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ARTICLE 14 Peace Officer's Employer-Employee Relations

29-14-1. Short title.

Sections 1 through 11 [29-14-1 to 29-14-11 NMSA 1978] of this act may be cited as the "Peace Officer's Employer-Employee Relations Act".

History: Laws 1991, ch. 117, § 1.

ANNOTATIONS

Private right of action. — There is no express allowance of a private right of action anywhere in the POEERA. *Sedillo v. N.M. Dep't of Pub. Safety*, 2007-NMCA-002, 140 N.M. 858, 149 P.3d 955.

29-14-2. Findings and purpose.

A. The legislature finds and declares that effective law enforcement is dependent upon the maintenance of stable relations between peace officers and their employers. Moreover, the existence of stable relations between peace officers and their employers will enhance law enforcement services provided to the citizens of New Mexico.

B. The purpose of the Peace Officer's Employer-Employee Relations Act is to prescribe certain rights for peace officers, particularly when they are placed under investigation by their employer.

C. Provisions of this act only apply to administrative actions and shall not apply to criminal investigations of a peace officer except as provided in Section 8 [29-14-8 NMSA 1978] of this act.

History: Laws 1991, ch. 117, § 2.

29-14-3. Definition.

As used in the Peace Officer's Employer-Employee Relations Act, "peace officer" or "officer" means any employee of a police or sheriff's department that is part of or administered by the state or any political subdivision of the state who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the state.

History: Laws 1991, ch. 117, § 3.

29-14-4. Investigations of peace officers; requirements.

When any peace officer is under investigation by his employer for alleged actions that could result in administrative sanctions being levied against the officer, the following requirements shall be adhered to:

A. any interrogation of an officer shall be conducted when the officer is on duty or during his normal waking hours, unless the urgency of the investigation requires otherwise;

B. any interrogation of an officer shall be conducted at the employer's facility, unless the urgency of the investigation requires otherwise;

C. prior to commencement of any interrogation session:

(1) an officer shall be informed of the name and rank of the person in charge of the interrogation and all other persons who will be present during the interrogation;

(2) an officer shall be informed of the nature of the investigation, and the names of all known complainants shall be disclosed to the officer unless the chief administrator of the officer's employer determines that the identification of the complainant shall not be disclosed because it is necessary for the protection of an informant or because disclosure would jeopardize or compromise the integrity or security of the investigation; and

(3) a reasonable attempt shall be made to notify the officer's commanding officer of the pending interrogation;

D. during any interrogation session, the following requirements shall be adhered to:

(1) each interrogation session shall not exceed two hours unless the parties mutually consent to continuation of the session;

(2) there shall not be more than two interrogation sessions within a twenty-four hour period, unless the parties mutually consent to additional sessions, provided that there shall be at least a one-hour rest period between the sessions;

(3) the combined duration of an officer's work shift and any interrogation session shall not exceed fourteen hours within a twenty-four hour period, unless the urgency of the investigation requires otherwise;

(4) there shall not be more than two interrogators at any given time;

(5) an officer shall be allowed to attend to physical necessities as they occur in the course of an interrogation session; and

(6) an officer shall not be subjected to offensive language or illegal coercion by his interrogator in the course of an interrogation session;

E. any interrogation of an officer shall be recorded, either mechanically or by a stenographer, and the complete interrogation shall be published as a transcript; provided that any recesses called during the interrogation shall be noted in the transcript; and

F. an accurate copy of the transcript or tape shall be provided to the officer, upon his written request, no later than fifteen working days after the investigation has been completed.

History: Laws 1991, ch. 117, § 4.

29-14-5. Polygraph examinations.

After reviewing all the information collected in the course of an investigation of a peace officer, the chief administrator of the officer's employer may order the officer to submit to a polygraph examination administered by a licensed polygraph examiner, provided that:

A. all other reasonable investigative means have been exhausted; and

B. the officer has been advised of the administrator's reasons for ordering the polygraph examination.

History: Laws 1991, ch. 117, § 5.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — Construction and application of Employee Polygraph Protection Act of 1988 (29 USCA §§ 2001 et seq.), 154 A.L.R. Fed. 315.

29-14-6. Investigation of administrative matters.

When any peace officer is under investigation for an administrative matter, the officer shall be permitted to produce any relevant documents, witnesses or other evidence to support his case and he may cross-examine any adverse witnesses during any grievance process or appeal involving disciplinary action.

History: Laws 1991, ch. 117, § 6.

29-14-7. Personnel files.

A. No document containing comments adverse to a peace officer shall be entered into his personnel file unless the officer has read and signed the document. When an officer refuses to sign a document containing comments adverse to him, the document may be entered into an officer's personnel file if:

- (1) the officer's refusal to sign is noted on the document by the chief administrator of the officer's employer; and
- (2) the notation regarding the officer's refusal to sign the document is witnessed by a third party.

B. A peace officer may file a written response to any document containing adverse comments entered into his personnel file and the response shall be filed with the officer's employer within thirty days after the document was entered into the officer's personnel file. A peace officer's written response shall be attached to the document.

History: Laws 1991, ch. 117, § 7.

29-14-8. Constitutional rights; notification.

When any peace officer is under administrative investigation and a determination is made to commence a criminal investigation, he shall be immediately notified of the investigation and shall be afforded all the protections set forth in the bill of rights of the United States and New Mexico constitutions.

History: Laws 1991, ch. 117, § 8.

29-14-9. Forced disclosure of financial status prohibited.

A peace officer shall not be required by his police or sheriff's department employer to disclose information regarding his financial status, unless all other reasonable investigative means have been exhausted or except as otherwise required by law.

History: Laws 1991, ch. 117, § 9.

29-14-10. Political activity.

A. A peace officer shall not be prohibited by his police or sheriff's department employer from engaging in any political activity when the officer is off duty, except as otherwise required by law.

B. Notwithstanding the provisions of Subsection A of this section, any peace officer employed by the New Mexico state police department shall be governed by the provisions of regulations adopted by the department regarding political activity.

History: Laws 1991, ch. 117, § 10.

29-14-11. Exercise of rights.

A peace officer shall not be subjected to any retaliation by his employer due to the officer's lawful exercise of his rights under the Peace Officer's Employer-Employee Relations Act.

History: Laws 1991, ch. 117, § 11.