. TAYLOR

◆ Presented to an attorney who has made an exemplary contribution of time and effort, without compensation, to provide legal assistance over his or her career to people who could not afford the assistance of an attorney.

**Justice Seth D. Montgomery
Distinguished Judicial Service Award**

JUDGE ROBERT H. SCOTT

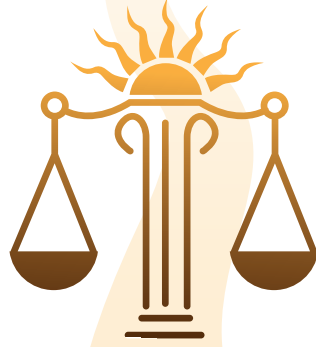
◆ Recognizes judges who have distinguished themselves through long and exemplary service on the bench and who have significantly advanced the administration of justice or improved the relations between the bench and the bar.



**State Bar *of*
New Mexico**

Est. 1886

For more information visit: www.sbnm.org/AnnualAwards



ARTURO L. JARAMILLO

Summer Law Clerk Program

- Does your firm, business, or organization want to be part of an ABA Awarded program?
- Do you want to help ignite first year law student's passion in your field of law?
- Are you committed to promoting diversity and inclusion through the membership of the State Bar?

If you answered yes to one or all of these questions, then participating in the Arturo Jaramillo Clerkship Program can help accomplish these goals! Arturo L. Jaramillo, the first Hispanic president of the State Bar of New Mexico, developed the Summer Law Clerk Program ("Program") in 1993 to offer first year law students of diverse backgrounds the opportunity to clerk in legal settings that provide a foundation for the students' law careers and to promote equal employment opportunities for persons who have historically been underrepresented in the legal profession. The Program creates employment opportunities in law firms, governmental agencies, and non-profits in New Mexico by providing a summer law clerk experience for motivated and deserving law students who meet the program's eligibility criteria.

To learn more, please contact the organizers of the program!

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State Bar of New Mexico
Committee on Diversity
in the Legal Profession



Opportunities for Pro Bono Service CALENDAR

September

- | | | | | | |
|----|--|----|---|----|--|
| 13 | Legal Fair
In-Person
New Mexico Legal Aid
bit.ly/NMLALegalFairSignUp
Location: Farmington | 19 | Legal Teleclinic
In-Person
New Mexico Legal Aid
bit.ly/NMLALegalFairSignUp
Location: Virtual | 27 | Legal Fair
In-Person
New Mexico Legal Aid
bit.ly/NMLALegalFairSignUp
Location: Mora |
|----|--|----|---|----|--|

October

- | | | | | | |
|---|---|---|--|----|---|
| 4 | Legal Fair
In-Person
New Mexico Legal Aid
bit.ly/NMLALegalFairSignUp
Location: Roswell | 5 | Legal Fair
In-Person
New Mexico Legal Aid
bit.ly/NMLALegalFairSignUp
Location: Estancia | 18 | Law-La-Palooza
In-Person
New Mexico Legal Aid
bit.ly/NMLALegalFairSignUp
Location: Albuquerque |
|---|---|---|--|----|---|

If you would like to volunteer for pro bono service at one of the above events, please contact the hosting agency.



Resources for the Public CALENDAR

September

- | | | | | | |
|----|--|----|---|----|--|
| 13 | Legal Fair
In-Person
New Mexico Legal Aid
bit.ly/NMLALegalFairSignUp
Location: Farmington | 19 | Legal Teleclinic
Virtual
New Mexico Legal Aid
bit.ly/NMLALegalFairSignUp
Location: Statewide | 25 | Consumer Debt/Bankruptcy
Workshop
Virtual
State Bar of New Mexico
Call 505-797-6094 to register
Location: Virtual |
| 27 | Legal Fair
In-Person
New Mexico Legal Aid
bit.ly/NMLALegalFairSignUp
Location: Mora | | | | |

Listings in the *Bar Bulletin* Pro Bono & Volunteer Opportunities Calendar are gathered from civil legal service organization submissions and from information pertaining to the New Mexico State Bar Foundation's upcoming events. All pro bono and volunteer opportunities conducted by civil legal service organizations can be listed free of charge. Send submissions to probono@sbnm.org. Include the opportunity's title, location/format, date, provider and registration instructions.

Advance Opinions

<http://www.nmcompcomm.us/>

From the New Mexico Supreme Court

From the New Mexico Supreme Court

Opinion Number: 2024-NMSC-016

Nos: S-1-SC-39406 & S-1-SC-39401 (consolidated) (filed May 13, 2024)

**COALITION FOR CLEAN AFFORDABLE ENERGY and RENEWABLE ENERGY INDUSTRIES ASSOCIATION
OF NEW MEXICO,**

Appellants,

v.

NEW MEXICO PUBLIC REGULATION COMMISSION,

Appellee,

and

**ALBUQUERQUE BERNALILLO COUNTY WATER UTILITY AUTHORITY, BERNALILLO COUNTY, NEW ENERGY
ECONOMY, and NEW MEXICO AFFORDABLE RELIABLE ENERGY ALLIANCE, and NEW MEXICO**

OFFICE OF THE ATTORNEY GENERAL,

Intervenors-Appellees.

**In the Matter of the Public Service Company of New Mexico's Petition for a Declaratory Order Regarding
Whether the Efficient Use of Energy Act Permits a Utility to Implement a Full Revenue Decoupling Mechanism;
In the Matter of the Petition of Albuquerque Bernalillo County Water Utility Authority and Bernalillo County for
Declaratory Order Regarding Whether the Efficient Use of Energy Act Mandates the Commission to Fully
Authorize Full Decoupling Upon Petition by a Public Utility,
Case No. 20-00212-UT**

CONSOLIDATED WITH

NO. S-1-SC-39401

PUBLIC SERVICE COMPANY OF NEW MEXICO,

Appellant,

v.

NEW MEXICO PUBLIC REGULATION COMMISSION,

Appellee,

and

**ALBUQUERQUE BERNALILLO COUNTY WATER UTILITY AUTHORITY, BERNALILLO COUNTY, NEW ENERGY
ECONOMY, and NEW MEXICO AFFORDABLE RELIABLE ENERGY ALLIANCE, and NEW MEXICO OFFICE**

OF THE ATTORNEY GENERAL,

Intervenors-Appellees.

**In the Matter of the Application of Public Service Company of New Mexico's Petition for a Declaratory Order
Regarding Whether the Efficient Use of Energy Act Permits a Utility to Implement a Full Decoupling Mechanism;
In the Matter of the Petition of Albuquerque Bernalillo County Water Utility Authority and Bernalillo County
for a Declaratory Order Regarding Whether the Efficient Use of Energy Act Mandates the Commission to Fully
Authorize Full Decoupling Upon Petition by the Public Utility,
NMPRC Case No. 20-00212-UT**

APPEAL FROM THE NEW MEXICO PUBLIC REGULATION COMMISSION

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PNM Resources, Inc.

Stacey J. Goodwin
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Affordable Energy

for Appellant Renewable Energy
Industries Association of New Mexico

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Public Utility Act (PUA), NMSA 1978, §§ 62-1-1 to 62-6-28 and 62-8-1 to 62-13-16 (1979, as amended through 2021), the Commission typically begins by evaluating a revenue requirement for the utility, which is an amount of future revenue to be collected by the utility that is determined to be just and reasonable. See *In re Petition of PNM Gas Servs. (PNM Gas)*, 2000-NMSC-012, ¶¶ 6-8, 129 N.M. 1, 1 P.3d 383; § 62-8-1 (“Every rate made, demanded or received by any public utility shall be just and reasonable.”). The just and reasonable standard requires the Commission to set rates that are “neither unreasonably high so as to unjustly burden ratepayers with excessive rates nor unreasonably low so as to constitute a taking of property without just compensation or a violation of due process by preventing the utility from earning a reasonable rate of return on its investment.” *Pub. Serv. Co. of N.M. v. N.M. Pub. Regul. Comm’n (PNM)*, 2019-NMSC-012, ¶ 10, 444 P.3d 460 (internal quotation marks and citation omitted). “Under the PUA, a rate is just and reasonable when it balances the investor’s interest against the ratepayer’s interest. Only when a rate falls within a zone of reasonableness between utility confiscation and ratepayer extortion can the rate be just and reasonable.” *N.M. Att’y Gen. v. N.M. Pub. Regul. Comm’n*, 2011-NMSC-034, ¶ 13, 150 N.M. 174, 258 P.3d 453 (ellipsis, internal quotation marks, and citation omitted).

{7} After approving a revenue requirement for a utility, the Commission next designs rates that will provide “the utility a reasonable opportunity to recover its revenue requirement and that fairly distributes just and reasonable rates between different classes of ratepayers.” *PNM Gas*, 2000-NMSC-012, ¶ 89. Historically, the Commission has not been “required to rely on any one rate-design method,” *N.M. Att’y Gen. v. N.M. State Corp. Comm’n*, 1996-NMSC-002, ¶ 33, 121 N.M. 156, 909 P.2d 716, and has been granted considerable discretion in designing rates, *PNM Gas*, 2000-NMSC-012, ¶ 99. We have recognized several policy factors that are relevant to rate design, such as the cost of service, the value of service, conservation, competition, comparison with other rates in the geographic area, continuity, stability, and gradualism that avoids rate shock. *Id.* ¶¶ 100-02; see also *Mountain States Tel. & Tel. Co. v. N.M. State Corp. Comm’n*, 1977-NMSC-032, ¶ 73, 90 N.M. 325, 563 P.2d 588 (listing “various types of evidence that merit consideration” in designing rates in the context of a telephone utility application). This Court has specifically “discouraged the use of cost of service as

a sole criterion in designing rates.” *PNM Gas*, 2000-NMSC-012, ¶ 100.

{8} Traditionally, the Commission has fixed rates with the expectation that the utility will collect the majority of its approved revenue through a predicted quantity of sales. This traditional regulatory approach creates disincentives for utilities to invest in energy efficiency and load management, as any decrease in energy consumption will contribute to a decrease in sales. Regulatory Assistance Project, *Revenue Regulation & Decoupling: A Guide to Theory & Application* 1-2 (2016) (hereinafter *RAP, Revenue Regulation*).² Revenue decoupling seeks to eliminate or reduce these regulatory disincentives by breaking the traditional link between a utility’s revenue collections and its sales. *Id.* 2.

{9} With revenue decoupling, the Commission will still approve a revenue requirement for a utility and will design rates in a way that fairly allocates revenue collections between the ratepayer classes and permits the utility a reasonable opportunity to recover its revenue requirement. *PNM Gas*, 2000-NMSC-012, ¶ 89. In addition, the Commission will approve a mechanism that will automatically or semiautomatically adjust rates based on variations between approved revenue and actual sales. *RAP, Revenue Regulation* 3-4, 8-9. As contemplated by the EUEA, the decoupling mechanism will be “a separately identified tariff rider that shall not be used to collect commission-approved energy efficiency and load management program costs and incentives.” Section 62-17-5(F)(2); see also *N.M. Att’y Gen. v. N.M. Pub. Regul. Comm’n*, 2015-NMSC-032, ¶ 32, 359 P.3d 133 (“Riders are surcharges applied to directly recover specific costs.”). The mechanism will essentially act as a true-up rider, see *RAP, Revenue Regulation* 11, raising or lowering rates to ensure that the utility collects the amount of revenue that the Commission has approved for the utility to collect under the mechanism. The decoupling mechanism thereby renders the utility fully or partially neutral towards energy efficiency and load management, as the utility will recover the approved amount of revenue despite potential declines in sales. *Id.* at 2.

{10} The parties to this appeal all agree that Section 62-17-5(F)(2) describes a revenue decoupling mechanism. The parties disagree, however, as to what type of revenue decoupling mechanism is described. Revenue decoupling mechanisms are generally categorized into one of three different types: full revenue decoupling mechanisms, limited revenue decoupling

mechanisms, and partial revenue decoupling mechanisms. *RAP, Revenue Regulation* 11-13. The different types generally reflect the amount or kinds of revenue that the utility may collect under the mechanism. Based on the posture of the parties in this appeal, we are concerned only with full or partial revenue decoupling mechanisms: Appellants argue that the plain language of Section 62-17-5(F)(2) mandates approval of a full revenue decoupling mechanism; the Commission defends its conclusion that Section 62-17-5(F)(2) permits approval of a partial revenue decoupling mechanism.

{11} With a full revenue decoupling mechanism, a utility will recover the total amount of approved revenue through the mechanism. See *RAP, Revenue Regulation* 11-12. Any deviations between actual sales and approved revenue will result in a full reconciliation. *Id.* 12. For example, if the utility experiences a \$2 million shortfall because actual sales do not match approved revenue, the full decoupling mechanism will adjust rates so that the utility recovers the \$2 million shortfall. As explained by the Regulatory Assistance Project,

Full decoupling can be likened to the setting of a budget. Through currently used rate-case methods, a utility’s revenue requirement—i.e., the total revenues it will need in a period (typically, a year) to provide safe, adequate, and reliable service—is determined. The utility then knows exactly how much money it will be allowed to collect, no more, no less. Its profitability will be determined by how well it operates within that budget. Actual sales levels will not, however, have any impact on the budget.

Id. 11. Full revenue decoupling insulates a utility’s revenue collections from losses or excesses in the quantity of sales, even if those losses or excesses are due to weather fluctuations, ordinary business risks, or factors other than energy efficiency and load management. *Id.* 35. “[N]o matter the amount of consumption, the utility and the consumers as a whole will receive and pay the allowed revenue.” *Id.*

{12} Partial revenue decoupling works similarly to full revenue decoupling, but the utility recovers only a portion or percentage of approved revenue through the decoupling mechanism. *Id.* 12. Thus, in partial revenue decoupling, “[a]ny variation in sales results in a partial true-up of utility revenues (e.g., 50%, or 90%, of the revenue shortfall is recovered).” *Id.* For

² Available at <https://www.raponline.org/wp-content/uploads/2023/09/rap-revenue-regulation-decoupling-guide-second-printing-2016-november.pdf> (last visited May 1, 2024).

example, if the utility experiences a \$2 million shortfall because actual sales do not match approved revenue, the mechanism will adjust rates so that the utility recovers a specified percentage of the shortfall, such as 50% or \$1 million. Thus, unlike full revenue decoupling, partial revenue decoupling insulates only a portion of the utility's collections from revenue losses due to various business risks. *Id.*

B. The Underlying Proceedings

{13} The declaratory proceedings on appeal have their genesis in a petition filed by PNM in 2020 which requested the Commission's approval of Shared Cost of Service Rider No. 52 (Rider No. 52) applicable to its residential and small commercial classes. Rider No. 52 contained a full revenue decoupling mechanism which ensured that the revenue approved in PNM's 2015 general rate case would be recovered by PNM without regard to the quantity of electricity sold. Several parties intervened in the proceedings and objected to the proposed rider on various grounds, including on the grounds that the rider relied on stale data and was not related to removing regulatory disincentives to PNM's expenditures in energy efficiency and load management. In view of the dispute about the legal basis for the rider, PNM moved to vacate a public hearing on proposed Rider No. 52 and to stay proceedings on its petition so that it could file a declaratory proceeding on the meaning of Section 62-17-5(F)(2) and other recent amendments to the EUEA. The Hearing Examiner entered an order vacating hearings and staying the proceedings on the petition.

{14} PNM and several other parties then requested a declaratory order from the Commission on the legal issues identified in the earlier proceedings. The Commission agreed that a declaratory order was appropriate and ordered briefing on the issues. In briefing and oral argument, PNM, CCAE, REIA, and one other party argued that the plain language of Section 62-17-5(F)(2) compelled the Commission to approve a full revenue decoupling mechanism. Several other parties argued that Section 62-17-5(F)(2) allowed the Commission to approve a limited revenue decoupling mechanism that would permit PNM to recover revenue lost due to energy efficiency and load management.

{15} The Hearing Examiner assigned to the declaratory proceedings issued a Recommended Decision suggesting that Section 62-17-5(F)(2) did not compel the Commission to approve a full revenue decoupling mechanism. The Hearing Examiner described revenue decoupling as "a ratemaking and regulatory tool intended to break the link between a utility's recovery of fixed costs and a consumer's energy

consumption by reducing the impact of energy consumption on a utility's recovery of its fixed costs." The Hearing Examiner explained that full revenue decoupling "severs the connection between a utility's sales and revenues no matter the reason for variation in the utility's sales[and] has been likened to setting a budget for the utility."

{16} Although the Hearing Examiner acknowledged that a literal reading of Section 62-17-5(F)(2) contemplated approval of a full decoupling mechanism, the Hearing Examiner rejected that reading because Section 62-17-5(F)(2) is "ostensibly ambiguous in two instances but genuinely ambiguous in only one fundamental way." As to the first asserted ambiguity, the Hearing Examiner concluded that the phrase "remove regulatory disincentives" as used in Section 62-17-5(F)(2) makes the statute "superficial[ly]" ambiguous. The Hearing Examiner suggested that PNM's interpretation of the phrase to mandate adoption of a full revenue decoupling mechanism would "shoehorn an all-encompassing definition of regulatory disincentives to fit their predestined conception of *mandatory* full revenue decoupling whenever a utility petitions for the removal of such disincentives." The Hearing Examiner recommended that the Commission construe "remove regulatory disincentives" as used in Section 62-17-5(F)(2) in harmony with identical language used in Section 62-17-5(F)(1) and Section 62-17-3 to require the Commission to "balance[] the public interest, consumers' interests, and investors' interests" in approving a decoupling mechanism.

{17} As to the second perceived ambiguity, the Hearing Examiner concluded that interpreting Section 62-17-5(F)(2) to command the Commission to grant a utility's petition for full revenue decoupling "flatly contradicts" this balancing requirement and the just and reasonable standard of the PUA. The Hearing Examiner reasoned that reading "a single, isolated subsection of the EUEA that includes generic decoupling language" to strip the Commission of authority to set just and reasonable rates is absurd and contradictory. The Hearing Examiner also rejected the contention that full revenue decoupling was consistent with the setting of a just and reasonable rate, suggesting instead that full revenue decoupling is "unharmonizable and irreconcilable" with the just and reasonable standard. The Hearing Examiner asserted that this absurdity and contradiction support rejection of the plain language of Section 62-17-5(F)(2).

{18} However, the Hearing Examiner acknowledged the necessity to "come to grips with the fact that Section 62-17-5(F)(2) unmistakably incorporates the concept of

decoupling." The Hearing Examiner thus attempted to "harmonize the decoupling language in [Section 62-17-5(F)(2)] with the entirety of the EUEA and applicable rate-setting principles enshrined in the PUA." To this end, the Hearing Examiner turned to "a third alternative" to full or limited revenue decoupling that is "evident in the literature propounded [by the parties]: *partial* decoupling." The Hearing Examiner explained, quoting RAP, *Revenue Regulation* 12, "Partial decoupling insulates only a portion of the utility's revenue collections from deviations of actual from expected sales." The Hearing Examiner suggested that a partial revenue decoupling mechanism is consistent with Section 62-17-5(F)(2) and also "affords the Commission the discretion to perform the balancing of interests tests called for in the EUEA and integral to the Commission's rate-setting authority under the PUA."

{19} The Commission subsequently entered its declaratory order accepting, approving, and adopting the Recommended Decision. The Commission explained that a full revenue decoupling mechanism will "have effects that far exceed the stated purpose of [Section 62-17-5(F)(2)], which is to 'remove regulatory disincentives.'" The Commission likewise viewed full revenue decoupling as "a radical departure from the regulatory paradigm established in the PUA, eliminating ordinary business risks to which public utilities are subject." The Commission also rejected an interpretation of Section 62-17-5(F)(2) "that would eliminate the Commission's authority to balance the interests of rate-payers, investors and the public," explaining that the Legislature would have more clearly expressed an intent to eliminate this authority "in amendments to the EUEA [and] the PUA." The Commission therefore concluded that a partial revenue decoupling mechanism "is consistent with the stated purpose of removing regulatory disincentives."

{20} PNM appeals from the Commission's declaratory order pursuant to Section 62-11-1 and Rule 12-601. CCAE and REIA also appeal, and we have consolidated the appeals.

II. STANDARD OF REVIEW

{21} On appeal of orders from the Commission, our review is limited to determining "whether the Commission's decision is arbitrary and capricious, not supported by substantial evidence, outside the scope of the agency's authority, or otherwise inconsistent with law." *PNM*, 2019-NMSC-012, ¶ 12 (brackets, internal quotation marks, and citation omitted). The party appealing an order from the Commission bears the burden "to show that the order appealed from is unreasonable, or unlawful." Section 62-11-4.

{22} Appellants raise pure questions of law in challenging the Commission's construction of Section 62-17-5(F)(2). We review questions of law de novo. *Pub. Serv. Co. of N.M. v. N.M. Pub. Util. Comm'n*, 1999-NMSC-040, ¶ 14, 128 N.M. 309, 992 P.2d 860. We have explained that, when reviewing an order from the Commission construing its governing statute, we "will begin by according some deference to the agency's interpretation." *Morningstar Water Users Ass'n v. N.M. Pub. Util. Comm'n*, 1995-NMSC-062, ¶ 11, 120 N.M. 579, 904 P.2d 28. However, because "[s]tatutory construction is not a matter within the purview of the [Commission's] expertise," we will grant little deference to the Commission's interpretation of an unambiguous statute. *Albuquerque Bernalillo Cnty. Water Util. Auth. v. N.M. Pub. Regul. Comm'n*, 2010-NMSC-013, ¶ 50, 148 N.M. 21, 229 P.3d 494 (internal quotation marks and citation omitted). We are more likely to accord heightened deference to the Commission's interpretation "if the relevant statute is unclear or ambiguous, the legal questions presented implicate special agency expertise or the determination of fundamental policies within the scope of the agency's statutory function, and it appears that the agency has been delegated policy-making authority in the area." *Doña Ana Mut. Domestic Water Consumers Ass'n v. N.M. Pub. Regul. Comm'n*, 2006-NMSC-032, ¶ 10, 140 N.M. 6, 139 P.3d 166 (internal quotation marks and citations omitted); *accord New Energy Econ., Inc. v. N.M. Pub. Regul. Comm'n*, 2018-NMSC-024, ¶ 25, 416 P.3d 277. But our "deference does not give [the Commission] the authority to pour any meaning it desires into the statute." *State ex rel. Sandel v. N.M. Pub. Util. Comm'n*, 1999-NMSC-019, ¶ 17, 127 N.M. 272, 980 P.2d 55 (internal quotation marks and citation omitted). We will reverse the Commission "if the agency's interpretation of a law is unreasonable or unlawful." *Morningstar*, 1995-NMSC-062, ¶ 11.

III. DISCUSSION

{23} We must construe Section 62-17-5(F)(2) to determine what type of revenue decoupling it prescribes. The parties' arguments also reveal a deeper disagreement about the extent of the Commission's power to review and potentially modify a decoupling mechanism sought under Section 62-17-5(F)(2). We therefore additionally address the scope of the Commission's authority under Section 62-17-5(F)(2) as necessary to our disposition of the issues.

{24} When considering a question of statutory construction, we begin with the maxim, "The text of a statute or rule is the primary, essential source of its meaning." NMSA 1978, § 12-2A-19 (1997). Under "the plain meaning rule," a statute is "to

be given effect as written without room for construction unless the language is doubtful, ambiguous, or an adherence to the literal use of the words would lead to injustice, absurdity or contradiction, in which case the statute is to be construed according to its obvious spirit or reason." *State v. Davis*, 2003-NMSC-022, ¶ 6, 134 N.M. 172, 74 P.3d 1064; *State ex rel. Helman v. Gallegos*, 1994-NMSC-023, ¶¶ 23-24, 117 N.M. 346, 871 P.2d 1352. If a term or phrase is not defined in a statute, we interpret the term according to its ordinary dictionary meaning absent a legislative intent to impose a contrary meaning. *N.M. Att'y Gen. v. N.M. Pub. Regul. Comm'n*, 2013-NMSC-042, ¶ 26, 309 P.3d 89. We are also cognizant that words do not have intrinsic meanings, and "[a] word is merely a symbol which can be used to refer to different things." *Helman*, 1994-NMSC-023, ¶ 24 (internal quotation marks and citation omitted). We therefore construe words and phrases as used in the context of the whole statute and ensure that no part of the statutory language is rendered superfluous. *State v. Vest*, 2021-NMSC-020, ¶ 18, 488 P.3d 626.

{25} As relevant to our analysis, Section 62-17-5(F)(1)-(2) provides that the Commission shall:

(1) upon petition or its own motion, identify and remove regulatory disincentives or barriers for public utility expenditures on energy efficiency and load management measures in a manner that balances the public interest, consumers' interests and investors' interests;

(2) upon petition by a public utility, remove regulatory disincentives through the adoption of a rate adjustment mechanism that ensures that the revenue per customer approved by the commission in a general rate case proceeding is recovered by the public utility without regard to the quantity of electricity or natural gas actually sold by the public utility subsequent to the date the rate took effect. Regulatory disincentives removed through a rate adjustment mechanism shall be separately calculated for the rate class or classes to which the mechanism applies and collected or refunded by the utility through a separately identified tariff rider that shall not be used to collect commission-approved energy efficiency and load management program costs and incentives.

Appellants argue that Section 62-17-5(F)(2) clearly describes a full revenue decoupling mechanism, as only full revenue decoupling will permit a utility to recover the approved amount of revenue "without regard to the quantity of electricity or natural gas actually

sold by the public utility." In response, the Commission asserts that "partial decoupling is consistent with the 'without regard' language in [Section 62-17-5(F)(2)] because partial decoupling, like full decoupling, ensures that a utility recovers the cost of providing electricity without connection to the quantity of energy sold, just not to the extent allowed by full decoupling."

{26} We conclude that Section 62-17-5(F)(2) clearly describes a full revenue decoupling mechanism. In full revenue decoupling, a utility recovers the total amount of approved revenue under the decoupling mechanism, with no attention paid to the quantity of actual sales. *RAP, Revenue Decoupling* 11-12. In partial revenue decoupling, a portion of the utility's approved revenue will still be recovered with reference to the quantity of sales. *Id.* 12. For example, if a utility experiences a revenue shortfall, only a percentage of that shortfall will be recovered by the utility under a partial revenue decoupling mechanism. Thus, only a full revenue decoupling mechanism will ensure that the utility recovers approved revenue "without regard to the quantity of electricity or natural gas actually sold." Section 62-17-5(F)(2); *see also* *regard*, *Black's Law Dictionary* (11th ed. 2019) ("regard n. (14c) 1. Attention, care or consideration <without regard for the consequences>"). More to the point, we find nothing in the statutory language which would support the partial or percentage approach to decoupling that would be implemented by the Commission's interpretation of Section 62-17-5(F)(2). The statute does not say that the Commission shall approve a rate adjustment mechanism which ensures that the utility recovers only a part or percentage of approved revenue without regard to the quantity of sales. We will not read language into a statute that is not there, especially if the statutory language makes sense as written. *Sandel*, 1999-NMSC-019, ¶ 17.

{27} The Commission nevertheless reasons that Section 62-17-5(F)(2) is ambiguous because of the phrase "remove regulatory disincentives." We agree that this phrase is not clearly defined, but we do not agree that the phrase injects ambiguity into the statute with respect to the type of decoupling mechanism required. Although "remove regulatory disincentives" is not defined in the EUEA, the phrase is used in the preceding Section 62-17-5(F)(1) in a manner similar to its use in Section 62-17-5(F)(2). It is considered "a normal rule of statutory construction to interpret identical words used in different parts of the same act as having the same meaning." *State v. Jade G.*, 2007-NMSC-010, ¶ 28, 141 N.M. 284, 154 P.3d 659 (brackets, internal quotation marks, and citation omitted). We therefore presume that the phrase is used in parallel in both Subsections (F)(1) and (F)(2) of Section 62-17-5. We also note that Section 62-17-3 explains that the EUEA's

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	<p>for Intervenor Albuquerque Bernalillo County Water Utility Authority</p>	<p>Gideon Elliot, Assistant Attorney General Keven Gedko, Assistant Attorney General Santa Fe, NM</p>
		<p>for Intervenor New Mexico Office of the Attorney General</p>

OPINION

VIGIL, Justice.

{1} Traditional utility revenues are based on how much energy a utility’s customers use, but energy efficiency and load management programs result in a decrease of energy consumption and, therefore, reduce the revenues collected by the utility.¹ In order to encourage utilities to invest in energy efficiency and load management programs, the Efficient Use of Energy Act (EUEA), NMSA 1978, §§ 62-17-1 to -11 (2005, as amended through 2020), directs the Public Regulation Commission (the Commission), upon request by a utility, to provide for a rate adjustment mechanism to account for any such decrease in energy consumption. Section 62-17-5(F)(2). As we explain in detail below, this mechanism is commonly referred to as “revenue decoupling,” which can be either partial or full. The dispute here is whether the EUEA provides for a partial or full decoupling mechanism.

{2} In a direct appeal from declaratory proceedings before the Commission, Appellants the Public Service Company of

New Mexico (PNM), Coalition for Clean Affordable Energy (CCAEE), and Renewable Energy Industries Association of New Mexico (REIA) argue that Section 62-17-5(F)(2) plainly describes a full revenue decoupling mechanism. The Commission in turn asserts that Section 62-17-5(F)(2) is ambiguous and, when construed with other relevant statutory provisions, contemplates approval of a partial revenue decoupling mechanism. Several intervening parties in this appeal support the Commission’s interpretation. {3} For the reasons explained herein, we determine that Section 62-17-5(F)(2) clearly describes a full revenue decoupling mechanism. Because the Commission’s interpretation of Section 62-17-5(F)(2) is unlawful and unreasonable, we annul and vacate the Commission’s order in its entirety. NMSA 1978, § 62-11-5 (1982) (providing that this Court has “no power to modify” an order from the Commission “but shall either affirm or annul and vacate the same”).

{4} We decline to reach additional issues raised about the Commission’s construction of Section 62-17-5(F)(4) or NMSA 1978, § 62-13-13.2 (2010) because the

Commission’s reasoning on these issues is likely to change in view of our opinion. *See N.M. Indus. Energy Consumers v. N.M. Pub. Serv. Comm’n*, 1991-NMSC-018, ¶ 26, 111 N.M. 622, 808 P.2d 592 (listing factors for determining whether agency action is ripe for adjudication, including “whether further agency decisions may moot some of the contentions”). We also do not entertain a facial constitutional challenge to Section 62-17-5(F)(4) discussed by Intervenor New Energy Economy in its answer brief, as the issue was not raised in a Notice of Appeal and therefore is not properly before the Court. Rule 12-601(B) NMRA; NMSA 1978, § 62-11-1 (1993).

I. BACKGROUND

{5} As we are asked to resolve a dispute about the type of revenue decoupling required under Section 62-17-5(F)(2), we begin by situating the concept of revenue decoupling within the ratemaking process. We then summarize the underlying proceedings as relevant to this appeal.

A. Revenue Decoupling as Situated Within the Ratemaking Process

{6} Briefly stated, revenue decoupling is a type of rate regulation that reforms the way that a public utility collects revenue. When regulating a utility’s rates under the

¹ Under the EUEA, “energy efficiency” means measures, including energy conservation measures, or programs that target consumer behavior, equipment or devices to result in a decrease in consumption of electricity and natural gas without reducing the amount or quality of energy services.” NMSA 1978, § 62-17-4(F) (2019). “[L]oad management” means measures or programs that target equipment or devices to result in decreased peak electricity demand or shift demand from peak to off-peak periods.” Section 62-17-4(H).

purpose is, in part, to remove “regulatory disincentives to public utility development of cost-effective energy efficiency and load management . . . in a manner that balances the public interest, consumers’ interests and investors’ interests.” We construe statutes so as to “effectuate the legislative intent—the purpose or object—underlying the statute.” *Helman*, 1994-NMSC-023, ¶ 23. The phrase “remove regulatory disincentives” in Section 62-17-5(F)(2) must be interpreted in light of the purpose of the EUEA.

{28} We therefore agree with the Commission that “remove regulatory disincentives” in Section 62-17-5(F)(2) means to “remove regulatory disincentives or barriers for public utility expenditures on energy efficiency and load management measures in a manner that balances the public interest, consumers’ interests and investors’ interests,” Section 62-17-5(F)(1). But this construction does not change the meaning of Section 62-17-5(F)(2) with respect to the type of decoupling mechanism required. The statute still states that regulatory disincentives to energy efficiency and load management shall be removed “through the adoption of a rate adjustment mechanism that ensures that the revenue per customer approved by the commission . . . is recovered by the public utility without regard to the quantity of electricity or natural gas actually sold.” Section 62-17-5(F)(2) (emphasis added). This requisite element can only be met by a full revenue decoupling mechanism. Moreover, we note that full revenue decoupling essentially seeks to eliminate a utility’s incentive to sell more energy as a means to increase revenue. *RAP, Revenue Regulation 2*. Thus, full revenue decoupling is consistent with the legislative intent to “remove regulatory disincentives,” even though it may additionally insulate a utility’s revenue collections from other business risks. *Id.* 11, 35. The language of the statute is therefore clear with respect to the type of mechanism therein described, namely, a full revenue decoupling mechanism.

{29} The Commission nevertheless asks us to reject the plain language of Section 62-17-5(F)(2) as absurd and contradictory. PNM has suggested that the Commission will have no power to modify a full revenue decoupling mechanism proposed under Section 62-17-5(F)(2) but that the Commission is to assume that the Legislature has already balanced the interests of the public, consumers, and investors by mandating full revenue decoupling. The Commission asserts that PNM’s interpretation would essentially strip the Commission of its power to balance these interests in setting just and reasonable rates. The Commission insists, however, that it must be given this power, as such balancing is required by both the EUEA and the PUA. The Commission suggests that partial revenue decoupling is a permissible harmonizing solution to a supposed

quandary, allowing the Commission to both approve a decoupling mechanism and conduct this necessary balancing of interests. On the other hand, appellants CCAE and REIA assert that full revenue decoupling is compatible with this balancing of interests because “the Commission can (and should) still determine whether” any proposed full revenue decoupling mechanism “will result in a just and reasonable rate.”

{30} We agree with CCAE and REIA. The plain language of Section 62-17-5(F)(2) can be applied harmoniously with the balancing requirements and the just and reasonable standard of the PUA and EUEA. Consistent with our analysis of the statutory language, we specifically reject any interpretation of Section 62-17-5(F)(2) that strips the Commission of its power to ensure that a proposed full revenue decoupling mechanism balances the interests of the public, the consumers, and the utility’s investors and results in just and reasonable rates. If we accept PNM’s interpretation limiting the Commission’s regulatory powers, then we have to either read Section 62-17-5(F)(2) in isolation or assume that, in enacting the statute, the Legislature intended to repeal the balancing standards at the heart of the EUEA and PUA by mere implication. But we do not read statutes in isolation. *Pub. Serv. Co. of N.M.*, 1999-NMSC-040, ¶ 23 (“In ascertaining legislative intent, the provisions of a statute must be read together with other statutes in pari materia under the presumption that the legislature acted with full knowledge of relevant statutory and common law.” (internal quotation marks and citation omitted)). Further, “repeals by implication are not favored,” *Citizens for Fair Rates & the Env’t v. N.M. Pub. Regul. Comm’n*, 2022-NMSC-010, ¶ 65, 503 P.3d 1138 (brackets, internal quotation marks, and citation omitted), and the “legislative intent to repeal a prior statute must be clear and manifest,” *State v. Sena*, 2023-NMSC-007, ¶ 25, 528 P.3d 631 (internal quotation marks and citation omitted). The Legislature has not clearly expressed an intent to repeal the balancing language of the EUEA or the just and reasonable standard of the PUA, and thus Section 62-17-5(F)(2) does not work the repeal by implication that PNM suggests.

{31} Indeed, as the Commission recognizes, interpreting Section 62-17-5(F)(2) to compel the Commission to approve a full revenue decoupling mechanism simply on petition by an interested utility—with no consideration of the interests affected by the mechanism or its effect on rates—would drastically transform the nature of the Commission’s power over public utilities under the EUEA and the PUA. But there is no indication that the Legislature intended such a drastic transformation by mandating approval of a full revenue decoupling mechanism in Section 62-17-5(F)(2). Rather,

the history of the statute confirms that the Legislature clearly intended for the Commission to have the power to balance the interests of the public, consumers, and investors before approving any full revenue decoupling mechanism. *See Vest*, 2021-NMSC-020, ¶ 34 (explaining that in construing the intent of a statute, we may “rely on the language of the statute as passed and the history of the statute insofar as any amendments may have been made”).

{32} The EUEA was first enacted in 2005. 2005 N.M. Laws, ch. 341, §§ 1-11. At the time of its enactment, the EUEA’s stated purpose was to encourage utilities to “include cost-effective energy efficiency and load management investments in their energy resource portfolios” and to eliminate “regulatory disincentives” to utility investments in energy efficiency and load management. 2005 N.M. Laws, ch. 341, § 3; § 62-17-3 (2005). In pursuit of this purpose, the 2005 version of Section 62-17-5(F) directed the Commission to “identify any disincentives or barriers that may exist for public utility expenditures on energy efficiency and load management and, if found, ensure that they are eliminated in order that public utilities are financially neutral in their preference for acquiring demand or supply-side utility resources.” 2005 N.M. Laws, ch. 341, § 5(F).

{33} In 2008, the Legislature amended the purpose of the EUEA to provide that regulatory disincentives to the development of energy efficiency and load management were to “be removed in a manner that balances the public interest, consumers’ interests and investors’ interests” and that the Commission must give utilities an opportunity to earn a profit on energy efficiency and load management. 2008 N.M. Laws, ch. 24, § 4; § 62-17-3 (2008). The Legislature also amended Section 62-17-5(F) to emphasize that the Commission was to remove regulatory disincentives to utility expenditures on energy efficiency and load management in a manner that balances stakeholders’ interests:

The commission shall, upon petition or its own motion, identify regulatory disincentives or barriers for public utility expenditures on energy efficiency and load management measures and ensure that they are removed in a manner that balances the public interest, consumers’ interests and investors’ interests. The commission shall also provide public utilities an opportunity to earn a profit on cost-effective energy efficiency and load management resource development that, with satisfactory program performance, is financially more attractive to the utility than supply-side utility resources.

2008 N.M. Laws, ch. 24, § 6(F); § 62-17-5(F)

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STATE BAR OF NEW MEXICO

Directory of Sections



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The Animal Law Section provides a forum for members to consider and discuss legal issues that concern the treatment of all animals, the protections afforded to animals and the rights and responsibilities of persons who have an interest in animals as well as the legal issues pertaining to our relationship to animals.

Website: <https://www.sbnm.org/Leadership/Sections/Animal-Law>



Appellate Practice Section

The Appellate Practice Section provides section members, the judiciary, the State Bar of New Mexico and the public with information and dialogue concerning issues affecting appellate law. The section also facilitates a discourse for practicing lawyers where they may share ideas, conduct legal research and network to provide high-quality legal services, helping appellate judges in rendering the highest-quality opinions.

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The Business Law Section is comprised of a varied group of practitioners who are involved in all aspects of business law, including those with transactional and litigation backgrounds. In terms of range of practice areas, it has one of the most diverse membership groups of all the New Mexico sections—a feature that makes participation in the section a particularly good marketing opportunity for members.

Website: <https://www.sbnm.org/Leadership/Sections/Business-Law>

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Cannabis Law Section

The Cannabis Law Section seeks to support and promote the continued growth and development of cannabis law in the State of New Mexico. We do this through providing a forum for members of the profession to consider and discuss the legal issues surrounding the ever-changing legal landscape regarding the regulation of cannabis in New Mexico.

Website: <https://www.sbnm.org/Leadership/Sections/Cannabis-Law>

“You should join the section to ensure you are kept updated on the evolving and volatile issues surrounding cannabis law in New Mexico. Plus, we don’t take ourselves too seriously, even though the issues and topics are serious.”

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Children's Law Section

The Children's Law Section promotes the legal interests of children and youth by improving the legal system and the administration as it pertains to youth and children, identifies opportunities for pro bono service for legal professionals as it relates to children and encourages law students to explore opportunities for practice in the area of children's law.

Website: <https://www.sbnm.org/Leadership/Sections/Childrens-Law>



Elder Law Section

The Elder Law Section facilitates and improves the law and practice of law in areas pertaining to the elderly, including preserving and enhancing the rights of physically and mentally challenged individuals with respect to care, housing and asset management and to lead, coordinate and serve as an agent and clearinghouse for the efforts of agencies in service to the elderly.

Website: <https://www.sbnm.org/Leadership/Sections/Elder-Law>



Employment & Labor Law Section

The Employment and Labor Law Section sponsors continuing legal education programs for the State Bar of New Mexico in its relevant fields, advances the quality of legal services pertaining to the employment law, provides general information to the public and coordinates and co-sponsors activities with New Mexico business and labor communities.

Website: <https://www.sbnm.org/Leadership/Sections/Employment-Labor-Law>



Family Law Section

The Family Law Section specializes in family/domestic relations law, encompassing everything from divorce to child support. The Family Law Section serves as a foundation of support for the legal community by being a central location where attorneys may find useful information and services, and the section also serves the public by providing access to basic information and attorney information.

Website: <https://www.sbnm.org/Leadership/Sections/Family-Law>



Health Law Section

The Health Law Section provides a common organization for New Mexico attorneys practicing or interested in the field of law, including representing hospital association, nursing homes, physicians or other healthcare providers. The Health Law Section facilitates opportunities to help attorneys interested in the field of health law gain a more thorough understanding through a formal and informal exchange of information among Section members.

Website: <https://www.sbnm.org/Leadership/Sections/Health-Law>



Immigration Law Section

The section is comprised of members who work in Immigration Law. The 2024 Section Board Directors include Andrés Santiago, Deshawnda Chaparro, Dawn Walters, Jessica Martinez, Jessica Aguirre, Gabriela Ibañez Guzman and Victoria Lucero. The Immigration Law Section provides CLEs, Scholarships and an Annual Meeting for members of the State Bar of New Mexico who serve the immigrant community.

Website: <https://www.sbnm.org/Leadership/Sections/Immigration-Law>

"This section provides great networking opportunities, mentorship, and relevant CLEs for attorneys working in immigration law."

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The Indian Law Section seeks to provide support, information and education for New Mexico attorneys practicing in areas that are impacted by specialized legal rules and doctrines applicable to Indian tribes, individuals and property.

Website: <https://www.sbnm.org/Leadership/Sections/Indian-Law>



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Website: <https://www.sbnm.org/Leadership/Sections/Natural-Resources-Energy-and-Environmental-Law-Section>



Prosecutors Section

The Prosecutors Law Section provides section members who are prosecutors with sponsored CLEs and background expertise to government officials in New Mexico on matters related to prosecutorial subjects. The Prosecutors Law Section also advances the professional interests and competence of prosecutors within New Mexico's legal community.

Website: <https://www.sbnm.org/Leadership/Sections/Prosecutors-Section>

"Joining the section is a valuable endeavor that facilitates member support to current, past and future prosecutors throughout our legal community. This is done by promoting and facilitating law school scholarships, member events, outreach and continuing legal education."

— Joey Montana, 2024 Chair, Prosecutors Section Board of Directors



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— Ken Swain, 2024 Chair, Public Law Section Board of Directors



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Website: <https://www.sbnm.org/Leadership/Sections/Real-Property-Trust-Estate>



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The Solo and Small Firm Section of the State Bar of New Mexico provides a forum for the discussion of problems of common interest to solo and small firm practitioners, advances the quality of legal services provided by solo and small firm practitioners and facilitates a discourse for the creation, discussion, advancement and implementation of ideas to accomplish the foregoing purposes. The section also sponsors CLE programs for practitioners in the subject area as well as professional support.

Website: <https://www.sbnm.org/Leadership/Sections/Solo-and-Small-Firm-Section>



Tax Law Section

The Tax Law Section of the State Bar of New Mexico promotes the expansion of tax knowledge among section members, acts as liaison between the State Bar of New Mexico and public officials involved in the taxing process and enhances tax awareness of the State Bar of New Mexico and the general public.

Website: <https://www.sbnm.org/Leadership/Sections/Tax-Law-Section>



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with the State Bar of New Mexico's **Member Services Department**

1. What role does Member Services have at the State Bar of New Mexico?

Member Services supports the activities, programs and events of the State Bar of New Mexico committees, practice sections and divisions.

2. What functions does Member Services have pertaining to State Bar Sections, Committees and Divisions?

Member Services supports the practice sections with activities, programs and events. Member Services provides Section Chairs and Budget Officers with monthly financials and can issue checks for deposits for facility or event rentals. At the request of the Chair, Member Services will create emails to be shared with section members.

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To volunteer on the Board of your section, you may email the Section Board on the State Bar of New Mexico website, www.sbnm.org, and a member of the Board will assist you through the process.

7. How can I get email blasts from my Section?

Once you become a member of the section, you are automatically signed up to receive section emails.

STATE BAR OF NEW MEXICO

Calendar of Section Events*

September

6

**Solo & Small Firm
Institute**



20

**Appellate Law
Institute**



25

**Elder Law
Institute**



27

**Family Law
Institute**



October

4

Health Law CLE
(9 a.m.–4 p.m.)



10

Public Law Panel
*at UNM School
of Law*



November

5

**Animal Law
Symposium**



7

Indian Law CLE
(Time TBA)



13

**Cannabis Law
CLE**



21

**Immigration Law
CLE**



December

6

**Family Law
Annual Meeting**



10

**Solo & Small Firm
Annual Meeting**



* For the most current information on Section events, see: cle.sbnm.org or contact the Section board.



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Section and Division Meeting Occurrence Schedule

Sections	Occurrence (Month, Day of Week)	Time, Venue of Occurrence
Animal Law	Monthly / Second Wednesday	Noon (MT) / Virtual
Appellate Law	Monthly / First Tuesday	Noon (MT) / Virtual
Bankruptcy Law	Monthly / Second Tuesday	Noon (MT) / Bankruptcy Court & Virtual
Business Law	Monthly / Second Tuesday	11 a.m. (MT) / Virtual
Cannabis Law	Monthly / Second Friday	9 a.m. (MT) / Virtual
Children's Law	Monthly / Third Monday	Noon (MT) / Virtual
Elder Law	Monthly / First Friday	Noon (MT) / Virtual
Employment and Labor Law	Monthly / First Wednesday	12:30 p.m. (MT) / Virtual
Family Law	Monthly / Third Friday	9 a.m. (MT) / Virtual
Health Law	Monthly / First Tuesday	9 a.m. (MT) / Virtual
Immigration Law	Monthly / Last Friday	Noon (MT) / Virtual
Indian Law	Every Other Month / Third Friday	Noon (MT) / Virtual
Intellectual Property Law	Monthly / Fourth Tuesday	Noon (MT) / Virtual
NREEL Law	Monthly / Fourth Tuesday	Noon (MT) / Virtual
Prosecutors	Every Other Month / Second Friday	Noon (MT) / Virtual
Public Law	Monthly / Third Wednesday	Noon (MT) / Virtual
Real Property, Trust and Estate	Every Other Month / Second Tuesday	Noon (MT) / Virtual
Trust and Estate Division	Every Other Month / Second Tuesday	Noon (MT) / Virtual
Real Property Division	Every Other Month / First Tuesday	Noon (MT) / Virtual
Solo and Small Firm Law	Monthly / Third Tuesday	9 a.m. (MT) / Virtual
Tax Law	Monday / Second Tuesday	9 a.m. (MT) / Virtual

Divisions	Occurrence (Month, Day of Week)	Time, Venue of Occurrence
Senior Lawyers Division	Every Other Month / Third Tuesday	3:30 p.m. (MT) / Virtual
Young Lawyers Division	Varies / Saturdays	10 a.m. (MT) / Virtual

(2008) (emphasis added). In *Att’y Gen.*, 2011-NMSC-034, ¶¶ 13, 15, we explained that the EUEA’s balancing requirements mirrored the PUA’s requirement: “Every rate made, demanded or received by any public utility shall be just and reasonable.” Section 62-8-1. We likewise noted that any rate approved under the EUEA fell within the PUA’s broad definition of a “rate.” See *Att’y Gen.*, 2011-NMSC-034, ¶¶ 11, 15; see also § 62-3-3(H) (defining “rate” as “every rate, tariff, charge or other compensation for utility service rendered or to be rendered by a utility and every rule, regulation, practice, act, requirement or privilege in any way relating to such rate, tariff, charge or other compensation and any schedule or tariff or part of a schedule or tariff thereof”). We therefore “read the EUEA in harmony with the PUA to conclude that when the [Commission] sets a rate, the Legislature intended the balancing requirement of the EUEA to be the same as the balancing done under the PUA to determine just and reasonable rates.” *Att’y Gen.*, 2011-NMSC-034, ¶ 15.

{34} The Legislature substantially revised Section 62-17-5(F) to its present form in 2019 and 2020. 2019 N.M. Laws, ch. 202, § 2; 2020 N.M. Laws, ch. 17, § 1. Notably, in amending Section 62-17-5(F), the Legislature kept the balancing requirements of the 2008 version of the statute in Section 62-17-5(F)(1). Also importantly, in making these amendments, the Legislature did not amend the stated policy of the EUEA. Thus, Section 62-17-3 still provides that the purpose of the EUEA is to remove regulatory disincentives to utility expenditures in energy efficiency and load management “in a manner that balances the public interest, consumers’ interests and investors’ interests.”

{35} We generally presume that the Legislature is well informed about existing law when it enacts or amends a statute. *State v. Wilson*, 2021-NMSC-022, ¶ 64, 489 P.3d 925. In substantially amending Section 62-17-5(F) to its present form, the Legislature did not amend the balancing requirements of the EUEA or the just and reasonable standard of the PUA. Our holding in *Att’y Gen.*, 2011-NMSC-034, ¶ 15, thus extends to any rate sought under the EUEA, including any rate adjustment mechanism sought under Section 62-17-5(F)(2). The Commission must balance the interests of the public, consumers, and investors before approving a full revenue decoupling mechanism under Section 62-17-5(F)(2) by ensuring that the mechanism will result in just and reasonable rates.

{36} Unlike the Commission, we do not view full revenue decoupling as inconsistent or incompatible with this balancing of interests and the setting of just and reasonable rates. We have repeatedly emphasized that whether a rate is just and reasonable depends on whether the rate falls within the zone of

reasonableness between utility confiscation and ratepayer extortion. See *Att’y Gen.*, 2011-NMSC-034, ¶¶ 13, 18-19. We have found nothing in the record or regulatory literature cited by the parties which suggests that the Commission or utilities will be unable to meet this standard with a full revenue decoupling mechanism in place. For example, even with the adoption of a full revenue decoupling mechanism, the Commission must still calculate and approve a utility’s revenue requirement in a way that balances the interests of ratepayers and the utility’s investors and ensures just and reasonable rates. See *PNM Gas*, 2000-NMSC-012, ¶¶ 6-8; RAP, *Revenue Regulation 9* (“With decoupling there is no change in the rate case methodology Initial prices are still set by the regulator, based on a computed revenue requirement.”). Similarly, the Commission must also consider relevant policy factors and interests in allocating the utility’s revenue collections among the ratepayer classes and in designing rates. See *Mountain States*, 1977-NMSC-032, ¶¶ 27, 73 (noting that “there is a great measure of public policy that enters into the apportionment of rates” and listing factors relevant to rate design); RAP, *Revenue Regulation 24-30* (discussing policy considerations in relation to rate design with a decoupling mechanism). Full revenue decoupling will ensure that the utility collects the amount of revenue that the Commission has approved for the utility to collect, no more and no less. RAP, *Revenue Regulation 11*. We are certain that the Commission and utilities will be able to apply Section 62-17-5(F)(2) in a way that balances the interests of the public, consumers, and investors and is consistent with the duty to set just and reasonable rates.

{37} The Commission rejected the plain language of Section 62-17-5(F)(2) because it believes that full revenue decoupling will radically shift utility regulatory policy by eliminating the usual business risks attendant to a public utility’s operations. A full revenue decoupling mechanism will insulate a utility from revenue losses caused by a variety of factors, including losses due to energy efficiency and load management, weather fluctuations, global pandemics, or other economic shifts. RAP, *Revenue Regulation 11*, 35. We express no opinion about these potential policy implications. However, the Commission’s policy concerns do not provide a valid basis on which to reject the clear directives of our Legislature. See *Sandel*, 1999-NMSC-019, ¶ 28; see also *State ex rel. Egolf v. N.M. Pub. Regul. Comm’n*, 2020-NMSC-018, ¶ 33, 476 P.3d 896. “[W]hile the New Mexico Constitution delegates to the Commission the exclusive responsibility for carrying out public utility regulatory policy, the parameters of that policy are, in the first instance, for the Legislature to decide.” *Citizens for Fair Rates*, 2022-NMSC-010, ¶ 45.

{38} We therefore hold that the Commission may review the reasonableness of any full revenue decoupling mechanism proposed under Section 62-17-5(F)(2). A utility petitioning for the mechanism will bear the burden to show that the proposed mechanism will result in just and reasonable rates. Section 62-8-7(A). If the Commission finds the proposed mechanism to be unjust or unreasonable, then the Commission may modify the mechanism or deny the utility’s Section 62-17-5(F)(2) petition as provided for in Section 62-8-7(D). See *Albuquerque v. N.M. Pub. Serv. Comm’n*, 1993-NMSC-021, ¶ 23, 115 N.M. 521, 854 P.2d 348 (explaining that Section 62-8-7(D) “sets forth the procedure to be followed when the Commission determines that a proposed rate is unjust or unreasonable”). We similarly emphasize that the utility must prove that the mechanism will “remove regulatory disincentives or barriers for public utility expenditures on energy efficiency and load management measures.” Section 62-17-5(F)(1), (2); § 62-17-3. We understand this proof to require the utility to demonstrate that rate regulation has created disincentives or barriers to the utility’s expenditures in energy efficiency and load management that will be alleviated through the adoption of a full revenue decoupling mechanism. The utility may not prove its need for the mechanism based on revenue losses due to other factors or business risks. Further, Section 62-17-5(F)(2) contemplates that the Commission will approve a revenue per customer to be collected by the mechanism “in a general rate case proceeding.” We therefore clarify that a petition for a full revenue decoupling mechanism under Section 62-17-5(F)(2) should be tied to a general rate case.

IV. CONCLUSION

{39} In Section 62-17-5(F)(2), the Legislature has clearly expressed an intent to permit a utility to petition for a full revenue decoupling mechanism that will remove regulatory disincentives or barriers to utility expenditures in energy efficiency and load management in a manner that balances the public interest, consumers’ interests, and investors’ interests. We can see no injustice, absurdity, or contradiction in that clearly expressed legislative intention. We therefore vacate and annul the Commission’s declaratory order due to its unlawful and unreasonable construction of Section 62-17-5(F)(2).

{40} IT IS SO ORDERED.

MICHAEL E. VIGIL, Justice

WE CONCUR:

DAVID K. THOMSON, Chief Justice

C. SHANNON BACON, Justice

JULIE J. VARGAS, Justice

BRIANA H. ZAMORA, Justice

FORMAL OPINION

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Filing Date: 7/3/2024

No. A-1-CA-40594

STATE OF NEW MEXICO,

Plaintiff-Appellee,

v.

EMMANUEL VALDEZ,

Defendant-Appellant.

**APPEAL FROM THE DISTRICT COURT
OF COLFAX COUNTY**

Jeffery A. Shannon, District Court Judge

Raúl Torrez, Attorney General
Ellen Venegas, Assistant Solicitor General
Santa Fe, NM

for Appellee

Bennett J. Baur, Chief Public Defender
Mallory E. Harwood, Assistant Appellate Defender
Santa Fe, NM

for Appellant

► Introduction of Opinion

We are presented with the question of whether using counterfeit money to buy goods constitutes forgery, pursuant to NMSA 1978, Section 30-16-10(A)(2) (2006). Defendant Emmanuel Valdez appeals pursuant to his conditional plea agreement and argues that contrary to the district court's ruling, money is not a writing, thus using two counterfeit ten dollar bills cannot be the basis for his forgery conviction. We affirm.

Michael D. Bustamante, Judge, retired,
Sitting by designation

WE CONCUR:

J. Miles Hanisee, Judge

Jacqueline R. Medina, Judge

To read the entire opinion, please visit
the following link: <https://bit.ly/A-1-CA-40594>

FORMAL OPINION

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Filing Date: 7/11/2024

No. A-1-CA-40098

TEAL PECK, as next friend for A.Z., a minor,
Plaintiff-Appellant,

v.

G-FORCE GYMNASTICS ACADEMY, LLC
and LISA GRAVELLE,
Defendants-Appellees.

**APPEAL FROM THE DISTRICT COURT
OF SANDOVAL COUNTY**

Christopher G. Perez, District Court Judge

Law Offices of Marshall J. Ray, LLC
Marshall J. Ray
Albuquerque, NM

for Appellant

Resnick & Louis, P.C.
Harriett J. Hickman
Albuquerque, NM

for Appellees

► Introduction of Opinion

We are asked to decide whether a waiver of liability for future negligence, entered into by Plaintiff Teal Peck (Parent), on behalf of her minor child, A.Z. (Child), is enforceable by Defendants G-Force Gymnastics Academy, LLC and its owner, Lisa Gravelle (collectively, G-Force). G-Force is a business offering gymnastics facilities, training, and competition to children in Albuquerque, New Mexico. Child, a student at G-Force, suffered a serious ankle injury during vault practice. Parent filed a complaint in district court on Child's behalf seeking damages for the injury to Child allegedly caused by G-Force's negligent placement of gymnastics equipment. G-Force moved for summary judgment claiming that the waiver of liability for negligence in its contract for services to Child, signed by Parent, barred Parent's action. **View full PDF online.**

Jane B. Yohalem, Judge

I CONCUR:

J. Miles Hanisee, Judge

Michael D. Bustamante, Judge, retired, sitting
by designation, dissenting

To read the entire opinion, please visit
the following link: <https://bit.ly/A-1-CA-40098>

FORMAL OPINION

Electronic decisions may contain computer-generated errors or other deviations from the official version filed by the Court of Appeals.

Filing Date: 7/15/2024

No. A-1-CA-40816

STATE OF NEW MEXICO,

Plaintiff-Appellant,

v.

JOSEPH L. GONZALES,

Defendant-Appellee.

**APPEAL FROM THE DISTRICT COURT
OF MCKINLEY COUNTY**

Robert A. Aragon, District Court Judge

Raúl Torrez, Attorney General

Santa Fe, NM

Leland M. Churan, Assistant Attorney General

Albuquerque, NM

for Appellant

Bennett J. Baur, Chief Public Defender

Mallory E. Harwood, Assistant Appellate Defender

Santa Fe, NM

for Appellee

► Introduction of Opinion

The State appeals the district court's order granting Defendant Joseph Gonzales's pre-trial motion to dismiss one of two counts of possession of a firearm by a felon in violation of NMSA 1978, Section 30-7-16 (2022) based on double jeopardy principles. We consider two questions. The first is whether our Legislature intended to categorically authorize a separate conviction and punishment for each firearm in every case under Section 30-7-16, or if it instead intended for courts to determine, based on the facts of each case, whether the defendant engaged in distinct acts of possession that warrant a separate conviction and punishment for each firearm. After applying the requisite canons of statutory construction, we are left with a reasonable doubt about whether the Legislature intended to categorically allow a separate conviction and punishment for each firearm in every case, and we therefore conclude that Section 30-7-16 is insurmountably ambiguous with respect to the unit of prosecution. See *State v. Benally*, 2021-NMSC-027, ¶¶ 13-15, 493 P.3d 366. **View full PDF online.**

Zachary A. Ives, Judge

I CONCUR:

Jane B. Yohalem, Judge

Richard C. Bosson, Justice, retired, sitting by designation, concurring in part and dissenting in part

To read the entire opinion, please visit the following link: <https://bit.ly/A-1-CA-40816>

FORMAL OPINION

Electronic decisions may contain computer-generated errors or other deviations from the official version filed by the Court of Appeals.

Filing Date: 7/15/2024

No. A-1-CA-40123

STATE OF NEW MEXICO,

Plaintiff-Appellee,

v.

JORDAN PADILLA,

Defendant-Appellant.

**APPEAL FROM THE DISTRICT COURT
OF BERNALILLO COUNTY**

Cindy Leos, District Court Judge

Raúl Torrez, Attorney General
Santa Fe, NM

Michael J. Thomas, Assistant Attorney General
Albuquerque, NM

for Appellee

Law Offices of Marshall J. Ray, LLC
Marshall J. Ray
Albuquerque, NM

for Appellant

► Introduction of Opinion

This case raises a single issue for resolution by this Court on appeal: whether the State's nineteen-day delay in obtaining a search warrant for the contents of Defendant Jordan Padilla's tablet computer¹ was unreasonable, in violation of the Fourth Amendment of the United States Constitution.² Federal law provides that a temporary warrantless seizure supported by probable cause and designed to prevent the loss of evidence is constitutional so long as "the police diligently obtained a warrant in a reasonable period" of time. *Illinois v. McArthur*, 531 U.S. 326, 334 (2001). The district court concluded, after weighing Defendant's diminished possessory interest in the tablet and the legitimate interests of law enforcement, that under the circumstances, the nineteen-day delay between when the tablet was seized and when a search warrant was obtained was reasonable under the Fourth Amendment. We agree and affirm.

Jane B. Yohalem, Judge

WE CONCUR:

Jennifer L. Attrep, Chief Judge

Shammara H. Henderson, Judge

To read the entire opinion, please visit the following link: <https://bit.ly/A-1-CA-40123>

MEMORANDUM OPINION

This decision of the New Mexico Court of Appeals was not selected for publication in the New Mexico Appellate Reports. Refer to Rule 12-405 NMRA for restrictions on the citation of unpublished decisions. Electronic decisions may contain computer-generated errors or other deviations from the official version filed by the Court of Appeals.

No. A-1-CA-41233 State of New Mexico v. Christopher Lee Hewitt

Introduction of Opinion

The opinion filed on May 8, 2024, is hereby withdrawn, and this opinion is substituted in its place, following Defendant-Appellant's timely motion for rehearing, which this Court has denied.

[2] This matter was submitted to the Court on Defendant's brief in chief pursuant to the Administrative Order for Appeals in Criminal Cases from the Second, Eleventh, and Twelfth Judicial District Courts in *In re Pilot Project for Criminal Appeals*, No. 2022-002, effective November 1, 2022. Following consideration of the brief in chief, the Court assigned this matter to Track 2 for additional briefing. **View full PDF online.**

Megan P. Duffy, Judge
WE CONCUR:
Jane B. Yohalem, Judge
Gerald E. Baca, Judge

To read the entire opinion,
please visit:
<https://bit.ly/A-1-CA-41233>

No. A-1-CA-40927 Anita Meyer v. Regents of the University of New Mexico

Introduction of Opinion

Petitioner Anita Meyer appeals the district court's order dismissing her complaint with prejudice against Respondent Board of Regents of the University of New Mexico (UNM) alleging a violation of the Inspection of Public Records Act (IPRA), NMSA 1978, §§ 14-2-1 to -12 (1947, as amended through 2023). Petitioner argues the district court erred by granting UNM's motion for judgment on the pleadings. We affirm.

Richard C. Bosson, Justice, Retired, Sitting by Designation
WE CONCUR:
Katherine A. Wray, Judge
Michael D. Bustamante, Judge, Retired,
Sitting by Designation

To read the entire opinion,
please visit:
<https://bit.ly/A-1-CA-40927>

No. A-1-CA-40934 Citibank v. New Mexico Taxation & Revenue Department

Introduction of Opinion

Multiple related entities (Taxpayer) appeal the administrative hearing officer's 2023 decision and order denying Taxpayer's motion to reconsider and finding that the hearing officer did not have jurisdiction to consider whether the New Mexico Department of Taxation and Revenue (the Department) properly refused to acknowledge Taxpayer's 2019 claims for refund. Concluding that Taxpayer's appeal is untimely, we affirm.

Katherine A. Wray, Judge
WE CONCUR:
Megan P. Duffy, Judge
Gerald E. Baca, Judge

To read the entire opinion,
please visit:
<https://bit.ly/A-1-CA-40934>

MEMORANDUM OPINION

This decision of the New Mexico Court of Appeals was not selected for publication in the New Mexico Appellate Reports. Refer to Rule 12-405 NMRA for restrictions on the citation of unpublished decisions. Electronic decisions may contain computer-generated errors or other deviations from the official version filed by the Court of Appeals.

No. A-1-CA-39664
Brian Slade v.
Karina Lewandowski

Introduction of Opinion

In this divorce proceeding, Brian Slade (Husband) appeals the district court's determinations that (1) certain debt was Husband's separate debt, rather than debt of the community, and (2) Karina Lewandowski (Wife) did not take or damage certain property of Husband's. We affirm.

Zachary A. Ives, Judge
WE CONCUR:
Megan P. Duffy, Judge
Katherine A. Wray, Judge

To read the entire opinion,
please visit:
<https://bit.ly/A-1-CA-39664>

No. A-1-CA-40510
State of New Mexico
v. Vincent L. Lopez

Introduction of Opinion

This appeal arises out of a criminal case against Defendant Vincent Lopez, a former detective with the Doña Ana Sheriff's Office (DASO), in which the State alleges that documents and evidence related to cases worked by Defendant while he was a detective were found unlawfully stored in his prior residence upon preparation of the home for a foreclosure sale. After discovering the investigative reports and the associated evidence, some of which still remained in police evidence bags and boxes, the State charged Defendant with nine counts of tampering with public records in violation of NMSA 1978, Section 30-26-1 (1963), and nine counts of tampering with evidence in violation of NMSA 1978, Section 30-22-5 (2003). **View full PDF online.**

J. Miles Hanisee, Judge
WE CONCUR:
Shammara H. Henderson, Judge
Gerald E. Baca, Judge

To read the entire opinion,
please visit:
<https://bit.ly/A-1-CA-40510>

No. A-1-CA-40432
Karen Anne Koch v. The David
Family Oil and Gas Interests
Partnership

Introduction of Opinion

This Court hereby withdraws the memorandum opinion filed on May 16, 2024, and substitutes the following in its place. This case involves competing claims of ownership to an overriding royalty interest in a federal oil and gas lease located in Eddy County in southern New Mexico. **View full PDF online.**

Michael D. Bustamante, Judge,
Retired,
sitting by designation
J. Miles Hanisee, Judge
Jacqueline R. Medina, Judge

To read the entire opinion,
please visit:
<https://bit.ly/A-1-CA-40432>

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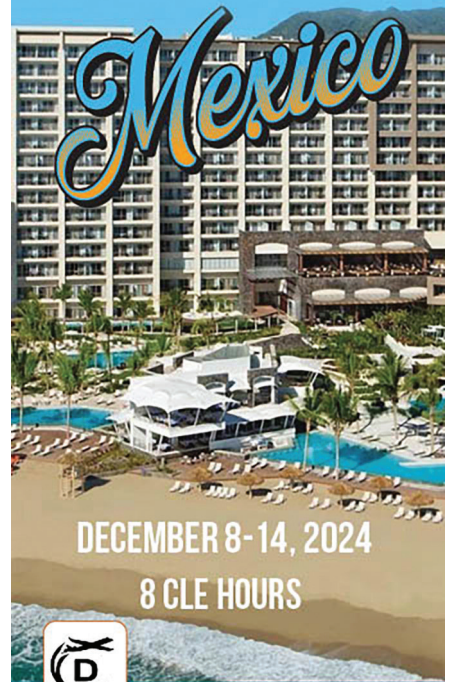


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The Eleventh Judicial District Attorney's Office, Div. II, in Gallup, New Mexico, McKinley County is seeking applicants for a Contract Prosecutor to assist in the prosecution of criminal misdemeanor cases, felony cases and conflict of interest cases. The Contract Prosecutor position requires substantial knowledge and experience in criminal prosecution, rules of evidence and rules of criminal procedure; trial skills; the ability to draft legal documents and to research/analyze information and situations and the ability to work effectively with other criminal justice agencies and Law Enforcement. This position is open to all attorneys who have knowledge in criminal law and who are in good standing with the New Mexico Bar. Limited License is okay. Salary will result in a contractual agreement between the contract prosecutor and the District Attorney. Submit letter of interest and resume to District Attorney Bernadine Martin, 201 West Hill, Suite 100, Gallup, NM 87301, or e-mail letter to bmartin@da.state.nm.us.

Part-Time or Full-Time Attorney

Lighthouse Law LLC is looking for a part-time or full-time attorney with 2-5 years of experience in estate planning, probate, and trust administration. Additional experience in business planning and/or real estate work is desirable. On-site and remote work arrangements are available. Salary commensurate with experience and schedule. Expedited partnership opportunities available. All inquiries are confidential. Find more details at lighthouselaw.org/opportunities. Apply by emailing a resume to info@lighthouselaw.org. Applicants are encouraged to submit a cover letter explaining their preferred schedule and work arrangements.

Attorney (DGF#5207)

The New Mexico Department of Game & Fish is looking for an attorney to support the agency and its mission. This position will involve counsel on core agency functions, including transactions, employment, and public records requests, as well as exposure to a diverse range of wildlife, natural resource, land use, law enforcement, and other related issues that the agency may confront. The ideal candidate will have 3+ years of experience working as an attorney in a civil or criminal litigation setting or working as an attorney for a state agency or state political subdivision, as well as an interest in the Department's mission. This is a full time in-office position located in Santa Fe, New Mexico. Find this position on careers.share.nm.gov for additional information and application instructions.

Full-Time Transactional Attorney

Blackgarden Law is looking for a full-time transactional Attorney with at least 2 years of meaningful experience in Business and Corporate Law. Corporate securities law is a requirement. This is an in-person or hybrid position. Visit our website at blackgardenlaw.com/careers for a full job description and application instructions.

City of Albuquerque

The City of Albuquerque is seeking an attorney to provide legal services to the City's Department of Municipal Development ("DMD") and General Services Department ("GSD") for contract review, and a broad range of general legal issues, including public works construction law and Capital Implementation projects, facilities, procurement, rulemaking, and interpretation, and other duties as assigned. Attention to detail and strong writing and interpersonal skills are essential. Preferences include: experience with litigation, contract drafting and review, government agencies, government compliance, and policy writing. Salary based upon experience. Preferences include: Three (3)+ years' experience as licensed attorney; experience with government agencies. Candidates must be an active member of the State Bar of New Mexico in good standing. Salary based upon experience. For more information or to apply please send a resume and writing sample to Angela Aragon at amaragon@cabq.gov.

City of Albuquerque

The City is seeking an attorney who will focus on representation of the City's interests with respect to Aviation Department legal issues and regulatory compliance. The position will be responsible for interaction with Aviation Department administration, the Albuquerque Police Department, various other City departments, boards, commissions, and agencies, and various state and federal agencies, including the Federal Aviation Administration and the Transportation Security Administration. Preferences include: Three (3)+ years' experience as licensed attorney; experience with government agencies. Candidates must be an active member of the State Bar of New Mexico in good standing. Salary based upon experience. For more information or to apply please send a resume and writing sample to Angela Aragon at amaragon@cabq.gov.

Attorney

JGA is seeking an attorney, licensed/good standing in NM with at least 3 years of experience in Family Law, Probate, and Civil Litigation. All replies will be maintained as confidential. Please send cover letter, resume, and a references to: jay@jaygoodman.com.

Various Assistant City Attorney Positions

The City of Albuquerque Legal Department is hiring for various Assistant City Attorney positions. Hybrid in person/remote work schedule available. The Legal Department's attorneys provide a broad range of legal services to the City and represent it in legal proceedings in court and before state, federal and administrative bodies. Current open positions include: Employment/Labor: The City is seeking an attorney to represent it in litigation related to employment and labor law in New Mexico State and Federal Courts, before the City of Albuquerque Personnel Board, and before the City of Albuquerque Labor Board; Litigation Division: The City is seeking attorneys to join its in house Litigation Division, which defends claims brought against the City; Health, Housing and Homelessness and Youth and Family Services General Counsel: The City is seeking an attorney to serve as general counsel to the Department of Health, Housing and Homelessness and the Department of Youth and Family Services for contract review, and a broad range of general legal issues, including federal grant compliance, procurement, rulemaking and interpretation, and other duties as assigned; Aviation: The City is seeking an attorney who will focus on representation of the City's interests with respect to Aviation Department legal issues and regulatory compliance. The position will be responsible for interaction with Aviation Department administration, the Albuquerque Police Department, various other City departments, boards, commissions, and agencies, and various state and federal agencies, including the Federal Aviation Administration and the Transportation Security Administration; Department of Municipal Development and General Services Department: The City is seeking an attorney to provide legal services to the City's Department of Municipal Development ("DMD") and General Services Department ("GSD") for contract review, and a broad range of general legal issues, including public works construction law and Capital Implementation projects, facilities, procurement, rulemaking, and interpretation, and other duties as assigned. Attention to detail and strong writing and interpersonal skills are essential. Preferences include: experience with litigation, contract drafting and review, government agencies, government compliance, and policy writing. Salary based upon experience. For more information or to apply please send a resume and writing sample to Angela Aragon at amaragon@cabq.gov.

**Privacy Officer/
Assistant General Counsel
State of New Mexico
Early Childhood Education
and Care Department
Office of General Counsel**

The New Mexico Early Childhood Education and Care Department (ECECD), Office of General Counsel, is seeking to hire an Assistant General Counsel who will serve as the department's Privacy Officer. This position will act as the lead attorney for all agency issues dealing with HIPAA, IPRA, the Criminal Justice Information System (CJIS) for purposes of background checks, or any other matter that deals with privacy or confidentiality. The position will work directly with and advise the agency's designated records custodian on all IPRA requests and any other matter related to records. This position will also draft, develop, or revise the agency's policies surrounding IPRA, HIPAA, CJIS, and for any other issue addressing privacy rights, and ensure that these policies are implemented correctly and staff are properly trained on them. The Privacy Officer will also be assigned to handle other legal work and assist the other attorneys in the agency's Office of General Counsel with various tasks. This other work may include, but is not limited to, employment matters, contract development and review, and legal research on a wide array of issues. The Privacy Officer will also work with other members of the agency's Office of General Counsel and staff to draft, review, and prepare proposed legislation or regulation amendments, especially if these matters involve IPRA, HIPAA, CJIS, or any privacy/confidentiality issue. Please go to www.spo.nm.us/work-for-new-mexico or contact Shelley Strong, ECECD General Counsel, at shelley.strong@ececd.nm.gov, if you have any questions about this position.

Attorney Associate

The Third Judicial District Court in Las Cruces is accepting applications for a Full-Time At-Will Attorney Associate. Requirements include admission to the NM State Bar plus a minimum of three years experience in the practice of applicable law, or as a law clerk. Under general direction, as assigned by a judge or supervising attorney, review cases, analyze legal issues, perform legal research and writing, and make recommendations concerning the work of the Court. For a detailed job description, requirements and application/resume procedure please refer to <https://www.nmcourts.gov/careers.aspx> or contact Marisela Duran, HR Administrator at 575-528-8386. Open until filled.

Child Support Attorneys Needed

NO BILLABLE HOURS! STUDENT LOAN FORGIVENESS! ELEVEN PAID HOLIDAYS! The Child Support Services Division (CSSD) of the New Mexico Health Care Authority (previously the Human Services Department) is HIRING entry level and experienced attorneys to work in the Las Cruces, Los Lunas, Clovis, or Roswell offices. Salary is based on SPO's NEW pay bands (LH) with a midpoint of \$108,296.00, that is adjusted depending upon experience. CSSD offers fitness and wellness leave (2 hours/week) and alternative work schedules once you have completed probation. Newly licensed attorneys or those wishing to relocate to New Mexico are encouraged to apply. Apply online: State Personnel Office (<https://careers.share.nm.gov>), or contact Reina Owen DeMartino at Reina.OwenDeMartino@hca.nm.gov.

Attorney Associate (FT At-Will)

#0000490

Civil Court

The Second Judicial District Court is accepting applications for a full-time, perm, At-Will Attorney Associate. This position will be assigned to the Civil Division. Summary of position: This position requires strong analytical skills and exemplary writing ability. Qualified candidates will be able to work independently and meet deadlines for a trial court with a high volume of motion practice. Work includes reviewing cases, engaging in an evaluation of the facts and analysis of the applicable law, and making recommendations concerning the work of the Court. Applicants selected for an interview may be asked to demonstrate their writing ability as part of the interview process. Qualifications: Must be a graduate of a law school meeting the standards of accreditation of the American Bar Association; possess and maintain a license to practice law in the State of New Mexico. Must have three (3) years of experience in the practice of applicable law, or as a law clerk. Target Pay: \$50.605 hourly plus benefits. Send application or resume supplemental form with proof of education and one (1) writing sample by email to 2ndjobapply@nmcourts.gov or by mail to the Second Judicial District Court, Human Resource Office, P.O. Box 488, Albuquerque, NM, 87102. Applications without copies of information requested will be rejected. Application and resume supplemental form may be obtained on the New Mexico Judicial Branch web page at www.nmcourts.gov. CLOSES: Monday, September 30, 2024, at 5:00 PM.

New Mexico Medical Board –

**Job Announcement
Executive Director Position**

DESCRIPTION: The New Mexico Medical Board (Board) is the state agency responsible for the regulation and licensing of medical doctors (physicians), physician assistants, podiatrists, anesthesiologist assistants, genetic counselors, polysomnographic technologists, naprapaths and naturopaths. The Executive Director's primary responsibilities are to manage the Board's operations that includes a total of nineteen (19) staff and an annual budget of over \$3,000,000. The Director oversees licensing, compliance and investigations of Medical Professionals licensed in the State of New Mexico and provides direction to the agency staff. This position is responsible for recommending and drafting rules, policy and legislation as it relates to the Medical Board. The incumbent serves as the representative of the Medical Board to all local, state and national organizations. The incumbent shall have a strong knowledge of regulatory processes, to include the licensing, disciplining and ensuring compliance of medical professional rules and regulations; is familiar with legislative and educational processes related to the medical profession; and has a strong knowledge of the state and federal laws/regulations applicable to the medical profession. Has the ability to provide strong and ethical leadership and governance for the Board; possess strong communication, interpersonal and management skills; exercise sound judgment; and appropriately advise the Board on matters related to the regulation of the medical profession in New Mexico. QUALIFICATIONS: Educational requirements: Master's Degree in Public Administration, Public Health, Hospital Administration, Healthcare Administration or Management, and/or a Juris Doctorate. Experience Requirements: Ten (10) years executive level management experience in a medical or legal field which must include the oversight of credentialing of professionals, experience must also include working in the legislative process (recommending, drafting and reviewing legislation). APPLICATION PROCESS: In order to be considered for this position, qualified candidates should send a resume, CV and cover letter to: Amanda Quintana, New Mexico Medical Board, 2055 S. Pacheco Street, Building 400, Santa Fe, NM 87505; Phone (505) 670-7082; Email: AmandaL.Quintana@nmbm.nm.gov

Associate Attorney

Mid- size downtown Defense litigation firm looking for associate with 3-5 years to do litigation including depositions and trials. Pay range varies with experience \$70,000. To \$120,000. Congenial and easy-going firm. Please contact Karen Arrants at Stiff, Garcia & Associates, karrants@stiffllaw.com

Children's Court Attorney for CYFD

The Children, Youth and Families Department (CYFD) is hiring full-time and contract attorneys of all levels of experience, as well as law clerks, to fill multiple Children's Court Attorney vacancies in the Legal Department statewide. Children's Court Attorneys are established in the Children's Code for each judicial district in New Mexico and provide professional legal services in protective services cases (child abuse and neglect matters) including consultation, counsel, filing and initiation of new cases, interpretation of law, research, litigation, and mediation. These positions offer the opportunity for challenging and fast-paced litigation, including civil evidentiary trials, and to work with CYFD to find solutions for children and their families and to make a difference in the community. Minimum qualifications: Juris Doctorate from an accredited law school, and admission to the New Mexico state bar in good standing or if barred in another state, the ability to acquire a limited law license. Children's Court Attorneys are in pay band LH, with an annual salary range from \$77,354 to \$139,238 and a competitive full benefits package. Individual contracts will be negotiated up to \$60,000/year. For more information or to apply, please contact Dawn Walters (dawn.walters@cyfd.nm.gov; (505) 526-5925) or go to www.spo.state.nm.us. The State of New Mexico is an EOE.

Assistant Attorney (DVR #10293) –

The New Mexico Division of Vocational Rehabilitation (NMDVR) is committed to ensuring that every New Mexican with a disability achieves their employment goals and thrives in their communities. The attorney in this position is responsible for providing legal advice and representation concerning diverse areas of state and federal law, including but not limited to the State Personnel Act, Inspection of Public Records Act, Open Meetings Act, state and federal fiscal laws and regulations, State Rules Act, Per Diem & Mileage Act, the Individuals with Disabilities Education Act, the Rehabilitation Act of 1973, the ADA and FMLA. Other areas of practice include but are not limited to; contract law, employment law, labor relations law and general civil litigation before administrative and court tribunals. For more information and to apply please visit: www.spo.state.nm.us. DVR #10293.

Experienced Associate

Defense insurance firm seeking experienced associate eager to work and stay busy. Must have 3-5 years in litigation and depositions. Pay range varies with experience. Benefits included, Health, Dental, 401K, LTD & Life Ins. Please send resume to Karen Arrants at [Stiff & Garcia](mailto:Stiff&Garcia) and Associates, karrants@stiffllaw.com

Full-Time Paralegal

Our law firm is a well-established and respected personal injury law firm in Santa Fe. We are seeking an experienced full-time paralegal to join our busy team. The position requires excellent attention to detail and organization as well as strong writing skills. Applicants must be able to prioritize and multi-task in our fast-paced environment. Litigation experience is a plus. The right candidate will be friendly, dedicated and a team player. The firm offers 100% employer paid health insurance premiums, competitive salary, and a 401K plan with profit sharing. Please send a resume to santafepifirm@gmail.com.

Probate Paralegal

New Mexico Probate and Estate Lawyers LLC is a boutique law firm that prioritizes work-life balance and client satisfaction. We are looking for a detail-oriented paralegal with at least one year of probate experience. Please email your resume to eric@nmprobatelaw.com. All inquiries will be kept confidential.

Full Time Receptionist/Legal Assistant

Tired of commuting over the river? Sanchez & Pinon is seeking a receptionist/legal assistant in Rio Rancho. Position is full time - answering phones, filing, communicating with clients, and assisting attorneys and paralegals. Competitive salary and benefits. Looking for a candidate that takes pride in doing a good job and helping our clients, works well with others and enjoys their time at work. Please send resumes to asanchez@sanchezandpinon.com.

Join Our Award-Winning Team at Roybal-Mack & Cordova!

We are currently hiring for the following positions: Paralegal; Legal Assistant; Receptionist. What We Offer: Competitive salaries with opportunities for growth, comprehensive health, dental, and vision insurance, paid time off, including vacation, sick leave, and holidays, continuing education and professional development support, and a positive, collaborative work environment. Roybal-Mack & Cordova is an Equal Opportunity Employer. To apply, visit roybalmacklaw.com/careers or send your resume and cover letter to brenda@roybalmacklaw.com.

Litigation Paralegal

Modrall Sperling has an excellent opportunity for an experienced Litigation Paralegal. The ideal candidate will be responsible for assisting attorneys in all stages of litigation matters. This candidate should feel comfortable conducting research, doing data entry, scheduling, maintaining case files, and completing other ad-hoc requests, as needed. Responsibilities: Organize, review and index discovery documents; Draft legal documents; Coordinate and schedule calendars; Conduct legal research; Organize and electronically file pleadings; Prepare exhibits for depositions and trial; Assist attorneys at trial. Qualifications: Bachelor's degree or equivalent education and experience; 2+ years' as Litigation Paralegal or legal assistant is required; Strong computer skills, including experience with Word, PDFs, Outlook, Excel, and calendaring applications Experience with electronic discovery applications; Experience with TrialDirector and IPro software are preferred; Strong organizational and case management skills. This position requires an individual who is self-motivated, detail-oriented, able to multi-task, and works well in a team environment. Modrall Sperling offers an outstanding compensation and benefits package. Please send resume and cover letter to susanh@modrall.com.

Paralegal and Records Custodian

Paralegal and Records Custodian (DGF#4986) The New Mexico Department of Game & Fish is looking for a Paralegal and Records Custodian. The Paralegal and Records Custodian supports the agency's attorneys, takes an active role in processing requests for public records, and assists in managing the agency's records retention and disposal. The ideal candidate will have experience with responding to public records requests at a government agency or political subdivision as well as experience supporting attorneys, including preparing and filing legal documents and processing litigation discovery. This is a full time in-office position located in Santa Fe, New Mexico. Find this position on careers.share.nm.gov for additional information and application instructions.



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ANNUAL MEETING 2024

October 25 • State Bar Center or Virtual

Featuring Keynote Speaker **Camille M. Vasquez, Esq.**



BE INSPIRED! Keynote speaker **Camille M. Vasquez, Esq.**, partner in the Business Trial Practice Group at Sheppard, Mullin, Richter & Hampton LLP, has over 10 years of experience as a trial lawyer in high-stakes disputes, as well as an impressive background in commercial litigation, entertainment law and defamation. Vasquez quickly became one of the nation's most recognized attorneys in 2022, when she held a key role in the *Depp v. Heard* defamation case. Since then, Vasquez has joined NBC News as a legal analyst and has become an inspirational figure for aspiring attorneys.

Camille M. Vasquez, Esq. is a San Francisco-born and first-generation American of Hispanic heritage. Before Vasquez became an attorney and litigator, she graduated *magna cum laude* from the University of Southern California, where she studied communications and political science. Vasquez received her Juris Doctor from Southwestern Law School in 2010.

Registration
is Now
Open!

Registration Information Available at
www.sbnm.org/AnnualMeeting2024

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