

1.6.3.12 ELIGIBILITY FOR LOCAL PUBLIC BODY UNEMPLOYMENT COMPENSATION RESERVE FUND:

To be eligible to participate in the local public body unemployment compensation reserve fund noted in accordance with Section [51-1-46](#) NMSA 1978, an entity must:

- A. Be a local public body as defined in [1.6.3.7](#) NMAC.
- B. Not have voluntarily left or have been removed from the local public body unemployment compensation fund, within the past five years.
- C. The local public body does not owe an outstanding financial obligation to RMD.
- D. Apply for participation at least 90 days prior to the new fiscal year and have this application approved by the risk management division.

[[1.6.3.12](#) NMAC - Rp, [1.6.3.12](#) NMAC, 12/11/2018]

1.6.3.13 APPLICATION TO ENTER LOCAL PUBLIC BODY UNEMPLOYMENT COMPENSATION RESERVE FUND:

- A. The effective date of coverage for any local public body that enters the local public body unemployment compensation reserve fund shall be January 1.
- B. A local public body must submit an application to RMD to participate in the fund no later than September 30 of the year prior to entering the fund.
- C. Local public bodies shall submit the following information to RMD as part of the application:
 - (1) an application form available on the RMD website;
 - (2) acceptable proof that the entity is an eligible local public body as defined in [1.6.3.7](#) NMAC;
 - (3) the local public body's unemployment claims data for the previous five years;
 - (4) a written agreement that the local public body will stay in the local public body unemployment compensation reserve fund for the next five consecutive years;
 - (5) information on current employment statistics, employee salaries, and other similar information requested by the risk management division; and
 - (6) a written agreement to follow the obligations of local public body unemployment compensation reserve fund membership shown in [1.6.3.14](#) NMAC.
- D. RMD shall inform applicants of acceptance or rejection by December 1 of the year prior to entering the fund.

[1.6.3.13](#) NMAC N, 12/11/2018

1.6.3.14 OBLIGATIONS OF LOCAL PUBLIC BODIES UPON ADMITTANCE TO THE LOCAL PUBLIC BODY UNEMPLOYMENT COMPENSATION RESERVE FUND:

A. A local public body participating in the fund must meet all obligations to remain in good standing and continue participation.

B. Obligations include:

- (1)** timely payment of premiums, administrative fees, assessments, fines, remittances, and similar obligations to the risk management division;
- (2)** complying with any loss control policies or administrative directives issued by RMD or by any permitted third-party;
- (3)** complying with rules, guidance, and administrative directions from the department of workforce solutions;
- (4)** preparing for, attending, and participating in training seminars, program meetings, hearings, and other similar events as directed by RMD or the department of workforce solutions; and
- (5)** agree to comply with RMD and department of workforce solutions determinations regarding a claimant's employment status, employment dates, salaries, separation circumstances, and other similar factors or to appeal determinations to the proper agency following established protocols.

[[1.6.3.14](#) NMAC N, 12/11/2018]

1.6.3.15 NONCOMPLIANCE BY LOCAL PUBLIC BODIES AND TERMINATION OF PARTICIPATION:

A. The director of RMD has sole discretion to determine if a local public body is noncompliant and to terminate the participation of any local public body in accordance with this rule.

B. Upon a determination that a local public body is noncompliant, RMD shall inform the local public body in writing of the determination and the reasons for the finding.

C. Upon a determination that a local public body's participation will be terminated, RMD shall inform the local public body in writing that, effective December 31, it may no longer participate in the fund.

D. Any local public body that has been terminated from the local public body shall remain in the local public body unemployment compensation reserve fund until December 31 and shall comply with all participation obligations and directives from RMD through that date.

E. Upon termination, the local public body remains obligated to pay RMD for any unemployment claims with a date of loss prior to their effective date of removal.

F. On January 1 of the calendar year following termination, a local public body shall resume its sole responsibility to pay its unemployment claims to the department of workforce solutions.

[[1.6.3.15](#) NMAC N, 12/11/2018]

1.6.3.16 VOLUNTARY DEPARTURE OF THE LOCAL PUBLIC BODY UNEMPLOYMENT COMPENSATION RESERVE FUND:

A. A local public body that participates in the local public body fund may voluntarily depart the fund if:

(1) the local public body has participated in the fund for at least the five consecutive years immediately preceding departure;

(2) the local public body applies for departure in writing before September 1 of the year it intends to depart, and

(3) the local public body has secured written approval to depart from RMD.

B. The last effective date of coverage for a local public body departing the fund in a given year shall be December 31 of the year of departure.

C. The local public body shall remain obligated to pay RMD for any claims with a date of loss prior to its departure from the fund on December 31.

D. Following departure, a local public body shall resume its sole responsibility to pay its unemployment claims to the department of workforce solutions on January 1.

[[1.6.3.16](#) NMAC N, 12/11/2018]