

# TITLE 100: NORTHERN MARIANAS HOUSING CORPORATION

## CHAPTER 100-50 NORTHERN MARIANAS HOUSING CORPORATION (NMHC) PERSONNEL REGULATIONS

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Chapter Authority: 2 CMC § 4433; Executive Order 94-3 § 407.

Chapter History: Amdts Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Amdts Proposed 42 Com. Reg. 43066 (Jan. 28, 2020); Amdts Adopted 19 Com. Reg. 15783 (Nov. 15, 1997); Amdts Proposed 19 Com. Reg. 15668 (Sept. 15, 1997).

Commission Comment: 2 CMC § 4411 creates the Mariana Islands Housing Authority (MIHA) as a public corporation within the Commonwealth government, charged with meeting the need for decent, safe and sanitary housing for persons of low and moderate income in the Commonwealth. See 2 CMC §§ 4411-4457. 2 CMC § 4433 sets forth the powers of MIHA, including the general power to do any and all things necessary or convenient to effectuate the purposes of the act and to carry out any of the powers granted by the act. See 2 CMC § 4433(t).

Executive Order 94-3 (effective August 23, 1994) reorganized the Commonwealth government executive branch, changed agency names and official titles and effected numerous other revisions. According to Executive Order 94-3 § 407:

Section 407. Marianas Housing Authority.

- (a) The Marianas Housing Authority is abolished and its functions transferred to a Division of Housing within the Commonwealth Development Authority, which shall have at its head a Director of Housing.

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(b) Any bond or other indebtedness of the Mariana Island Housing Authority shall be assumed by the Commonwealth government, but only upon such terms and security as shall have been agreed to previously by the Authority. The full faith and credit of the Commonwealth shall to secure such bond or other indebtedness, except as may have been pledged prior to such assumption or as otherwise provided by law.

The full text of Executive Order 94-3 is set forth in the commission comment to 1 CMC § 2001.

The Northern Marianas Housing Corporation is a subsidiary corporation of the Commonwealth Development Authority and the successor to MIHA under Executive Order 94-3. See 2 CMC § 4482(d).

The MIHA first promulgated Personnel Rules and Regulations in 1986. See 8 Com. Reg. 4828 (Dec. 16, 1986); 8 Com. Reg. 4735 (Nov. 17, 1986). NMHC's 1997 Personnel Manual, codified in this chapter, completely revised and republished the personnel rules and regulations for the corporation.

### **Part 001 - Introduction**

#### **Subpart A - Definition, Purpose and Scope**

##### **§ 100-50-001 Definition**

- (a) "NMHC" The NMHC means the Northern Marianas Housing Corporation, a part of the Commonwealth government.
- (b) "Board of Directors" or "Board" means the Board of Directors of the Northern Marianas Housing Corporation. The Board shall make policy decisions for NMHC.
- (c) "Corporate Director" the Corporate Director is in charge of the day-to-day operations of the NMHC.
- (d) "Office Manager" the Office Manager serves as the Personnel Officer who executes the personnel policies of the NMHC.
- (e) "Administrative Division" the Administrative Division serves as the Human Resources Office to assist the NMHC employees with personnel matters.
- (f) "Personnel Committee" the Personnel Committee shall be established by the Board and shall comprise of the following members: 1- Saipan Board Member; 1- Tinian Board Member; 1- Rota Board. It shall also include the Corporate Director and the Office Manager.
- (g) "Executives" means the Corporate Director, Deputy Corporate Director and the Chief Financial Officer (CFO) whom are hired by the Board.
- (h) "Managers" means the Division Heads that are comprised of the following managers: Office Manager; Chief Accountant; Program and Housing Manager; Mortgage and Credit Manager; Asset Management Manager; Field Office Representatives (Tinian & Rota); and Special Assistant for Housing and Low Income Housing Tax Credit (LIHTC) Programs.

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- (i) “Emergency Declarations” the NMHC shall recognize locally declared emergencies by the Commonwealth Governor and/or Presidentially Declared emergencies by the U.S. President.
- (j) “Congressionally Federally Funded Programs” programs funded by the U.S. Congress to assist in disasters areas particularly the Commonwealth of the Northern Mariana Islands.
- (k) “OPM” mean the CNMI Office of Personnel Management within the Civil Service Commission as provided in 1 CMC § 8121.
- (l) “MRO” means Medical Review Officer.
- (m) “SAP” means Substance Abuse Professionals.
- (n) “FLSA” means the Fair Labor Standards Act.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Amdts Proposed 42 Com. Reg. 43066 (Jan. 28, 2020); Amdts Adopted 19 Com. Reg. 15783 (Nov. 15, 1997); Amdts Proposed 19 Com. Reg. 15668 (Sept. 15, 1997).

### § 100-50-002 Purpose

These regulations implement 2 CMC § 4433(s) which authorizes the Northern Marianas Housing Corporation (NMHC) to establish rules and regulations governing the personnel policies and processes of the Corporation that will establish a positive and fair work environment to further the accomplishment of the NMHC mission.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### § 100-50-005 NMHC Mission Statement

The NMHC is guided by its mission statement in its efforts on behalf of the Commonwealth: to provide efficient and responsive delivery of housing, mortgage and community development programs to the people of the Commonwealth; afford fair and equal opportunity to housing programs and services for all, with special emphasis on very-low, low and moderate income individuals, elderly persons with disabilities; increase and implement home ownership programs with houses that are safe, decent, sanitary and affordable; encourage and promote economic independence, self-sufficiency and upward mobility for families; and implement programs to address the growing and future needs and cost effective viability of the communities in the Commonwealth.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### § 100-50-010 Policy

- (a) It is hereby declared to be the policy of these regulations to establish a system of personnel administration within the NMHC that is based on merit principles and generally

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accepted management methods to govern the employment actions and processes for the employees of the NMHC.

(b) It is also declared to be the purpose of these regulations to develop a personnel system which will attract, select, and retain the best-qualified employees based on merit, who shall hold their positions free from coercion, discrimination, reprisal, or political influences, with incentives in the form of genuine opportunities for promotion within the NMHC, and to provide competent and loyal personnel to render impartial service to the public at all times according to the dictates of ethics and morality.

(c) In order to achieve this purpose, it is declared to be the policy of the NMHC that the personnel system hereby established be applied and administered in accordance with the following merit principles:

- (1) Equal opportunity for all, regardless of race, creed, color, ancestry, membership in a labor organization, political affiliation, place of origin, disability, sex, religion, age, sexual orientation, veterans status or similar matters not related to individual merit and fitness;
- (2) Impartial selection of the most able person for government service by means of selection processes which are fair, objective, and practical;
- (3) Just opportunity for competent employees to be promoted within the NMHC;
- (4) Reasonable job security for the competent employee;
- (5) Systematic classification of all positions and personnel through adequate job descriptions and periodic performance evaluations;
- (6) Fair and practical grievance and complaint procedures for all employees; and
- (7) Flexibility in employer-employee relations to achieve and maintain a well-trained, productive and happy work force.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### § 100-50-015 Coverage

(a) These regulations apply to all employees and positions now or hereafter established in the NMHC and all personnel services performed for the NMHC.

(b) Some provisions of these regulations will vary for employees in the following employment status:

- (1) Key positions filled by appointment or contract;
- (2) Persons or organizations retained by contract where the Corporate Director has certified that the service to be performed is special or unique and nonpermanent, is essential to the NMHC's interest, and that because of the degree of expertise or special knowledge required and the nature of the services to be performed, it would not be practical to obtain personnel to perform such services through normal public service recruitment procedures;
- (3) Positions of a temporary nature needed by the NMHC, where certified by the Corporate Director and when the need for the same does not exceed ninety (90) days;
- (4) Any position involving intermittent performance which does not require more than forty hours in any one month;
- (5) Positions of part-time nature requiring the services of four hours or less per day but not exceeding one year in duration;

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(6) Positions of temporary nature which involve special projects having specific completion dates which shall not exceed one year.

(c) The Corporate Director shall determine the applicability of this section to specific positions not expressly covered by this section.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### **§ 100-50-020 Scope**

These regulations cover nearly all aspects of personnel management and administration, and which include but are not limited to development and promulgation of personnel policy, staffing, position classification, employee relations, employee development and training, employee benefits and services, incentives and awards, performance evaluation, employee health service, employee safety and accident prevention, labor-management relations, personnel management program evaluation, and records and reports. Each of the foregoing elements is presented in detail in subsequent parts of these regulations.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### **§ 100-50-025 Eligibility for Employment**

It is the policy of the NMHC that the personnel system shall be applied and administered according to the principle of equal opportunity for all persons regardless of race, creed, color, ancestry, membership in a labor organization, political affiliation, place of origin, disability, sex, religion, age, sexual orientation, veterans status and similar matters not related to individual merit and fitness.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

## **Subpart B - Personnel Management Responsibilities**

### **§ 100-50-030 Personnel Management**

(a) Personnel management is the responsibility of all Executives, Managers, and supervisors who direct the work of others.

(b) The Corporate Director, with the assistance of the Office Manager, has the specific responsibility to plan, develop, and implement programs and procedures which give effect and meaning to the laws of the Commonwealth, vis-a-vis the NMHC workforce, giving due consideration to the changing needs of the NMHC's programs and personnel needs.

(c) It is the policy of the NMHC to continuously promote improved management- employee relations, human relations and communications, and satisfying work conditions in order to provide all employees the opportunity to satisfy their needs for recognition, a sense of personal worth, and personal achievement.



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History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### § 100-50-035 The Corporate Director

The provisions of this regulation shall govern the administration of the NMHC personnel management system. Pursuant to 2 CMC § 4433(q) and (s), the Corporate Director shall:

- (a) Be appointed by and serve at the pleasure of the Board of Directors;
- (b) Receive such salary and benefits as approved by the Board of Directors and otherwise authorized by statute;
- (c) Direct and supervise all administrative and technical personnel activities of the NMHC;
- (d) Oversee the administration of the personnel system for the NMHC;
- (e) Act for the Board of Directors in the exercise of its appointing authority under Public Law 20-87, specifically, to draft regulations for Board of Directors' promulgation on procurement, travel, and personnel matters;
- (f) Advise the Board of Directors on all matters concerning personnel management and administration, and employee training;
- (g) Formulate and recommend to the Personnel Committee policies and regulations needed to carry out the NMHC's personnel management responsibilities;
- (h) Lead the development of effective personnel administration practices within the NMHC;
- (i) Perform other tasks and duties required by the position or as assigned by the Board of Directors.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### § 100-50-040 The Office Manager

The Office Manager under the supervision of the Corporate Director will provide the administrative and personnel support to management staff and employees of the NMHC. The Office Manager will:

- (a) Foster and develop, in cooperation with division Managers programs to promote effective personnel management, improve employee efficiency, and increase employee productivity;
- (b) Develop and maintain an adequate position classification and compensation plan;
- (c) Administer recruitment and selection programs and determine when employees meet specific job qualification requirements;

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- (d) Provide advice and assistance to management on matters of employee discipline and grievance and appeal procedures;
- (e) Assist employees and management in the resolution of employee-management problems;
- (f) Develop or arrange training programs to elevate employee skills and increase employee productivity;
- (g) Establish and maintain records of all NMHC personnel, maintaining archived records for former personnel;
- (h) Interpret and administer this regulation; and
- (i) Perform any other activities deemed necessary to assure effective implementation of the personnel management system.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### **§ 100-50-045 The Personnel Committee**

The Personnel Committee shall review personnel policies and make recommendations to improve and enhance the personnel policies of NMHC. The Personnel Committee shall also assist in the following:

- (a) Ensure the establishment and maintenance of a comprehensive personnel management plan and personnel regulations for the smooth and effective operation of the NMHC;
- (b) Provide advice and assistance on personnel management issues referred by the Corporate Director;
- (c) Hold hearings and decide appeals of employees on disciplinary matters, for suspensions of more than three working days, demotions and dismissals from the NMHC. The Committee may utilize the services of qualified hearing officers or other professionals where such services are deemed essential by the Committee. Hearings shall be public except when the appealing employee requests a closed hearing;
- (d) Require the presence of witnesses or documents in any matter pending before the Committee.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### **Part 100 - Staffing**

#### **Subpart A - Application and Selection Processes**

**§ 100-50-101 Introduction**

This part covers the staffing elements necessary to acquire, maintain, reassign, promote, and terminate employees of the NMHC. The subparts treat specifically and in detail the regulations which govern in the execution of the respective functions. Merit principles, open competition and, in specific application, employee seniority, shall underlie all considerations in implementing these staffing functions.

History: Amdts Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Amdts Proposed 42 Com. Reg. 43066 (Jan. 28, 2020); Amdts Adopted 19 Com. Reg. 15783 (Nov. 15, 1997); Amdts Proposed 19 Com. Reg. 15668 (Sept. 15, 1997).

Commission Comment: [Historical comments removed.]

**§ 100-50-102 Order of Priority for Filling a Job Vacancy**

The following order shall be followed in the filling of job vacancies or in the best interest of NMHC:

- (a) Internal promotion or transfer of current NMHC employees;
- (b) Former NMHC employees on current and valid reemployment priority lists;
- (c) Applicants obtained through open competitive job vacancy announcements.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

**§ 100-50-103 Selected Announcement and Internal Posting of Job Vacancy**

All vacant positions will be filled through transfer or promotion of internal NMHC applicants or persons on any current NMHC reemployment priority list before opening a vacancy announcement.

- (a) If there are no priority reemployment lists or no interested, qualified, or suitable reemployment applicants, the vacancy will be announced internally for five (5) working days.
- (b) Former NMHC employees on current and valid reemployment priority lists will be contacted and advised of the job vacancy.
- (c) All reemployment or internal applicants must meet the qualifications for the vacant position and meet standards of suitability that may be established by the Corporate Director.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

**§ 100-50-104 Competitive Hiring**

All hiring shall be competitive and open to the public, except where specifically exempted. Candidates responding to a vacancy announcement will submit to NMHC, by the designated

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time, their records of education, training, experience and such other information as requested in the announcement, to be evaluated and rated by the NMHC Office Manager or other designated evaluator. The vacancy announcement shall stipulate the dates of opening and closing of the vacancy competition, the forms to be used for filing, and the address to which the forms and associated information shall be sent.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### § 100-50-105 Non-competitive Hiring

Non-competitive hiring may occur when, in the discretion of the Corporate Director, one of the following conditions or circumstances occur:

- (a) The position to be filled requires rare or special qualifications or training for which competition is unnecessary;
- (b) There are a lesser number of qualified applicants than there are positions to be filled;
- (c) There is a need to place a former employee with reinstatement eligibility.

History: Amdts Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Amdts Proposed 42 Com. Reg. 43066 (Jan. 28, 2020); Amdts Adopted 19 Com. Reg. 15783 (Nov. 15, 1997); Amdts Proposed 19 Com. Reg. 15668 (Sept. 15, 1997).

### § 100-50-106 Vacancy Announcements

Vacancy announcements shall contain, at a minimum, the following information:

- (a) Class title, pay and pay level of the position;
- (b) Brief description of the duties and responsibilities;
- (c) Geographical and organizational location of the position;
- (d) Minimum bona fide occupational qualifications for the position to include general experience, specialized experience, and such qualitative evaluation elements as may be deemed appropriate and necessary;
- (e) Instructions on how to apply for the vacancy, including place or mailing address to apply, form of application required, and documentary support required; and
- (f) Period of the announcement. All announcements shall initially be for 15 calendar days. This period may be extended by the Corporate Director, if the response has been inadequate, by re-announcing the vacancy in the same manner as the original announcement.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

**§ 100-50-107 Publicity**

Optimum publicity shall be given to vacancy announcements through posting in the NMHC office, on the NMHC website, the CNMI Department of Labor job vacancy website, and at such other places as may be selected by the Office Manager (e.g., official bulletin boards in offices or work places, or public announcements through the news media).

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

**§ 100-50-108 Applications for Vacancies**

(a) Applications for vacancies shall be made on forms prescribed by the NMHC. Proper completion of applications and submission of supplemental information shall be accomplished in accordance with the instructions on the vacancy announcement and established procedures.

(b) Applications shall be signed and such signature shall certify to the truth of all statements contained therein. A knowingly false answer or statement shall be grounds for denying consideration or for disciplinary action if the applicant is a current NMHC employee.

(c) Applications for specific positions shall be accepted only during the period specified on the examination announcement. Applications submitted by mail shall be postmarked no later than the announced closing date. Late applications will not be accepted unless approved by the Corporate Director in unusual circumstances.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

**§ 100-50-109 Disqualification of Applicants**

The Office Manager, in consultation with the Corporate Director, may deny consideration of an applicant for failure to meet the requirements for the position. Applicants who do not meet the minimum qualifications shall be notified as soon as practical. If an applicant is disqualified following initial designation as eligible, the applicant's name shall be removed from the list of eligible applicants.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

**§ 100-50-110 Establishment of List of Eligible Applicants**

(a) Following the ending of a vacancy announcement, the Office Manager shall review all applicants based upon their qualifications relative to the requirements of the announced position. Those applicants who meet the minimum qualifications for the position shall be rated based upon their qualifications and ranked according to their relative standing.

(b) In the event a list of eligible applicants for any position contains less than five names and the Corporate Director deems the range of choice to be inadequate, the Office Manager shall announce a new examination.

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(c) An open competitive list of eligible applicants shall be created only after it has been determined that no qualified and suitable internal or reemployment candidate is available.

History: Amdts Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Amdts Proposed 42 Com. Reg. 43066 (Jan. 28, 2020); Amdts Adopted 19 Com. Reg. 15783 (Nov. 15, 1997); Amdts Proposed 19 Com. Reg. 15668 (Sept. 15, 1997).

Commission Comment: [Historical comments removed.]

### § 100-50-111 Removal of Names from Lists of Eligible Applicants

The Office Manager may remove the name of any person who has been disqualified under § 100-50-109. The name of any person may also be removed if:

(a) The eligible applicant fails to respond within ten calendar days from the mailing or e-mailing date of an inquiry as to availability for employment, or from the date of actual personal contact, provided that the name may be restored for reasons deemed sufficient by the Corporate Director.

(b) The eligible applicant voluntarily withdraws.

(c) There is evidence of physical or mental inability to perform the duties of the position, as indicated by appropriate medical examination.

(d) The eligible applicant is found to be no longer qualified to perform the duties required of the class of position.

(e) Intentional false statements, deception, or fraud is determined to have occurred in the application or in the interview process by the applicant or any other person involved in the application or selection process.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### § 100-50-112 Selection from Eligible Applicant Lists

(a) Appointments and promotions in the NMHC shall be made from certified eligible lists resulting from open competitive vacancy announcements, except as otherwise provided by this part 100. The list of certified eligible candidates will be prepared for the Corporate Director by the Office Manager from among the highest rated applicants in precise numerical order, highest rate first. Where the number of eligible applicants exceeds five names, only the top five names shall be certified. The Corporate Director shall be provided a certified list of the top five eligible applicants for each vacancy. However, when less than five persons comprise a list of eligible applicants, the Corporate Director may accept such lesser number or request the vacancy be re-announced in order to obtain at least five eligible applicants. If more than one position of the

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same classification must be filled, the number of certified applicants on the list shall be increased by one eligible for each additional position to be filled, where possible.

(b) Where the position has a special requirement which is not a general qualification requirement for that class of position, the Office Manager will certify only those eligible applicants who meet that specific requirement.

(c) Only the top five certified applicants will be eligible for job interviews, except in those cases where additional applicants are added to the list of certified eligible applicants.

(d) The Corporate Director shall justify, in writing, for the NMHC's administrative records, the non-selection of any eligible with a higher rating than the candidate selected. Such requirement creates no special standing for the applicant(s) with a higher rating.

(e) If no applicant on the list of certified eligible applicants is determined by the Corporate Director to be suitable for the position, a second listing of the next five highest ranked applicants will be provided for job interviews. The Corporate Director will justify the non-selection as provided in subsection (c). If necessary, the vacancy will be re-announced.

(f) The selected applicant will be notified in writing of his or her selection and when to report for work. All employment will be contingent upon the receipt of a negative result of a pre-employment drug screening that will be arranged for the employee by the Office Manager.

(g) No person shall report to work or receive a salary unless an appropriate personnel action has been approved by the Corporate Director.

(h) The job offer will be withdrawn if the selected applicant fails to report for duty within the time prescribed by the Corporate Director.

(i) All non-selected applicants, whether on the certified listing of applicants or not, will be notified of their non-selection.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### **§ 100-50-113 Duration of Lists of Eligible Applicants**

(a) The validity of a certified list of eligible applicants expires upon the hiring of the selected applicant. All applications and supporting documents will be maintained for one year from that date. This retention is required by federal law. Any original documents provided by the applicant may be returned upon request with a copy retained.

(b) The NMHC has no obligation to place any applicant on any subsequent list of eligible applicants without the applicant reapplying and meeting all requirements for application.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### **§ 100-50-114 Reemployment Priority List**

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Any person who has held a permanent position in the NMHC and has been demoted or terminated through reduction-in-force shall be permitted to have his/her name placed on a reemployment priority list (provided such person so requests in writing to the Corporate Director). The name of such person shall be placed on the reemployment priority list for the same or related class of position as last held under a permanent appointment. Names shall be arranged on the reemployment priority list in the chronological order of their separation from their respective competitive levels. Names shall be removed from the reemployment priority list at the expiration of three years from the date of separation or demotion, or sooner if such person is reemployed in a position at the same or higher pay level as formerly held in the NMHC. The individual may be removed from the list if such person refuses a reasonable offer of employment. A reasonable offer is of the same position or one equivalent to that last held in the NMHC. Reemployment priority only applies to former NMHC employees who held a permanent classification and does not apply to former contracted or appointed employees.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### **§ 100-50-115 Discipline [Repealed.]**

[Repealed.]

History: Amdts Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Amdts Proposed 42 Com. Reg. 43066 (Jan. 28, 2020); Amdts Adopted 19 Com. Reg. 15783 (Nov. 15, 1997); Amdts Proposed 19 Com. Reg. 15668 (Sept. 15, 1997).

Commission Comment: [Historical comments removed.]

## **Subpart B - Positions and Appointments**

### **§ 100-50-120 Types of Positions**

All positions within NMHC shall be identified by one of the designations as defined in this Subpart B.

History: Amdts Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Amdts Proposed 42 Com. Reg. 43066 (Jan. 28, 2020); Amdts Adopted 19 Com. Reg. 15783 (Nov. 15, 1997); Amdts Proposed 19 Com. Reg. 15668 (Sept. 15, 1997).

### **§ 100-50-121 Permanent Position**

A permanent position is a full-time or part-time position which is established based upon the continuing need of the NMHC and which is authorized to continue longer than one year.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### **§ 100-50-122 Temporary Position**



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A temporary position is a full-time or part-time position which is established based upon a short term program or project need of the NMHC which is authorized to continue less than one year.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### § 100-50-123 Types of Appointments

Appointments are categories of employment in the classes defined in the following that will fill established permanent or temporary positions:

(a) Board of Directors Appointment. The Corporate Director, Deputy Corporate Director and the Chief Financial Officer of the NMHC will be appointed by and serve at the pleasure of the NMHC Board of Directors. Benefits and conditions of employment will be as approved by the Board of Directors and as otherwise authorized or limited by statute. The policies, processes, and protections afforded by these regulations do not apply to a Board of Directors appointed position.

(b) Contracted Appointment. Key positions within the NMHC, to include the Special Assistant for Housing and LIHTC programs, Mortgage and Credit Division Manager, Office Manager, Program and Housing Division (PHD) Manager, Asset Management Division (AMD) Manager, FSS Coordinator, Field Office Representatives, and the Chief Accountant will be employed on contracts, not to exceed two years in duration. Special Projects funded by one-time funding from appropriation from the U.S. Congress shall be employed on contract, not to exceed two years in duration. Benefits and conditions of employment will be as provided in the contracted terms and conditions of employment and as otherwise authorized or limited by statute. The policies, processes, and protections afforded by these regulations do not apply to contracted appointees except as included in the contracted terms and conditions of employment.

(c) Probationary Appointment. This is an appointment in which the appointee is selected from a list of eligible applicants resulting from an open vacancy announcement to fill a permanent position. The appointee shall serve a period of not less than six and not more than 12 months from the beginning of the probationary appointment and shall demonstrate a minimum of 26 consecutive weeks of satisfactory performance before being eligible for conversion to a permanent appointment. Separations during a probationary appointment do not require adverse action procedures and have no reduction-in-force (RIF) protection.

(d) Permanent Appointment. An employee who has been appointed to a permanent position and who has satisfactorily completed a probationary period is entitled to the full benefits of this regulation. Permanent appointments may be made to less than full-time positions with defined regular work schedules.

(e) Limited-Term Appointment. A limited-term appointment is one in which the appointee is appointed to a temporary position for a period of not more than one year. An employee serving a limited-term may serve in either a full-time or part-time position. Any person given a limited-term appointment must meet the minimum qualifications for the class of position to which appointed and hired through the selection process established in this regulation. If job circumstances require the continuation of a temporary appointment, the Corporate Director shall justify, in writing, to the Personnel Committee, the need for a second continuing limited-term

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appointment following the expiration of a one year appointment. A limited-term appointment may not be extended more than one time, but may be converted to a permanent appointment at the end of one (1) year or later, if a permanent need has been determined for the position. To retain the incumbent employee, the employee must have demonstrated 52 consecutive weeks of satisfactory performance.

(f) **Provisional Appointment.** A provisional appointment is usually limited to 90 days and is used to fill an immediate need in a permanent position in the absence of an appropriate listing of eligible applicants. The Corporate Director may authorize extension of a provisional appointment beyond 90 days for a maximum of 180 days when the job vacancy announcement fails to make available an adequate number of qualified candidates. Any person given a provisional appointment must meet the minimum qualifications for the class of position to which appointed.

(g) **“Acting” Appointment.**

(1) An “acting” appointment is the official written designation that an employee will act for a period of up to 30 days in place of a higher-level position. When the absence exceeds the initial 30 day period, a new designation shall be made for an additional 30 days. The 30 day renewal of an “acting” assignment may be repeated until the incumbent returns to the position.

(2) Whenever the “acting” assignment exceeds 90 days, the employee shall be temporarily promoted/appointed to the position if the employee meets the qualifications standards of the position.

(i) An employee whose position is reallocated/reclassified to a higher class shall be compensated at the lowest step in the higher pay level which at least equals the amount of a two-step increase in the lower pay level. The rate of compensation cannot exceed the rate of the maximum step in the higher pay level. The anniversary date for within-grade increases and other purposes.

Modified, 1 CMC § 3806(a).

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### **§ 100-50-124 Pre-employment Condition Standards**

(a) All persons appointed to positions in the NMHC must be mentally and physically capable of performing the duties of the position. Medical examinations or disability-related questions such as a medical questionnaire cannot be utilized until after a conditional job offer has been made to an applicant. A medical exam is defined as a procedure or test that seeks information about an individual’s physical or mental impairments or health. Employment can be conditioned on the results of post-offer medical exams or disability-related questions if the criteria examined relate directly to the employee’s capability of performing the essential functions of the position. If medical exams or disability-related questions are required, they must be required of all entering employees in the same job class. Exams cannot be required, or medical-related inquiries made, of some applicants and not others.

(b) Persons offered positions within the NMHC must submit to a pre-employment urine test for the presence of drugs. Pre-employment drug tests are not considered to be medical examinations as defined in this section.

Modified, 1 CMC § 3806(a).

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

**§ 100-50-125 Administration of Medical Examinations**

Medical examinations and pre-employment drug testing shall be administered by medical personnel authorized by the NMHC to conduct such examinations for employment purposes, and shall be recorded on forms prescribed by the NMHC. The applicant pays for the medical examination and pre-employment drug testing.

History: Amdts Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Amdts Proposed 42 Com. Reg. 43066 (Jan. 28, 2020); Amdts Adopted 19 Com. Reg. 15783 (Nov. 15, 1997); Amdts Proposed 19 Com. Reg. 15668 (Sept. 15, 1997).

Commission Comment: [Historical comments removed.]

**§ 100-50-126 Prohibited Actions**

(a) Employment of any person without negative testing pre-employment drug testing is prohibited.

- (1) Including re-employment;
- (2) Transfer of employment (from another agency).

(b) Employment of any person without an approved personnel action is prohibited. Supervisors or management officials who permit an employee to report to work without an appropriate and formally approved personnel action shall be held personally liable for any claim for compensation resulting from such improper appointment.

(c) Retroactive personnel actions shall not be made unless approved by the Personnel Committee prior to commencement of such action.

Modified, 1 CMC § 3806(a), (g).

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

**§ 100-50-127 Reemployment**

(a) An employee who has successfully completed a probationary period with the NMHC and subsequently left the employ of the NMHC for any reason other than cause shall be granted reemployment eligibility for a period following the separation equal to the employee's total full years of creditable service with the NMHC. This means that the former employee may be reappointed noncompetitively to the former position, if vacant, in the NMHC at the same pay level and step that the employee held upon separation. If re-appointed to a higher class the employee shall be allowed to retain the former pay rate; if to a lower class, the employee shall be allowed to retain the former step in the new pay level.

(b) The possession of reemployment eligibility does not provide the person with any mandatory reemployment rights. This means that the individual may be considered for employment only after persons with higher rating on the reemployment priority list have been considered. If it is in the NMHC's interest and the position is vacant, such person may be reemployed, provided such person meets the non-competitive qualifications for the position to be filled.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### **§ 100-50-128 Orientation**

New employees shall receive a standardized orientation of the NMHC as soon as is practical after being appointed, and at least within one week of appointment.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

## **Subpart C - Merit Promotion Program**

### **§ 100-50-140 Policy**

To the maximum extent possible, the Merit Promotion Program (MPP) provides for filling vacancies above the entry level by promotion of highly qualified existing NMHC employees. This policy does not restrict the right of NMHC to fill vacancies by transfer or other means when to do so is in the best interest of the government. In such cases the MPP mandates the meritorious selection of the best qualified candidate.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### **§ 100-50-141 Definitions**

(a) "Position Change": A promotion, transfer or demotion during an employee's continuous service.

(b) "Promotion": The change of an employee to a higher position class and pay level.

(c) "Career-Ladder Position": One of a group of positions in which an employee may be given successive promotions until the employee reaches the full performance level. All employees in positions in a career ladder must be given grade-building experience and training and may be promoted to the next higher level as they demonstrate ability to perform in a wholly adequate manner at the next higher level. Minimum time-in-grade requirements, where established, must be observed in making career ladder promotions.

(d) "Promotion Competitive": Those eligible candidates whose experience, training, and potential substantially exceed the qualification standard for the position to a degree that they are likely to perform in a superior manner.

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(e) “Best Qualified Candidates”: Those eligible candidates who rank at the top when compared with the other eligible candidates for a promotion within a general group, i.e., qualified or highly qualified.

(f) “Position with Known Promotion Potential”: A position which is to be filled below the specified performance level for the position. These may be trainee and understudy positions, career ladder positions, and positions filled one or more levels below the established level.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### **§ 100-50-142 Scope and Coverage**

Competitive promotion procedures apply to:

- (a) All competitive positions in the NMHC when filled by promotion.
- (b) Any position which will be filled by a candidate at a basic pay level higher than the candidate’s last position; and
  - (1) The position is filled by transfer; and
  - (2) The position is filled by selection of a permanent NMHC employee from an eligible list following an open competitive examination;
- (c) Any position with known promotion potential which is filled by transfer or selection from the reemployment priority list.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### **§ 100-50-143 Areas of Consideration**

NMHC’s areas of consideration for the Merit Promotion Program will be limited to NMHC staff from any of its three locations. For positions opened to general consideration of non- NMHC staff, candidates from all islands will be considered unless reasons exist in the NMHC’s interest to limit the consideration to a certain area.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### **§ 100-50-144 Methods of Locating Candidates**

When the NMHC processes an open promotion request, it selects the appropriate method or combination of methods for locating. The following methods are generally used, singly or in combination, depending upon the nature of the position and availability of candidates.

- (a) Promotional Opportunity Announcement. A published announcement for posting and distribution and given maximum publicity within the area of consideration. The promotional opportunity announcement specifies:
  - (1) Title, pay level and location of position(s);
  - (2) Opening and closing dates (not less than 15 calendar days);

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- (3) Area of consideration;
- (4) Duties of the position, briefed;
- (5) Conditions of employment, e.g., night work, hazards, standby, etc.;
- (6) Qualification requirements, including selective placement factors, if any;
- (7) How and where to apply;
- (8) Non-discrimination statement; and
- (9) Known promotional potential, if any.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### **§ 100-50-145 Transfers**

An employee may be transferred, without change in pay level, either voluntarily or involuntarily, in order to meet changing NMHC program needs, to promote career development, to provide diversity of experience, or for other reasons. Transfers under this regulation are not subject to the promotion program unless the position to which transferred has known promotion potential. Transfers are made, wherever possible, from among employees who have requested such transfers. However, management may direct lateral transfers when required by the needs of NMHC and in accordance with these regulations.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### **§ 100-50-146 Qualification Standards**

(a) The minimum qualification standards prescribed by the NMHC are used for promotion and recruitment purposes. Selective placement factors also may be used, but only when they are essential to successful performance in the position to be filled. When selective placement factors are used, they become part of the minimum qualifications for the position.

(b) Qualification standards (including any selective placement factors used) must be established and made a matter of record prior to the start of the promotion process for any specific position. All employees who meet the minimum qualification standards (including selective placement factors) have basic eligibility for promotion. The standards must be applied fairly and consistently to all employees being considered.

(c) For supervisory positions, supervisory qualifications are prescribed by the NMHC. They may be supplemented by specific subject matter (non-supervisory) qualification standards for the classification series of the position.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### **§ 100-50-147 Conditions of Employment**

(a) There are conditions of employment which are considered implicit to successful performance in certain positions. These conditions may relate to hours of work, physical or medical standards, maintenance of a license, maintenance of a health standard, availability during off-hours, frequent need to travel and so on. Such conditions should part of the promotion

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record, the promotion opportunity announcement and the classification standard or, as a minimum, the position description.

(b) Candidates selected for the position must be advised of the conditions and acknowledge those conditions in writing. However, with respect to physical or medical standards, if a candidate claims a disability under the federal Americans with Disabilities Act (ADA), the provisions of the ADA shall be followed, as applicable.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### § 100-50-148 Evaluation Process

(a) Since the Merit Promotion Policy requires that the selection be made from among the best qualified candidates, the evaluation process must go beyond basic eligibility to rank the candidates in meaningful array. When properly used, the evaluation process should:

(1) Provide a sound basis for comparing and judging candidates in relation to the knowledge, skills, abilities, and personal characteristics that contribute to successful performance of the position.

(2) Identify those qualities which demonstrate a candidate's potential for future promotion, when the job being filled leads to further advancement.

(3) Distinguish between the knowledge and skills that an employee must have at the time of promotion and those the employee can acquire quickly after the promotion, through experience and training.

(b) In selecting the proper method of evaluating candidates, recognition should be given to the future staffing needs of the organization as well as the current requirements of the positions to be filled.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### § 100-50-149 Evaluation Measures

The various measures for evaluating candidates are:

(a) **Written Tests.** Where appropriate, written tests may be used in the evaluation process, but may not be the sole means of evaluation. Written tests must be approved by the Corporate Director.

(b) **Appraisal of Performance.** A supervisory appraisal must be obtained for every employee who is qualified.

(c) **Experience.** In evaluating experience the objective is to determine how closely the experience relates to the new position or level of work. Length of service is a factor only when there is a clear and positive relationship with quality of performance.

(d) **Awards.** In considering awards received by the candidates, the weight assigned must be based on those elements necessary to successful performance for the position to be filled.

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(e) Training. An appropriate weight is given for pertinent training, self-development, and outside activities which would increase the employee's potential or effective performance in the position to be filled.

(f) Education. Education may be considered only if it is clearly job-related or if it provides a measure of the learning ability essential for genuine trainee positions.

(g) Qualifications Investigation. A qualification investigation may be used to assist in determining experience, training, degree of responsibility exercised and effectiveness. Inquiries may be made to assist in judging how well a candidate is likely to perform at a higher level or in a different kind of work.

(h) Oral Interview. Individual or group interviews may be held. Oral questions may relate either to subject matter knowledge or to other matters pertinent to the position or the candidate. If oral questions are in the nature of a test, the same questions and sequence must be asked of each candidate and a record of their answers made part of the promotion record.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### **§ 100-50-150 Selection Procedure**

(a) Selection is based on the Corporate Director's judgment of how well the candidate will perform in the position to be filled and the candidate's potential for advancement. When there are less than five names available, the Corporate Director is not required to select someone from the merit promotion certificate. However, if returning the certificate, the selecting authority must state how the position will be filled.

(b) The Office Manager notes the name of the person selected on the merit promotion certificate. Reasons for selection do not have to be cited. The Office Manager then notifies all eligible candidates of the selection, including the person selected.

(c) When a first-line supervisory position is filled, a determination is made as to the amount of supervisory training needed to meet the standard. The Office Manager and the Corporate Director will determine and, where necessary, schedule the training needed to meet the standard.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### **§ 100-50-151 Information to Employees**

(a) Employees' acceptance and support of the NMHC promotion program depends on a large extent on how well they understand its purpose and operation and are aware of its effect on them individually. The program does not guarantee a promotion for every employee, but it does give every employee an opportunity for fair consideration.



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(b) New employees will receive promotion program information as part of their orientation. All employees will receive this information again from time to time in meetings and written form.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### § 100-50-152 Employee Questions and Complaints

(a) Employee Questions. Any employee who has filed in response to a promotional opportunity announcement or who has been considered for promotion may present questions to the NMHC Office Manager, within seven calendar days after receipt of notification of non-selection. Questions may be submitted in person, in writing, or through a representative. Among other considerations, an employee is entitled to know:

- (1) Eligibility requirements for a promotion;
- (2) If considered for promotion and, if so, whether found eligible;
- (3) Employee may inquire regarding the list of candidates from which selection was made; and
- (4) Who was selected for the promotion.

(b) Employee Complaints. If the employee is dissatisfied and the matter cannot be resolved on an informal basis, the employee may have recourse to the grievance procedure. Mere failure to be selected for promotion when proper promotion and selection procedures were used is not a basis for a formal complaint.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### § 100-50-153 Review of Promotion Program

The Personnel Committee appraises the operation of the Merit Promotion Program at least once a year as part of the personnel management evaluation process to assure:

- (a) Promotion guidelines and plans are as effective as possible;
- (b) The promotion program is useful to management;
- (c) Promotion actions are taken promptly and in conformance with the plan;
- (d) Employee complaints are handled promptly and properly;
- (e) Promotion actions are used effectively to encourage competent employees, to open expanded careers to them, and to make the best use of their skills; and
- (f) Employees, supervisors, and managers have a full understanding of the promotion program process.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

**Subpart D - Separations, Suspensions, and Demotions**

**§ 100-50-160 General**

This subpart applies to separations, suspensions, furloughs, and demotions not resulting from reduction-in-force (RIF).

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

**§ 100-50-161 Separations Not Involving Personal Cause**

(a) Resignation.

(1) Resignations shall be in writing and shall be submitted to their managers at least 14 calendar days in advance of the effective date. Management employees should provide a minimum of 30 days notice.

(2) The Manager shall submit a copy of the written resignation to the Office Manager for processing of the action.

(3) Withdrawal of a resignation may be permitted provided:

(i) The employee's wishes are made known, in writing, prior to the effective date; and

(ii) The Corporate Director agrees to the proposed withdrawal.

(b) Retirement, Voluntary. An employee may be separated for the purpose of voluntary retirement. A voluntary retirement shall follow the same notification process as a resignation.

(c) Exit Interview. An exit interview shall be scheduled and conducted during working hours by the Corporate Director or his/her designee for employees upon notice of resignation or retirement. Such interview shall include questions on the reasons for separation and counseling on benefits. The Office Manager shall not process exit documents until the interview is completed. If circumstances make such interview impractical, an employee may ask the Corporate Director to waive this requirement.

(d) Termination for Medical Reasons.

(1) When an employee becomes mentally incapacitated or permanently physically disabled and is unable to satisfactorily perform the essential duties of the position to which assigned, the Corporate Director may terminate the employment, provided:

(i) No suitable reassignment can be made within the NMHC to which the employee is assigned;

(ii) Medical examination fitness-for-duty procedures have been conducted; and

(iii) All adverse action procedures have been followed.

(2) In all cases of termination for reasons of mental incapacity or physical disability, all provisions of the Americans with Disabilities Act (ADA) will be followed.

(3) An employee whose services are terminated under this part may be eligible for disability retirement under the Social Security system. The responsibility for applying for disability retirement rests with the employee, although it is the responsibility of the Office Manager to ensure that the employee is aware of such an opportunity.

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(e) Voluntary Demotion. An employee may volunteer for demotion to a lower class of position at a lower pay level. The approval of such a request by the Corporate Director must be contingent upon the following factors:

- (1) A vacant position in the class and pay level must be available within NMHC.
- (2) The employee must meet the qualifications for the position at the level sought and be capable of fulfilling the duties required of the position.
- (3) No additional cost shall accrue to the NMHC as a result of or incident to the demotion action.
- (4) The salary of the demoted employee in the lower level position shall be set at the same numerical step in the lower level position as the employee received in the higher position.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### § 100-50-162 Disciplinary Actions for Reasons of Personal Cause (Adverse Actions)

The NMHC will utilize management measures to prevent ethical misbehavior and misconduct. Employees, at all levels, will be held accountable for their actions, and disciplinary actions will be used as deterrent and corrective measures to assist in attainment and maintenance of the high standards of ethical and conduct behavior set by the NMHC. Disciplinary actions will be categorized as adverse action, where a tangible change to employment status occurs, and non-adverse action, where no tangible change occurs.

(a) Authority to Take Adverse Action Disciplinary Measures. Unless specified by law, the authority to hire is followed by the authority to effect adverse actions. For this purpose, the designated official will be the Corporate Director.

(b) Authority to Take Disciplinary Measures. Unless otherwise restricted by the Corporate Director, Managers and supervisors are authorized to affect non-adverse action disciplinary measures and to recommend adverse action disciplinary actions. Managers and supervisors will keep the Corporate Director advised of performance and conduct problems.

(c) Employee Coverage. This Subpart applies to all permanent employees of the NMHC but does not apply to Board-appointed, contracted, or probationary employees, except where stated elsewhere in this regulation.

(d) Merit of Disciplinary Action. An action against an employee should only be taken under this part for “such cause as will promote the efficiency and the mandates of the NMHC.”

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### § 100-50-163 Non-Adverse Action Disciplinary Measures

(a) Verbal Admonishment. A verbal admonishment, in the form of a counseling or warning, is an informal disciplinary measure. A Manager or supervisor may discuss at any time minor deficiencies in performance or conduct with the objective of improving an employee’s effectiveness. Verbal admonishments shall not be made a matter of record in the employee’s official personnel file (OPF).

(b) **Written Admonishment.** A written admonishment, in the form of a counseling or warning, is also an informal disciplinary measure that normally occurs when minor deficiencies in performance or conduct reoccur after a Verbal admonishment or for a more serious deficiency or incident. Written admonishments will be maintained as a matter of record in the employee's OPF.

(c) **Reprimand.** A reprimand is a formal means of calling to an employee's attention minor deficiencies in performance or conduct which, if continued, may result in further disciplinary measures. It is the first formal step in the disciplinary process. Reprimands are always in writing and should contain specific references to performance deficiencies, citations of instances of misconduct, and a warning that more stern disciplinary measures may be taken if the employee's performance or conduct is not improved. A copy of the reprimand becomes a part of the employee's OPF as a matter of record. There is no recourse to formal appeal processes as a result of a reprimand; however, an employee who feels a reprimand is not justified may resort to the grievance procedure.

(d) **Suspension Not to Exceed Three Working Days.**

(1) A suspension is an action placing an employee in a non-duty and non-pay status for disciplinary reasons for a period not to exceed three working days. There is no formal appeal from such a suspension, although the employee may resort to the grievance procedure if the employee feels the suspension is improper or not justified.

(2) A suspension without pay for periods less than five working days shall only be imposed in respect to an employee who is covered by the overtime provisions of the Fair Labor Standards Act (FLSA). An employee who is exempt from the overtime provisions of the Fair Labor Standard Act (FLSA) must receive suspensions without pay in periods of a full five working days, except in situations of misconduct, defined by the FLSA as serious safety or work rule infractions, where a lesser period may be permitted by the FLSA. The period of suspension for an exempt employee for attendance or performance matters shall be served in five working day periods on consecutive days and for entire workweek.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### **§ 100-50-164 Adverse Action Disciplinary Measures**

Adverse action disciplinary measures require the use of the adverse action notification and resolution procedure.

(a) **Furlough.** A furlough is an action placing an employee in a non-duty and non-pay status because of lack of work or funds. It is an adverse action if for a period of 30 calendar days or less. Furloughs of more than 30 calendar days are reduction-in-force actions and shall be accomplished using reduction-in-force procedures.

(b) **Suspension for More than Three Working Days.** A suspension is an action placing an employee in a non-duty and non-pay status for disciplinary reasons. The Corporate Director may suspend an employee for such cause as will promote the efficiency of the government service, provided all adverse action procedures are followed.

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(c) Removals. Appointing authorities may take removal action against an employee for just cause provided all adverse action procedures are followed.

(d) Removal for Abandonment of Job.

(1) An employee absent without leave (AWOL) without valid reason, for a combined total of ten (10) working days in any twelve (12) month period may be terminated from employment for job abandonment, provided all adverse action procedures are followed.

(2) An employee absent without leave (AWOL) without valid reason, for ten consecutive working days may be considered, in effect, a resignation. Adverse action procedures will not be required. The Corporate Director may elect not to effect such termination, however, if it is determined that circumstances warrant such cancellation. Nothing in this section shall preclude the Corporate Director from taking other disciplinary action against an employee for absence without leave.

(e) Demotion/Reduction in Rank or Pay. The Corporate Director may take action to reduce an employee in rank or pay for cause.

(1) “Reduction in rank” means a reduction in status of more than one (1) numerical grade or pay level under the classification system. Basically, it means lowering an employee’s relative standing in the organizational structure as determined by the employee’s official position description. An employee’s position assignment may be changed only by an official personnel action. When an employee is made the subject of an official personnel action which results in lowering the employee’s relative standing in the organizational structure, a reduction in rank has occurred even though there has not been a reduction in class or pay level. Such actions may be taken only under adverse action procedures.

(2) “Reduction in pay” means reduction in basic class and pay level of an employee. The base pay is fixed by law or administrative action. Base pay does not ordinarily encompass extra or additional payment for special conditions or duties which are generally regarded as premium pay or allowances. To reduce class and pay level for disciplinary reasons, such actions must follow adverse action procedures.

(f) Separation during Probation

(1) If it becomes evident during the probationary period that the employee lacks the ability, attitude, or desire to become an efficient and productive employee in the position to which appointed, or there is lack of funds or work to be done, that employee shall be separated from the service. However, if the probationary employee claims that the apparent lack of ability, attitude, or desire is due to a disability under the Americans with Disabilities Act (ADA), the provisions of that act shall be followed, as applicable.

(2) The Corporate Director shall provide the employee with not less than (14 calendar days’ notice, in writing, specifying the reasons for the separation.

(3) Grievance, adverse action, or reduction-in-force procedures do not apply to separations during probation.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### **§ 100-50-165 Procedure for Taking Adverse Actions**

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The Corporate Director must observe certain procedural requirements when processing adverse actions covered in this subpart. Procedures for removal, suspension for more than three (3) working days, furlough without pay and reduction in rank or pay are as follow:

- (a) The Corporate Director must give the employee at least 30 days' advance written notice of the proposed action. In the event that criminal charges are filed against an employee, the employee may be immediately suspended without pay, reassigned, allowed to take annual leave, or be subject to such other action as management may deem necessary. In the event the charges are dismissed or the employee is found not guilty, the employee may be reinstated with benefits and pay but will not receive retroactive payment or reimbursement for any leave taken.
- (b) The notice must state any and all reasons for the proposed action specifically and in detail.
- (c) The employee has the right to answer personally and/or in writing. The employee shall be allowed not more than 20 days to answer the notice of proposed action. Three work days within the allowed 20 days shall be official time in which to secure affidavits and prepare an answer.
- (d) If the employee answers, the Corporate Director must consider that answer.
- (e) If at all practicable, the employee must be kept on active duty in the regular position during the notice period. Based upon the circumstances, however, the employee may be suspended during the advance notice period and placed on leave without pay (LWOP) or, with the employee's consent, carried on annual leave. An employee whose adverse action is drug-related as prohibited by Part 400, Subpart C, of this chapter will not be permitted to perform any safety-sensitive functions during the notice period.
- (f) Management must give the employee a written decision before the adverse action is effected. The decision must state which of the reasons in the advance notice have been found sustained and which have been found not sustained.
- (g) The decision must tell the employee of appeal rights.
- (h) Advance written notice and opportunity to answer are not necessary if the employee is furloughed due to unforeseeable circumstances, such as sudden breakdowns in equipment, acts of God, or emergencies requiring curtailment of activities.

Modified, 1 CMC § 3806(a).

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### **§ 100-50-166 Summary of Steps for Taking Adverse Actions**

- (a) Misconduct triggering use of the adverse action procedural system.
- (b) Corporate Director's letter of proposed adverse action.

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- (c) Employee's answer and/or presentation of evidence.
- (d) Corporate Director's letter of decision.
- (e) Employee's written appeal to Personnel Service Committee.
- (f) Personnel Service Committee hearing (if requested).
- (g) Personnel Service Committee decision (administrative remedies exhausted at this point).
- (h) Legal recourses.

Modified, 1 CMC § 3806(g).

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### **Subpart E - Reduction-in-Force (RIF)**

#### **§ 100-50-170 General**

A reduction-in-force, defined as the separation, furlough or reduction in class, pay level or hours of work of employees due to lack of work or funds, or other management requirements, but not for disciplinary reasons. The Corporate Director will exhaust all administrative alternatives to resolve the necessitating cause before reduction-in-force procedures are instituted. Adverse action procedures must be used to place an employee in furlough status for thirty (30) days or less.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

#### **§ 100-50-171 Policy**

The NMHC, within its available resources, will provide job security to every permanent employee. When it becomes necessary to reduce the work force, every effort will be made to insure that the reduction is accomplished with a minimum disruption in operations and a minimum negative impact on each employee affected.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

#### **§ 100-50-172 Coverage**

This subpart applies to all permanent employees of the NMHC, as defined in this chapter. Appointed and contracted employees are not covered by this policy.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

#### **§ 100-50-173 Reduction-in-Force Planning**

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When it becomes evident that a reduction-in-force (RIF) must be implemented, the Corporate Director shall notify the Board of Directors and the Governor of the necessity and provide all employees with written notice of NMHC's intention to take RIF action at least sixty (60) days in advance. The appointing authority shall then institute administrative procedures to assure that all legitimate possibilities for reassignment elsewhere in the government have been exhausted and that formal reduction-in-force is the only remaining alternative.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### § 100-50-174 Competitive Processes

Detailed competitive processes shall be established by the Corporate Director to assure equitable competition, recognition of seniority and tenure and protection of the public interest. For administrative purposes, competition shall be limited by the establishment of competitive areas and recognition of competitive levels.

(a) Competitive Areas. For all positions:

- (1) Area 1. Saipan
- (2) Area 2. Rota
- (3) Area 3. Tinian

(b) Competitive Levels. Competitive levels are comprised of all positions within a competitive area which consist of the same or closely related duties, have essentially the same qualifications, and are in the same class and pay level.

(c) Tenure Groups. For the purposes of reduction-in-force, NMHC employees shall be classed in tenure groups as follows:

- (1) Tenure Group I - All permanent employees.
- (2) Tenure Group II - Employees serving in a probationary appointment.
- (3) Tenure Group III - Employees serving in limited term or provisional appointments.

(d) Competition within a Competitive Level.

(1) When a position is abolished within a competitive level, the incumbent shall displace the employee with the lowest retention standing in that competitive level. Employees in tenure groups III and II in any competitive level will be separated from employment in that order before the separation of any permanent employee in tenure group I.

(2) If an employee whose position is abolished does not have sufficient retention standing to displace another employee, that employee shall be allowed to exercise retreat rights.

(e) Retreat Rights. When an employee has insufficient retention standing to compete within that employee's competitive level, the employee shall compete down the line of promotion. This is known as the exercise of retreat rights. An employee may displace the employee with the lowest retention standing below that of the released employee in the highest competitive level from which promoted. The employee shall continue to compete at successively lower levels along the line of promotion until placed or, if placement cannot be made, separated by reduction-in-force.



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(f) Creditable Service for Reduction-in-Force. Only the period of service worked with NMHC will count as creditable service in the calculation of the retention standing.

(g) Retention Standing. Retention standing is derived by allotting one point for each year of creditable service, and an additional two points for each exceptional overall rating of 90 points or better. Missing performance evaluations cannot be made up. In competing with other employees for retention in a competitive level, the individual with lowest retention standing shall be released first.

(h) Reemployment Priority Lists. Employees serving under permanent appointments who are separated by reduction-in-force shall be placed on a reemployment priority list for three years or until returned to duty in a permanent position with NMHC at any level.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### § 100-50-175 Limitations on Competition

Employees who are absent on military leave shall not be placed in RIF competition until they have returned to duty. Similarly, the employee's positions shall not be abolished until the employee returns to duty in that position. The Office Manager will keep a record that will assure recognition and protection of the position and its incumbent.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### § 100-50-176 Furlough and Separation

(a) The Corporate Director may use furloughs for more than 30 days if there is reasonable assurance that the employees furloughed will be returned to duty within the next 12 months. If there is reasonable doubt regarding the return to duty of furloughed employees, then the Corporate Director must separate the employees found to be in excess of management's needs and proceed according to reduction-in-force procedures.

(b) A combination of furlough and separation may be used to clear the rolls of excess employees, provided no employee is separated while furloughed employees with lower retention standing are kept in furlough status.

(c) Furlough for 30 days or less may be used for clearing the rolls temporarily, not to exceed thirty days when there is positive assurance that employees so furloughed can return to duty within the 30 day period.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### § 100-50-177 Vacant Positions

During reduction-in-force situations, management has no obligation to fill vacant positions by placement of employees whose positions have been abolished or who have been released from their competitive level.

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History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### **§ 100-50-178 Assignment Rights (Bumping)**

- (a) Due to the specific nature of the NMHC sections, retreat rights are limited to within the employee's section. Assignment rights (bumping) will not be authorized between sections.
- (b) Reduction-in-force activities within NMHC will affect NMHC employees only. Service within NMHC will not provide a separated employee with bumping rights elsewhere in the government. Similarly, NMHC will not recognize bumping rights from separated employees who worked outside of NMHC.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### **§ 100-50-179 Elimination of Function**

- (a) Function defined. For the purpose of this subchapter function means all, or a clearly identifiable segment, of an entity's mission and the integral parts of that mission, regardless of how performed.
- (b) Reduction-in-Force. The elimination of a function is a reduction-in-force action based upon the work no longer being required. The reduction-in-force procedures and protections in this section of the regulation apply.
- (c) Employees with retreat rights may exercise those rights.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

## **Part 200 - Employment Processes**

### **Subpart A - Employee Grievances**

#### **§ 100-50-201 Policy**

The NMHC, in accordance with the principles of good management, recognizes the importance of settling employee-management disagreements and misunderstandings promptly, fairly, and in ways that will resolve the issue and maintain the self-respect of both the employee and the management staff. To accomplish this, every effort will be made to settle grievances expeditiously and at the lowest possible level of supervision.

History: Amdts Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Amdts Proposed 42 Com. Reg. 43066 (Jan. 28, 2020); Amdts Adopted 19 Com. Reg. 15783 (Nov. 15, 1997); Amdts Proposed 19 Com. Reg. 15668 (Sept. 15, 1997).

#### **§ 100-50-205 Coverage**

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This policy will apply to all NMHC employees expressing their concern or dissatisfaction with work-related issues that are not otherwise excluded by this chapter.

History: Amdts Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Amdts Proposed 42 Com. Reg. 43066 (Jan. 28, 2020); Amdts Adopted 19 Com. Reg. 15783 (Nov. 15, 1997); Amdts Proposed 19 Com. Reg. 15668 (Sept. 15, 1997).

### **§ 100-50-210 Matters Not Covered**

The grievance system will not cover the following:

- (a) An adverse action separately appealed;
- (b) A fitness-for-duty examination;
- (c) The content of published NMHC or other government policy;
- (d) Non-selection for appointment, promotion, or transfer from a group of properly ranked and certified candidates;
- (e) Non-recommendation or disapproval of a merit increase, performance award, or other kind of honorary discretionary award; and
- (f) An employee who is serving on probationary status.

History: Amdts Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Amdts Proposed 42 Com. Reg. 43066 (Jan. 28, 2020); Amdts Adopted 19 Com. Reg. 15783 (Nov. 15, 1997); Amdts Proposed 19 Com. Reg. 15668 (Sept. 15, 1997).

### **§ 100-50-215 Freedom from Restraint**

Employees seeking adjudication of their grievances in a reasonable manner and in accordance with this regulation will be unimpeded and free from restraint, interference, coercion, discrimination, or retaliation.

History: Amdts Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Amdts Proposed 42 Com. Reg. 43066 (Jan. 28, 2020); Amdts Adopted 19 Com. Reg. 15783 (Nov. 15, 1997); Amdts Proposed 19 Com. Reg. 15668 (Sept. 15, 1997).

### **§ 100-50-220 Employee's Right to Representation**

The NMHC recognizes that grievances are personal in nature and that aggrieved employees or groups of employees must have the right in presenting their grievances to be accompanied, represented, and advised by representatives of their own choosing. Therefore, in the formal grievance process, as hereinafter defined, the employee or group of employees have the right to be represented by counsel or other representative of their own choosing at their own discretion. If

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the employee or group of employees chooses to serve as their own representative or to designate a member of the aggrieved group as spokes-person, they may do so.

History: Amdts Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Amdts Proposed 42 Com. Reg. 43066 (Jan. 28, 2020); Amdts Adopted 19 Com. Reg. 15783 (Nov. 15, 1997); Amdts Proposed 19 Com. Reg. 15668 (Sept. 15, 1997).

Commission Comment: [Historical comments removed.]

### **§ 100-50-225 Role of the Personnel Committee**

The NMHC Personnel Committee serves as the ultimate appellate level for grievances of employees or groups of employees. It shall consider only those formal grievances which cannot be settled to the satisfaction of all concerned in accordance with the formal procedure defined in part 200.

History: Amdts Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Amdts Proposed 42 Com. Reg. 43066 (Jan. 28, 2020); Amdts Adopted 19 Com. Reg. 15783 (Nov. 15, 1997); Amdts Proposed 19 Com. Reg. 15668 (Sept. 15, 1997).

Commission Comment: [Historical comments removed.]

### **§ 100-50-230 Employee's Right to Seek Advice**

Sometimes an employee has a valid reason for not taking a grievance to the immediate supervisor. The grievance system, therefore, provides opportunity for an employee to communicate informally with and seek advice from the Office Manager and/or a supervisory or management official of higher rank than the employee's immediate supervisor.

History: Amdts Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Amdts Proposed 42 Com. Reg. 43066 (Jan. 28, 2020); Amdts Adopted 19 Com. Reg. 15783 (Nov. 15, 1997); Amdts Proposed 19 Com. Reg. 15668 (Sept. 15, 1997).

Commission Comment: [Historical comments removed.]

### **§ 100-50-235 Informal Grievance Procedure**

(a) The grievance action shall first be initiated by the aggrieved employee who will discuss the problem informally with the supervisor, or if the employee feels the relationship with the immediate supervisor is such that the matter cannot be reasonably discussed, the employee may discuss it with the next level of supervision.

(b) A grievance concerning a particular act or occurrence must be presented within ten calendar days of the date of the act or occurrence or the date the aggrieved employee became aware of the act or occurrence.

History: Amdts Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Amdts Proposed 42 Com. Reg. 43066 (Jan. 28, 2020); Amdts Adopted 19 Com. Reg. 15783 (Nov. 15, 1997); Amdts Proposed 19 Com. Reg. 15668 (Sept. 15, 1997).

**§ 100-50-240 Formal Grievance Procedure**

(a) If the grievance is not settled within five calendar days, or if the employee is not satisfied with the decision of the immediate supervisor, the employee or representative may, within the next ten calendar days, put the grievance in writing and submit it to the Corporate Director as a formal grievance. The written representation must contain the following information:

- (1) The name of the aggrieved employee and the employee's work section;
- (2) The details of the grievance;
- (3) The corrective action desired; and
- (4) The name of the employee's representative, if any.

(b) The Corporate Director will examine the grievance, discuss it with the grievant or representative, and render a decision, in writing, within 14 calendar days after receiving the grievance. The Corporate Director may have the employee's immediate supervisor present, if he or she deems it appropriate to the resolution of the grievance.

(c) If the Corporate Director is not successful in settling the grievance to the employee's satisfaction within fourteen (14) calendar days after the grievance was presented to the Corporate Director in writing, the employee may, within 15 calendar days after receiving written notification of the decision or the failure of the Corporate Director to provide a decision, resubmit the grievance to the Personnel Committee.

(d) If the grievance is against the Corporate Director, the employee may, after attempting to informally resolve the issue with the Corporate Director, formally submit the grievance to the Personnel Committee.

(e) The Personnel Committee shall set a time for its review of the case within a reasonable time after receiving a grievance. If the NMHC Personnel Committee desires to have the grievance heard by a hearing officer, it must inform the aggrieved employee and representative as soon as possible.

(f) In hearings before the Personnel Committee or a hearing officer, the aggrieved employee and/or representative shall be allowed to appear and present the case. An appropriate management representative shall also be allowed to appear before the Committee. Both sides shall have the right to call witnesses in support of their positions and to cross-examine witnesses for the other side. The Committee or the hearing officer shall prepare a summary of the hearing. If both parties desire a formal, written record prepared by a recorder, the cost of such services shall be shared equally. If only one side desires a formal written record of the proceedings, that side shall bear the cost.

(g) The Personnel Committee shall reach a decision and present it formally to the aggrieved employee and the Corporate Director within 15 working days following the close of the formal hearing. Decision by the NMHC Personnel Committee shall be made by a majority vote of the entire Committee and shall be final.

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(h) If the aggrieved employee is dissatisfied with the decision after having exhausted all administrative appeal levels, the employee has recourse to the courts.

(i) The Office Manager shall be kept informed as to the progress of a formal grievance and is responsible for assuring that the time limits established in this procedure are met. The Office Manager is also responsible to assure that the formal record of the grievance is assembled into one place, stored, and safeguarded.

(j) The Office Manager shall be the final custodian of all records of a grievance and is responsible for their proper storage and security.

History: Amdts Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Amdts Proposed 42 Com. Reg. 43066 (Jan. 28, 2020); Amdts Adopted 19 Com. Reg. 15783 (Nov. 15, 1997); Amdts Proposed 19 Com. Reg. 15668 (Sept. 15, 1997).

### **Subpart B - Employee Appeals**

#### **§ 100-50-245 General**

This subpart establishes the NMHC appeals process. Any employee of NMHC may appeal, personally and/or in writing, a decision by NMHC to take adverse action resulting from the disciplinary process, reduction-in-force procedures, or an “unsatisfactory” evaluation of performance.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

#### **§ 100-50-250 Rights of the Parties**

In any appeal the appealing employee and NMHC have certain rights. These include:

(a) Right to a Hearing.

(1) If an appeal is filed by an employee, both NMHC and the employee will be entitled to a full and fair hearing before the Personnel Committee or a hearing officer designated by the Committee, to present evidence, and to be represented by counsel. At the hearing, although technical rules of evidence shall not apply, the testimony may be recorded, but will not be transcribed. Hearing minutes will be prepared and maintained. The Committee shall present its findings of fact and final decision in writing to all parties.

(2) Only one hearing will be held, unless the Committee determines that unusual circumstances require a second hearing. Any evidence presented at the hearing must bear on the issue of whether the adverse action taken was justified and proper.

(3) The Personnel Committee will decide whether or not a hearing is required for an appealed performance rating based upon the written appeal of the employee. Subsection (b) does not apply to performance rating appeals.

(b) Denial of a Hearing.

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- (1) The Committee may make the determination to deny a hearing on the appeal when a hearing is impractical by reason of extraordinary circumstance. In such cases the Committee will notify both parties in writing of the reason(s) for denying a hearing.
  - (2) If the Committee determines that no hearing is reasonably possible, NMHC and the employee will be notified to submit, in writing, any additional evidence they desire to present on the issues so that a decision can be made on the record presented.
- (c) Freedom from Reprisal or Interference.
- (1) The employee and the employee's representative will be free to use the Appeal Process without restraint, interference, coercion, discrimination, or reprisal.
  - (2) No employee, whether acting in an official capacity for the NMHC or on any other basis, will be allowed to interfere with, or attempt to interfere with, another employee's exercise of rights under this subpart. The spirit as well as the letter of the requirement must be enforced. In addition to abstaining from overt acts or interference, the official is prohibited from making any statement or taking any action that has the appearance of a threat, interference, or intimidation.
- (d) Employee Representation. Employees have the right to present at an appeal without representation or to be accompanied, represented, and advised by a representative of their choice. Employees may change their representative, but must notify the Committee of the change, in writing. Employees may select other government employees as their representative, provided that such employees are willing to represent them and are not disqualified because of conflict of position or unavailability to serve in that capacity because of priority needs of, or unreasonable cost to, their employee agency, as determined by the desired representative's appointing authority. Employees are free to select their representative from outside the government service, but entirely at their own expense.
- (e) NMHC Representation. NMHC's representative at a hearing will be the Corporate Director or his or her designee, if the employee does not have an attorney-representative. NMHC's legal counsel or the Attorney General's designee will represent NMHC if the employee does have legal representation.
- (f) The Personnel Committee may retain an attorney or other professional to assist the Committee with legal, human resource management, or other necessary expertise.
- (g) Employee Entitled to Official Time to Prepare an Appeal.
- (1) An employee will be entitled to one day of official time-off as administrative leave to prepare the appeal, if the employee is otherwise in an active duty status. The employee's work on the appeal will take place outside the NMHC work premises.
  - (2) If the employee's representative is an employee of NMHC, the representative will also be entitled to one day of official time to help prepare the appeal if otherwise in an active duty status.
  - (3) Both the employee who is appealing and the employee who is acting as representative shall make arrangements with the Office Manager for the use of official time. Leave forms will be utilized.
  - (4) If the representative is a government employee from another agency, it is the employee's responsibility to determine if that agency will allow them time off to assist with the appeal.

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(5) If preparation requires more than one day off from work, the employee must request annual leave or unpaid time. If the appeal involves complicate issues that require extensive preparation time, the employee may request additional time, up to three additional days, from the Personnel Committee.

(6) The employee may view and request copies of any documents being used to support the adverse action being appealed. These copies will be provided at the employee's expense.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### **Part 300 - Position Classification and Compensation**

#### **Subpart A - Position Classification**

##### **§ 100-50-301 General**

All positions subject to the provisions of the NMHC Personnel Management System shall be classified in accordance with the approved NMHC Position Classification Plan.

History: Amdts Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Amdts Proposed 42 Com. Reg. 43066 (Jan. 28, 2020); Amdts Adopted 19 Com. Reg. 15783 (Nov. 15, 1997); Amdts Proposed 19 Com. Reg. 15668 (Sept. 15, 1997).

##### **§ 100-50-302 Definitions**

(a) "Position Classification": the process by which employment positions in an organization are identified, described and defined according to their duties and responsibilities, with like positions segregated into groups called "classes." A systematic record is made of the classes found and a listing is made of the particular positions found to be of each class.

(b) "Class."

(1) "Class" means one position or a group of positions sufficiently similar in respect to their duties, responsibilities, and authority that the same title may be used with clarity to designate each position allocated to the said class. The same standard qualifications may be required of all incumbents, the same test of fitness may be used to choose qualified employees, and the same schedule of compensation may be applied with equity under the same or substantially the same employment conditions of a given class; although sufficiently dissimilar from any position or any other group of positions to warrant exclusion from those groups of positions.

(2) The class title assigned to a position in accordance with the Position Classification Plan shall be the official title and will be used for all personnel, budgetary, and financial purposes, and should be used for all position organization charts.

(c) "Position": the work, consisting of duties and responsibilities assigned by competent authority for performance by an employee.

(d) "Position Classification Plan": classes of positions arranged in a systematic order to reflect all of the kinds and levels of work utilized in the NMHC Personnel Management System.



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- (e) “Allocation”: the assignment of a position to its appropriate class on the basis of analysis of the duties and responsibilities of the position.
- (f) “Reallocation”: a position change resulting from a change of duties and responsibilities over a period of time, not a result of planned management decision and action.
- (g) “Reclassification”: change of a position or group of positions to a different class as a result of a change in assigned duties and responsibilities, classification standards, or as a result of correcting a classification error.
- (h) “Class Specification”: an official position classification plan document description of the general characteristics of a class, and includes the official class title, a detailed description of the scope of duties and responsibilities of the class, specific examples of work or typical duties performed, and a statement of the qualifications required to perform the work of the class.
- (i) “Occupational Group”: a major subdivision of a position classification plan, generally embracing several series of classes of positions in associated or related work specialties, professions or related activities. (For example, “Clerical and Machine Operation” and “Administrative, Management, and Allied” are occupational groups.)
- (j) “Series of Classes”: classes closely related as to occupational specialty but differing in level of difficulty, responsibility, and qualifications required. (For example, the three classes of Loan Specialist I, Loan Specialist II, and Loan Specialist III taken together make up a series of classes.)
- (k) “Position Description”: a formal, official written statement by management which documents the description, assignment, or arrangement of the duties and responsibilities of a position.
- (l) “Desk Audit”: a formal review of a position to determine if the duties being performed are consistent with the job description and grade level assigned.
- (m) “Position Description”: document defining the duties, knowledge, skills, abilities, education, and experience requirements of the position.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### **§ 100-50-304 Principles and Policy**

- (a) The basic principles underlying the position classification system are:
  - (1) Equal pay for equal level of responsibilities, qualification requirements, and difficulty in differing position’s assigned duties; and
  - (2) Variations in pay in proportion to differences in difficulty, responsibility, and qualification requirements of the work.
- (b) The NMHC Personnel Management System’s position classification program applies these principles in response to management’s expressed needs and in support of mission

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accomplishments. Changes in classification shall not be made for the purpose of raising or reducing pay, but only to reflect clear and significant changes in duties and responsibilities. Supervisors and managers are expected to organize the work of their organizations and structure the positions so that vacancies can be filled at the lowest level at which qualified applicants can be obtained.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### **§ 100-50-305 Grievance Procedure [Repealed.]**

[Repealed.]

History: Amdts Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Amdts Proposed 42 Com. Reg. 43066 (Jan. 28, 2020); Amdts Adopted 19 Com. Reg. 15783 (Nov. 15, 1997); Amdts Proposed 19 Com. Reg. 15668 (Sept. 15, 1997).

### **§ 100-50-306 Responsibilities**

(a) The Corporate Director

(1) Ensures the development of a classification program which supports management's objectives, meets legal and regulatory requirements, and promotes participation by operating officials in the classification process.

(2) Provides advice and assistance to management on the classification aspects of position structure needed to carry out the NMHC mission.

(3) Ensures the conduct of periodic reviews to evaluate the effectiveness of the classification program and directs corrective action where appropriate.

(4) Approves new classification standards, revises existing standards as needed, seeks the advice and counsel of an experienced desk auditor, as needed.

(5) Groups positions into classes on the basis of their similarities in duties, responsibilities, and other significant factors.

(6) Assigns a title to each class which shall apply to all positions in the class; prescribes the characteristics of each class; and sets the standards for employment in any position in the class subsequent to consultation with the personnel committee and the appropriate management officials.

(7) Changes a position from one class to another where substantial changes have occurred in the duties and responsibilities.

(8) Determines the status of occupants of positions which have been changed from one class to another.

(9) Delegates authority to the degree the Corporate Director deems appropriate, to the Deputy Corporate Director, Office Manager, or other NMHC management staff, to review and modify position descriptions which have been approved and allocated within the classification plan.

(b) Managers and Supervisors

(1) Plan, organize, develop, and assign duties and responsibilities to positions, whether occupied or vacant;

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- (2) Consider the mission of the organization and structure positions for accomplishment of requirements in the most effective and economical manner possible;
  - (3) Ensure that assigned duties and responsibilities do not duplicate or overlap those of other positions;
  - (4) Assure that duties and responsibilities assigned to positions are completely and accurately described in position descriptions in full and sufficient detail for position classification and all related purposes;
  - (5) Assist employees to accomplish the foregoing.
- (c) The Office Manager
- (1) Develops, prepares, maintains, and submits to the Corporate Director, as required, factual and up-to-date functional statements and organizational position charts which clearly depict such information as assigned organizational and/or supervisory responsibility, organizational segment identification,
  - (2) Develops and maintains listings of positions, employee names with official class titles and pay levels for the positions to which assigned, the title and pay levels of vacant positions which are funded and approved, and other similar essential details.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### **§ 100-50-308 Position Planning**

Managers and supervisors are responsible for position planning. The supervisor analyzes the work to be accomplished, decides on work or production methods, and determines the requirements for supervision, special technical support, qualitative and quantitative controls, and review and evaluation. A well-defined position has clearly defined operation, tasks, duties, authorities, responsibilities, and supervisory relationships.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### **Subpart B - Compensation**

#### **§ 100-50-310 General**

All employees of the NMHC shall be compensated in accordance with Commonwealth laws. Classified employees shall be assigned salaries commensurate with similarly graded positions at public housing agencies or agencies that administer federal programs in the U.S. and the provisions of this chapter. The NMHC compensation plan shall follow the base salary schedule as presented in the comparable salary study and as approved by the NMHC Board of Directors (authority given in PL 18-74).

History: Amdts Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Amdts Proposed 42 Com. Reg. 43066 (Jan. 28, 2020); Amdts Adopted 19 Com. Reg. 15783 (Nov. 15, 1997); Amdts Proposed 19 Com. Reg. 15668 (Sept. 15, 1997).

Commission Comment: [Historical comments removed.]

**§ 100-50-312 Compensation Plan**

The classes in the position classification plan, when assigned to appropriate pay levels of the base salary schedule as established, shall constitute the basic compensation plan. The Corporate Director shall assign all classes in the position classification plan to appropriate pay levels in the base salary schedule in accordance with the following:

- (a) Kind and level of work;
- (b) Degree of difficulty and responsibility;
- (c) Kind, quality, and level of qualification requirements;
- (d) Relationship to other classes in its occupational group and of its occupational group to other occupational groups.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

**§ 100-50-314 Periodic Review of Compensation Plan**

The Corporate Director shall periodically ensure the conduct of necessary and appropriate studies of rates of compensation and compensation practices in the Commonwealth and recommend to the Personnel Committee any recommended changes to the NMHC Compensation Plan. Following such review, the Committee shall make recommendations to the Board of Directors for any possible changes to the NMHC compensation plan.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

**§ 100-50-315 Non-related Activities [Repealed.]**

[Repealed.]

History: Amdts Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Amdts Proposed 42 Com. Reg. 43066 (Jan. 28, 2020); Amdts Adopted 19 Com. Reg. 15783 (Nov. 15, 1997); Amdts Proposed 19 Com. Reg. 15668 (Sept. 15, 1997).

Commission Comment: [Historical comments removed.]

**§ 100-50-316 Establishing Salary upon Appointment**

- (a) Salary shall be fixed at the first step of the appropriate pay level upon initial appointment. Should a higher rate be deemed necessary to recruit, and is appropriate to the qualifications of the applicant, the salary may be fixed at any succeeding step not to exceed step 9. An initial salary above step 1 of the pay level must be approved by the Corporate Director. An initial salary above step 9 of the pay level must be approved by the Personnel Committee with the recommendation by the Corporate Director.

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(b) When a person is reemployed after a break in service of one or more days into a position in a class and pay level lower than the highest class and pay level previously held, the salary may be set in the lower grade at the highest previous step held.

(c) When a person is reemployed after a break in service of one or more days into a position in a class and pay level higher than the highest class and pay level previously held, the salary may be set in the higher grade at a step-level equivalent to two steps higher than the highest previous step held.

(d) All initial salaries are contingent upon budgeted and available funding and may be limited accordingly, notwithstanding (b) and (c) above.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### **§ 100-50-318 Promotions**

An employee who is promoted from a position in one class to an existing position in a higher class shall be compensated at the lowest step in the new pay level which at least equals the amount of a two-step increase in the old pay level. The rate of compensation must not exceed the rate of the maximum step in the higher pay level. The effective date of the promotion shall be the new service anniversary date for the promoted employee. Retroactive promotions shall not be made except when directed by a decision of the Personnel Committee pursuant to an employee's appeal.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### **§ 100-50-320 Temporary Promotions**

A temporary promotion is utilized when it is anticipated that an employee will temporarily occupy a position for a period in excess of ninety (90) calendar days. An employee can be temporarily promoted only if such employee meets the qualifications standards of the new position. The employee temporarily promoted shall be compensated at the step in the new pay level which is at least equal to an increase of two steps at the current pay level. The employee must be informed in advance and agree, in writing, that at the expiration of the temporary promotion, the employee will be returned to the former salary (level and step) that s/he would be receiving had the employee remained in the former position. No temporary promotion shall exceed a period of one year.

History: Amdts Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Amdts Proposed 42 Com. Reg. 43066 (Jan. 28, 2020); Amdts Adopted 19 Com. Reg. 15783 (Nov. 15, 1997); Amdts Proposed 19 Com. Reg. 15668 (Sept. 15, 1997).

Commission Comment: [Historical comments removed.]

### **§ 100-50-322 “Acting” Assignment**

(a) An “acting” assignment is the designation, in writing, that an employee will act for a period of up to 30 calendar days in place of a supervisor. When the supervisor's absence exceeds

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the initial thirty-day period, a new designation shall be made for an additional thirty days. This thirty-day renewal of the acting assignment is repeated until the supervisor returns to the position. Whenever the acting assignment exceeds 90 days, the employee shall be temporarily promoted if the employee meets the qualifications standards of the position. If the acting assignment exceeds 90 days and the employee does not meet the qualifications standards of the position, the employee shall be compensated with two steps in the current pay level, but may not exceed the maximum step.

(b) When an employee in the classified service is designated for an acting assignment to a contracted position, the employee shall be required to resign from the classified service in order to accept the said acting assignment. While in the acting assignment, the employee shall be entitled to receive a salary equivalent to the salary received by the previous incumbent of the position if the employee meets the qualifications for the contracted position, or a two step temporary increase if the employee does not.

(c) Upon expiration of the acting assignment, the employee will be reinstated to the former position and salary (level and step) that the employee would be receiving had the employee remained in the former position.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### **§ 100-50-324 Demotion**

(a) An employee demoted because of abolishment of position or reallocation of position to a lower pay level, except at the employee's own request, shall be compensated at the salary rate which does not exceed the employee's current pay rate. Where the employee's current rate exceeds the rate of the maximum step of the lower pay level, the employee shall be compensated at such maximum step. An employee demoted as a disciplinary measure shall have his/her compensation reduced to the corresponding step of the lower pay level.

(b) An employee demoted at his/her own request shall have pay set at the step in the lower pay level which corresponds to the step held in the higher level.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### **§ 100-50-325 Drug Free Work Place [Repealed.]**

[Repealed.]

History: Amdts Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Amdts Proposed 42 Com. Reg. 43066 (Jan. 28, 2020); Amdts Adopted 19 Com. Reg. 15783 (Nov. 15, 1997); Amdts Proposed 19 Com. Reg. 15668 (Sept. 15, 1997).

Commission Comment: [Historical comments removed.]

### **§ 100-50-326 Transfer**

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An employee who is transferred to a different position within the NMHC at the same pay level shall receive no change in compensation.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### **§ 100-50-328 Effect on Service Anniversary Date**

An employee's service anniversary date will not be affected by a transfer, acting assignment, or temporary promotion.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### **§ 100-50-330 Reallocation/Reclassification of Position to Higher Pay**

An employee whose position is reallocated/reclassified to a higher class shall be compensated at the lowest step in the higher pay level which at least equals the amount of a two-step increase in the lower pay level. The rate of compensation cannot exceed the rate of the maximum step in the higher pay level. The anniversary date of the new reallocation/reclassification shall become the employee's new anniversary date for within-grade increases and other purposes.

History: Amdts Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Amdts Proposed 42 Com. Reg. 43066 (Jan. 28, 2020); Amdts Adopted 19 Com. Reg. 15783 (Nov. 15, 1997); Amdts Proposed 19 Com. Reg. 15668 (Sept. 15, 1997).

Commission Comment: [Historical comments removed.]

### **§ 100-50-332 Effective Date of Position Changes**

The effective date of all position changes shall be the beginning of the first pay period immediately following the approval of the action by the Corporate Director. Exceptions to this rule may be made by the Corporate Director only for such reasons as will expedite NMHC's business and not result in an inequitable situation.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### **§ 100-50-334 Within-Grade Increases**

(a) Within-grade increases may be granted to permanent employees upon completion of fifty-two consecutive calendar weeks of satisfactory performance.

(b) Permanent employees who are assigned to work part-time will be eligible for a within-grade increase only at such time as the cumulative total of all hours worked equates to a standard work year of 2,080 hours and such work has been satisfactory. Employees who are employed on an intermittent basis are not eligible to receive within-grade increases.

(c) The effective date of a within-grade step increase shall be the first day of the first pay period following completion of the required waiting period.

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(d) A former employee reemployed with a break in service begins a new waiting period for a within-grade increase from the date of rehire.

(e) Time served during temporary, limited term, or provisional status shall not be counted toward the required waiting period in receiving a within-grade step increase, except that employees holding temporary promotions will be eligible for any within-grade increase due to their permanent position, and the temporary salary may be adjusted accordingly.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### **§ 100-50-335 Company Vehicles [Repealed.]**

[Repealed.]

History: Amdts Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Amdts Proposed 42 Com. Reg. 43066 (Jan. 28, 2020); Amdts Adopted 19 Com. Reg. 15783 (Nov. 15, 1997); Amdts Proposed 19 Com. Reg. 15668 (Sept. 15, 1997).

Commission Comment: [Historical comments removed.]

### **§ 100-50-338 Overtime Compensation**

(a) **Compensatory Time and Control.** Any employee who exceeds 40 hours actually worked in an established one-week pay period shall be compensated for the hours in excess of 40 at the rate of one and one-half times the regular rate of pay, except as provided in this section.

(b) **Exceptions.** Bona fide executive, administrative, and professional employees are exempt from payment for overtime. These terms shall have the meanings given them in the federal Fair Labor Standards Act of 1938, as amended (FLSA). Under special circumstances such as: declared CNMI emergency declarations; CNMI disaster declaration; Presidential declared disaster declaration; or congressionally-federally-funded programs that have obligatory and expenditure deadlines, the Corporate Director may authorize the payment of overtime, and contingent on funding availability.

(1) Every personnel action or request therefore to appoint, promote, or transfer an individual to a position shall be endorsed by the Office Manager as either “FLSA covered” or “FLSA exempt,” and the latter term shall only apply to bona fide executive, administrative, or professional employees. The criteria used in justifying such exemptions must be documented in the employees’ job descriptions. Every examination announcement, promotional opportunity announcement, or other vacancy announcement for a position that is FLSA exempt shall indicate that the holder of that position is not eligible for payment for overtime. If changes in a job description effectively change an employee’s coverage or exemption under the FLSA, a special personnel action shall be prepared to document such change.

(2) In addition to the above exceptions, no employee shall be eligible to receive overtime pay for any hour for which the typhoon emergency differential is paid.



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(c) Hours Actually Worked. Overtime compensation will only be paid for hours actually worked in excess of 40 hours a week. Paid leave, annual or sick, or holidays shall not be included in the computation of hours actually worked, except for administrative leave allowed to serve on government boards and commissions. Time during which an employee is required to remain at a prescribed workplace shall be included in the hours actually worked, even if no work is performed.

(d) Payments Included in Determining Regular Rate of Pay. The regular rate of pay shall include consideration of the following compensation for employment:

(1) Basic pay (one-eightieth of biweekly salary) for the first 40 hours actually worked in the workweek, including work on a holiday (but not the amount also paid for holiday leave), and including basic pay for work during a typhoon emergency (but not the amount also paid for administrative leave), regardless of whether actual compensation during such emergency is higher because any such work was performed outside of regular duty hours; and

(2) Any hazardous work differential earned during the workweek; and

(3) Any night work differential (which can only be earned during regular scheduled shifts and duty hours); and

(4) Any premium earned for remaining on call for duty during a regularly scheduled period in excess of a forty hour week; and

(5) Payment for housing or transportation to and from work that is paid to the employee or the fair value of those benefits, if they are provided directly by the government, pro-rated to determine the amount for that workweek. The fair value shall be the amount specified for tax purposes.

(e) Compensatory Time-Off. If funds are not available for overtime compensation, compensatory time-off may be granted at the rate of one and one-half hours for each hour actually worked of overtime, provided that:

(1) The employee signs a statement agreeing to compensatory time-off in place of overtime; and

(2) The maximum authorized accumulation of compensatory time-off is 150 hours (100 hours of work time at one and one-half (1.5) times). When an employee has accumulated 150 hours of compensatory time off, all overtime must be paid in cash; and

(3) An employee's request to use compensatory time-off must be granted within a reasonable time unless the responsible official determines that time off would be unduly disruptive to operation of the activity; and

(4) Accrued balances of compensatory time-off at the termination of employment must be paid at the average basic pay of the employee over the last three years of employment or the final basic pay, whichever is higher.

(5) Compensatory time-off cannot be carried "off the books" through any in-house agreement or arrangement. All time work shall be officially recorded.

(f) Reduction and Control of Overtime. Intelligent and responsible control of overtime is a continuing management function and certain steps are to be taken by all appointing authorities and supervisors to reduce overtime. Overtime work should be directed to a specific objective or goal, and should not be work that can be completed during the regular workday, or postponed to the following day or days. Avoid use of compensatory time-off. Excessive use of compensatory

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time-off will take employees away from the workplace in the future and create a need for more overtime.

(g) **Approval of Overtime.** Overtime must be approved, in advance, by the Corporate Director on forms prescribed by the NMHC.

(1) An employee who is suffered or permitted to work overtime without authorization shall be paid, because the time represents an obligation of the NMHC.

(2) The responsible management official has an obligation to discourage overtime which is not approved, and must take disciplinary action, when appropriate, against an employee who works overtime without authorization.

(3) As a general policy, an employee who has taken annual or sick leave or who plans to take annual or sick leave within the same work week will not be scheduled to work overtime.

(h) **Supervisors Working Overtime.** As a general policy, management officials should refrain from directing supervisory personnel to work overtime.

(i) **Supervision of Overtime Work.** In the event three or more employees are directed to work overtime, a supervisor must be present to ensure proper utilization of the overtime period.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### **§ 100-50-340 Standard Work Week**

Non-standard work weeks may be used to provide continuity of service, flexibility of work scheduling, or to fulfill other needs in NMHC's interest. Schedules for non-standard work weeks shall be devised, in advance, by the Corporate Director, not to exceed 40 hours per week. When it becomes necessary to change an employee from a standard work week to a non-standard work week, every effort will be made to give the employee notice three to five working days in advance of the effective date of the change.

History: Amdts Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Amdts Proposed 42 Com. Reg. 43066 (Jan. 28, 2020); Amdts Adopted 19 Com. Reg. 15783 (Nov. 15, 1997); Amdts Proposed 19 Com. Reg. 15668 (Sept. 15, 1997).

Commission Comment: [Historical comments removed.]

### **§ 100-50-342 Use of Non-standard Work Week**

Non-standard work weeks may be used to provide continuity of service, flexibility of work scheduling, or to fulfill other needs in NMHC's interest. Schedules for non-standard work weeks shall be devised, in advance, by the Corporate Director, not to exceed 40 hours per week. When it becomes necessary to change an employee from a standard work week to a non-standard work week, every effort will be made to give the employee notice three to five working days in advance of the effective date of the change.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### **§ 100-50-344 Holidays**

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All NMHC employees shall receive leave with pay on each legal holiday.

(a) **Payment for Work on Holidays:** An employee required to work on a legal holiday shall be compensated at the base salary rate or the adjusted base salary rate for the hours actually worked, and shall also be paid for the holiday leave with pay.

(b) **Holiday Pay in a Non-standard Work Week.** When holidays fall on a regular non-work day for employees whose basic work week is other than the standard work week, the work day immediately preceding or succeeding the holiday shall be designated (as determined by the employee's manager) as the holiday in lieu of such holiday which occurs on the employee's scheduled non-work day:

(1) Such employees who have designated holidays in lieu of the official holiday shall, if possible, be excused from duty on the designated holiday.

(2) Such employees who are required to work on their designated holiday shall receive the basic salary rate for work performed on that day, and shall also receive holiday leave with pay.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### **§ 100-50-345 Changes in Personal Information [Repealed.]**

[Repealed.]

History: Amdts Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Amdts Proposed 42 Com. Reg. 43066 (Jan. 28, 2020); Amdts Adopted 19 Com. Reg. 15783 (Nov. 15, 1997); Amdts Proposed 19 Com. Reg. 15668 (Sept. 15, 1997).

### **§ 100-50-346 Merit Increase**

(a) An employee with an overall exceptional performance rating may additionally be granted a merit increase not to exceed one step increase in the base salary upon completion of fifty-two consecutive calendar weeks of sustained superior work performance. Such additional merit increase shall not alter the waiting period required for qualifying for the next within-grade step increase. No employee shall be compensated above the maximum step prescribed for the employee's pay level except where the employee was receiving such compensation pursuant to law.

(b) A recommendation for a merit increase is prepared and signed by the manager, and then forwarded to the Corporate Director for review and final approval.

(c) The effective date of all merit increases shall be the beginning of the pay period immediately following the final approval of the Corporate Director. Exceptions to this rule may be made by the Corporate Director only for such reasons as might expedite NMHC's business and not result in an inequitable situation.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

**§ 100-50-348 Premium Pay**

(a) On-call. Employees who are required to remain on-call to duty outside of their regular working hours shall be fit to report for duty while on call and shall be paid a premium of one dollar and fifty (\$1.50) cents per hour they are scheduled to be on-call, provided that:

(1) Employees shall be compensated for hours actually worked instead of receiving an on-call premium for all hours in which they are required to be at a prescribed work place; and

(2) Hours of on-call duty must be for a regularly scheduled period of time in excess of the regular 40 hour work week. On-call schedules must be submitted to the timekeeper before the beginning of the work week involved; and

(3) There is a bona fide reason (i.e., the imminent destruction from a tropical storm or typhoon) for the employee to be on call; and

(4) Eligibility to be placed on-call is for a period of one year, and may be renewed for additional one year periods.

(b) Typhoon Emergency. Employees who are required by the NMHC to work in a location and during a period of time in which a typhoon or tropical storm emergency has been declared by the Governor shall be compensated as follows:

(1) For the employee's regularly scheduled work hours during which other NMHC employees are released from work as a result of the emergency, the employee shall receive pay for administrative leave, and shall also receive pay for the actual hours worked; and

(2) For all other hours such employees are required to work while such declaration of emergency shall remain in force, compensation shall be at the rate of two and one-half (2.5) times the base salary rate. Employees being paid typhoon emergency differential are not eligible to receive any other premium pay or overtime pay for the same time period.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

**§ 100-50-350 Approval of Premium Pay or Differentials**

Proposals to either begin or discontinue premium pay differentials shall be submitted on a request for personnel action to the Corporate Director for review and approval. The request must be accompanied by a letter of justification addressing each of the criteria required to support the particular differential. Discontinuance of differentials does not constitute a "reduction in pay" and does not require a formal adverse action. The Corporate Director may initiate proposals to begin or discontinue premium pay differentials.

History: Amdts Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Amdts Proposed 42 Com. Reg. 43066 (Jan. 28, 2020); Amdts Adopted 19 Com. Reg. 15783 (Nov. 15, 1997); Amdts Proposed 19 Com. Reg. 15668 (Sept. 15, 1997).

Commission Comment: [Historical comments removed.]

**§ 100-50-352 Bar to Dual Compensation or Dual Employment**

(a) When an employee is engaged in government work other than in the employee's regular position with NMHC, such employee shall be

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- (1) Placed in LWOP from the regular position, or
- (2) Continue the NMHC salary provided employee resigns from the other government position.

(b) Exception: When an employee is engaged as a classroom teacher outside the employee's regular work day to teach adult basic education or classes for the Northern Marianas College, such employee shall be paid for work as a teacher at the prevailing rate. Other exceptions may be made upon proper justification with the specific written approval of the Corporate Director.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### **§ 100-50-355 Harassment [Repealed.]**

[Repealed.]

History: Amdts Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Amdts Proposed 42 Com. Reg. 43066 (Jan. 28, 2020); Amdts Adopted 19 Com. Reg. 15783 (Nov. 15, 1997); Amdts Proposed 19 Com. Reg. 15668 (Sept. 15, 1997).

Commission Comment: [Historical comments removed.]

### **§ 100-50-356 Timekeepers**

It is essential that the NMHC have available accurate data concerning the time and attendance of employees. This information assists forecasting of future personnel needs and analysis of current practices. To provide the needed information, it is necessary that competent timekeepers be appointed and certified.

(a) Appointment and Certification of Timekeeper. The Corporate Director shall appoint not less than two timekeepers from among the NMHC employees on Saipan. Upon the appointment, each timekeeper will undertake a course of instruction in timekeeping procedures as provided by the Office of Personnel Management of the Civil Service Commission. No person may perform the duties of timekeeper without such certification.

(b) Duty of the Timekeeper.

(1) Each timekeeper will be responsible for recording and certifying time and attendance records of the assigned employees. Timekeeping duties shall be accomplished during regular working hours. Overtime shall not be authorized for timekeeping. The timekeeper will also record and certify leave time taken by any assigned employee. The method of recording and certifying time, attendance, and leave shall be as prescribed by the Office of Personnel Management training.

(2) Time and attendance records, kept by the timekeeper, are subject to audit by the Corporate Director or his designee at least once a year. Noncompliance to the timekeeping procedures taught in the certification training may subject the timekeeper to immediate decertification and appropriate disciplinary action(s) as provided in these regulations.

(c) Protection of Timekeeper. It is essential that timekeepers be able to fulfill their duties without harassment. No person may attempt to coerce, threaten, or otherwise attempt to hinder

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the timekeeper. Any person violating this provision shall be reported promptly by the timekeeper to the Corporate Director. Any person violating this provision may be subject to disciplinary actions as provided in these regulations or criminal sanctions.

(d) Employees' Rights to Challenge Timekeeping Records. Any employee who wishes to challenge the accuracy of any timekeeper's records may institute an employee appeal under the grievance procedure.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### **§ 100-50-360 Punctuality and Attendance [Repealed.]**

[Repealed.]

History: Amdts Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Amdts Proposed 42 Com. Reg. 43066 (Jan. 28, 2020); Amdts Adopted 19 Com. Reg. 15783 (Nov. 15, 1997); Amdts Proposed 19 Com. Reg. 15668 (Sept. 15, 1997).

### **§ 100-50-365 Standards of Conduct [Repealed.]**

[Repealed.]

History: Amdts Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Amdts Proposed 42 Com. Reg. 43066 (Jan. 28, 2020); Amdts Adopted 19 Com. Reg. 15783 (Nov. 15, 1997); Amdts Proposed 19 Com. Reg. 15668 (Sept. 15, 1997).

Commission Comment: [Historical comments removed.]

### **§ 100-50-370 Other NMHC Policies and Practices [Repealed.]**

[Repealed.]

History: Amdts Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Amdts Proposed 42 Com. Reg. 43066 (Jan. 28, 2020); Amdts Adopted 19 Com. Reg. 15783 (Nov. 15, 1997); Amdts Proposed 19 Com. Reg. 15668 (Sept. 15, 1997).

Commission Comment: [Historical comments removed.]

## **Part 400 - Employee Management Processes**

### **Subpart A - Communications**

#### **§ 100-50-401 General**

The NMHC is committed to the policy of participative management. This means that employee views and opinions shall be actively sought. Managers and supervisors shall not take any steps, either covertly or overtly, which will diminish participation by employees in the management process through communication of ideas, comments, and suggestions to their supervisors and

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superiors. To this end, supervisors and managers shall make positive and continuing efforts to communicate with the employees in the following ways:

(a) Formally, through:

- (1) The annual employee review system and the performance evaluation process;
- (2) Staff meetings or other assemblies called for the purpose of informing subordinates; concerning the status of work and programs and discussion of current matters of mutual interest;
- (3) Such other devices as may be initiated by managers and supervisors to enhance communications.

(b) Informally, through:

- (1) Frequent contact with employees at their work site to exchange comments concerning progress of work;
- (2) Maintaining an “open door” policy which encourages employees to bring to the attention of supervisors and managers those problems of mutual concern;
- (3) Adopting a helpful and supportive attitude toward the incentive awards program, especially the beneficial suggestion program;
- (4) Passing along, promptly, to higher levels of management, complaints and concerns of employees which cannot be resolved or corrected at the lower levels of supervision;
- (5) Resolving promptly those matters which fall within the authority of the supervisor;
- (6) Encouraging morale and esprit de corps by:
  - (i) Occasional brief group meetings to recognize events and communicate plans of mutual interest to the employees in that office; and
  - (ii) Occasional social gatherings of employees and their families for picnics or holiday celebrations to promote better understanding and cooperation.

History: Amdts Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Amdts Proposed 42 Com. Reg. 43066 (Jan. 28, 2020); Amdts Adopted 19 Com. Reg. 15783 (Nov. 15, 1997); Amdts Proposed 19 Com. Reg. 15668 (Sept. 15, 1997).

### **§ 100-50-402 Role of the Corporate Director**

The Corporate Director shall:

(a) Monitor and guide managers and supervisors in the above listed actions to facilitate good intra-agency communications;

(b) Designate the Office Manager to monitor employee relations through advising managers and supervisors in such areas as:

- (1) Advising supervisors and managers concerning effect and import of regulations concerning employees’ rights and privileges, management’s rights, employee conduct and performance appeals, grievances and communications;
- (2) Advising and counseling employees concerning benefits to include the group life insurance, the group health insurance, and worker’s compensation;
- (3) Advising all employees on the impact of law and regulations concerning the personnel management function; and
- (4) Advising all employees concerning conflict of interest as denounced in this subchapter.

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History: Amdts Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Amdts Proposed 42 Com. Reg. 43066 (Jan. 28, 2020); Amdts Adopted 19 Com. Reg. 15783 (Nov. 15, 1997); Amdts Proposed 19 Com. Reg. 15668 (Sept. 15, 1997).

Commission Comment: [Historical comments removed.]

## Subpart B - Emotional and Mental Health

### § 100-50-404 General

(a) This subpart deals with employee conduct and performance when outside influences, other than substance abuse, adversely affect employees' effectiveness. These influences include, but are not limited to, the following:

Politics	Family problems
Employee-supervisor conflict	Divorce
Employee-employee conflict	Legal concerns
Perceived personal crisis	Financial problems
Retirement crisis	Death in family

(b) Early recognition of deteriorating performance or conduct is a vital first step in the NMHC's program to help troubled employees retain or resume their place as productive members of the work force. Early recognition is also an integral part of supervision. Because the immediate supervisor must assume such a key role in helping troubled employees, this subpart is prepared to help the supervisor:

- (1) Recognize early signs indicative of personal problems;
- (2) Deal in an appropriate manner with employees whose work is suffering because of personal problems; and
- (3) Make employees aware of sources of help within the organization and community.

(c) This subpart does not deal with substance abuse. Subpart C describes for the NMHC's policy on creating an alcohol and drug free workplace.

History: Amdts Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Amdts Proposed 42 Com. Reg. 43066 (Jan. 28, 2020); Amdts Adopted 19 Com. Reg. 15783 (Nov. 15, 1997); Amdts Proposed 19 Com. Reg. 15668 (Sept. 15, 1997).

Commission Comment: [Historical comments removed.]

### § 100-50-406 Policy on Emotional and Mental Health

(a) As employer, the NMHC is concerned with any personal or social situation which interferes with the individual employee's mental and physical well-being, or interferes with the efficient and safe performance of assigned duties, reduces dependability, or reflects discredit on the NMHC.



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(b) It is the NMHC policy to offer assistance through confidential counseling and referral guidance when indicated. This assistance includes but is not limited to such areas as emotional problems, family and marital problems, indebtedness, interpersonal conflicts (employee-supervisor, employee-employee) and crisis situations, where it is determined by the employee or management that these problems adversely affect employee health and performance.

(c) Supervisor must take care not to make decisions for employees or give guidance beyond their professional capabilities. For non-work-related situations, the supervisor should guide the employee to seek professional assistance.

(d) Assistance available to employees voluntarily seeking help for substance abuse problems is described in subpart C for sick leave, annual leave, or leave without pay which may be granted for approved programs of treatment, counseling, or rehabilitation. The confidential nature of records in these cases will be maintained in the same manner as medical records.

History: Amdts Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Amdts Proposed 42 Com. Reg. 43066 (Jan. 28, 2020); Amdts Adopted 19 Com. Reg. 15783 (Nov. 15, 1997); Amdts Proposed 19 Com. Reg. 15668 (Sept. 15, 1997).

Commission Comment: [Historical comments removed.]

### **§ 100-50-408 Action by Supervisors and Managers**

(a) Supervisors and managers must be alert to indications of deteriorating performance on the part of employees under their supervision. Some of the indications which may occur are:

- (1) A marked change in behavior. This may show up as emotional outbursts, chronic irritability, excessive fatigue, or rule violations.
- (2) Frequent short-term absences, notably the afternoon of pay day or the following Monday;
- (3) Repeated incidents leading to work-related accidents or damages;
- (4) Frequent complaints related to health;
- (5) Chronic inability to get along with fellow employees; or
- (6) Excessive problem drinking.

(b) Upon identification of presumed problems, the supervisor should approach the employee to determine the cause of performance change. Should such an approach be rebuffed, which is likely, the supervisor should continue to observe the employee's performance, recording occurrences which tend to support the supervisor's feeling that the employee is troubled. If the conduct continues for a lengthy period, the supervisor must again counsel with the employee and, if the employee is unresponsive, refer the matter to the Corporate Director.

History: Amdts Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Amdts Proposed 42 Com. Reg. 43066 (Jan. 28, 2020); Amdts Adopted 19 Com. Reg. 15783 (Nov. 15, 1997); Amdts Proposed 19 Com. Reg. 15668 (Sept. 15, 1997).

Commission Comment: [Historical comments removed.]

### **§ 100-50-410 Action by the Corporate Director**

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Upon referral of a case to the Corporate Director by a supervisor, the Corporate Director should contact the Community Guidance Center or other appropriate agency for assistance. Once arrangements for assistance have been made, the Corporate Director should seek out the employee and counsel the employee to seek appropriate help. If the employee is agreeable, the Corporate Director should notify the supervisor concerned so that arrangements can be made for the employee to seek help. If the employee is not agreeable, the Corporate Director should advise the employee that he or she is responsible for the consequences of their actions and if the unsatisfactory performance continues, disciplinary action may result. Actions taken should be properly documented and maintained in the official personnel folder or the confidential medical file, as appropriate.

History: Amdts Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Amdts Proposed 42 Com. Reg. 43066 (Jan. 28, 2020); Amdts Adopted 19 Com. Reg. 15783 (Nov. 15, 1997); Amdts Proposed 19 Com. Reg. 15668 (Sept. 15, 1997).

### **§ 100-50-412 Further Actions**

Should an employee's conduct and performance continue to deteriorate and the supervisor is convinced beyond a reasonable doubt that the cause is other than alcohol abuse or drug dependence, the supervisor should consult again with the Corporate Director. The Corporate Director should then seek assistance from an appropriate practitioner at the Community Guidance Center, the Commonwealth Health Center or other appropriate agency. Disciplinary action may be taken as provided under these regulations.

History: Amdts Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Amdts Proposed 42 Com. Reg. 43066 (Jan. 28, 2020); Amdts Adopted 19 Com. Reg. 15783 (Nov. 15, 1997); Amdts Proposed 19 Com. Reg. 15668 (Sept. 15, 1997).

### **Subpart C - Alcohol and Drug-Free Workplace**

#### **§ 100-50-414 General Policy**

(a) As an employer, the NMHC recognizes it has a responsibility to its employees and the public it serves to take reasonable steps to assure safety in the workplace and in the community. Furthermore, the NMHC is concerned about the adverse effect that alcohol and drug abuse have on safe and productive job performance. It also recognizes that any employee, whose ability to perform safely and productively is affected by the use of alcohol and other drugs, jeopardizes the integrity of the workplace and the achievement of the NMHC's mission. To maintaining an alcohol and drug free workplace, employees shall not be under the influence of alcohol, illegal drugs, cannabis, or controlled substances during business hours, whether or not consumed on NMHC premises and whether or not consumed out of or during working hours.

(b) The NMHC realizes that alcoholism, problem drinking, and drug addiction are treatable illnesses. The NMHC, therefore, encourages employees who have problems with drugs or alcohol to utilize all available resources to resolve their problems before those problems affect their job performance.

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History: Amdts Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Amdts Proposed 42 Com. Reg. 43066 (Jan. 28, 2020); Amdts Adopted 19 Com. Reg. 15783 (Nov. 15, 1997); Amdts Proposed 19 Com. Reg. 15668 (Sept. 15, 1997).

### § 100-50-416 Procedure

The NMHC understands and accepts its obligation to maintain a workplace free of alcohol and illegal drugs. To ensure that the objectives of this policy are met, the NMHC will actively implement and maintain a drug-free program. The program will have the following elements: collection and testing, education and guidance, referral and rehabilitation.

The NMHC adopts the CNMI Government's "Alcohol and Drug Free Workplace Policy, NMIAC 10-20.2-414" (CNMI Drug Policy) and subsequent changes thereto, with the following revisions:\*

\* So in original.

History: Amdts Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Amdts Proposed 42 Com. Reg. 43066 (Jan. 28, 2020); Amdts Adopted 19 Com. Reg. 15783 (Nov. 15, 1997); Amdts Proposed 19 Com. Reg. 15668 (Sept. 15, 1997).

### § 100-50-418 Testing Occasions

(a) Administrative or disciplinary hearings and any decisions regarding this policy will be conducted by the Corporate Director and the Personnel Committee as provided in these regulations.

(b) References in the CNMI Drug Policy to the Director of Personnel Management means the NMHC Corporate Director as applied to NMHC except those noted in these regulations.

(c) Random Testing. NMHC has elected to implement random testing of not less than every three months, of randomly selected employees in sensitive positions as provided in this section will be required to submit to breath-tests for alcohol and urine tests for cocaine, cannabis, opiates, amphetamines, and phencyclidine. The testing will be done during on-duty time. Except as otherwise provided, the NMHC shall pay for the testing.

(1) Sensitive positions designated for random testing. NMHC employees whose job functions relate to public health and safety are identified to occupy sensitive positions subject to testing. Such positions are characterized by critical safety or security responsibilities as related to the mission of NMHC (i.e., use of moving machinery, transportation of goods and persons, use of NMHC vehicles, or to enter or be in the dwelling of an NMHC tenant or Section 8 client). The job functions associated with such positions directly and immediately relate to public health and safety. Such positions are identified for random testing because employees occupying these positions are in a position to expose fellow employees or the general public to a heightened risk of harm, or may present harm to tenants and their families. The Corporate Director shall establish and maintain a listing of such positions for random testing according to the following criteria:

(i) Any employee whose regular job function calls for them to operate machinery or a vehicle in the regular course of their employment; or

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(ii) Any employee whose regular job function may require to enter or be in an inhabited dwelling of NMHC.

(2) Method of selection. Affected employees will be selected by a statistically valid method such as a random number table or computer-based random number generator that is matched with employee Social Security numbers, payroll identification numbers, or other comparable identifying numbers. The selection of such employees will be performed by Office of Personnel Management based on employee listings provided by the NMHC Corporate Director or designee pursuant to an agreement with OPM.

(3) Number to be tested. No more than twenty-five (25) percent of all employees in sensitive positions as provided in this section shall be required to submit to both breath-alcohol testing and urine testing. The actual percentage will be determined at the beginning of each fiscal year by the Corporate Director and the Office Manager after reviewing the NMHC's prior positive testing rates, reasonable suspicion and post-accident events, and referrals for service.

(d) Collecting and Testing Breath Specimens shall be as provided in NMIAC § 10-20.2-426(c)(d).

(e) Report to NMHC. The Medical Review Officer (M.R.O.) shall report all positive and negative urine drug test results, in a manner to assure confidentiality, to the NMHC Corporate Director. Other than as specified above, the M.R.O. shall not release the results of drug tests to any other individual without a written release from the tested employee.

Modified, 1 CMC § 3806(a),(g).

History: Amdts Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Amdts Proposed 42 Com. Reg. 43066 (Jan. 28, 2020); Amdts Adopted 19 Com. Reg. 15783 (Nov. 15, 1997); Amdts Proposed 19 Com. Reg. 15668 (Sept. 15, 1997).

Commission Comment: [Historical comments removed.]

### **§ 100-50-420 Leave Advance [Repealed.]**

[Repealed.]

History: Amdts Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Amdts Proposed 42 Com. Reg. 43066 (Jan. 28, 2020); Amdts Adopted 19 Com. Reg. 15783 (Nov. 15, 1997); Amdts Proposed 19 Com. Reg. 15668 (Sept. 15, 1997).

Commission Comment: [Historical comments removed.]

### **§ 100-50-422 Leave of Absence [Repealed.]**

[Repealed.]

History: Amdts Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Amdts Proposed 42 Com. Reg. 43066 (Jan. 28, 2020); Amdts Adopted 19 Com. Reg. 15783 (Nov. 15, 1997); Amdts Proposed 19 Com. Reg. 15668 (Sept. 15, 1997).

Commission Comment: [Historical comments removed.]

**§ 100-50-424 Prohibited Conduct**

The following conduct or activity is prohibited by the NMHC and employees violating this provision will be subject to disciplinary action:

- (a) Sale, Purchase, Possession with Intent to Deliver, or Transfer of Alcohol or Illegal Drugs. No employee shall sell, purchase, or transfer; attempt to sell, purchase, or transfer; or possess with the intent to deliver, any illegal drug while on NMHC property, in any NMHC vehicle or on any NMHC business.
- (b) Possession of Illegal Drugs. No employee shall possess any illegal drug while on NMHC property, in any NMHC vehicle, or on any NMHC-related business.
- (c) Possession of Open Containers of Alcohol. No employee shall possess an open container of alcohol in any vehicle while on NMHC properties, in any NMHC vehicle, or on any NMHC-related business.
- (d) Under the Influence of Alcohol or Illegal Drugs. No employee shall be under the influence of alcohol or any illegal drug when at work, or reporting to work with the intention of working. As used in this subsection, alcohol includes any alcohol found in any prescription or non-prescription drug such as cough syrup used other than as directed by the physician or normal usage per nonprescription directions. An employee is presumed to be under the influence of alcohol or an illegal drug if:
  - (1) The employee has a B.A.C. of 0.02 or more;
  - (2) The employee has a detectable amount of any illegal drug in his or her urine;
  - (3) The employee uses alcohol or any illegal drug while on call when the employee knows he or she may be called upon to perform NMHC-related functions; or
  - (4) The employee uses alcohol or any illegal drug within four hours prior to reporting to work and expects to perform NMHC-related functions.

History: Amdts Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Amdts Proposed 42 Com. Reg. 43066 (Jan. 28, 2020); Amdts Adopted 19 Com. Reg. 15783 (Nov. 15, 1997); Amdts Proposed 19 Com. Reg. 15668 (Sept. 15, 1997).

**§ 100-50-426 Refusal to be Tested**

No employee required to be tested for drugs or alcohol under any provision of this subpart shall refuse to be tested. The following conduct shall be considered a refusal to be tested:

- (a) Refusing in writing to submit to testing after receiving clear and specific written notice of the requirement to be tested;
- (b) Refusing verbally, in front of at least two witnesses, to submit to testing after receiving clear and specific written notice of the requirement to be tested;
- (c) Failing to timely provide an adequate specimen for testing, without a valid medical explanation, after receiving clear and specific written notice of the requirement to be tested. An

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M.R.O. or consulting physician shall determine if there is any medical reason for failure to provide an adequate urine sample (shy bladder) or an adequate breath sample (shy lung);

- (d) Engaging in conduct that clearly obstructs the specimen collection process;
- (e) Failing to remain available for post-accident testing, or leaving the scene of an accident before a testing decision is made. An employee may leave the scene of an accident only to obtain necessary medical care or assistance in responding to the accident. If the employee leaves the scene, the employee must notify his or her supervisor as soon as possible of his or her location and reason for leaving the scene;
- (f) Consuming alcohol or illegal drugs after an accident and before a testing decision is made;
- (g) Failing to report, during the work shift in which an accident occurred, an accident which could have resulted in a testing decision; or
- (h) Failing to report to the specimen collection site timely after being informed of the requirement to be tested.

History: Amdts Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Amdts Proposed 42 Com. Reg. 43066 (Jan. 28, 2020); Amdts Adopted 19 Com. Reg. 15783 (Nov. 15, 1997); Amdts Proposed 19 Com. Reg. 15668 (Sept. 15, 1997).

### **§ 100-50-428 Other Actions Violating this Regulation**

- (a) **Giving False Information.** No employee shall give false information about a urine specimen or attempt to contaminate or alter the specimen.
- (b) **Refusal to Comply with Treatment Recommendations.** No employee shall fail to comply with recommendations for treatment or after-care made by an M.R.O. or Substance Abuse Professional (S.A.P.) as a consequence of a prior positive drug or alcohol test result.
- (c) **Failure to Notify NMHC of Conviction.** No employee shall fail to notify the Office Manager of any criminal drug statute conviction.

History: Amdts Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Amdts Proposed 42 Com. Reg. 43066 (Jan. 28, 2020); Amdts Adopted 19 Com. Reg. 15783 (Nov. 15, 1997); Amdts Proposed 19 Com. Reg. 15668 (Sept. 15, 1997).

Commission Comment: [Historical comments removed.]

### **§ 100-50-430 Refusal to be Tested; Penalties and Consequences**

- (a) **Disciplinary Action.** An employee committing any act prohibited by this procedure shall be subject to an appropriate form of discipline, depending on the circumstances.
  - (1) **Generally.** Where an employee commits any act prohibited under this subpart, the employee shall be disciplined up to and including removal. At a minimum, the employee shall receive a formal reprimand. If the prohibited act committed by the employee relates to the use or

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possession of alcohol or illegal drugs, the employee shall be referred to an S.A.P. for assessment and treatment.

(2) Serious offenses. The following acts, even for a first offense, will result in an immediate disciplinary action for removal:

- (i) The sale, purchase, possession with intent to deliver, or transfer of illegal drugs, or the attempt to sell, purchase, or transfer of illegal drugs;
- (ii) Being involved in an accident at the job site, during working hours, resulting in a fatality while under the influence of alcohol or illegal drugs;
- (iii) While performing and about to perform duties in a safety sensitive position, being under the influence of alcohol or illegal drugs;
- (iv) An unexcused refusal to be tested;
- (v) Giving false information, contaminating, or attempting to contaminate a urine sample;
- (vi) Failing to notify the proper authority of conviction for a drug;
- (vii) Testing positive for alcohol or illegal drugs within five years of a prior positive test; or
- (viii) Breaching any term of a return to duty contract executed under the provisions of this procedure.

(b) Counseling Concerning Treatment Options. Those employees not removed from NMHC service after committing any act prohibited by this procedure shall be informed of resources available for evaluating and resolving problems associated with the use of alcohol and illegal drugs. At a minimum, the supervisor or Office Manager shall give the names, addresses, and telephone numbers of local substance abuse professionals and substance abuse counseling or treatment programs. The employees will then be required to fulfill all the specified steps of treatment before being considered ready for return to duty.

(c) Report to Department of Public Safety. NMHC shall report an employee committing any act prohibited by law to the Department of Public Safety for possible criminal prosecution.

(d) Duty/Pay Status Pending Disciplinary Action. Unless the employee was involved in an accident resulting in a fatality, an employee subject to a disciplinary action for committing any act prohibited by this procedure, shall be allowed to remain on the job pending resolution of any proposed disciplinary action but shall not be allowed to perform a safety-sensitive function, even if that means assigning the employee duties the employee would not otherwise be performing. An employee subject to a disciplinary action for committing any act that resulted in a fatal accident shall be placed on leave without pay pending resolution of the disciplinary action for removal.

History: Amdts Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Amdts Proposed 42 Com. Reg. 43066 (Jan. 28, 2020); Amdts Adopted 19 Com. Reg. 15783 (Nov. 15, 1997); Amdts Proposed 19 Com. Reg. 15668 (Sept. 15, 1997).

### **§ 100-50-432 Return to Duty Procedures**

Requirements. No employee who has tested positive for the presence of alcohol or illegal drugs shall be allowed to return to work until the employee has:

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- (a) Complied with treatment recommendations of an M.R.O. or S.A.P. and been released for work by an S.A.P. in consultation, when appropriate, with the M.R.O. or a consulting physician;
- (b) Tested negative in a subsequent test paid for by the employee for the presence of alcohol, if the removal from duty was due to alcohol use; or cocaine, cannabis, opiates, amphetamines, and phencyclidine, if the removal from duty was due to drug use; and
- (c) Agreed to execute a return to duty contract.

History: Amdts Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Amdts Proposed 42 Com. Reg. 43066 (Jan. 28, 2020); Amdts Adopted 19 Com. Reg. 15783 (Nov. 15, 1997); Amdts Proposed 19 Com. Reg. 15668 (Sept. 15, 1997).

### § 100-50-434 Return to Duty Contract

The return to duty contract shall include the following provisions:

- (a) Aftercare. An agreement to comply with aftercare and follow-up treatment recommendations for one to five years, as determined appropriate by the employee's S.A.P.;
- (b) Follow-up testing. An agreement to unannounced alcohol or drug testing, depending on the substance which resulted in the removal from duty, paid for by the employee, for one to five years, as determined appropriate by the employee's S.A.P., but there shall be no fewer than six tests in the first year after the employee returns to work;
- (c) Compliance with Rules. An agreement to comply with NMHC rules, policies, and procedures relating to employment;
- (d) Term. An agreement that the terms of the contract are effective for five (5) years after the employee's return to duty; and
- (e) Breach of Contract. An agreement that violation of the return to duty contract is grounds for termination.

History: Amdts Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Amdts Proposed 42 Com. Reg. 43066 (Jan. 28, 2020); Amdts Adopted 19 Com. Reg. 15783 (Nov. 15, 1997); Amdts Proposed 19 Com. Reg. 15668 (Sept. 15, 1997).

### § 100-50-436 Administrative Considerations

- (a) Confidentiality. The NMHC shall not knowingly disregard an employee's right to confidentiality in matters relating to alcohol or drug testing or otherwise neglect his or her responsibilities under this procedure.
- (b) Job Security Maintained. Employees shall not have job security or promotional opportunities jeopardized solely because of a request for a drug or alcohol treatment referral.



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(c) Required Documentation. Although voluntary referrals or referrals made prior to testing are kept strictly confidential, documentation of poor performance or disciplinary actions taken due to drug or alcohol abuse shall be included in the employee's personnel file.

(d) Authority/Responsibility.

(1) Management/supervisory employees at all levels are responsible for implementing program elements to ensure that the objectives of the program are communicated to all employees and that problems are handled in a confidential, timely, and professional manner.

(2) The Office Manager will:

(i) Ensure that all employees are given a copy of the NMHC's personnel regulation and policy and procedures;

(ii) Be responsible for establishing management and employee alcohol and drug free workplace training programs.

(iii) Liaise with the Commonwealth government's Alcohol and Drug Free Workplace Coordinator, testing facilities, and the medical review officer;

(iv) Additionally, the Administrative Division will be the central contact point for company interaction with the employee assistance programs and for maintaining documentation on rehabilitative actions.

History: Amdts Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Amdts Proposed 42 Com. Reg. 43066 (Jan. 28, 2020); Amdts Adopted 19 Com. Reg. 15783 (Nov. 15, 1997); Amdts Proposed 19 Com. Reg. 15668 (Sept. 15, 1997).

### **Subpart D - Employee and Management Responsibilities**

#### **§ 100-50-438 Code of Ethics for NMHC Personnel Service**

(a) All employees of NMHC shall:

(1) Put loyalty to the highest moral principles and the country above loyalty to persons, party, or government office.

(2) Uphold the laws applicable in the Commonwealth and in all subdivisions thereof and never be a party to their evasion.

(3) Give a full day's labor for a full day's pay; giving to the performance of duties earnest effort and best thought.

(4) Seek to find and employ more efficient and economic ways of getting tasks accomplished.

(5) Never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or note; and never accept, for him/herself or his/her family, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of his/her governmental duties.

(6) Make no private promises of any kind binding upon the duties of office, since a government employee has no private word which can be binding on public duty.

(7) Engage in no business with the government, either directly or indirectly, which is inconsistent with the conscientious performance of governmental duties.

(8) Never use any information coming confidentially in the performance of governmental duties as a means for making private profit or benefitting others.

(9) Expose corruption wherever discovered.

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(10) Uphold these principles, ever conscious that public office is a public trust.

(b) In addition, custodians of federal funds shall maintain a written code or standards of conduct which shall govern the performance of their officers, employees, or agents engaged in the award and administration of contracts supported by federal funds. No employee, officer, or agent of the grantee shall participate in the selection, or in the award or administration of a contract supported by federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when the employee, officer, or agent, or an organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. The grantee's and contractor's officers, employees, or agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to subagreements. To the extent permitted by law or regulations, such standards of conduct shall provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the grantee's officers, employees, or agents, or by contractors or their agents.

(c) The NMHC expects its employees to be representatives of its legal self. Like any other employer, it has the right to expect the employees to foster its business and well-being. The government's, inclusive of NMHC, first business is the maintenance of law and order at all times (even after regularly scheduled working hours) because without law and order, the government's goals and objectives cannot be realized. An illegal or dishonorable act of an agent or employee may degrade and embarrass the government and the NMHC and lessen their effectiveness.

(d) To protect its credibility and rapport in the community, the NMHC has the right to take administrative action as necessary and justifiable against employees who violate its laws or detract from its policies. Such administrative action is aside from any court action which may ensue from a criminal act or omission.

(e) It is a mistake for anyone to believe that good discipline is simply a matter of enforcement by those at the head of the administration. Good discipline requires employee leadership, not only enforcement procedures. Most of all, it involves the active support of the employees. The employees of NMHC, as a group, have a greater stake in improving the quality of the NMHC's service than any other interested party. An organization can take genuine pride and provide an opportunity to find a meaningful outlet for abilities and an opportunity for advancement in accordance with employee contribution. Leadership which meets these needs of employees will have no difficulty getting employee support.

(f) So that all employees will understand the standards of conduct that are expected of them, these principles are set forth in this subpart. Officials and employees of the NMHC are reminded that they must not only avoid wrong-doing in the conduct of their official duty, but must, with equal care, also avoid the appearance of wrong-doing. Acts which have the appearance of wrongdoing are prohibited equally with actual acts of wrong-doing.

(g) Each employee shall avoid situations in which his/her private interests conflict with or raise a reasonable question of conflict with his/her duties and responsibilities at work. An employee shall avoid any action, whether or not specifically prohibited, which might result in or

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create the appearance of using the government or NMHC for private gain, giving preferential treatment to any person, impeding company efficiency or economy, making an NMHC-related decision outside of official channels or by exceeding authority, or affecting adversely the confidence of the public in the integrity of the government or NMHC.

History: Amdts Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Amdts Proposed 42 Com. Reg. 43066 (Jan. 28, 2020); Amdts Adopted 19 Com. Reg. 15783 (Nov. 15, 1997); Amdts Proposed 19 Com. Reg. 15668 (Sept. 15, 1997).

Commission Comment: [Historical comments removed.]

### **§ 100-50-440 Policy on Employee Conduct**

(a) The maintenance of the highest standards of honesty, integrity, impartiality, and conduct by NMHC employees is essential to assure the proper performance of NMHC business and maintain the confidence of citizens in the NMHC.

(b) Employees of the NMHC are expected to comply with all laws and regulations. Legal requirements are essentially concerned with official conduct, i.e., behavior of the employee in the course of or in relation to official duties. NMHC employees are required to conduct themselves in such a manner that the work of the NMHC is effectively accomplished and to observe the requirements of courtesy, consideration, and promptness in dealing with or serving the public or its business clientele.

(c) Personal and private conduct of an employee (as opposed to official conduct), that reflects adversely upon the dignity and prestige of the NMHC, is also a matter of concern to management. All employees are expected to cultivate those personal qualities which characterize a good civil servant—loyalty to the government and NMHC, a deep sense of responsibility for the public trust, and a standard of personal deportment which will be a credit to the individual and the NMHC.

History: Amdts Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Amdts Proposed 42 Com. Reg. 43066 (Jan. 28, 2020); Amdts Adopted 19 Com. Reg. 15783 (Nov. 15, 1997); Amdts Proposed 19 Com. Reg. 15668 (Sept. 15, 1997).

### **§ 100-50-442 Subordination to Authority**

An employee is required to carry out the announced policies and programs of the Commonwealth and the NMHC. While policies related to work are under consideration, the employee may, and is expected to, express opinions and points of view; but once a decision has been rendered by those in authority, the employee will be expected unreservedly to assure the success of programs which it is the employee's responsibility to effectuate. If the employee fails to carry or out any lawful regulation, order, or policy, or deliberately refuses to obey the proper requests of superiors having responsibility for the employee's performance, the employee is subject to appropriate disciplinary action.

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History: Amdts Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Amdts Proposed 42 Com. Reg. 43066 (Jan. 28, 2020); Amdts Adopted 19 Com. Reg. 15783 (Nov. 15, 1997); Amdts Proposed 19 Com. Reg. 15668 (Sept. 15, 1997).

Commission Comment: [Historical comments removed.]

### § 100-50-444 Management Responsibility

The NMHC shall establish and maintain internal procedures by means of which all employees are adequately and systematically informed of the content, meaning, and importance of the regulations in this subpart. Copies of the regulations in this subpart shall be given to each employee within ninety days from the effective date of these regulations and to new employees upon entrance to duty. The Corporate Director shall remind his or her employees of the regulations in this subpart periodically, at least once annually, through a publication or memorandum issued to all employees.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### § 100-50-446 Employee Responsibility

(a) It is the responsibility of employees to familiarize themselves and to comply with the regulations in this subpart. Employees are expected to consult with their managers and the Office Manager on general questions they may have regarding the applicability of the regulations, both on specific ethical and conduct matters and for guidance on questions of conflict of interest.

(b) Each employee represents the NMHC to the community and is expected to conduct himself/herself at all times so that his/her actions will not bring discredit upon the NMHC. Employees shall not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct or other conduct prejudicial to the NMHC. Such conduct can adversely affect their continued employment with the NMHC.

(c) The employee shall at all times observe the local laws which govern the CNMI and shall also respect the culture and traditions of the Commonwealth and its peoples. The employee is responsible for his/her actions at all times, whether during or after working hours.

(d) The NMHC shall not be responsible for assisting the employee if he or she violates the local or federal laws, and neither shall it be held financially responsible for the negligent action of the employee other than as provided by law.

(e) Discrimination and harassment will not be tolerated. Any employee of this company while in the performance of his or her duty who discriminates against or harasses any other employee, or allows such harassment or discrimination to take place, because of race, creed, color, ancestry, membership in a labor organization, political affiliation, place of origin, disability, sex, religion, age, sexual orientation, or veterans status, will be subject to disciplinary action in accordance with the provisions of this subpart.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

**§ 100-50-448 Disciplinary and Other Remedial Action**

- (a) Violations of the regulations in this subpart by an employee may be cause for appropriate disciplinary action which may be in addition to any penalty prescribed by law.
- (b) Every effort must be made to follow a program of progressive discipline, imposing disciplinary actions of increasing severity if continued disciplinary infractions occur. However, serious offences will be responded to with an appropriate disciplinary consequence.
- (c) The steps of the NMHC's progressive discipline program are provided in part 200, subpart D of this chapter.
- (d) The goal of progressive discipline must be to correct unacceptable behavior while being objective and fair in administering disciplinary actions. All actions should treat the offense and not the person.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

**§ 100-50-450 Conflict of Interest**

- (a) The NMHC expects that all employees will avoid activities that create a conflict of interest with their responsibilities to the NMHC. Employees should use good judgment, professional commitment, and moral ethics to protect themselves and the NMHC from potential conflicts. Employees have a duty and responsibility to conduct work-related matters solely for the benefit of the NMHC.
- (b) Examples of conflict of interest include, but are not limited to:
  - (1) Outside activities that have negative effect on an employee's ability to perform the job requirement of his/her position at the NMHC.
  - (2) Outside jobs or business interests that are in competition with the company's business.
  - (3) Outside activities that involve the use of confidential information learned directly or indirectly through employment at the NMHC.
  - (4) Use of NMHC position to obtain private gain for the NMHC employee or his or her immediate family member.
- (c) Failure to report a potential conflict of interest and/or refusal to resolve such conflict may result in disciplinary action, including discharge.
- (d) The NMHC reserves the right to determine when an activity conflicts with the NMHC's interests and to take whatever remedial action is necessary to resolve the conflict. Such actions might include:
  - (1) Changes in assigned duties;
  - (2) Divestment by the employee of the conflicting interest;
  - (3) Disciplinary action; and/or
  - (4) Disqualification for a particular assignment.

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(e) Remedial action, whether disciplinary or otherwise, shall be effected in accordance with any applicable laws or regulations.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### § 100-50-452 Ethical and Other Conduct and Responsibilities of Employees

(a) Gifts, Entertainment, and Favors.

(1) Except as provided in subsections (b) and (c) of this section, an employee shall not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan, or any other thing of monetary value, from a person who:

(i) Has, or is seeking to obtain, contractual or other business or financial relations with the NMHC;

(ii) Conducts operations or activities that are regulated by the NMHC; or

(iii) Has interests that may be substantially affected by the employee's performance of official duty.

(2) Except as specifically authorized by law, employees are not authorized to accept on behalf of the NMHC voluntary donations or cash contributions from private sources for travel expenses, or the furnishing of services in-kind, such as hotel accommodations, meals, and travel accommodations.

(3) The prohibitions of subsection (a) do not apply in the context of obvious family, non-official, or personal relationships, such as those between the parents, children, or spouse of the employee, when the circumstances make it clear that it is those relationships, rather than the business of the persons concerned, which are the motivating factors.

(4) An employee may accept food and refreshments of nominal value on infrequent occasions in the ordinary course of a luncheon or dinner meeting or other meeting or on an inspection tour where an employee may properly be in attendance.

(b) An employee may accept loans from banks or other financial institutions on customary terms to finance proper and usual activities, such as home mortgage loans.

(c) An employee may accept unsolicited advertising or promotional material such as pens, pencils, note pads, calendars, and other items of nominal intrinsic value.

(d) An employee shall avoid any action, whether or not specifically prohibited by this subpart, which might result in, or create the appearance of:

(1) Using public office for private gain;

(2) Giving preferential treatment to any person;

(3) Impeding NMHC efficiency or economy;

(4) Losing independence or impartiality;

(5) Making a NMHC decision outside official channels; and/or

(6) Affecting adversely the confidence of the public in the integrity of the NMHC.

(e) An employee shall not solicit a contribution from another employee for a gift to an official superior, or accept a gift from an employee receiving less pay. However, this subsection does not prohibit a voluntary gift of nominal values or donation in a nominal amount made on a special occasion such as marriage, illness, or retirement.

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(f) An employee shall not accept a gift, present, decoration, or other thing from a foreign government unless authorized by law or by the Constitution.

(g) This section does not prohibit receipt of bona fide reimbursement, unless prohibited by law, for actual expenses for travel and such other necessary subsistence as is compatible with this part for which no NMHC payment or reimbursement is made. However, an employee may not be reimbursed and payment may not be made on the employee's behalf, for excessive personal living expenses, gifts or entertainment, nor does it allow an employee to be reimbursed by a person for travel on official business under NMHC orders when reimbursement is prescribed by law.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### **§ 100-50-454 Outside Work and Interests**

(a) Policy: Outside work is permitted to the extent that it does not prevent an employee from devoting the employee's primary interests, talents, and energies to the accomplishment of work for the NMHC or tend to create a conflict between the private interests of an employee and official responsibilities. The employee's outside employment shall not reflect discredit on the NMHC.

(b) Definitions:

(1) The term "outside work" means all gainful employment other than the performance of official duties. It includes, but is not limited to self-employment and working for another private business (including personally owned businesses, partnerships, corporations, and other business entities).

(2) The term "active proprietary management" refers to a business affiliation in which substantial ownership is coupled with responsibility for day-to-day management efforts.

(3) A "conflict of interest" is one in which an NMHC employee's private interests, usually of an economic nature, conflict or raise a reasonable question of conflict with the employee's public duties and responsibilities. Potential conflict of interest is prohibited and is to be avoided whether it is real or only apparent.

(c) Restrictions: An employee shall not engage in outside activity incompatible with the full and proper discharge of the duties and responsibilities of the employee's NMHC employment. Any activity involving an incompatibility of interest is prohibited. Any work assignment or employment affiliation which might encourage on the part of members of the general public a reasonable presumption of a conflict of interest falls in this category. Incompatible activities include but are not limited to:

(1) Acceptance of a fee, compensation, gift, payment of expenses, or any other thing of monetary value in circumstances in which acceptance may result in, or create the appearance of conflicts of interest.

(2) Outside employment which tends to impair an employee's mental or physical capacity to perform NMHC duties and responsibilities in an acceptable manner. An employee shall not receive any salary or anything of monetary value from a private source as compensation for services to the NMHC.

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(d) Among other things, abuse of leave privileges to engage in outside work shall be treated as an interference with official performance. Active proprietary management of any except the smallest business is questionable because of the probability that such management responsibilities may interfere with the employee's obligations to the employee's primary employer, the NMHC. Employees are especially urged to seek the advice of the Office Manager or Corporate Director before committing themselves to such activities.

(e) An employee shall not perform outside work:

- (1) Which is of such a nature that it may be reasonably construed by the public to be the official act of the NMHC.
- (2) Which involves the use of NMHC facilities, equipment, or supplies of whatever kind.
- (3) Which involves the use of official information not available to the public.

(f) While an employee is not prohibited from performing outside work solely because the work is of the same general nature as the work the employee performs for the NMHC, no employee may perform outside work:

- (1) If the work is such that the employee would be expected to do it as a part of regular duties.
- (2) If the work involves active proprietary management of a business closely related to the official work of the employee.
- (3) If the work for a private employer is of the same type or closely kin to that involved in the program responsibilities of the office in which the employee is employed.
- (4) If the work would tend to influence the exercise of impartial judgment on any matters coming before the employee in the course of official duties.

(g) This section does not preclude an employee from:

- (1) Participation in the activities of political parties not prescribed by applicable law.
- (2) Participation in the affairs of, or acceptance of an award for, meritorious public contribution or achievement given by a charitable, religious, professional, social, fraternal, non-profit educational, recreational, public service, or civic organization.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### **§ 100-50-456 Financial Interests**

(a) An employee shall not:

- (1) Have a direct or indirect financial interest that conflicts with NMHC duties and responsibilities.
- (2) Engage in directly or indirectly, a financial transaction as a result of, or primarily relying on, information obtained through NMHC employment.

(b) This section does not preclude an employee from having a financial interest or engaging in financial transactions to the same extent as a private citizen not employed by the NMHC, so long as it is not prohibited by law, the Constitution, or the regulations in this part.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).



**§ 100-50-458 NMHC Property**

General Responsibility. Employees shall be held accountable for NMHC properties and money entrusted to their individual use in connection with their official duties. It is their responsibility to protect and conserve NMHC property and to use it economically and for official purposes only.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

**§ 100-50-460 Information**

It is the policy of the NMHC to accord the public access to information about its activities and to make available to the public records of the NMHC except in cases where the disclosure of the record is prohibited by statute or constitutes an invasion of privacy of any individual concerned, or the record is exempt from the disclosure requirements, and sound grounds exist which require application of an applicable exemption.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

**§ 100-50-462 Gambling, Betting, and Lotteries**

While on NMHC-owned or leased property or while on duty for the NMHC, an employee shall not participate in any gambling activity including the operation of a gambling device, in conducting a lottery or pool, in a game for money or property, or in selling or purchasing a numbers slip or ticket, unless the activity has prior approval by the NMHC Board of Directors and is a required NMHC duty.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

**§ 100-50-464 Other Types of Conduct**

(a) Negotiations for Post-NMHC Employment.

It is the policy of the NMHC that employees shall not, without proper clearance, negotiate for future non-NMHC employment with persons or organizations having business with the NMHC and to which the employee is called upon officially to render advice or make judgments. In the event an employee desires to negotiate for such employment, the employee must inform the Corporate Director of his/her intentions. If the Corporate Director determines that the proposed negotiations will not adversely affect the NMHC's interests, the employee may be authorized to proceed.

(b) Selling or Soliciting. Employees and other persons are prohibited from selling or soliciting for personal gain within any building occupied or used by the NMHC without proper permission. This prohibition applies to:

(1) Authorized and installed business activities.

(2) Solicitation for health drives, the Red Cross, and other purposes approved under the government's fund-raising policy.

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- (3) Token solicitations for floral remembrances, retirement gifts, and similar purposes.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### **§ 100-50-466 Community and Professional Activities**

Employees are encouraged to participate in the activities of professional societies and of civic organizations whose purposes and objectives are not inconsistent with those of the departments in which they are employed. Affiliation with such groups may be mutually beneficial to the employee and to the NMHC; however, such participation must not affect adversely an employee's performance of regularly assigned duties.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### **Subpart E - Political Activity**

#### **§ 100-50-468 Political Activities**

The political activities of persons in the NMHC shall be subject to the restrictions of this subpart.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

#### **§ 100-50-470 Rights of Employees**

All employees in the NMHC shall have the following rights:

- (a) To vote for the candidates of their choice and to express their opinions on political matters.
- (b) To be active members of the political party or organization of their choosing.
- (c) To make voluntary contributions to a political party for its general expenditures.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

#### **§ 100-50-472 Prohibited Activities**

Employees of the NMHC shall not:

- (a) Use their office or official influence to interfere with an election or to affect the results of an election.
- (b) Use their official authority to coerce any person or political party in reference to any politically related activity.
- (c) Be obligated to contribute to any political fund or render service to any political activity.

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- (d) Solicit or receive political contributions from anyone while on NMHC time, on NMHC property, or on NMHC business.
- (e) Campaign for any candidate for public office during official working hours.
- (f) Promote or oppose legislation relating to programs of the NMHC without the official sanction of the proper NMHC authority. (It should be clearly understood, however, that nothing in this policy is to be considered as restricting or interfering with the obligation of employees to respond freely and candidly to any inquiries made of them in regard to appropriations or related matters.)

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### **§ 100-50-474 Public Office**

An employee who is an official candidate for public office, once certified by the Board of Elections, shall take annual leave or leave without pay.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### **§ 100-50-476 Penalty**

An employee found guilty of a prohibited activity described in Section 472 of this Part shall be subject to disciplinary action.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### **§ 100-50-480 Government Ethics Code**

The provisions in these regulations are in addition to the Government Ethics Code (GEC) codified at 1 CMC §§ 8501-8577. All employees are expected to be familiar with the GEC and to act in a manner consistent with the provisions and the policies of GEC and these regulations. If there is any conflict between the GEC and these regulations, the GEC shall prevail.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

## **Part 500 - Fair Treatment in the Workplace**

### **§ 100-50-501 Equal Employment Opportunity Policy**

- (a) It is the policy of the NMHC that there shall be no discrimination based on such factors as race, creed, color, ancestry, membership in a labor organization, political affiliation, place of origin, disability, sex, religion, age, sexual orientation, veterans status, and similar matters not related to individual merit and fitness.
- (b) The NMHC will establish and implement a system of personnel administration based on merit principles and generally-accepted methods governing the classification of positions and the

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employment, conduct, movement and separation of NMHC employees. The NMHC will contribute to the CNMI government's efforts to build a career service which will attract, select, and retain the best-qualified employees, based on merit, who shall hold their positions free from coercion, discrimination, reprisal, or political influences and will render competent and effective service to the community, according to the dictates of ethics and morality. In order to achieve these purposes, the NMHC that the personnel system shall be applied and administered in accordance with the following merit principles:

- (1) Equal opportunity for all regardless of race, creed, color, ancestry, membership in a labor organization, political affiliation, place of origin, disability, sex, religion, age, sexual orientation, or veterans status;
- (2) Impartial selection of the ablest person for service with the NMHC by means of selection tools which are fair, objective, and practical;
- (3) Just opportunity for competent employees to be promoted within the NMHC;
- (4) Reasonable job security for the competent employee;
- (5) Systematic classification of all positions through adequate job evaluation;
- (6) Fair and reasonable grievance and complaint procedures for all employees on matters pertinent to conditions of employment and these regulations;
- (7) Proper employer-employee relations to achieve a well-trained, productive, and happy work force.

History: Amdts Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Amdts Proposed 42 Com. Reg. 43066 (Jan. 28, 2020); Amdts Adopted 19 Com. Reg. 15783 (Nov. 15, 1997); Amdts Proposed 19 Com. Reg. 15668 (Sept. 15, 1997).

Commission Comment: [Historical comments removed.]

### **§ 100-50-505 Prohibition of Harassment**

The NMHC prohibits any form of unlawful harassment against its employees based upon any of the protected categories listed above. The prohibited conduct includes actions taken by or against employees by other employees, agents, contractors, vendors, or clients. Each employee is expected to assist the NMHC in preventing or eliminating harassment by bringing incidents of perceived harassment or discrimination to the attention of management or the NMHC's Office Manager.

History: Amdts Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Amdts Proposed 42 Com. Reg. 43066 (Jan. 28, 2020); Amdts Adopted 19 Com. Reg. 15783 (Nov. 15, 1997); Amdts Proposed 19 Com. Reg. 15668 (Sept. 15, 1997).

Commission Comment: [Historical comments removed.]

### **§ 100-50-510 Prohibition of Sexual Harassment**

(a) Sexual harassment of employees by their supervisors, coworkers, vendors, or customers will not be tolerated and should be promptly addressed. Employees at all levels are expected to conduct themselves in a courteous and professional manner at all times. Any behavior that is coercive, intimidating, harassing, or sexually offensive in nature is inappropriate and prohibited.

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(b) Based on guidelines developed by the U.S. Equal Employment Opportunity Commission, sexual harassment includes unwelcome sexual advances or requests for sexual favors, or other verbal or physical conduct based on gender when:

- (1) Submission to such conduct is an explicit or implicit term or condition of employment.
- (2) Submission to or rejection of the conduct is used as the basis for an employment decision.
- (3) The conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment.

(c) Inappropriate sexual conduct can take many forms and is not limited to physical assault, unwelcomed, or unwanted sexual requests or demands for sexual favors. Sexual harassing actions may include, but are not limited to, any of the following kinds of behavior: explicit sexual propositions, sexual innuendos, sexually suggestive comments, obscene or sexually suggestive pictures or drawings, obscene gestures or language, sexually oriented jokes and teasing, intimate touching or other unwanted physical contact, such as hugging, pinching, patting, or "accidental" brushing up against.

History: Amdts Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Amdts Proposed 42 Com. Reg. 43066 (Jan. 28, 2020); Amdts Adopted 19 Com. Reg. 15783 (Nov. 15, 1997); Amdts Proposed 19 Com. Reg. 15668 (Sept. 15, 1997).

Commission Comment: [Historical comments removed.]

### **§ 100-50-515 Expectation of Non-Discriminatory and Non-Harassing Behavior**

All employees, and especially supervisors and managers, are expected to implement and enforce the equal employment opportunity policy at all times. Discrimination for or against any employee on the basis of any of the protected factors listed above, or any other basis prohibited by federal or Commonwealth law shall not be tolerated. The NMHC shall maintain its workplace free from unlawful harassment, including sexual harassment. Any employee or official who engages in any act of discrimination or harassment on the basis of any of the above factors violates NMHC and government policy, and such misconduct will subject an employee to corrective action ranging from counseling to adverse action up to and including termination. Such harassment by a non-employee (for example, a client or contractor) is also prohibited. Supervisors and management officials shall not tolerate any such outside harassment and shall take necessary action to prevent its continuation or recurrence.

History: Amdts Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Amdts Proposed 42 Com. Reg. 43066 (Jan. 28, 2020); Amdts Adopted 19 Com. Reg. 15783 (Nov. 15, 1997); Amdts Proposed 19 Com. Reg. 15668 (Sept. 15, 1997).

Commission Comment: [Historical comments removed.]

### **§ 100-50-520 Complaint Process**

(a) Any employee who believes that he or she have been the subject of, or have witnessed, job-related harassment or discrimination (whether by an employee, agent, contractor, vendor, or client of the NMHC, or others doing business with the NMHC), promptly report it to a supervisor or manager, or the Office Manager.

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- (b) If any supervisor or manager is considered to be the discriminating or harassing agent, the employee may go directly to the Office Manager or the Corporate Director. Confidentiality will be maintained to the extent permitted by the circumstances.
- (c) Complaints of discrimination, harassment and/or retaliation shall be accepted both in writing and orally. If any supervisor or manager becomes aware of a discriminatory or harassment situation, he or she must immediately report the situation to the Office Manager or the Corporate Director, even if the employee does not wish to file a complaint.
- (d) A supervisor who receives a claim of discrimination or harassment in violation of this policy shall take such complaint seriously and immediately notify the Corporate Director. A supervisor who does not take appropriate action also violates this policy and exposes the Commonwealth government to liability.
- (e) After a complaint is received, the NMHC shall investigate the complaint or promptly forward the complaint to an assigned complaint investigator, who may be within or outside the NMHC. The complaint investigator shall commence the investigation immediately upon receipt of the complaint from the contact person. The investigation shall not exceed fourteen (14) days unless a longer period is necessary to gather all material information relevant to the complaint. Any person accused of a violation shall be allowed the opportunity to rebut the charges.
- (f) After the investigation is completed, the NMHC will take appropriate disciplinary action, if warranted. Discipline may include: EEO training, counseling, written warning, demotion, discharge, or any other action deemed appropriate. The NMHC will also communicate with the complainant its decision on the results of the investigation and any corrective or remedial actions taken or proposed.

History: Amdts Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Amdts Proposed 42 Com. Reg. 43066 (Jan. 28, 2020); Amdts Adopted 19 Com. Reg. 15783 (Nov. 15, 1997); Amdts Proposed 19 Com. Reg. 15668 (Sept. 15, 1997).

### **§ 100-50-525 Retaliation**

The NMHC absolutely forbids retaliation of any kind against any employee who, in good faith, complains about harassment or assists or participates in any manner in the investigation. The NMHC will take disciplinary action against anyone, fellow employee or management staff, who attempts to retaliate in any way.

History: Amdts Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Amdts Proposed 42 Com. Reg. 43066 (Jan. 28, 2020); Amdts Adopted 19 Com. Reg. 15783 (Nov. 15, 1997); Amdts Proposed 19 Com. Reg. 15668 (Sept. 15, 1997).

### **§ 100-50-530 Equal Employment Opportunity Officer and Representative**

The Corporate Director of the NMHC shall be the Equal Employment Opportunity Officer for the NMHC with the responsibility for ensuring compliance with the NMHC EEO program. The

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EEO Officer shall appoint and be assisted by the Office Manager, as the NMHC's EEO representative, who shall fulfill this role as part of that person's regular duties. The Office Manager shall advise employees, including managers and other supervisors, regarding their rights and responsibilities under this policy and applicable federal and Commonwealth laws and shall be provided with appropriate training for such purpose. The Office Manager must be accessible to employees and capable of assisting them in the complaint process.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### **§ 100-50-535 Nepotism**

(a) For the purpose of this regulation, nepotism is defined as employment or employment benefit bestowed on the basis of family relationship and not in consideration of merit.

(b) For the purpose of this regulation, an immediate relative is defined as a spouse, parent, sibling, or child related by blood, legal marriage, common-law marriage, legal adoption, or cultural adoption.

(c) The basic criteria for the appointment and promotion of all NMHC employees shall be appropriate qualifications and performance. There shall be no discrimination, for or against, based on relationship by family or marriage in any employment action.

(d) Employment or employment benefit by reason of blood or marriage relationship rather than merit is prohibited.

(e) No employee shall supervise an immediate family member except in emergency situations.

(f) No applicant will be hired to a position with a direct reporting relationship to an immediate relative or where a relationship or association exists that creates a reasonable assumption that that person, as an employee, would be in a favored position in relationship to other employees.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### **§ 100-50-540 Political Affiliation**

No person with authority to make or recommend a personnel action relative to a person in, or an applicant for, a position with the NMHC, may make inquiry concerning political affiliation. All disclosures made by an employee or an applicant concerning political affiliation shall be ignored. Discrimination may not be exercised, threatened, or promised by any person in the NMHC against or in favor of an employee in, or an applicant for, a position with the NMHC because of political affiliation.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### **§ 100-50-545 Coercion**

An NMHC employee shall not use NMHC employment to coerce, or give the appearance of coercing, a person to provide financial benefit to self or another person, particularly one with whom the employee has family, business, or financial ties.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

**Part 600 - Employee Benefits and Services**

**§ 100-50-601 Policy**

The NMHC will provide benefits and services to its employees in keeping with the general practices of the CNMI government and private enterprise and as limited or prescribed by law. This part delineates those benefits and services which include:

- (a) Leaves of absence; and
- (b) Insurance, such as group life and health insurance, accident and health insurance, and worker's compensation coverage.
- (c) Retirement

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

**Subpart A - Leaves of Absence**

**§ 100-50-605 Purpose**

Leaves of absence from work are for the mutual benefit of the employee and employer. When leaves of absence are granted, they will be approved based upon legitimate reasons as presented by the employee for such times as will not be detrimental to the NMHC and its responsibilities.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

**§ 100-50-610 Types of Government Service that Qualify for Leave Accrual Purposes**

Prior service in the following government activities will count in the determination of the NMHC leave accrual rate:

- (a) Employment within the departments of the executive branch.
- (b) Employment within the judicial branch.
- (c) Employment within the legislative branch.
- (d) Employment within government corporations, agencies, commissions, and instrumentalities.



- (e) Employment within the offices of the mayors and the municipal councils.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

**§ 100-50-615 Kinds of Leaves**

Broadly characterized, leaves of absence are either with pay or without pay.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

**§ 100-50-620 Leaves with Pay**

- (a) Annual Leave.

(1) Annual leave, or vacation, shall be granted for the purpose of rest and relaxation. Annual leave requests must be made at least three work days in advance on a leave request form. All annual leave requests must be approved by the employee's section manager and concurred by the Corporate Director. A denial of request for annual leave is subject to employees' grievance rights.

(2) NMHC employees who have less than three years of creditable service shall earn annual leave at the rate of four hours per pay period; except that newly appointed employees shall undergo a waiting period of 90 calendar days before being credited with annual leave. Employees with three but less than six years of creditable service shall earn annual leave at the rate of six hours per pay period. Employees who have six or more years of creditable service shall earn annual leave at the rate of eight hours per pay period.

(3) Maximum Accumulation. The maximum accumulation of annual leave for NMHC employees shall be 360 hours. Accrued annual leave in excess of 360 hours remaining at the end of each calendar leave year shall be converted to sick leave.

- (b) Sick Leave.

(1) Sick leave shall be earned at a rate of four hours per pay period and shall be allowed whenever the employee is to be absent from duty because of illness or injury or because of medically required quarantine of the family and/or residence. Use of sick leave is appropriate for medical, dental, optometric or mental health counseling or other necessary treatment which the employee personally must undergo.

(2) If an employee is absent because of illness, injury, or quarantine in excess of two days, the employee may be required to furnish a certification as to the incapacity from the attending physician. The Corporate Director may require certification for such other period(s) of illness as is determined appropriate due to suspected abuse of the sick leave benefit.

(3) If the required certification is not furnished, all absence which would have been covered by such certification shall be indicated on the time and attendance record and the payroll as absent without leave (AWOL).

(4) Sick leave may be accumulated and carried over to succeeding leave years without limitation. A report showing the accrued sick leave balance will be provided the employee each pay period.

(5) The generality of the foregoing is subject to the following special provisions:

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- (i) Falsification of an illness report shall be considered sufficient cause for disciplinary action, including dismissal from employment.
  - (ii) Sick leave with pay shall be allowed during leaves of absence or vacations; provided, however, that any sick leave taken by an employee while on vacation must be supported by a certified medical statement issued by the attending physician. No employee shall be allowed to undertake gainful employment while on sick leave status.
  - (iii) Sick leave with pay may be granted in advance of earning sick leave as provided under subsection (d). If an employee is separated from the service without having earned all of the sick leave allowed and taken, there shall be deducted from any money due the employee at the time of separation an amount equal to salary for the period of unearned sick leave allowed and taken.
  - (6) Sick leave accrued for service with the government in any branch or agency shall vest in the employee upon accrual and shall remain vested so long as the individual is employed by the government, provided that if such employee is separated from government service (other than through retirement) for a period longer than three years, the employee shall be divested of accumulated sick leave.
- (c) Family Sick Leave. It should be noted that this leave, while it may be counted as Family and Medical Leave Act (FMLA) leave is authorized by Commonwealth law and should not be confused with the federal FMLA.
- (1) An employee may apply for leave to attend to an immediate family member who is sick. For leave in excess of two (2) consecutive days, such request shall be supported by a certified medical statement. Leave taken for this purpose shall be deducted from the employee's earned sick leave.
  - (2) Per Public Law No. 15-116 the following definitions apply for family sick leave:
    - (i) "Certified medical statement" means a statement from an attending physician that a Commonwealth government employee is needed to care for an immediate family member;
    - (ii) "Immediate family member" means a legal spouse; child, whether natural or adopted, or parent.
  - (3) Employees are authorized to use up their accrued hours of earned sick leave hours supported by a certified medical statement from a physician.
  - (4) Only one family member, as designated in a medical referral statement, may use this benefit to accompany a qualified sick immediate family member for off-island treatment.
  - (5) An employee may not utilize this benefit:
    - (i) until all annual leave has been exhausted
    - (ii) if it brings the employee's sick leave balance to less than forty (40) hours.
- (d) Leave Advance.
- (1) Where, for good reason, an employee requires additional annual or sick leave in addition to the amounts accrued, the Corporate Director, with recommendation of the employee's section manager, may grant advance leave. For permanent employees the advance leave will be limited to a maximum of one-half of the total earnable leave credits for which the employee is eligible for one year from the date the application is received. In the case of limited term or probationary employees, advance leave can be approved up to a maximum of one-half of the total earnable leave credits for which the employee is eligible during the remainder of the employment term, whichever is shorter. Subsequent accrued leave earnings shall serve to replace the amount of

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advance leave granted and taken. Requests for leave advance must be in writing from the employee with a recommendation from the section manager.

(2) Leave advance granted and taken:

(i) Constitutes a legal contract between the employee and the NMHC; and

(ii) Must be repaid, even if the employee separates or transfers from the NMHC. Recovery of advance leave that is unpaid may be through the NMHC's assumption of employee's accrued unused leave, payroll deductions, matched reduction of service time, and/or recourse to the courts.

(e) **Compassionate Leave.** Employees may be granted compassionate leave with pay of no more than five consecutive work days in cases of death in the immediate family of the employee. For the purpose of this subpart, the term "immediate family" shall be defined as an employee's mother, father, brother, sister, spouse, immediate off-spring (natural and culturally or legally adopted), grandfather, grandmother, grandchild, mother-in-law, or father-in-law. Compassionate leave must be taken within eighteen days after the death of the immediate family member. The Corporate Director will be responsible for approving compassionate leave requests.

(f) **Administrative Leaves.** An absence from duty administratively authorized, without loss of pay and without charge to accrued leave, is administrative leave. The governor or the Corporate Director may approve administrative leave requests. The following are the three general classes into which administrative leaves fall:

(1) Administrative leave may be authorized under emergency conditions beyond the control of management, e.g., typhoons, or for participation in civic activities of interest to the government, or for such reasons as the Governor may determine (such as a shortened work day on Christmas Eve).

(2) Administrative leaves may be authorized relative to disciplinary actions. The Corporate Director may place an employee in non-working status with pay for up to three work days pending an investigation or preparation of a notice of proposed suspension for up to thirty calendar days or termination of employment.

(3) Administrative leave may be granted to employees serving on government boards and commissions, provided such employees do not receive compensation from the boards and commissions.

(g) **Court Leave.** The NMHC encourages its employees to fulfill their obligations as citizens of the Commonwealth. Thus, employees who are called upon to serve as jurors may, at their option, be granted court leave for such period as the jury may be impaneled. Employees who are called to jury duty shall present their juror summons to their section manager together with a completed request for leave for the Corporate Director's approval. Employees who serve as jurors using court leave to cover the period of absence shall turn over to the Commonwealth Treasurer such jury fees (as distinct from expense allowances) as they receive from a Commonwealth court. Expense allowances paid the employee for whatever purpose may be retained by the employee to defray the expenses for which granted. The employee may retain any jury fee paid by the federal court. An employee subpoenaed as witness, except as a government witness, shall charge such absence to annual leave or leave without pay. Court leave shall be granted to an employee subpoenaed in litigation in which the government has no interest, to serve as a witness in the employee's present or past official capacity as a government employee

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and who may be required to present government records in testimony. Such employee must inform the Corporate Director of the required testimony as soon as possible after being subpoenaed.

(h) **Military Leave.** Military leaves of absence with pay, not to exceed fifteen working days in any calendar year, regardless of the number of training periods in the year, may be granted by the Corporate Director to employees who are members of the United States National Guard and reserve components of the United States Armed Forces, when directed under orders issued by proper military authority. Administrative leave will not be granted in order to extend leave time for any additional training days.

(i) **Maternity Leave.** Maternity leave shall be granted to a female employee who is absent from work because of childbirth. The Corporate Director shall have the responsibility for approving maternity leave requests. Such maternity leave shall not exceed fifteen (15) work days, shall be in addition to any accumulated sick leave, and shall be any fifteen work days encompassing the date of childbirth. Any additional leave taken for such childbirth purposes shall be charged against accumulated sick leave. This benefit will not be granted in cases of adoption. All leave time related to the birth of a child will be counted as family and medical leave.

(j) **Paternity Leave.** Paternity leave shall be granted to a male employee who is absent from work because of his wife's confinement for childbirth. Such paternity leave shall not exceed two (2) work days encompassing the date of childbirth. The appointing authority shall have the responsibility for approving paternity leave requests.

(k) **Sick Leave Bank Leave.**

(1) All NMHC employees are eligible to participate in and utilize the Commonwealth's Sick Leave Bank established by Public Law No. 8-25, as amended by Public Law No. 15-69.

(2) The Sick Leave Bank serves as a depository into which participating employees may donate accrued sick leave time for allocation to other Commonwealth employees who have personally suffered, or have an immediate family member who has suffered, a catastrophic illness or injury, and who have exhausted their compensatory time, sick leave, and annual leave balances.

(3) Employees are eligible for up to 160 hours of Sick Leave Bank hours once during their employment, unless the loaned hours are repaid. The terms and conditions of this benefit are provided in the Sick Leave Bank Regulations [NMIAC, title 10, chapter 50].

(4) The NMHC Administrative Office will provide access to this regulation and will assist employees in submitting applications for this benefit.

(5) The NMHC establishes Sick Leave Bank within the agency for the purpose of providing additional job and financial protection for employees experiencing prolonged absence from the workplace due to catastrophic illness or major injury.

(i) NMHC shall promulgate similar policies and procedures as prescribed in NMIAC § 10-50: Sick Leave Bank Regulations.

Modified, 1 CMC § 3806(a).

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

**§ 100-50-625 Leaves without Pay**

(a) Leave Without Pay for Personal Reasons. An employee may be granted leave without pay not to exceed 90 consecutive work days if the Corporate Director considers it justified. Leave without pay may be extended up to 90 additional consecutive work days only with the approval of the Board of Directors Personnel Committee, upon recommendation by the Corporate Director. Such leave without pay may be granted to permit the employee to attend to important family affairs, or for justifiable personal or business reasons.

(b) Leave Without Pay in Extension of Annual or Sick Leave. An employee may be granted leave without pay (LWOP) for the purpose of extending annual or sick leave. When sick leave is so extended, the attending physician must provide medical certification as to the necessity of the extension. The Corporate Director is responsible for approving or disapproving requests for leave without pay, upon recommendation by the section manager.

(c) Tardiness.

(1) At the end of each pay period accumulated tardiness in excess of fifteen (15) minutes shall be charged to leave without pay (LWOP) or absence without leave (AWOL). In respect to each incident of tardiness,

(i) If the period of lateness is less than one hour it will be charged to LWOP or annual leave at the employee's election.

(ii) If the period of lateness is more than one hour the Corporate Director will review the justification for absence to determine whether annual leave can be used in lieu of leave without pay.

(2) The period of tardiness shall be calculated in the same manner as hours worked are calculated for time keeping purposes.

(d) Extended Military Leave. The federal Uniformed Services Employment and Reemployment Act (USERRA) generally requires the Commonwealth government to provide extended military leave for its career employees, regardless of whether the service is voluntary or involuntary. The cumulative length of all absences due to military leave and extended military leave shall not exceed five years, unless extended for good reason documented in writing by the Corporate Director. The employee must give advance notice to the Corporate Director, unless military necessity or circumstances make this impossible or unreasonable. In most cases, the employee is guaranteed reinstatement rights and certain seniority rights upon return from leave. The employee must also comply with requests for documentation and with the requirements of this subchapter regarding the timing of applications for reemployment. For details, employees and managers should contact the U.S. Department of Labor.

(e) Family and Medical Leave Act (FMLA) Leave.

(1) The federal Family and Medical Leave Act of 1993 (FMLA), as amended, entitles employees who have worked for the Commonwealth for at least one year and who worked at least 1,250 hours over the previous 12 months to take up to 12 weeks of LWOP for any of the following reasons:

(i) To care for the employee's child after birth or placement for adoption or foster care;

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- (ii) To care for the employee's spouse, son or daughter, or parent, who has a serious health condition; or
  - (iii) For a serious health condition that makes the employee unable to perform the employee's job.
  - (iv) For specified situations relating to family members in military service.
- (2) Annual leave, sick leave, maternity leave, or paternity leave may be substituted for LWOP for FMLA purposes. All leave qualifying under the FMLA shall be documented as FMLA leave either before it is taken or promptly thereafter. The NMHC can designate a leave as a FMLA leave.
- (3) In most cases, participation in the government group health insurance program shall continue during FMLA leave.
- (4) The definitions, benefit eligibility, and limits and notification procedures comply with the federal Family and Medical Leave Act (FMLA) of 1973 as amended in November 2008.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### **§ 100-50-630 Basis for Accrual**

- (a) Employees shall accrue annual leave and sick leave for each biweekly pay period in which they are in pay status for the entire ten days. Pay status will include paid annual or sick leave, holidays, administrative leave, and overtime work hours. No annual leave will be earned if the pay period includes unpaid periods where the total time worked is less than eighty (80) hours per pay period. If the work week is shortened due to the needs of the NMHC, the shortened work week will then be the basis for leave accrual.
- (b) Provided, however, employees serving on government boards and commissions who elect to take leave without pay (LWOP) during such performance shall accrue leave for that service time.
- (c) Part-time employees with regular scheduled tours of duty of forty (40) to seventy (70) hours during a biweekly pay period will accrue annual and sick leave at one-half the rate of full-time employees and will be eligible for other paid leaves, as provided in § 620 at this rate.
- (d) Part-time employees with regular scheduled tours of duty of less than forty (40) hours during a biweekly pay period will not accrue annual or sick leave benefits or be eligible for the other paid leave benefits. Part-time employees must be in a pay status for their full regular scheduled tour of duty for the entire ten (10) days; otherwise there shall be no accrual for such period.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### **§ 100-50-635 Unauthorized Leave**

Unauthorized leave (absent without leave, AWOL) is absence from duty without appropriate authorization. Employees who are absent from duty without prior approval, except in bona fide emergencies, shall be charged as being AWOL. Employees who are AWOL are subject to loss of pay and possible disciplinary action.

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History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### § 100-50-640 Disposition of Leave upon Separation

(a) Annual Leave.

(1) An employee separated from the NMHC for any reason shall receive a lump-sum payment for all annual leave accrued to the employee's credit and remaining unused at the time of separation. If the employee returns to duty in any capacity with the government before the accumulated term of leave would have expired, had it been liquidated in the normal course of employment, the employee must return to the government the gross value of such unused leave and have those hours of leave re-credited to the employee's annual leave account. For example: If an employee has 360 hours annual leave to his credit upon separation that represents 45 days of annual leave. If the employee returns to government employment before the passage of 45 work days, the employee is required to make a refund for the unexpired term of leave remaining. To calculate the amount of repayment, subtract the number of work days (exclusive of holidays or other paid days off) from the annual leave amount paid to the employee.

(2) Repayment may be through lump-sum cash prior to resuming duty status, payroll deduction, or assigning to the government all annual leave accrued subsequent to returning to duty until the repayment is completed.

(b) Sick Leave. An employee separated from the NMHC for any reason shall have all sick leave accrued to the employee's account held in the leave records for three (3) years. Should the person be reemployed in any government agency at any time during that three (3) year period, the sick leave balance may be recredited to the employee's sick leave account and available for use from the first day of reemployment provided the other government agency approves the recrediting. Provided, however, that an employee separated from the NMHC for retirement purposes, and whose unused sick leave has been converted to service time to determine eligibility in the retirement program, shall not be recredited for such sick leave balance.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### § 100-50-645 Administration of the System

(a) Leave Year. For administrative convenience, leave accumulations and usages are based upon the leave year. A "leave year" is that period of 52 consecutive weeks (26 pay periods) which begins on the first day of the first full pay period of the calendar year and ends on the last day of the last pay period which begins in that calendar year.

(b) Employee's Right to Annual Leave. Employees have a legal right to accumulate annual leave, but the right to use that leave is contingent upon management's requirements. Thus, it is incumbent upon managers and employees to agree mutually as to the duration of annual leave and the period of taking. A manager is wholly within managerial rights to deny an employee's request for annual leave if that denial is based upon demands of NMHC. The manager is obligated, in event of a denial, to suggest to the employee a more appropriate time for taking annual leave.

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(c) Vacation Scheduling. The NMHC urges and encourages employees to use annual leave for the purpose for which it is intended. That is for rest and relaxation. The NMHC considers that a “vacation” of not less than two consecutive weeks of annual leave meets the basic intent of annual leave provisions. To avoid internal dissension, managers are urged to schedule vacation periods for their employees, bearing in mind employees’ preferences, needs, and desires, so that the NMHC will not be unduly affected by employee absences.

(d) Lump Sum Leave Payment upon Separation. When an employee is separated from the NMHC, the employee is entitled to the payment of unused annual leave in a lump sum. However, lump-sum leave payment shall not be processed for an employee who has not completed the NMHC’s separation requirements.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### **Subpart B - Insurance**

#### **§ 100-50-650 General**

It is the policy of the NMHC to provide certain insurance benefits to all its employees, whatever their appointive status. These are defined in the section which follows.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

#### **§ 100-50-655 Nature of Coverage**

(a) In the event of an on-the-job work-related injury or illness, the employee may be entitled to benefits under the NMHC’s Workers’ Compensation Insurance program.

(b) The NMHC will only pay part of the cost of the CNMI government’s group health and group life insurance coverage and the employee may pay his/her share through payroll. In addition, the NMHC will pay part of the cost of the group dental insurance.

(c) Employees have the option to waive dental, health/medical, and life insurance.

(d) Managers and supervisors are responsible to know the provisions of the several plans for coverage of the employees under their supervision and the procedures necessary to present claims.

(e) Employees are responsible to familiarize themselves with reporting procedures so that they may be assured of proper coverage in event of injury or illness.

Modified, 1 CMC § 3806(g).

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### **Subpart C - Retirement**



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### **§ 100-50-660 Mandatory Participation in Federal “Social Security” System/Voluntary Participation in the Retirement Fund**

(a) Mandatory Participation in the Federal Social Security System: Public Law 17-82, the CNMI Pension and Recovery Act of 2012, requires mandatory participation in the federal Social Security System for all government employees.

(b) Defined Contribution Retirement Plan: Eligible employees may participate in the Government’s Defined Contribution Retirement plan established under PL 15-13 and administered through the Department of Finance.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### **Part 700 - Performance Evaluation**

#### **§ 100-50-701 Employee Performance Evaluation Process**

The NMHC will establish and maintain an employee work performance review system which will recognize, evaluate and reward employees and their contributions toward increasing efficiency and economy within the NMHC. An employee performance evaluation process is essential to:

- (a) Improve employee effectiveness by:
  - (1) Providing a working atmosphere in which an employee may be motivated to achieve the highest performance potential; and
  - (2) Identifying work performance standards agreed to by both management and employee.
  
- (b) Strengthen the employee-supervisory relationship by:
  - (1) Establishing a framework for continuing employee-supervisor communications regarding performance standards and development of employee potential; and
  - (2) Guaranteeing employees the opportunity to participate in the establishment of performance standards.
  
- (c) Provide management with an objective basis for relating employee work performance to a wide variety of pertinent personnel management activities.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

#### **§ 100-50-705 Policy**

(a) The Corporate Director shall ensure that managers/supervisors in their respective jurisdictions reach and maintain a clear understanding with their subordinates of the standards of work performance which must be met in order to successfully accomplish assigned work. The supervisor and the employee, on a person-to-person basis, must understand and agree on the work objectives set, the manner in which they can be reached, and the way they will be evaluated. A review of the employee’s position description is necessary, therefore, to assure such understanding of the duties, performance standards, and work objectives established.

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(b) A written rating of performance shall be submitted by the employee's manager/supervisor annually, commencing at the anniversary of the employee's employment date, based upon the preceding twelve months performance record and other pertinent factors. The performance rating will be acknowledged by the employee and concurred by the Corporate Director, on forms prescribed by the Personnel Committee, for each permanent, probationary, and limited-term employee. The NMHC Office Manager shall administer the performance rating report ensuring timely and justified implementation of the program and will alert the Corporate Director to any problem or changes needed for improvement to the program.

(c) Non-NMHC employees shall not be delegated the authority to supervise or evaluate NMHC employees.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### § 100-50-710 Responsibilities

(a) The Personnel Committee shall be responsible to:

- (1) Develop, evaluate, and improve the NMHC's annual employee review system and performance rating report; and
- (2) Provide advice, assistance, and supervision in the administration of the system.

(b) The Corporate Director shall be responsible to implement, administer, and obtain compliance with the purposes of the system, including:

- (1) Provide assistance to supervisors and employees, as needed, in preparing the annual performance rating;
- (2) Provide training to managers/supervisors so they can effectively evaluate employee performance; and
- (3) Assure that employees understand the provisions, procedures, and objectives of the performance evaluation plan.

(c) Managers/supervisors are responsible to:

- (1) Ensure that position descriptions accurately reflect the duties and responsibilities assigned;
- (2) Determine jointly with each employee the performance standards to be met and keep each employee advised of strengths, weaknesses, and opportunities for improvement;
- (3) Provide periodic counseling to employees throughout the evaluation year and document significant incidents of good or poor performance;
- (4) Conduct the annual employee performance reviews; and
- (5) Initiate appropriate personnel actions in cases of continuing unsatisfactory performance.

(d) The employee is responsible to:

- (1) Request clarification from the manager/supervisor of any performance ratings, work objectives, or duties which are not clearly understood;
- (2) Advise the manager/supervisor of any fact or circumstance which the employee believes should be considered during the review process;

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- (3) Participate in performance appraisal discussions and in the development of performance standards, and make suggestions for improving performance; and
  - (4) Acknowledge the performance ratings.
- (e) In the event the employee disagrees with any of the ratings, the employee must so indicate on the performance rating form and must submit a written statement to the Corporate Director for review and inclusion in the employee's official personnel folder along with the appraisal.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### **§ 100-50-715 Relationship to Other Personnel Management Activities**

- (a) By using the employee anniversary date system (as contrasted to a fixed due date), managers/supervisors will have a full year to better consider and evaluate each employee and coordinate the employee's performance evaluation with the other factors which make up the totality of the employee review system.
- (b) Managers/supervisors do not have a right to retain an employee in a position in which the employee's overall rating is "unsatisfactory." To permit such a situation would not be in the best public interest and would not be consistent with good management principles. In such cases, the manager/supervisor must initiate the necessary personnel action to have such an employee reassigned, demoted, or separated from the position at the earliest possible date in accordance with the provisions of this regulation.
- (c) An employee with a current official rating of "outstanding/exceptional" will receive an additional two points of retention credit for reduction-in-force purposes.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### **§ 100-50-720 Performance Rating**

A completed performance rating must be submitted to the Corporate Director by the responsible manager/supervisor for each employee on an annual basis at the employee's anniversary date for appropriate action.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### **§ 100-50-725 Rating Probationary Employees**

The final probationary performance rating shall be completed for probationary appointees prior to the completion of six months of employment with NMHC. The rating will recommend conversion to a permanent appointment after six months or a continuation of probationary status until the end of one year of employment.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

**§ 100-50-730 Appeals**

An employee may appeal an “unsatisfactory” appraisal as provided in part 200, subpart B, of this chapter.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

**Part 800 - Training and Employee Development**

**§ 100-50-801 Policy**

As appropriate training increases workers’ effectiveness in jobs, improves morale, decreases labor turnover, prepares new employees to do jobs for which they are not trained, provides an effective means of screening and placement, and prepares employees for filling responsible jobs and upward mobility, NMHC acknowledges its commitment to train and develop a viable workforce within the NMHC.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

**§ 100-50-805 Responsibilities**

- (a) The Corporate Director, supported by the Office Manager, shall:
  - (1) Implement training programs at all levels within NMHC to assure that training objectives are met;
  - (2) Determine annual training objectives and implementation plans that reflect the immediate priorities within the NMHC;
  - (3) Budget funds to support the needed training programs;
  - (4) Report to the Board of Directors annually by September 30 of each year, the nature, content, and results attained by in-service training activities;
  
- (b) The Office Manager will hold the secondary role of training officer for the NMHC and shall work with managers/supervisors to:
  - (1) Identify and define training needs for developing the NMHC workforce;
  - (2) Determine training goals to be met for each NMHC job category;
  - (3) Establish training and development goals to be met by NMHC employees for promotion and career development;
  - (4) Evaluate all training programs to ensure that manpower development programs accomplish their objectives;
  - (5) Assure that training and education services in the Commonwealth are fully utilized before seeking outside sources; and
  - (6) Develop a recommended training schedule to be submitted with the annual budget;
  - (7) Provide advice and assistance to managers/supervisors as they conduct employee development activities;
  - (8) Locate, evaluate, and determine the cost of training resources within and outside the Commonwealth, as needed;
  - (9) Maintain current training records for all employees;

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(10) Improve quality of training through evaluation of course content and practical testing of skills and knowledge gained through training.

(c) Supervisors/managers, in carrying out the training objectives in their respective program areas, shall:

(1) Plan to release employees when needed for formal classroom instruction;

(2) Inform trainees of the content of the training programs, the objectives and benefits, and the employees' responsibility to absorb and use the instruction provided;

(3) Encourage employees to engage in self-improvement activities which may lead to improved performance and possible promotion; and

(4) Deliver or assist in the delivery of instruction within the limits of their individual capabilities.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### § 100-50-810 Coverage

All training must be authorized by the Corporate Director, will be work-related, and will be limited to the following categories:

(a) Orientation: Within one (1) week after an employee enters employment with NMHC, the NMHC Office Manager and the employee's manager/supervisor will conduct an orientation for the new employee in the policies, procedures, rules, and regulations which are specific to the employee and to the performance of the employee's job.

(b) Job Skills: training to:

(1) Improve an employee's performance in the position currently occupied; and

(2) Prepare an employee to move laterally in the same or closely related class of position.

(c) Promotional: training which prepares an employee to perform with adequate efficiency the basic task of higher-level position for which the employee is being trained.

(d) Developmental: training offered to broaden an employee's knowledge and perspectives.

(e) Supervisory, Managerial, and Executive Training:

(1) In as much as the work of the government is the best and most important training resource for potential managers, opportunity should be given to qualified employees to participate in progressively responsible work within the area(s) of intended succession.

(2) Opportunities for supervisory, managerial, professional, and executive training will be offered to potential managers if value to NMHC can be identified and if funding is available.

(3) Employees entering a supervisory position must receive supervisory/management training not earlier than six (6) months prior to such promotion and no later than six (6) months after entry into such position.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### § 100-50-815 External Training Sources

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Training courses provided by sources outside the Commonwealth will be utilized as necessary and to the extent the budget will permit.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### **§ 100-50-820 Training Costs Defined**

(a) The term “all costs,” when used in this part to define the NMHC’s intent to support an employee undergoing training, means:

- (1) Round trip transportation to the training site by the least expensive air routing;
- (2) Mileage allowance for on-island travel by private transportation;
- (3) Training leave with pay, i.e., the employee’s regular salary will be paid, as all training will be work-related and the employee will be in work status. If overtime work is required and performed, payment will be made in accordance with law.
- (4) Cost of tuition, books, and fees; and
- (5) Stipend. i.e., the regular per diem rate for the time authorized to be spent at the training site.

(b) NMHC will pay all pre-reviewed and approved necessary costs for training.

(c) Unapproved costs incurred or caused by the employee will be the responsibility of the employee.

(d) Unplanned and unavoidable expenses related to approved-training and not caused by the actions of the employee will be reviewed on a case-by-case basis by the Corporate Director.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### **§ 100-50-825 Support for Training**

Managers/supervisors are encouraged to support positively NMHC’s training efforts, as improved skills and more effective supervision at all levels will improve mission accomplishment.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### **§ 100-50-830 Evaluation of Training**

(a) The NMHC Office Manager shall develop and maintain a system which will provide information and analysis of the effectiveness of training received by NMHC employees. Such analyses shall be used to determine the value of training received and programs utilized.

(b) All personnel who attend and return from a training course outside the Commonwealth shall submit to the NMHC Office Manager a written report including a summary of the course along with a judgment of the added value gained from the course.

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(c) Employees who received training may be required to provide a presentation to NMHC managers/supervisors and/or staff, sharing the training received.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### **§ 100-50-835 Unsponsored Training Activities**

(a) Personal advancement training or academic training toward baccalaureate or higher degrees is highly encouraged. However, the NMHC shall not sponsor or have any responsibility for any costs incurred for such training.

(b) Personal advancement training or academic training taken at the election of the employee will utilize annual leave or leave without pay, as approved by the Corporate Director.

(c) Unsponsored training activities will comply with the leave policies established by this regulation.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

## **Part 900 - Performance Management Evaluation**

### **§ 100-50-901 Purpose**

Regularly and honestly evaluating the performance of the NMHC is one of the most difficult, yet one of the most important requirements for NMHC to be a successful organization. A meaningful performance management evaluation requires that the individuals conducting the evaluation not only to know and understand the mission, strategy, and goals established by the NMHC for the period being evaluated, but also the projects and their measurable objectives for each NMHC section and the duties and responsibilities for each employee. With this knowledge and the use of analytical evaluative methods the evaluator must determine how well each section has performed in their part of achieving the NMHC mission and goals, and then, after full consideration of the findings, make an objective judgment of the overall degree of effectiveness that NMHC has attained in relation to mission and goal accomplishment.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### **§ 100-50-905 NMHC Mission Statement**

As stated in Section 100-50-005, the NMHC mission statement is:

Providing efficient and responsive delivery of housing, mortgage and community development programs to the people of the Commonwealth; affording fair and equal opportunity to housing programs and services for all, with special emphasis to very-low, low and moderate income individuals, elderly and persons with disabilities; increasing and implementing home ownership programs with houses that is safe, decent, sanitary and affordable; encouraging and promoting economic independence, self-sufficiency and upward mobility for families; and implementing

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programs to address the growing and future needs and cost effective viability of the communities in the Commonwealth.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### **§ 100-50-915 Objectives of the NMHC Performance Management Evaluation Program**

The objectives of the Performance Management Evaluation Program are to:

- (a) Provide a comprehensive basis for improvements in NMHC's management of its activities, programs, and employee performance;
- (b) Assure compliance with statutory requirements, regulations, and Board directives governing NMHC's programs and practices;
- (c) Evaluate the participation and effectiveness of managers and supervisors in their performance management and section goal attainment; and
- (d) Achieve the NMHC goals and objectives established in the annual strategic planning session.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### **§ 100-50-920 Responsibilities**

- (a) Section managers are responsible for:
  - (1) Establishing section objectives that contribute to the accomplishment of NMHC's strategic objectives;
  - (2) Providing leadership, guidance, and supervision in the accomplishment of section objectives;
  - (3) Keeping the Corporate Director apprised of significant problems and achievements in carrying out their performance management responsibilities and accomplishing their assigned portion of the NMHC's strategic goals.
- (b) The Corporate Director is responsible for:
  - (1) Guiding senior managers in an annual strategic planning session to establish, review, and modify strategic goals for the NMHC;
  - (2) Providing management, direction, and continued oversight in the accomplishment of the NMHC's established strategic goals;
  - (3) Conducting, through a designated evaluation officer, an annual performance management evaluation to measure goal accomplishment;
  - (4) Using evaluation results to work with the management team and the Board of Directors to developing plans for improving NMHC's performance and goal accomplishment.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### **§ 100-50-925 Annual Report**



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- (a) Report of the Performance Management Evaluation Program shall be made to the NMHC Board in its annual report not later than March 31 of each year. The report shall be based upon:
- (1) a comprehensive performance management evaluation report on the projects completed and the goal-related objectives reached for each section;
  - (2) the overall successful goal achievement performance of the NMHC programs; and
  - (3) the NMHC's financial status on the last day of the fiscal year.
- (b) The Office Manager in consultation with the Corporate Director shall develop the evaluation plan and the format for reporting.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### **§ 100-50-930 Action**

Using the observations and the findings in the annual comprehensive Performance Management Evaluation Program Report, the Corporate Director shall:

- (a) Direct and follow-up on corrective action to be taken with respect to any deficiencies noted in any of the reports.
- (b) Ensure that managers conduct or arrange training for those employees who appear to be deficient in the supervisory, technical, or other job-related performance aspects of meeting NMHC's mission, as indicated in the several evaluations.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

## **Part 1000 - Records and Reports**

### **§ 100-50-1001 Purpose**

This subpart defines the minimum requirements for personnel records to be originated and maintained by the NMHC.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### **§ 100-50-1005 Policy**

NMHC shall establish a system of records for all personnel presently or previously employed by the NMHC. The records shall be separated so that those of active employees are filed separately from those of former employees. Other supporting records, as deemed appropriate by the Personnel Committee, may also be maintained. The Office Manager shall develop and maintain the personnel records for the NMHC.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### **§ 100-50-1010 Records Required**

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- (a) Official Personnel Folder (OPF). For each employee an official personnel folder (or file) shall be maintained (including electronic filing). The folder shall contain, at a minimum, the following elements of primary information covering the employee:
- (1) Formal application for employment.
  - (2) Copy of the certificate of eligible applicant listing from which selected.
  - (3) Form on which prior creditable service is listed and service computation date is derived.
  - (4) Letter of original selection signed by an authorized selecting official.
  - (5) Copy of each personnel action affecting the employee.
  - (6) Copy of each form reflecting choice of health benefits or group life insurance coverage, designation of beneficiary, and other legal and binding assignments or designations.
  - (7) Adverse action supporting material, if the action is consummated.
- (b) Secondary information, as contrasted to permanent-type information as delineated above, shall be kept in the OPF. Examples of temporary material include:
- (1) Performance evaluation reports;
  - (2) Annual employee review documentation sheets;
  - (3) Descriptions of positions occupied by the employee;
  - (4) Letters of reprimand (retained but usable as a past offense for two years only); and
  - (5) Items of correspondence concerning the employee but which have no historical or permanent value, e.g., letters of commendation or congratulation.
- (c) Employee Record Card. This card record summarizes critical data concerning the identity, status, movement, and separation of an employee. Every personnel action taken will be recorded on the employee record card. Exceptional or less than satisfactory performance ratings shall be noted on the employee record card showing the rating and date thereof.
- (d) Medical Records.
- (1) Medical examination forms and drug and alcohol test result forms for each employee shall be maintained in a file separate from the OPF. This is essential to protect the privacy of the individual. The records shall be maintained in a locked filing cabinet or safe with access allowed only to personnel authorized by the Corporate Director. Access must be restricted only to persons who have a “need to know” as determined and approved by the Corporate Director.
  - (2) Whenever access to a medical record is allowed, the Office Manager shall record on a log sheet maintained in the individual medical record:
    - (i) Date of access;
    - (ii) Name of person allowed such access; and
    - (iii) Reason for access.
- (e) Records of EEO Cases, Disciplinary Investigations, and Official Inquiries. Any records of an EEO case, disciplinary investigation, or official inquiry concerning an employee shall be filed in a separate folder, clearly identified by the employee’s name, date of birth, and Social Security number. The material shall be kept in a locked filing cabinet or safe, with access allowed only on a “need to know” basis and upon approval by the Corporate Director. The existence of any of these files shall be noted in the OPF, filed on top of the last entry therein.

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(f) Confidential medical and investigation records may be kept in the same filing cabinet or safe, but must be maintained in separate drawers or areas. Access to one individual file or set of files does not allow access to others without specific authorization.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### **§ 100-50-1015 Disposition of Records**

(a) Upon the separation of an employee for whatever reason, the employee's official personnel folder shall be closed and removed to physical storage or E-storage.

(b) Prior to sending the file to storage or E-storage, all secondary material filed shall be reviewed and duplicate information or documents considered unnecessary for permanent retention will be either given to the employee or destroyed.

(c) Medical examination records and investigation file material shall be placed in the OPF for retention so that the record is accurate and complete.

(d) Records of alcohol and drug test results shall be retained in the employee's medical file until the time period for retention, established as one year for negative testing results, two (2) years for testing program records, and five years for all positive testing results, has passed. At that time, the test records shall be destroyed.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### **§ 100-50-1020 Access to Official Personnel Folder**

Employees may have access to their own official personnel folders at any time during regular working hours provided the Office Manager or another responsible employee assigned by the Corporate Director watches as the employees' reviews take place. Employees are entitled access to their medical records, but investigation reports are not available to the employees. If employees persist in their desire to see investigation reports, they should be referred to the agency which prepared the report or secure a court order authorizing the Corporate Director to allow the employee access to the investigation report.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### **§ 100-50-1025 Information Available to the Public**

The names, present and past position titles, grades, salaries, and duty stations of a NMHC employee is information available to the public; provided, however, such shall not be available when the release of the information is otherwise prohibited by law or when the information is sought for the purpose of commercial or other solicitation. To receive information an open-government request for the information must be submitted to NMHC.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

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### § 100-50-1030 Reports

(a) Accurate and timely reports are invaluable to the management of a workforce. They are important to the processes of budgeting, manpower planning, forecasting staffing needs and declines, and other management areas.

(b) The NMHC Office Manager is required to establish and maintain a roster of all persons in the NMHC which shall include, as a minimum, for each person, the class of position held, the salary or pay, any changes that might occur in class, title, pay, or status and any other necessary data.

(c) The Corporate Director shall prescribe a system of reports and the format for reporting to provide, on a timely basis, the information required by law and for the efficient and effective operation of the NMHC.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

### § 100-50-1035 Timekeeping Records

An assigned and trained timekeeper shall be responsible for recording and certifying time and attendance reports of NMHC employees. The timekeeper shall also record and certify leave time taken by any NMHC employee. The method of recording and certifying time, attendance and leave shall be in compliance with Commonwealth and federal law and requirements established by the Corporate Director or designee.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

## Part 1100 - Special Provisions

### § 100-50-1101 Financial Austerity Measures

(a) At any time the Board of Directors, at the advice of the Personnel Committee, declares by directive to all staff the need for financial austerity measures (e.g., shortened workweek) that affect the NMHC, all provisions in this regulation that require increases in employees' salaries due to permanent or temporary promotions, acting or detail assignments, reallocation or reclassification of positions, and step increases of any type, will be suspended effective on the date set in the directive.

(b) The suspension shall expire upon subsequent notice to all NMHC staff of its expiry. Upon such expiration, all employees who qualified for the increases during the time of suspension shall receive the pay increases effective the date the suspension expired. The increases shall not be made retroactive to any earlier date.

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).

## Part 1200 Miscellaneous Provisions

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### **§ 100-50-1201 Internal Policies and Procedures**

- (a) The Office Manager in consultation with the Corporate Director shall implement Standard Operating Procedures for all personnel matters.
- (b) All NMHC Division's shall have policies and procedures governing their programs and in compliance with applicable U.S. Department of Housing and Urban Development (HUD) program rules and regulations.
- (c) The Corporate Director and the Office Manager shall ensure all policies and procedures are maintained and updated periodically in each division.
- (d) All new employees shall have a copy of the NMHC Personnel Regulations.
- (e) Amendments and Modifications to the NMHC Personnel Regulations shall be approved - by the Personnel Committee.

Modified, 1 CMC § 3806(a).

History: Adopted 42 Com. Reg. 43289 (Feb. 28, 2020); Proposed 42 Com. Reg. 43066 (Jan. 28, 2020).