

**This is an amendment to 1.8.1 NMAC, Section 3, adding new Sections 9, 10 and 16 and renumbering subsequent existing sections, effective xx/xx/2020.**

**1.8.1.3 STATUTORY AUTHORITY:** Paragraph 2 of Subsection A of Section 10-16G-5, State Ethics Commission Act, Section 10-16G-1 NMSA 1978; Subsection (C) of Section 10-15-1, Open Meetings Act, Section 10-15-1 NMSA 1978.

[1.8.1.3 NMAC-N, 1/1/2020; A, xx/xx/2020]

**1.8.1.9 ADVISORY OPINIONS:**

**A.** The commission may issue advisory opinions on matters related to ethics. Advisory opinions shall:

(1) be requested in writing by a public official, public employee, candidate, person subject to the Campaign Reporting Act, government contractor, lobbyist or lobbyist's employer;

(2) identify a specific set of circumstances involving an ethics issue;

(3) be issued within sixty days of receipt of the request unless the commission notifies the requester of a delay in issuance and continues to notify the requester every thirty days until the advisory opinion is issued; and

(4) be published after omitting the requester's name and identifying information.

**B.** A request for an advisory opinion shall be confidential and not subject to the provisions of the Inspection of Public Records Act.

**C.** Unless amended or revoked, an advisory opinion shall be binding on the commission in any subsequent commission proceedings concerning a person who acted in good faith and in reasonable reliance on the advisory opinion.

[1.8.1.9 NMAC-N, xx/xx/2020]

**1.8.1.10 INFORMAL ADVISORY OPINIONS:**

**A.** A person authorized to request an advisory opinion who desires a response in fewer than 60 days for the purpose of deliberation and decision making may submit the request for an informal advisory opinion to the director or general counsel, who may answer the request. An informal advisory opinion is specific to the person who requests the advice and the facts presented in the request. The commission shall treat as confidential the request and the informal advisory opinion issued in response.

**B.** Any informal advisory opinion issued pursuant to this rule is not binding on the commission unless and until the commission votes to adopt the informal advisory opinion as an advisory opinion. If the commission determines that a person committed a violation after reasonably relying on an informal advisory opinion and the violation is directly related to the informal advisory opinion, the commission may consider that the person acted in good faith.

**C.** Before each regular meeting of the commission, the director shall review any informal advisory opinions issued since the last meeting. The director, based on any informal advisory opinion issued, may draft an advisory opinion for the commission to consider for issuance as an advisory opinion.

[1.8.1.10 NMAC-N, xx/xx/2020]

**1.8.1.16 COMMISSION MEETINGS:** The commission chair, in consultation with the director, shall determine the time, place, and duration of commission meetings necessary to conduct the commission's business.

**A. Executive Session.** Upon motion and vote of a quorum, the commission may enter into a closed, executive session to discuss matters that are confidential under the State Ethics Commission Act, Section 10-16G-1 NMSA 1978, and as otherwise permitted by the Open Meetings Act, Section 10-15-1 NMSA 1978.

**B. Virtual meetings.** With the consent of the commission chair, the commission may meet virtually via web or teleconference. In the event the commission meets virtually, commission staff shall ensure that the meeting occurs on a platform that allows members of the public to observe and participate. At a virtual or telephonic meeting, each commissioner participating must be identified when speaking and all meeting participants and members of the public attending must be able to hear every person who speaks during the meeting. The commission staff shall record virtual meetings and make the recordings (except for recordings of closed executive sessions) available for public inspection.

**C. Virtual attendance by individual commissioners.** An individual commissioner may attend a physical commission meeting virtually, through telephone phone or web conference, when it is difficult or

impossible for the commissioner to attend the meeting in person, provided that each commissioner participating by conference telephone can be identified when speaking, and all meeting participants and members of the public attending can hear every person who speaks during the meeting.

**D. Maintaining order.** The commission chair may take reasonable steps to ensure the commission is able to fairly and efficiently conduct its business, including adopting parliamentary procedure, imposing reasonable limitations on public comment, and excluding members of the public who disrupt commission meetings.

[1.8.1.16 NMAC-N, xx/xx/2020]