

TITLE 10 PUBLIC SAFETY AND LAW ENFORCEMENT
CHAPTER 29 LAW ENFORCEMENT ACADEMY
PART 1 GENERAL PROVISIONS

10.29.1.1 ISSUING AGENCY: New Mexico Law Enforcement Academy - Training and Recruiting Division, Department of Public Safety, 4491 Cerrillos Road, Santa Fe, New Mexico 87505
[10-1-97; 10.29.1.1 NMAC - Rn, 10 NMAC 29.1.1, 7/1/01]

10.29.1.2 SCOPE: All police officers and law enforcement agencies in the state of New Mexico.
[10-1-97; 10.29.1.2 NMAC - Rn, 10 NMAC 29.1.2, 7/1/01]

10.29.1.3 STATUTORY AUTHORITY: NMSA 1978, Section 29-7-3 (Repl. Pamp. 1994), NMSA 1978, Section 29-7-4 (Repl. Pamp. 1994), NMSA 1978, Section 29-7-5 (Repl. Pamp. 1994), NMSA 1978, Section 10-15-1 (Repl. Pamp. 1995), NMSA 1978, Section 29-7-6 (Repl. Pamp. 1994), NMSA 1978, Section 29-7-13 (Repl. Pamp. 1994), NMSA 1978, Section 40-5A-1 to 40-5A-13 (Cum. Supp. 1996)
[10-1-97; 10.29.1.3 NMAC - Rn, 10 NMAC 29.1.3, 7/1/01]

10.29.1.4 DURATION: Permanent
[10-1-97; 10.29.1.4 NMAC - Rn, 10 NMAC 29.1.4, 7/1/01]

10.29.1.5 EFFECTIVE DATE: October 1, 1997
[10-1-97; 10.29.1.5 NMAC - Rn, 10 NMAC 29.1.5, 7/1/01]

10.29.1.6 OBJECTIVE: The objective of part 1 is to establish procedures and policies for conducting meetings of the law enforcement academy board, establish criteria for admission to the law enforcement academy consistent with statutory requirements for certification, identify grounds for the suspension, revocation or denial of certification consistent with statutory requirements, establish administrative procedures for the denial, suspension or revocation of a police officer's certification, requires Parental Responsibility Act compliance and identifies the appropriate procedures in the event of non compliance.
[10-1-97; 10.29.1.6 NMAC - Rn, 10 NMAC 29.1.6, 7/1/01]

10.29.1.7 DEFINITIONS:

- A.** "HSD" means the New Mexico human services department.
- B.** "Statement of compliance" means a certified statement from HSD stating that an applicant certified police officer is in compliance with a judgment and order for support; and
- C.** "Statement of non-compliance" means a certified statement from HSD stating than an applicant or certified police officer is not in compliance with a judgment and an order for support.
- D.** "Moral turpitude" means any criminal act done contrary to justice, honesty, or with disregard to one's responsibilities to society in general.

[10-1-97; 10.29.1.7 NMAC - Rn, 10 NMAC 29.1.7, 7/1/01; A, 12/14/04]

10.29.1.8 REGULATIONS, POLICIES AND PROCEDURES FOR CONDUCTING THE BUSINESS OF THE LAW ENFORCEMENT ACADEMY BOARD

A. Duties of officers

(1) The attorney general shall serve as the chairman of the board and shall preside at all meetings and shall be charged with the responsibility of preserving order and decorum and enforcing these regulations. The chairman shall execute all of those duties commonly performed by a presiding officer.

(2) The vice-chairman shall act in the capacity of chairman in the absence or unavailability of the chairman.

B. Election of officers - The board shall elect a vice-chairman at the first meeting of the board during each calendar year.

C. Academy director - The director of the law enforcement academy shall be appointed by the board pursuant to NMSA 1978, Section 29-7-4 (Repl. Pamp. 1994).

(1) The director shall be the chief executive officer of the academy, and as such, employ necessary personnel; act as executive secretary to the board; issue appropriate certificates to graduates of the academy; and perform all other acts necessary and appropriate to carry out his duties. He shall supervise the operation of the

academy as its chief executive officer and shall administer the agency subject to the direction of the board through its official proceedings. He shall perform all duties delegated to the director by law and those customarily exercised by the chief executive officer of a state agency.

(2) The board may direct the director to implement, carry out, or finalize a particular policy or agreement. When the board has so directed; the director is authorized to sign for the board those contracts and other documents customarily signed by the chairman and secretary of the board.

(3) As secretary of the board, the director is responsible for the review and certification of the minutes of the board.

D. Meetings - Regular meetings of the board will be held at least four times a year at a time and place to be designated by the chairman.

(1) A majority of the board members present shall constitute a quorum for the transaction of business at any regular or emergency meeting. The transaction of the board's business shall be by the vote of the majority of its members present at the meeting. The chairman may vote on any item of business before the board.

(2) If a number of board members less than a quorum shall assemble for any meeting, they may postpone or adjourn that meeting until such time as a quorum can be obtained and notice again given in accordance with the rules herein set forth.

(3) If prior to the commencement of a regular or emergency meeting, the director has received notices that the majority of the members of the board will not be able to attend the meeting, the director may cancel the meeting and is instructed to attempt to give notice of cancellation of the meeting to all board members and the news media.

(4) All meetings of the board shall be open to the public except that the board may exclude the public for the portion of the meeting in which the subject matter being discussed in an adjudicatory matter, a personnel matter or the issuance, suspension, renewal or revocation of a license.

(5) The board may request that persons having business before the board, in addition to providing written information for the board to review, appear personally before the board to discuss their item of business.

(6) The order of business of the board at regular meetings shall be as follows:

- (a) roll call
- (b) approval of agenda
- (c) approval of minutes
- (d) old business
- (e) new business
- (f) designation of place of next meeting
- (g) adjournment

(7) The director shall prepare an agenda for each meeting and shall be guided in his preparation of his agenda by consultation with members of the board and his staff.

(8) The agenda of any regular meeting may be modified and additional matters added by a majority vote of the members of the board present at the meeting.

(9) The agenda for an emergency meeting shall specify the items of business to be considered by the board at that meeting. No business other than that specifically stated on the agenda for that emergency meeting shall be considered. The subject matter to be considered at any emergency meeting shall be included in that notice given by the director to the members of the board as required in these regulations.

(10) All meetings shall be called to order and business of the meeting conducted by the chairman of the board, or in his absence, the vice-chairman. Should both the officers of the board be absent from the meeting, if a quorum is present, the board shall designate one of its members to assume the responsibilities of the chairman for that meeting.

(11) The board shall conduct its meetings in a manner consistent with accepted parliamentary procedure. In the event a question as to the proper method of procedure arises in any meeting, the chairman is vested with authority to resolve such question and his decision shall be final.

(12) The director shall mail to all board members at least one week prior to the regular meeting date, a copy of the agenda for the regularly scheduled meeting, any documents or other items of information that may assist the board members in preparing for the upcoming meeting, and a copy of all petitions received by the board.

(13) The minutes of each board meeting shall contain the names of the board members present at the meeting, a general description of the subject matter of the items discussed by the board, the wording of all motions before the board and the votes of the board on every item of business dispensed with by vote. The director or his staff are directed to compile the minutes of the meeting from stenographic notes of the meeting, a tape recording of the meeting, or both. After the board approves the minutes of the meeting, the stenographic notes or tape recording

of the meeting may be destroyed. The approved minutes of a meeting shall constitute the official record of business transacted at the meeting. The approved minutes of the board meeting shall be preserved in a book of minutes and shall be available for public inspection during normal working hours.

(14) Petitions, contracts, or other documents on which the board takes action during a meeting shall be marked as exhibits in the minutes of the meeting and either preserved in the book of minutes or in a separate book of exhibits.

E. Petitions

(1) All persons, other than members of the board or its director, desiring to place before the board any item of business for the board's consideration shall do so by submitting to the director as early as possible, and no later than eight (8) days in advance of the regular meeting, a written petition containing:

(a) a request that the item of business be placed on the agenda of the next regularly scheduled meeting;

(b) a description of the general subject matter of the item of business;

(c) the action that the petitioner desires the board to take on the item of business; and

(d) the reason why the petitioner feels the action proposed by the petitioner is appropriate.

(2) The director must place any item of business requested by a timely petition on the agenda of the next regular meeting and notify by mail the petitioner of the time, date and place of the meeting.

(3) All petitions received by the director shall remain on file in the office of the board and subject to public inspection.

F. Regulations

(1) The board may alter and amend these regulations from time to time as it deems necessary. The board may, by a unanimous vote, waive any provision of these regulations when it feels it is in the public interest to do so. Alteration or amendment of these regulations may be accomplished by a majority vote of the board.

(2) The board may direct the director to develop proposals for such other regulations and guidelines as it feels are necessary for the fair and orderly conduct of the board's responsibilities. Where it is appropriate, rules, regulations, and guidelines of the board shall only be adopted after public hearings for which appropriate notice of not less than thirty (30) days has been given.

G. Miscellaneous - In computing any period of time prescribed or allowed by these regulations, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday or Sunday or legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday or legal holiday. For purposes of this rule, a legal holiday shall include any day during which state offices are closed for any consecutive period of three (3) hours or more between 8:00 a.m. and 5:00 p.m.

[5-29-76, 3-15-80, 10-1-97; 10.29.1.8 NMAC - Rn, 10 NMAC 29.1.8, 7/1/01]

10.29.1.9 OPEN MEETINGS GUIDELINES

A. Authority - As Section 10-15-1(B) of the Open Meetings Act (NMSA 1978, Section 10-15-1 through 10-15-4 (Repl. Pamp. 1995) states that, except as may be otherwise provided in the constitution or the provisions of the Open Meetings Act, all meetings of a quorum of members of any board, commission, or other policy-making body of any state agency held for the purpose of formulating public policy, discussing public business or for the purpose of taking any action within the authority of or the delegated authority of such board, commission or other policy-making body, are declared to be public meetings open to the public at all times. Any meetings subject to the Open Meetings Act at which the discussion or adoption of any proposed resolution, rule, regulation or formal action occurs shall be held only after reasonable notice to the public; and Section 10-15-1(D) of the Open Meeting Act requires the New Mexico law enforcement academy board to determine annually what constitutes reasonable notice of its public meetings. The following regulation is hereby made and adopted by the New Mexico law enforcement academy board. A member of the New Mexico law enforcement academy board may participate in a meeting of the board by conference telephone or other means of communication when it is otherwise difficult or impossible for the member to attend the meeting.

B. Notice

(1) Regular meetings of the New Mexico law enforcement academy board shall ordinarily be held quarterly at a time and place designated in the notice. A proposed agenda will be available during the week before the meeting from the New Mexico law enforcement academy board secretary whose office is located at 4491 Cerrillos Road, Santa Fe, New Mexico. Notice of regular meetings will be given ten (10) days in advance of the meeting date.

(2) Special meetings of the New Mexico law enforcement academy board may be called by the chairman or a majority of the members upon three (3) days notice.

(3) Emergency meetings of the New Mexico law enforcement academy board are meetings called under circumstances which demand immediate action by the New Mexico law enforcement academy board. Although the New Mexico law enforcement academy board would avoid emergency meetings whenever possible, such circumstances may occasionally arise. Emergency meetings of the New Mexico law enforcement academy board may be called by the chairman or a majority of the members upon twenty-four (24) hours notice.

(4) For the purposes of regular meetings described in Paragraph 1 of Subsection B of 10.29.1.9 NMAC, notice requirements are met if notice of the date, time, place, and general subject matter to be discussed is placed in newspapers of general circulation in the state. The New Mexico law enforcement academy board secretary shall also mail copies of the written notice to those broadcast stations licensed by the federal communications commission and newspapers of general circulation which have made a written request of the New Mexico law enforcement board for notice of public hearings.

(5) For the purposes of special meetings and emergency meetings, notice requirements shall be met by posting notices in the offices of the New Mexico law enforcement academy board secretary. The New Mexico law enforcement academy board secretary shall provide telephonic notices to those broadcast stations licensed by the federal communications commission and newspapers of general circulation that have made a written request of the New Mexico law enforcement academy board for notice of public meetings.

C. Closed meetings - Pursuant to NMSA 1978, Section 10-15-1(H), the New Mexico law enforcement academy board may close a meeting to the public if the subject matter of such discussion or action is included in Subsection H of the Open Meetings Act, NMSA 1978, Section 10-15-1 to 10-15-4 (Repl. Pam. 1995). If any New Mexico law enforcement academy board meeting is closed pursuant to Section 10-15-1(H), such closure:

(1) if made in an open meeting, shall be approved by a majority vote of a quorum of the New Mexico law enforcement academy board and authority for the closure shall be stated in the motion calling for the vote on a closed meeting; the vote on a closed meeting shall be taken in an open meeting and the vote of each individual member is to be recorded in the minutes; only those subjects announced or voted upon prior to closure by the New Mexico law enforcement academy board may be discussed in a closed meeting; and

(2) if called for when the New Mexico law enforcement academy board is not in an open meeting, the closed meeting shall not be held until public notice, appropriate under the circumstances, stating the specific provision of law authorizing the closed meeting is given to the members and to the general public.

[5-29-76, 7-20-90, 10-1-97, 1-1-98; 10.29.1.9 NMAC - Rn, 10 NMAC 29.1.9, 7/1/01]

10.29.1.10 QUALIFICATIONS FOR ADMISSION TO THE ACADEMY

A. Qualifications for police officer admission - In accordance with those qualifications enumerated under NMSA 1978, Section 29-7-6 (Repl. Pam. 1994), the director shall reject applicants for admission to the academy if, after investigation, it is determined that the applicant does not meet the following criteria:

(1) citizenship and age requirements as set forth in NMSA 1978, Section 29-7-6 (Repl. Pam. 1994);

(2) holds a United States high school diploma or its equivalent;

(3) holds a valid drivers license;

(4) has not been convicted of or pled guilty to or entered a plea of nolo contendere to any felony charge, or within the three year period immediately preceding his/her application, to any violation of any federal law or state law or local ordinance relating to aggravated assault, theft, driving while intoxicated, controlled substances or other crime involving moral turpitude and has not been released or discharged under dishonorable conditions from any of the armed forces of the United States;

(5) is found, after examination by a licensed physician, to be free from any physical condition which might adversely affect their performance as police officers or prohibit them from successfully completing prescribed basic law enforcement training required by the Law Enforcement Training Act;

(6) is found, after examination by a certified psychologist, to be free of any emotional or mental condition which might adversely affect their performance as police officers or prohibit them from successfully completing prescribed basic law enforcement training required by the Law Enforcement Training Act;

(7) is found to be of good moral character and has not committed any acts constituting dishonesty or fraud; and

(8) is found not to have committed any other acts which would be grounds for denial, revocation, or suspension of certification under the provision of 10.29.1.11 NMAC.

B. Qualifications for telecommunicator admission - In accordance with those qualifications enumerated under NMSA 1978, Section 29-7C-3, the director shall reject applicants for admission to the academy if, after investigation, it is determined that the applicant does not meet the following criteria:

- (1) United States citizenship or legal resident and age requirements as set forth in NMSA 1978, Section 29-7C-3;
- (2) holds a United States high school diploma or its equivalent from an accredited institution;
- (3) has not been convicted of or pled guilty to or entered a plea of nolo contendere to any felony charge, or within the three year period immediately preceding his/her application, to any violation of any federal law or state law or local ordinance relating to aggravated assault, theft, driving while intoxicated, controlled substances or other crime involving moral turpitude and has not been released or discharged under dishonorable conditions from any of the armed forces of the United States;
- (4) is found to be of good moral character and has not committed any acts constituting dishonesty or fraud; and
- (5) is found not to have committed any other acts which would be grounds for denial, revocation, or suspension of certification under the provision of 10.29.1.11 NMAC; and
- (6) has been examined by a certified technician and have no uncorrected hearing loss in either ear of greater than 25db at 500, 1000, 2000 Hz, and no more than a 20db loss in the better ear by audiometry, using ANSI (1969) standards.

C. Status - Applicants shall be appraised by the director of the status of their application and any deficiencies therein, in writing, as soon as possible. If an applicant is denied admission, the written notification shall include an explanation of the specific facts and circumstances upon which the decision is based. Decisions of the director may be appealed to the board. The appeals procedures provided for in 10.29.1.13 NMAC through 10.29.1.15 NMAC shall be utilized in the event an appeal is filed under this section.
[4-15-93, 10-1-97, 1-1-99; 10.29.1.10 NMAC - Rn, 10 NMAC 29.1.10, 7/1/01; A, 01/01/04; A, 1/15/09]

10.29.1.11 GROUNDS FOR DENIAL, REVOCATION OR SUSPENSION OF POLICE OFFICER OR TELECOMMUNICATOR CERTIFICATION; REPORTING REQUIREMENTS

A. Authority - In accordance with the provisions of the Law Enforcement Training Act, NMSA 1978, Section 29-7-13 (Repl. Pamp. 1994), the director may seek to deny, suspend or revoke a police officer's certification, if after investigation, and consultation with the employing agency, it is determined that a police officer has failed to comply with the provisions of the Law Enforcement Training Act concerning qualifications for certification as a police officer in the state of New Mexico.

B. Grounds for police officer - The following conduct by a certified police officer may constitute grounds for denial, suspension or revocation of certification under this rule:

- (1) subsequent conviction, entry of plea of guilty or entry of plea of nolo contendere to any felony charge;
- (2) subsequent conviction, entry of plea of guilty or entry of plea of nolo contendere to any violation of any federal or state law or local ordinance relating to aggravated assault, theft, driving while intoxicated, controlled substances, or other crime involving moral turpitude;
- (3) making false statements or giving any false information to the academy in connection with an application for admission/certification;
- (4) committing acts which indicate a lack of good moral character, or which constitute dishonesty or fraud, and which adversely affects an officers ability to exercise ~~his or her~~ the duties ~~as of~~ a certified law enforcement officer; and
- (5) committing acts of violence or brutality which indicate that the officer has abused the authority granted to him or her as a commissioned law enforcement officer in the state of New Mexico;
- (6) is found to have committed acts which would be grounds for denial of application for admission under 10.29.1.10 NMAC.

C. Grounds for telecommunicator - The following conduct by a certified telecommunicator may constitute grounds for denial, suspension or revocation of certification under this rule:

- (1) subsequent conviction, entry of plea of guilty or entry of plea of nolo contendere to any felony charge;
- (2) subsequent conviction, entry of plea of guilty or entry of plea of nolo contendere to any violation of any federal or state law or local ordinance relating to aggravated assault, theft, driving while intoxicated, controlled substances or other crime involving moral turpitude;

(3) making false statements or giving any false information to the academy in connection with an application for admission/certification;

(4) committing acts which indicate a lack of good moral character, or which constitute dishonesty or fraud, and which adversely affects an telecommunicator's ability to exercise ~~his or her~~ the duties as of a certified telecommunicator; and

(5) committing acts which indicate that the telecommunicator has abused the authority granted to ~~him or her~~ as a certified telecommunicator in the state of New Mexico;

(6) is found to have committed acts which would be grounds for denial of application for admission under 10.29.1.10 NMAC.

D. Reports - Any agency employing a certified law enforcement officer or telecommunicator who has committed any act or acts identified in Subsection B or C of 10.29.1.11 NMAC shall report such conduct to the director within thirty (30) days of completing an investigation confirming the alleged misconduct. In every case, alleged misconduct shall be reported to the director if an investigation is ongoing ninety (90) days after the agency receives the initial report of misconduct. An officer or telecommunicator's resignation or termination from employment does not relieve the agency from its duty to file a misconduct report with the Academy. All incidents of misconduct shall be reported when a certified officer or telecommunicator is in violation of 10.29.1.11 NMAC. Law enforcement agencies should undertake a timely and thorough investigation to determine whether an allegation of misconduct has been sustained. For the purposes of this section, "misconduct" is defined as any act listed under section 10.29.1.1. NMAC, even if that act results in termination or resignation. The director will establish a reporting form to be used in reporting misconduct. An agency's delay or failure to report misconduct does not divest the board of jurisdiction to take action under Section 29-7-13 NMSA 1978 and Section 29-7C-9 NMSA 1978.

[4-11-93, 10-1-97, 1-1-99; 10.29.1.11 NMAC - Rn, 10 NMAC 29.1.11, 7/1/01; A, 01/01/04; A, xx/xx/xx]

10.29.1.12 PROCEDURES FOR DENIAL, SUSPENSION OR REVOCATION OF POLICE OFFICER OR TELECOMMUNICATOR CERTIFICATION

A. Procedures - In those instances where the director contemplates taking any action to deny, revoke, or suspend a police officer's or telecommunicator certification under 10.29.1.11 NMAC, the affected individual shall be served with notice of the proposed action to be taken. Such notice shall contain:

- (1) a concise statement of what the contemplated action is;
- (2) a description of the acts for which the denial, suspension, or revocation is sought;
- (3) a general explanation of the evidence the director has; and
- (4) a statement that the affected individual has seven (7) calendar days from receipt of the notice to respond in writing to the notice or to request an opportunity for oral response.

B. Response

(1) If a request for an oral response to the notice of contemplated action is made, the director shall meet with the police officer or telecommunicator within fourteen (14) calendar days of receipt of such request unless the parties agree to an extension.

(2) A police officer or telecommunicator served with a notice of contemplated action pursuant to this section may choose a representative to respond orally or in writing on his or her behalf.

C. Notice - The director shall serve the affected officer or telecommunicator with a written notice of final decision no later than forty-five (45) calendar days after service of the notice of contemplated action. The notice of final decision shall contain:

- (1) a declaration of the final position to be taken by the director before the academy board;
- (2) a statement of acts which the director believes justifies denial, revocation or suspension of the certification;
- (3) a general explanation of the evidence in the possession of the director; and
- (4) notice to the police officer or telecommunicator that the director's final decision is to be presented before the law enforcement academy board in accordance with those procedures set forth in 10.29.1.13 NMAC.

[4-11-93, 10-1-97; 10.29.1.12 NMAC - Rn, 10 NMAC 29.1.12, 7/1/01; A, 01/01/04]

10.29.1.13 PROCEEDINGS FOR DENIAL, REVOCATION, OR SUSPENSION BEFORE THE LAW ENFORCEMENT ACADEMY BOARD; PROCEDURE

A. All actions contemplated by the director to deny, suspend or revoke a police officer's or telecommunicator's certification shall be brought before the law enforcement academy. The officer or telecommunicator may secure a hearing before the board if the board receives within thirty (30) calendar days from the receipt of the director's notice of final decision, a request for hearing. Such request shall be made in writing and

shall be addressed to the board. The request may be either personally served upon the director on behalf of the board or sent by registered letter to the New Mexico law enforcement academy. If the police officer or telecommunicator does not mail a request for hearing within the time and in the manner required by this rule, the board may take the action contemplated by the director and such action shall be considered final.

B. The board may appoint a hearing officer to receive testimony and make recommendations therein to the board.

C. Neither an appointed hearing officer nor any member of the board shall participate in any adjudicatory proceeding if, for any reason, the hearing officer or board member cannot afford a fair and impartial hearing to the parties.

D. Either of the parties may seek to disqualify the designated hearing officer or particular board members from hearing the appeal if within ten (10) calendar days of receipt of the scheduling order required by Subsection J of 10.29.1.13 NMAC below, an affidavit of disqualification is filed with the board, which states with particularity the specific reasons for refusal.

E. The board or designated hearing officer shall rule on motions of disqualification and no interlocutory appeal of the decision shall be permitted.

F. Parties are not to discuss the merits of any pending adjudicatory proceeding with members of the board or a designated hearing officer unless both parties or their respective representatives are present.

G. The police officer or telecommunicator, within ten (10) calendar days after filing the request for hearing, shall file with the board a concise statement of the issues upon which he or she wishes to be heard and a concise statement setting forth the factual ground and authorities upon which the officer relies.

H. Within ten (10) calendar days after the filing of the police officer's or telecommunicator's statement and brief the director shall file an answer with the board, stating the justification for his decision and any authorities in support therein.

I. Pre-hearing motions shall not be accepted by the board or designated hearing officer. The parties may engage in discovery limited to interrogatories, requests for production, and requests for admission.

J. Within twenty (20) calendar days of receipt of the statements and briefs, the board or designated hearing officer shall issue to the parties a scheduling order establishing deadlines for completion of discovery and a hearing date. Hearings shall be conducted within ninety (90) calendar days of the date of filing of the request for hearing.

K. The parties shall file a list of witnesses and a brief description of their testimony and all exhibits to be introduced at the hearing with the board or the designated hearing officer at least ten (10) calendar days in advance of the designated hearing date.

L. Extensions of time shall be granted in the discretion of the hearing officer or the board.
[4-11-93, 7-29-93, 10-1-97, 1-1-99; 10.29.1.13 NMAC - Rn, 10 NMAC 29.1.13, 7/1/01; A, 01/01/04; A, 1/15/09]

10.29.1.14 HEARINGS BEFORE THE LAW ENFORCEMENT ACADEMY BOARD; PROCEDURES

A. Hearings conducted pursuant to this rule shall be open to the public unless the parties agree that it shall be closed. Hearings shall be conducted at a place selected by the board or designated hearing officer.

B. A party may appear through a representative, provided that such representative has made a written entry of appearance prior to the hearing date.

C. The board or designated hearing officer shall conduct the hearing in an orderly and informal manner without adherence to the rules of evidence required in judicial proceedings.

D. Oral evidence shall be taken only under oath or affirmation.

E. The board or designated hearing officer may admit all evidence, including affidavits, if it is the sort of evidence upon which responsible persons are accustomed to rely on in the conduct of serious affairs. Immaterial, irrelevant, or unduly cumulative evidence shall be excluded.

F. Rules of privilege shall be effective to the extent that they are required to be recognized in civil actions in the district courts of the state of New Mexico.

G. The board or designated hearing officer may utilize their experience, technical competence, and specialized knowledge in the evaluation of evidence presented to them. Administrative notice may be taken as to those matters which courts of this state take judicial notice.

H. The hearing shall be recorded either by stenographic means or by a sound recording device. All evidence received during the course of the hearing shall be made part of the formal recording. The record of proceedings shall be maintained by the law enforcement academy staff in Santa Fe and copies shall be made available to the parties.

[4-11-93, 10-1-97; 10.29.1.14 NMAC - Rn, 10 NMAC 29.1.14, 7/1/01]

10.29.1.15 DECISIONS OF THE BOARD; PROCEDURES

A. After the hearing has concluded the board shall consider the evidence presented and shall render their decision within ninety (90) calendar days.

B. In the event that a hearing officer has been appointed, the hearing officer shall prepare and transmit to the board a recommended decision within thirty (30) calendar days of the completion of the hearing. The hearing officer shall serve a copy of the recommended decision to the parties by certified mail with return receipt requested. Upon receipt, the parties may within ten (10) calendar days file a statement of objections to the recommended decision with the board. The board, within sixty (60) calendar days of receipt of the recommended decision, shall consider the recommended decision submitted by the hearing officer and any objections filed by parties and either reject or accept the recommended decision. No additional oral arguments by the parties shall be allowed. If the board rejects the hearing officer's recommended decision, particularly when the credibility of a witness is at issue, it shall review at least as much of the record as is necessary to support its decision.

C. After a decision of the board is rendered, the board shall serve upon the parties a written copy of the decision by registered mail with return receipt requested. Decisions of the board shall at a minimum contain findings of fact, conclusions of law, and an order based on their determinations.

[4-11-93, 10-1-97, 1-1-99; 10.29.1.15 NMAC - Rn, 10 NMAC 29.1.15, 7/1/01]

10.29.1.16 METHOD OF SERVICE NOTICE; PROCEDURES

A. Any notice required by board rule 10.29.1.15 NMAC may be served upon the police officer or telecommunicator at his or her last known address, either by hand delivery by an officer authorized by law to serve process or by certified mail with return receipt requested.

B. Service of notice is complete when the notice is:

- (1) hand delivered; or
- (2) deposited with the United States postal service by certified mail with return receipt requested, properly stamped and addressed to the last address provided by the officer.

[4-11-93, 10-1-97; 10.29.1.16 NMAC - Rn, 10 NMAC 29.1.16, 7/1/01; A, 01/01/04]

10.29.1.17 COMPUTATION OF TIME

A. Computation - In computing any period of time prescribed or allowed by board rule 10.29.1.12 NMAC, 10.29.1.13 NMAC, 10.29.1.15 NMAC, the day of the act from which this period of time begins to run shall not be included. The last calendar day of the time period shall be included in the computation.

(1) The last calendar day of the time period shall be included unless it is a Saturday, Sunday or a day on which a legal holiday is observed. In such case, the period of time runs to the close of business on the next regularly scheduled work day.

(2) [Reserved]

B. Response - When a notice or paper is served by mail, the person receiving notice shall have three (3) additional calendar days from the date of mailing in which to respond to those matters contained in the notice or paper.

[4-11-93, 10-1-97, 1-1-99; 10.29.1.17 NMAC - Rn, 10 NMAC 29.1.17, 7/1/01]

10.29.1.18 PARENTAL RESPONSIBILITY ACT COMPLIANCE

A. Disciplinary action - If an applicant, certified police officer or certified telecommunicator is not in compliance with a judgment and order for support, the law enforcement academy board:

- (1) shall deny an application for certification;
- (2) has grounds for suspension or revocation of a police officer's or telecommunicator's certification.

B. Certified list - Upon receipt of human services division's certified list of obligors not in compliance with a judgment and order for support, the law enforcement academy board shall match the certified list against the current list of certified police officers, and certified telecommunicators and applicants for certification. Upon the later receipt of an application for certification, the board shall match the applicant against the current certified list. By the end of the month in which the certified list is received, the board shall report to human services division the names of board applicants, certified police officers and certified telecommunicators who are on the certified list and the action the board has taken in connections with such applicants and licensees.

C. Initial action - Upon determination that an applicant, certified police officer or telecommunicator appears on the certified list, the board shall:

(1) commence a formal proceeding under Subsection D of 10.29.1.18 NMAC to take the appropriate action under Subsection A of 10.29.1.18 NMAC, or

(2) for current certified peace officers or certified telecommunicators only, informally notify the police officer or telecommunicator that his/her name is on the certified list, and that the licensee must provide the director with a subsequent statement of compliance from HSD within thirty (30) days of receipt of the notice from the director. If the certified police officer or certified telecommunicator fails to provide this statement, the director shall commence a formal proceeding under Subsection D of 10.29.1.18 NMAC.

D. Notice of final decision - Prior to taking any action specified in Subsection A of 10.29.1.18, the director shall serve upon the applicant, certified police officer or certified telecommunicator a written notice stating that:

(1) the director has grounds to bring such an action before the law enforcement academy board, and that the director shall take such action unless the applicant, certified police officer or certified telecommunicator:

(a) mails a letter (certified mail return receipt requested) within thirty (30) days after service of the notice requesting a hearing; or

(b) provides the director, within thirty (30) days of the date of the notice, with a statement of compliance from HSD; and

(2) if the applicant, certified police officer or certified telecommunicator disagrees with the determination of non-compliance, or wishes to come into compliance the applicant, certified police officer or certified telecommunicator should contact the HSD child support enforcement division.

E. Evidence and proof - In any hearing under this section, relevant evidence is limited to the following:

(1) a statement of non-compliance is conclusive evidence that requires the board to take the appropriate action contemplated under Subsection A of 10.29.1.18 NMAC, unless;

(2) the applicant, certified police officer or certified telecommunicator provides the board with a subsequent statement of compliance which shall preclude the board from taking any action under this section.

F. Order - When a disciplinary action is taken under this section solely because the applicant, certified police officer or certified telecommunicator is not in compliance with a judgment and order for support, the order shall state that the application or certification shall be reinstated upon presentation of a subsequent state of compliance.

G. Procedures - Proceedings under this section shall be governed by the provision of NMSA 1978, Section 29-7-13B (Repl. Pamp. 1994) and 10.29.1.14 NMAC.

[12-7-95, 10-1-97; 10.29.1.18 NMAC - Rn, 10 NMAC 29.1.18, 7/1/01; A, 01/01/04]

HISTORY OF 10.29.1 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives under: NMLEA Rule #1, Regulations, Policies, And Procedures For Conducting The Business Of The Law Enforcement Academy Board, filed 2-14-80; Rule #1, Regulations, Policies, And Procedures For Conducting The Business Of The Law Enforcement Academy Board, filed 12-6-83; NMLEA Rule #A1, Regulations, Policies, And Procedures For Conducting The Business Of The Law Enforcement Academy Board, filed 3-10-89; NMLEA Rule #A1, Regulations, Policies, And Procedures For Conducting The Business Of The Law Enforcement Academy Board, filed 12-31-92; NMLEA Rule #7, Open Meeting Guidelines, filed 2-14-80; NMLEA Rule #A2, Open Meeting Guidelines, filed 3-10-89; NMLEA Rule #A2, Open Meeting Guidelines, filed 6-20-90; NMLEA Rule #12, Decertification, filed 2-14-80; NMLEA #A3, Decertification, filed 3-10-89; NMLEA Rule #A3, Qualifications For Admission To The Academy; filed 3-11-93; NMLEA Rule #A3, Qualifications For Admission To The Academy; filed 3-15-93; NMLEA Rule #A3, Qualifications For Admission To The Academy; filed 6-29-93; NMLEA Rule #A4, Grounds For Revocation Or Suspension Of Police Officer Certification; Reporting Requirements, filed 3-11-93; NMLEA Rule #A4, Grounds For Revocation Or Suspension Of Police Officer Certification; Reporting Requirements, filed 6-29-93; NMLEA Rule #A5, Procedures For Suspension Or Revocation Of Police Officer Certification, filed 3-11-93; NMLEA Rule #A5, Procedures For Denial, Suspension Or Revocation Of Police Officer Certification, filed 6-29-93; NMLEA Rule #A6, Disposition Of Appeals Before The Law Enforcement Academy Board, filed 3-11-93; NMLEA Rule #A6, Proceedings For Denial, Revocation Or Suspension Before The Law Enforcement Academy Board, filed 6-29-93; NMLEA Rule #A7, Hearing Before The Law Enforcement Academy Board, filed 3-11-93; NMLEA Rule #A7, Hearings Before The Law Enforcement Academy Board, filed 6-29-93; NMLEA Rule #A8, Decisions Of The Board, filed 3-11-93; NMLEA Rule #A9, Method Of Serving Notice, filed 3-11-93; NMLEA Rule #A10, Computation Of Time, filed 3-11-93; NMLEA Rule #A11, Parental Responsibility Act Compliance, filed 11-7-95.

History of Repealed Material: [RESERVED]