

**This is amendment to 1.8.1 NMAC: amending Sections 1, 3, 7 and renumbered 13, adding new Sections 9, & 14, and renumbering subsequent existing sections after Section 9, effective 10/27/2020.**

**1.8.1.1 ISSUING AGENCY:** State ethics commission (the commission), 800 Bradbury Dr. SE, Ste. [247] 215, Albuquerque, NM 87106.  
[1.8.1.1 NMAC-N, 1/1/2020; A, 10/27/2020]

**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; Section 10-16-13.1, Governmental Conduct Act, Section 10-16-1 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, 10/27/2020]

**1.8.1.7 DEFINITIONS:**

**A. “Advisory opinions”** are opinions written by the commission responding to questions presented by persons authorized under Paragraph 1 of Subsection A of Section 10-16G-8 NMSA 1978 about how laws within the commission’s jurisdiction apply to specific fact situations.

**B. “Interagency agreement”** means an agreement between the commission and another state or federal agency, including memoranda of understanding, joint powers agreements, and services agreements.

**C. “Joint powers agreement”** as used in this part, has the same meaning as it does in the Joint Powers Agreements Act, Section 1-11-1 NMSA 1978.

**D.** Other words and phrases used in this part have the same meaning as found in 1.8.3.7 NMAC or the State Ethics Commission Act, NMSA 1978, § 10-16G-1 to -16.  
[1.8.1.7 NMAC-N, 1/1/2020; A, 10/27/2020]

**1.8.1.9 ADVISORY OPINIONS AND INFORMAL ADVISORY OPINIONS**

**A. Advisory opinions.** The commission may issue advisory opinions on matters related to ethics upon request.

(1) A request for an advisory opinion must be in writing, and must be submitted by a public official, public employee, candidate, person subject to the Campaign Reporting Act, government contractor, lobbyist or lobbyist’s employer. The request is confidential and not subject to the provisions of the Inspection of Public Records Act.

(2) Upon receiving a request for an advisory opinion, the commission must provide the requester with a written confirmation of receipt.

(3) Within sixty days of receiving a request for an advisory opinion, the commission must either:

(a) issue an advisory opinion;

(b) inform the requester that the commission will not be issuing an advisory opinion and provide an explanation for the commission’s decision; or

(c) inform the requester that the commission requires more than sixty days to issue an advisory opinion, and notifies the requester about the status of the request every thirty days thereafter.

(4) 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.

**B. Informal advisory opinions.** A person may submit the request for an informal advisory opinion to the director or general counsel, who may answer the request.

(1) A request for an informal advisory opinion must be in writing, and must be submitted by a public official, public employee, candidate, person subject to the Campaign Reporting Act or the Governmental Conduct Act, government contractor, lobbyist or lobbyist’s employer. The request is confidential and not subject to the provisions of the Inspection of Public Records Act.

(2) An informal advisory opinion is specific to the person who requests the advice and the facts presented in the request.

(3) An informal advisory opinion is not binding on the commission unless and until the commission votes to adopt the informal advisory opinion as an advisory opinion. 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.

(4) 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.

[1.8.1.9 NMAC-N, 10/27/2020]

**1.8.1.[42] 13**

**ADDRESS FOR FILING DOCUMENTS:**

**A.** By mail: Director, State Ethics Commission, 800 Bradbury Dr. SE, Ste. [247] 215, Albuquerque, NM 87106.

**B.** In person: State Ethics Commission, 800 Bradbury Dr. SE, Ste. [247] 215, Albuquerque, NM 87106.

**C.** By email: ethics.commission@state.nm.us.  
[1.8.1.13 NMAC-N, 1/1/2020; Rn & A, 10/27/2020]

**1.8.1.14 COMMISSION MEETINGS:** The time, location, and format of commission meetings is determined in accordance with this section.

**A. Time, place, and duration.** The commission chair, in consultation with the director, shall determine the time, place, format, and duration of commission meetings necessary to conduct the commission's business.

**B. 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.

**C. 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, the meeting should occur on a platform that allows members of the public to observe and participate. At a virtual or telephonic meeting, each commissioner participating shall 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.

**D. Attendance by individual commissioners.** An individual commissioner may attend a physical commission meeting virtually, through telephone phone or web conference provided that each commissioner participating by conference telephone can be identified when speaking, and those attending may hear every person who speaks during the meeting.

[1.8.1.14 NMAC-N, 10/27/2020]